

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHARLIE ESPINOSA, APPELLANT.

G.R. No. 138742. June 15, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an automatic review of the Decision[1] of the Regional Trial Court of Malolos, Bulacan, Branch 78, in Criminal Case No. 183-M-98 convicting the appellant Charlie Espinosa of rape, sentencing him to suffer the penalty of death, and ordering him to pay P50,000.00 as damages.

On February 6, 1998, a Criminal Complaint was filed, with the Regional Trial Court of Malolos, Bulacan, charging the appellant with aggravated rape, the accusatory portion of which is worded as follows:

The undersigned complainant, Marilou Arcangel, assisted by her mother, Amelita Arcangel, under oath (sic) accuses Charlie Espinosa of the crime of rape, penalized under the provisions of Article 335 of the Revised Penal Code, as amended, committed as follows:

That in (sic) or about the month of August 1996, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a fan knife and with the use of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the said Marilou Arcangel, 14 years of age, against her will.

Contrary to law.[2]

During arraignment, the appellant entered a plea of not guilty. Trial of the case ensued.

The Case for the Prosecution[3]

One evening in August 1996, Marilou Arcangel, then 14 years of age, together with her five (5) siblings, were sleeping on the floor in their house in Sta. Barbara, Baliuag, Bulacan. Their mother, Amelita Arcangel, was at work wrapping bread at a bakery, while their father, Rafael Arcangel, had gone also to fetch their mother in the tricycle he drove. Marilou's uncle, the appellant, was temporarily vacationing at their house at the time.

At around midnight, Marilou was awakened when she heard a window open. She then felt that somebody was on top of her, and was nonplussed when, as she opened her eyes, saw the appellant looming above her. The appellant was armed with a fan knife and held Marilou by her wrists. She tried to resist, but the appellant told her he would kill her if she did so. He warned Marilou that if she told anyone of the incident, he would kill her and her family.

The appellant then removed Marilou's shorts, underwear and upper garment. He also removed his clothing. He inserted his penis into Marilou's vagina and made push-and-pull movements (nag-u-unday). After satiating his sexual desire, he threatened Marilou anew not to report to anyone what he had just done to her, otherwise, he would kill all of them. The appellant then left. Marilou cried profusely, traumatized by the incident.

Marilou did not report the incident to her mother because she was afraid that the appellant might make good on

his threat to kill her and her family. She did not tell her father of the incident, as he was, likewise, doing “things” to her that she could not bear. On several occasions, she caught her father and another uncle peeping while she was taking a bath; on several other occasions, her father touched the sensitive parts of her body.

Marilou left their house and went to stay with one of her classmates. When her classmate’s mother asked why she left their house, Marilou finally narrated her harrowing experience. Thus, Amelita, Marilou’s mother, found out about the incident through the mother of her daughter’s classmate.

Amelita then went to the barangay authorities and reported the incident. In the meantime, Marilou went to Pulo, San Rafael, Bulacan, to stay with her relatives there.

On February 11, 1997, Marilou went to the police station in Baliuag, Bulacan and reported that she was raped by the appellant and narrated the incidents relative thereto. P/Insp Edilberto L. Velasquez, Jr., the Deputy Chief of Police of the Baliuag PNP, prepared a request from the Director of the PNP Crime Laboratory RECOM 3, that a medico-legal examination be conducted on Marilou to determine the extent of the sexual abuse committed against her.[4] Dr. Eduardo O. Gueco, Chief Medico-Legal Officer of the PNP Crime Laboratory, Region III, conducted an examination on Marilou. He also prepared a Medico-Legal Report, which contained the following findings:

GENITAL:

PUBIC HAIR: Absence of pubic hair

LABIA MAJORA: Full, convex and coaptated

LABIA MINORA: Light brown and slightly hypertrophied

HYMEN: Presence of deep healed lacerations at 6 and 11 o’clock and shallow, healed laceration at 1 o’clock position.

EXTERNAL VAGINAL ORIFICE: Offers strong resistance to the introduction of the examining index finger.

VAGINAL CANAL: Narrow with prominent vaginal folds.

CERVIX: Normal in size and consistency with menstrual blood oozing from its os.

PERI-URETHRAL AND VAGINAL SMEARS: Negative for the presence of spermatozoa.

