

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTOR UGANG, ACCUSED-APPELLANTS.

G.R. No. 144036. May 07, 2002

Ponente: DAVIDE JR., C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-144036/>

DAVIDE JR., C.J.:

As if deprivation of her reasoning powers was not enough. Compounding her misery, Lanie Jumuad (hereafter LANIE), then an 18-year-old demented girl, was also stripped of her, perhaps, only remaining treasure -- her virginity. Worse, its loss was caused by one who was supposed to help protect it, her uncle Victor Ugang (hereafter VICTOR).

In an information^[1] docketed as Criminal Case No. S-2893 before the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte, VICTOR was charged with the crime of rape committed as follows:

That, in the afternoon, on or about the 29th day of December, 1996, in the municipality of Sindangan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with one LANIE JUMUAD, his 18 years old mentally ill niece, against her will and without her consent.

CONTRARY TO LAW.

At his arraignment, VICTOR, with the assistance of counsel de officio, entered a plea of not guilty. Thereafter trial ensued.

The first witness presented by the prosecution was Julito Amantiad, a neighbor of LANIE and cumpadre of VICTOR. According to him, at 1:30 p.m. of 29 December 1996, he, VICTOR and Leonilo Nonong were drinking tuba in his store in Lapero, Sindangan, Zamboanga del Norte. After they had consumed half a gallon of tuba, VICTOR, who was already drunk, left without saying a word and proceeded to the house of LANIE, which was about fifteen fathoms away from Julito's store.^[2]

Curious why VICTOR did not return, Julito went to LANIE's house. He knew that LANIE was alone because he was asked by her mother before leaving to look after LANIE, who was demented. He peeped through a hole on the wall of the house and saw LANIE naked, with one of her legs spread while the other was tied to a post. VICTOR was on top of her, with his shorts down to his knees and his erect penis pumping up and down into her vagina. LANIE's face was expressionless. Julito then went back to his store and told Leonilo that VICTOR was having sexual intercourse with LANIE.^[3]

Leonilo Nonong, VICTOR's cumpadre, corroborated the testimony of Julito. To verify Julito's story that VICTOR was having sexual intercourse with LANIE, Leonilo went to LANIE's house. There, he saw VICTOR already standing and pulling up his underwear, with his pants still on his knees. LANIE was lying down naked on a wooden bench. Suspecting what had happened, Leonilo pulled VICTOR and said: "You are fool! [sic]" He

forthwith brought VICTOR back to Julito's store and entrusted him to Rodrigo, LANIE's brother, who was then in the store. Upon being informed of what VICTOR happened to his sister, Rodrigo knocked down VICTOR. VICTOR admitted that he committed a sin and asked for forgiveness.[4]

Dr. Marcelino Lacaya, Chief of the Sindangan District Hospital, testified that it was Dr. Alan Arthur Vercide who examined LANIE on 22 January 1997, but at the time of the request for the issuance of a medical certificate, Dr. Vercide was not around. Hence, on the basis of the handwritten report of Dr. Vercide, which was recorded[5] and made part of the OPD Records of Sindangan District Hospital, Dr. Lacaya issued a medical certificate[6] and signed the same in behalf of Dr. Vercide.[7] The certificate reads:

Genitalia -

labia minora and majora in close apposition intoritus nulliparous, admits 1 finger with ease, hymenal orifice about 2-3 cm. in diameter with old laceration at 5 o'clock and 7 o'clock

(-) fresh lacerations,

(+) whitish discharges

Pregnancy test - not done (No reagent)

Sperm Analysis - not done

VICTOR was the sole witness for the defense. He admitted that LANIE is his niece but denied having carnal knowledge of her on 29 December 1996. According to him, after leaving his drinking companions at the store of Julito, he proceeded to the house of LANIE to take a rest. LANIE was alone in the house. At the time, she was naked, with one of her feet tied, as she was insane. He just sat and leaned on the wall about three feet away from LANIE. Since he had a hard time sitting with his tight short pants, he pulled up his shorts and fixed his long pants. It was at this juncture that Leonilo saw him. He denied having asked for forgiveness from Rodrigo. Although Rodrigo did not have any quarrel with him, prosecution witnesses Julito and Leonilo had rift with his wife because of money matters in their chapel, of which Julito, Leonilo and his wife were officers. Despite this quarrel, he drank with them.[8] VICTOR further asserted that Julito testified against him because the latter was after money. During his arraignment, Rodrigo approached him; asked for P10,000 to be given to the witnesses for the prosecution; and warned him that if he would not deliver the money, he would languish in jail. However, VICTOR admitted that Julito and Leonilo did not personally ask him for any consideration, nor did they promise to retract their statements in exchange for something.[9]

The trial court gave full faith and credit to the version of the prosecution. It disregarded VICTOR's defense of denial. Accordingly, in its Decision[10] of 2 June 2000, it found him guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the penalty of death and to pay the victim in the amounts of P75,000 as indemnity and P50,000 by way of moral damages.

In his Appellant's Brief,[11] VICTOR submits this sole assignment of error:

THE TRIAL COURT GRAVELY ERRED IN SENTENCING VICTOR UGANG TO SUFFER THE PENALTY OF DEATH.

VICTOR argues that he could not be sentenced to suffer the penalty of death, since LANIE was already demented at the time of the commission of the offense and that she is his relative by consanguinity in the fifth degree only, her father being his first cousin. In order that death penalty may be imposed, the victim must have become insane by reason or on the occasion of the rape or that the accused is a relative by consanguinity or affinity within the third civil degree. VICTOR then prays that the penalty imposed upon him be reduced to reclusion perpetua.