REMARKS: Subject is in non-virgin state physically. [5]

The Case For The Appellant

The appellant testified that he was a resident of Salinas, Cavite. Sometime in 1996, he and his wife went to the house of Rafael Arcangel in Sta. Barbara, Baliuag, Bulacan, to visit his mother-in-law.

The second time the appellant went to Sta. Barbara, Baliuag, Bulacan was on February 28, 1997, this time to fetch his mother-in-law so that someone would take care of his child in Cavite. During the said visit, he and his brothers, Rafael and Gorgonio, had a drinking session. They got drunk and slept outside the house. The three of them were arrested at around 8 a.m. of the next day on Marilou’s complaint of rape. According to the appellant, the charge of rape against him was just a ploy of Marilou’s mother, Amelita, to force him not to talk about her affair with Julio, another of the appellant’s brothers. He learned of this motive of Amelita’s from Julio, after the latter had gotten so drunk during their drinking session with Rafael and Gorgonio.

After trial, the court rendered a decision convicting the appellant, the dispositive portion of which reads as follows:

WHEREFORE, the foregoing considered, this Court hereby finds accused CHARLIE ESPINOSA GUILTY beyond reasonable doubt of the crime of Rape, and sentences him to suffer the penalty of DEATH and to pay the amount of P50,000.00 to private complainant Marilou Arcangel and the costs of the suit.

SO ORDERED.[6]

Hence this automatic review.

The appellant raises the following as assignment of errors:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE THE FACT THAT THE CRIMINAL INFORMATION FAILED TO STATE WITH PARTICULARITY THE TIME OF THE COMMISSION OF THE ALLEGED DEED.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE PENALTY OF DEATH ON THE ACCUSED-APPELLANT DESPITE THE FACT THAT THE CRIMINAL INFORMATION FAILED TO ALLEGE THE RELATIONSHIP BETWEEN THE VICTIM AND THE ACCUSED-APPELLANT.

III

THE COURT GRAVELY ERRED IN NOT FINDING THAT THE TIMID AND PASSIVE CONDUCT AND ACTUATION OF THE PRIVATE COMPLAINANT DURING AND IMMEDIATELY AFTER THE SUPPOSED SEXUAL ASSAULT CAST SERIOUS DOUBT ON HER CREDIBILITY.[7]

The Ruling of the Court

Anent the first assigned error, the appellant posits that the criminal complaint filed against him in this case is defective. The complaint did not state with particularity the date the offense was committed, and instead, it was stated therein that the offense was committed “on or about the month of August 1996.” According to the appellant, this is in violation of Section 11 of Rule 110 of the Revised Rules of Criminal Procedure.

The appellant’s pose is bereft of merit.

In *People v. Lizada*,[8] this Court declared:

The Court does not agree with the accused-appellant. It bears stressing that the precise date of the commission of the crime of rape is not an essential element of the crime. Failure to specify the exact date when the rape was committed does not render the Information defective. The reason for this is that the gravamen of the crime of rape is carnal knowledge of the private complainant under any of the circumstances enumerated under Article 335 of the Revised Penal Code, as amended. Significantly, accused-appellant did not even bother to file a motion for a bill of particulars under Rule 116, Section 9 of the Revised Rules of Criminal Procedure before he was arraigned. Indeed, accused-appellant was duly arraigned under the Information and entered a plea of not guilty to the charge without any plaint on the sufficiency of the Information. Accused-appellant even adduced his evidence after the prosecution had rested its case. It was only on appeal to this Court that accused-appellant questioned for the first time the sufficiency of the Information filed against him. It is now too late in the day for him to do so. Moreover, in *People v. Salalima*, this Court held that:

“Failure to specify the exact dates or time when the rapes occurred does not ipso facto make the information defective on its face. The reason is obvious. The precise date or time when the victim was raped is not an element of the offense. The gravamen of the crime is the fact of carnal knowledge under any of the circumstances enumerated under Article 335 of the Revised Penal Code. As long as it is alleged that the offense was committed at any time as near to the actual date when the offense was committed an information is sufficient. In previous cases, we ruled that allegations that rapes were committed ‘before and until October 15,

1994,’ ‘sometime in the year 1991 and the days thereafter,’ ‘sometime in November 1995 and some occasions prior and/or subsequent thereto’ and ‘on or about and sometime in the year 1988’ constitute sufficient compliance with Section 11, Rule 110 of the Revised Rules of Criminal Procedure. ...”[9]

Indeed, in the case at bar, the criminal complaint states that the rape was committed “on or about the month of August 1996.” Such an allegation in the criminal complaint as to the time the offense was committed is sufficient compliance with the provisions of Section 11, Rule 110 of the Revised Rules of Criminal Procedure. Besides, if the appellant was of the belief that the criminal complaint was defective, he should have filed a motion for a bill of particulars with the trial court before his arraignment.[10] The appellant failed to do so. It was only when the case was brought to this Court on automatic review that he raised the question of the supposed insufficiency of the criminal complaint, which is now too late by any reckoning.

The appellant points out that based on the complainant’s testimony, she did not shout when she saw the appellant. She did not wake up her siblings, who were sleeping very near her, nor did she show any signs of resistance, and instead remained passive. Neither was it shown that the complainant showed signs of resistance when the alleged rape took place. As such, the complainant did not show the kind of resistance expected of a woman defending her honor and virtue.

We do not agree. As we had the occasion to state in *People v. Umayam*:^[11]

Appellant then harps on the lack of any overt form of resistance to the sexual assault on the part of the victim. He argues that she should have at least touched or reached for her mother to awaken the latter. In fact, the girl did not even bother to shout despite the fact that her mouth was left uncovered.

We do not subscribe to appellant’s suppositions. Never has this Court prescribed a uniform manner of behavior during or after a rape incident. We have been categorical in declaring that “[t]he workings of a human mind placed under emotional stress are unpredictable and people react differently—some may shout, some may faint, and some may be shocked into sensibility while others may openly welcome the intrusion.” Yet, it can never be argued that the ones who apparently welcome it are sexual victims any less than the others.^[12]

The appellant, likewise, points out that it took several months before the complainant filed the case of rape against him. The rape took place sometime in August 1996, while the victim reported the same only on February 11, 1997, or about five (5) months after the incident. According to the appellant, such delay in the filing of the case tainted the victim’s credibility.

The appellant’s contention is bereft of merit. In *People v. Geromo*,^[13] this Court ruled that a seven (7) month delay in reporting the rape does not impair the credibility of the complainant. In the said case, it was elucidated, thus:

... Delay in revealing the commission of rape is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the rapist, for they prefer to silently bear the ignominy and pain, rather than reveal their shame to the world or risk the offender’s making good on his threats. This is understandable, considering the inbred modesty of Filipinas and their aversion to the public disclosure of matters affecting their honor. It is inconceivable that MARLYN would admit and make public the ignominy she had undergone if it were not true. Then, too, it should not be forgotten that MARLYN was threatened by APOLINARIO. The threat on the life of a 13-year-old girl cannot be easily ignored. In *People v. Matrimonio*, we held that intimidation must be viewed in light of the victim’s perception and judgment at the time of the commission of the crime and not by any hard and fast rule. It is enough that the intimidation produces a fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at the moment, or even thereafter, as when she is threatened with death if she should report the incident. MARLYN, the young lass that she was, actually believed that APOLINARIO would kill her even if he was not around,

considering his moral ascendancy over her and the fear that he had successfully implanted in her pubescent mind at the time he ravished her.[14]

In the case at bar, the complainant was only 14 years old when the rape took place. At her age, it could easily be conceived that she feared the appellant and believed his threats, that he would kill her and her family if she reported the incident to anyone. The appellant's threats were so engrained in her mind that she did not tell anyone of the incident, although the appellant was no longer around and had gone back to his residence in Salinas, Cavite. This Court is mindful that intimidation must be viewed in light of the victim's perception and judgment at the time of rape, and not by any hard and fast rule. It is enough that it produces fear – fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at the moment or thereafter, as when she is threatened with death if she reports the incident.[15] The test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance.[16]

It was even shown that the complainant in this case never said anything to her own father as the latter, on several occasions, had also made sexual advances on her by touching her private parts, or would peep while she was taking a bath. All of these conjunctives served to prevent the complainant from reporting with haste the rape that happened to her.

The Court emphasizes that in reviewing rape cases, the Court is guided by three principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and, (3) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17]

The Court adheres to the rule that by the very nature of the crime of rape, the lone testimony of the complainant is enough to sustain conviction, provided that such testimony meets the test of credibility and should not only come from the mouth of a credible witness; it should, likewise, be credible and reasonable in itself, candid, straightforward, and in accord with human experience.[18]

In the case at bar, the complainant narrated in open court the harrowing experience she encountered that fateful night, in this language:

Q How did Charlie Espinosa raped (sic) you, Madam Witness?

A He entered into (sic) the window, Sir.

Q By the way, is this Charlie Espinosa a resident of your house?

A Yes, Sir, he was taking temporary vacation.

Q And according to you, he used the window to enter the house?

A Yes, Sir.

Q And after that, what did he do?

A I was awakened that he was already lying on top of me, Sir.

Q

How did you come to know that he used the window in entering your house when, according to you, were sleeping at that time?

A Because I heard the window opened (sic).

Q In other words, when you heard something, you were already awakened (sic) at that time?

A Yes, Sir.

Q What happened next?

A He raped me, Sir.

Q How did he rape you?

A He hold (sic) my two hands, then he lied (sic) on top of me.

Q By the way, where were you sleeping at that time?

A

At (sic) the floor, Sir.

Q Inside the room or at the sala?

A At the sala, Sir.

Q What about your other brothers and sisters, where were they sleeping at that time?

A In the sala, Sir.

Q How far were you away from them?

A “Kaunti lamang po ang pagitan namin.”

Q Were you using mosquito net at the time?

A Yes, Sir.

Q When for the first time did you notice or see Charlie Espinosa?

A When he was lying on top of me, Sir.

Q And what was he doing when he lied (sic) on top of you?

A He undressed me, Sir.

Q What did he remove from you?

A My dress and shorts, Sir.

May we make of record that the witness started from (sic) crying as the question was propounded to her.

COURT:

Make it of record.

Q Did you try to resist or struggle while Charlie Espinosa was removing your dress?

A I resisted but I was not able to do anything because he is (sic) strong.

Q What was being uttered by Charlie Espinosa while he was removing your dress, if any?

A Not to report, Sir.

Q Aside from that, what else did he utter?

A That once I report the incident, he will kill all of us.

Q While Charlie Espinosa was on top of you, how did he hold you?

A He was holding my two wrists, Sir.

Q Was he able to remove your clothing, your shortpant (sic) and panty?

A Yes, Sir.

Q And after removing your shortpant (sic) and panty, what else did he do?

A He lied (sic) on top of me, Sir.

Q And what did he do?

A He removed his clothing, Sir.

Q What did he remove?

A His shorts, Sir.

Q What else?

A And his brief, Sir.

Q What about his upper apparel?

A He also removed it, Sir.

Q After removing his clothing, what did he do?

A He forcibly inserted his penis to my vagina.

Q How do you know, Madam Witness?

A I was lying with my thighs apart and he inserted his penis into my vagina.

Q You said that Charlie Espinosa inserted his penis to your private part, what did you feel?

A “Nasaktan po ako.”

Q For how long did he insert his penis to your private part?

A For a long time, Sir. “Medyo matagal din po.”

Q How would you describe the movement of the body of Charlie Espinosa while he was lying on top of you?

A He was lying on top of me while holding my two wrists.

Q What is the body movement?

A When he inserted his penis to my vagina, his body is as if he is “nag-u-unday.”

Q How would you demonstrate that “nag-u-unday”?

A (Witness demonstrating a push and pull movement).

Q

At that time when Charlie Espinosa was inserting his penis with (sic) your private part, did you not try to resist or struggle?

A I tried to but I was not able to do anything.

Q Why were you not able to do anything despite of your struggle?

A Because he was strong.

Q For how long did he rape you?

A For a long time, Sir.

Q For 5 minutes?

A I do not know, Sir, but he raped me.

Q After he was through raping you, what else did he do?

A He told me not to report the incident to anyone.

Q What else?

A That once I report the incident, he will kill all of us.

Q What did he do after he threatened you?

A He left, Sir.

Q What about you, what did you do?

A None, Sir, I just cried.[19]

A young girl’s revelation that she had been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out details of an assault on her dignity, cannot easily be dismissed as mere concoction. Youth and immaturity are generally badges of truth.[20] When the complainant wept as she narrated what transpired before and during the time she was raped, it served to further bolster her credibility. The crying of the victim during her testimony is added hallmark of the credibility of the rape charge.[21]

Countering the charge of rape, the appellant merely put up the defense of denial and alibi. Interestingly, the appellant, when placed on the witness stand, did not even dwell much on his defense of denial and alibi, and instead focused on the time he was arrested. All in all, what he testified with respect to his defense was as follows:

Q A while ago, you stated you are a resident of Cavite?

A Yes, Sir.

Q How many years had (sic) you stayed in Cavite?

A Up to the time I became a bachelor.

Q Do you know the place Sta. Barbara, Baliuag, Bulacan?

A My wife is from there.

Q Had (sic) you been there?

A Only once.

Q Can you tell us when was that time when you visited Sta. Barbara?

A In 1996, together with my wife.

Q Can you tell what particular month of the year 1996?

A I can no longer remember.

Q Who were with you then?

A My wife.

Q Do you remember the time that you arrived in the place?

A 7:00 o'clock.

Q Did you stay in that place the whole evening?

A No, we immediately went home.

Q What time was that when you went home?

A 11:00 P.M.

Q What was your purpose in going to Sta. Barbara, Baliuag at that time?

A We visited my mother-in-law.[22]

The appellant said nothing more about his first visit to Sta. Barbara, Baliuag, Bulacan. As always, the Court has uniformly held that denial and alibi are among the weakest, if not the weakest, defenses in criminal prosecution.[23] It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law.[24] Denial cannot prevail over the positive, candid and categorical testimony of the complainant, and as between the positive declaration of the complainant and the negative statement of the appellant, the former deserves more credence.[25]

The appellant's defense of alibi must also fail. For the defense of alibi to prosper, the accused must establish with clear and convincing evidence not only that he was somewhere else when the crime was committed but also that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[26] Aside from his testimony, the appellant never presented any other evidence to prove that he was not at the scene of the crime at the time the rape took place. He did not present any other witness, let alone his wife, whom he claimed was with him when they went back to Cavite, to bolster his stance that he went home that same night sometime in August 1996. Weak as it is, alibi becomes all the more ineffectual when the accused fails to demonstrate that it was physically impossible for him to be at the crime scene at the time it was committed.[27]

Finally, the Court cannot over-emphasize the oft-quoted doctrine that positive identification prevails over denial and alibi.[28]

The appellant points out that the court a quo erred when it sentenced him to suffer the death penalty, predicated on the failure of the criminal complaint to allege the qualifying circumstance of relationship of the appellant and the victim. He alleges that the offense charged under the said criminal complaint is merely simple rape, the imposable

penalty for which is reclusion perpetua.

We have ruled that for one to be convicted of qualified rape, the information, or in this case the criminal complaint, must allege the victim's minority, and the relationship of the victim and the appellant; absent such allegation, the appellant cannot be convicted of qualified rape, but only of simple rape.[29] In the case at bar, the criminal complaint alleges that the complainant was 14 years old when the incident occurred, but nothing was offered in evidence to prove the age of the victim. In *People v. Umayam*,[30] this Court declared:

Proof of age is critical, considering the private complainant was alleged to have been only three (3) years less than eighteen (18) at the time of the rape. When the alleged age of the victim at the time of the sexual assault is between 13 and 18 years, neither her bare testimony nor that of her mother would suffice to prove her age and consequently qualify the crime to justify the imposition of the death penalty.

In this era of modernism and rapid growth, the victim's mere physical appearance is not enough to gauge her exact age. For the extreme penalty of death to be upheld, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime must be substantiated. The minority of the victim should not be only alleged but, likewise, proved with equal certainty and clearness as the crime itself. Be it remembered that proof of the age of private complainant in the present case spells the difference between life and death.

It is, therefore, evident that the prosecution did not discharge the burden of proving with certainty the fact that she was under 18 years of age when the rape was committed. Since there is no acceptable proof as to her exact age, the penalty of death cannot be meted out on appellant. He must be held guilty only of simple, not qualified, rape.[31]

While the complainant's age may have been admitted by the appellant, the same is not sufficient to warrant the imposition of the supreme penalty of death. There is, likewise, nary any evidence to show that the appellant is the complainant's uncle. Even such an admission of the appellant would not be sufficient to warrant the imposition of the death penalty. Even if the complainant's minority and filiation to the appellant were never refuted nor contested by the defense, proof thereof is critical, considering the penalty of death imposed for qualified rape. Hence, the prosecution's failure to sufficiently establish the complainant's minority and her relationship with the appellant bars the imposition of the supreme penalty of death.[32]

While the criminal complaint alleges that the appellant was armed with a fan knife when the rape was committed, this was, however, not sufficiently established by the prosecution. A qualifying circumstance, as distinguished from a generic aggravating circumstance which affects only the period of penalty, increases the penalty and must not only be alleged in the information but must also be proved with certainty as the crime itself, otherwise, the death penalty cannot be imposed.[33]

The Appellant's Civil Liability

The trial court awarded the amount of P50,000 to the victim as damages. We find this proper, based on prevailing jurisprudence on civil indemnity for simple rape.[34] Apart from the civil indemnity, there is also a need to award moral damages to the victim. It must be stressed that moral damages are awarded in rape cases without need of proof other than the fact of the rape itself because it is assumed that the victim has suffered moral injuries entitling her to such an award.[35]

The Court finds it proper to modify the penalty of death the trial court imposed upon the appellant. As heretofore discussed, considering that the criminal complaint failed to allege the qualifying circumstance of relationship between the appellant and the complaint, and the prosecution's failure to prove the age of the complainant and her relationship with the appellant, the latter can only be convicted of simple rape, which is penalized by reclusion perpetua.[36]

Pursuant to prevailing jurisprudence, the amount of P50,000.00 as moral damages is proper.[37] Attendant to the crime is the aggravating circumstance of dwelling, the rape having been committed in the victim's house. However, the said aggravating circumstance was not alleged in the Information as mandated by Section 8, Rule 110 of the Revised Rules of Criminal Procedure and, as such, should not be appreciated against the appellant. Although the crime was committed before the effectivity of the Rule, the same should be applied retroactively, it being favorable to the appellant. The appellant is, however, liable to pay exemplary damages to the victim.

IN THE LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Malolos, Bulacan, Branch 78 in Criminal Case No. 183-M-98 is AFFIRMED with MODIFICATIONS. The appellant is found GUILTY of simple rape and is sentenced to suffer the penalty of reclusion perpetua. The appellant is ORDERED to pay the victim, Marilou Arcangel, Fifty Thousand Pesos (P50,000.00) as civil indemnity; Fifty Thousand Pesos (P50,000.00) as moral damages; and Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, and Tinga, JJ., concur.

Ynares-Santiago, J., on leave.

Corona, J., on official leave.

[1] Penned by Judge Gregorio S. Sampaga.

[2] Records, p. 1.

[3] The prosecution presented, as witnesses, the complainant herself and Dr. Edgardo O. Gueco. When Marilou testified, she cried profusely as she related how the appellant raped her.

[4] Exhibit "C," Records, p. 73.

[5] Exhibit "B," Id. at 74.

[6] Records, p. 141.

[7] Rollo, p. 40.

[8] 396 SCRA 62 (2003).

[9] Id. at 83-84.

[10] *People v. Mauro*, 399 SCRA 126 (2003).

[11] 402 SCRA 457 (2003).

[12] Id. at 473.

[13] 321 SCRA 355 (1999).

[14] Id. at 364.

[15] *People v. Metin*, 403 SCRA 105 (2003).

[16] *People v. Fraga*, 330 SCRA 669 (2000).

- [17] *People v. Novio*, 404 SCRA 462 (2003).
- [18] *People v. Sodsod*, 404 SCRA 39 (2003).
- [19] TSN, 20 March 1998, pp. 3-6.
- [20] *People v. Novio*, *supra*.
- [21] *People v. Cariño*, 362 SCRA 292 (2001).
- [22] TSN, 31 August 1998, p. 2.
- [23] *People v. Funesto*, 401 SCRA 158 (2003).
- [24] *People v. Hilet*, 402 SCRA 406 (2003).
- [25] *People v. Medina, Sr.*, 404 SCRA 248 (2003).
- [26] *People v. Grefaldia*, 402 SCRA 153 (2003).
- [27] *People v. Melendres, Jr.*, 402 SCRA 279 (2003).
- [28] *People v. Jackson*, 403 SCRA 500 (2003).
- [29] *People v. Mauro*, 399 SCRA 126 (2003), citing *People v. Lizada*, *supra*.
- [30] *Supra* at note 10.
- [31] *Id.* at 477-478.
- [32] *People v. Gavino*, 399 SCRA 285 (2003).
- [33] *People v. Fraga*, *supra*.
- [34] *People v. Invencion*, 398 SCRA 592 (2003).
- [35] *People v. Marahay*, 396 SCRA 129 (2003).
- [36] Article 266-B, Revised Penal Code, as amended.
- [37] *People v. Cultura*, 397 SCRA 368 (2003).

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