In the Appellee's Brief,[12] the Office of the Solicitor General (OSG) notes that VICTOR simply protests the

trial court's imposition on him of the death penalty without challenging his conviction. It agrees with VICTOR that the trial court erred in appreciating against him the qualifying circumstance of relationship and the insanity of the victim because LANIE was already insane at the time of the rape and the relationship between LANIE and VICTOR is beyond the third civil degree.

After the OSG had submitted its Appellee's Brief, VICTOR, through his new counsel, submitted a Supplemental Appellant's Brief.[13] This time, he assigned the following errors:

- THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.
- THE TRIAL COURT ERRED IN IMPOSING THE PENALTY OF DEATH AGAINST THE ACCUSED-APPELLANT.
- THE TRIAL COURT SHOWED MANIFEST BIAS AND IMPARTIALITY IN FAVOR OF THE PROSECUTION; HENCE, RENDERING THE JUDGMENT NULL AND VOID.

In support of the first assigned error, VICTOR points out the failure of the prosecution to (1) present LANIE as a witness; (2) present medical evidence to prove that LANIE is indeed demented; and (3) prove the presence of force, intimidation, and violence in the commission of the alleged rape. He asserts that the medical certificate presented by the prosecution is not conclusive that someone had sexual intercourse with LANIE. He also questions the credibility of the witnesses in view of their alleged conflicting and inconsistent testimonies.

Anent the second assigned error, VICTOR argues that in order that insanity could be appreciated as an aggravating circumstance in rape, it must be so alleged in the information and must be proved as the result of rape. However, in this case, insanity was not alleged in the information; besides, it is undisputed that LANIE was already insane at the time she was allegedly raped. Neither does the qualifying circumstance of relationship by consanguinity or affinity within the third civil degree exist, since he is a relative in the fifth civil degree of consanguinity, he being only a first cousin of LANIE's father.

As to his third assigned error, VICTOR asseverates that the clarificatory questions asked by the trial judge were more in aid of the prosecution. The judge prompted the prosecution to present the photograph of the victim as evidence in this case and to ask more questions regarding it. Such act is contrary to the principle of cold neutrality of an impartial judge.

It was established by the prosecution that LANIE had been insane since she was 14 years of age. Her brother Rodrigo and neighbors Julito and Leonilo attested to her insanity. She could not give coherent answers to questions. She would dance by herself even without music. She would walk around the community naked; if forced to wear clothes, she would tear them up. Once, she destroyed the building materials of their house. Hence, Rodrigo was constrained to tie her to a post or wooden bench inside their house.[14]

LANIE's insanity was admitted by VICTOR during his direct examination and cross-examination.[15] In fact, he invokes it in support of his argument that insanity could not qualify the crime of rape, since it was not the result of the rape, it being in existence already at the time of the commission of the crime.[16]

With the fact of insanity being undisputed, the prosecution was justified in not presenting LANIE as a witness. Section 21(a), Rule 130 of the Revised Rules on Evidence disqualifies from being witnesses persons whose mental condition is such that they are incapable of intelligently making known their perception to others.

It is true that, as pointed out by the appellant in his Manifestation (in lieu of Reply- Brief), the medical certificate stating that LANIE was suffering from schizophrenia cannot be admitted as evidence of her insanity. The

physician who examined LANIE and issued said certificate was not presented as a witness; hence, the accused was deprived of his right to confront or cross-examine her.[17]

Nevertheless, it was not necessary for the prosecution to submit a medical report and present the examining physician. We have ruled that mental abnormality may be proved by evidence other than medical evidence or psychiatric evaluation; it may be established by testimonies of witnesses.[18] In this case, as stated earlier, LANIE's mental condition was sufficiently proved by the testimonies of LANIE's brother and neighbors, who both had ample opportunity to observe her demeanor. Besides, VICTOR admitted in open court that LANIE was insane. Under Section 4, Rule 129 of the Revised Rules on Evidence, an admission, oral or written, made by a party in the course of the proceeding in the same case does not require proof.

It is settled that where the victim cannot testify by reason of mental incapacity, conviction for rape may be based on circumstantial evidence.[19] Here, although LANIE could not testify because of her insanity, the commission of the crime of rape was proved with moral certainty by an eyewitness, Julito Amantiad. From a big hole on the split bamboo walling of LANIE's room, he clearly saw VICTOR on top of the naked LANIE, with his erect penis going up and down her private part. Aside from Julito's testimony, the congruence of the following circumstances point to VICTOR as the perpetrator of the crime:

- It is admitted by VICTOR that he was at LANIE's house at the time the rape was committed;
- When Leonilo followed VICTOR inside LANIE's house, he saw the latter in the act of pulling up his underwear, with his pants still down to his knees; while LANIE was lying down on the floor naked;
- When VICTOR was confronted by LANIE's brother Rodrigo regarding the incident, he asked for the latter's forgiveness. Such act was an admission of guilt;[20] and
- VICTOR also admitted his guilt when the matter was brought to the Barangay Captain.[21]

Additionally, in asking in his original Brief for nothing but a reduction of the penalty, VICTOR admitted the commission of the crime he was charged with and convicted of.

We agree with the appellant that the medical certificate containing the findings of hymenal lacerations in LANIE's vagina cannot be given any evidentiary weight. In *People v. Aliviano*,[22] the medical certificate which was identified and interpreted in court by another doctor was not accorded probative value because the doctor who prepared it was not presented for its identification. Similarly, in this case, since the doctor who examined LANIE was not presented to testify on his findings, the medical certificate issued on his behalf and identified by another doctor cannot be admitted as evidence. Since a medical certificate involves an opinion of one who must first be established as an expert witness, it cannot be given weight or credit unless the doctor who issued it is presented in court to show his qualifications.[23] In any event, medical examination or medical report is not indispensable to prove the commission of rape, for it is merely corroborative evidence.[24]

Anent the absence of evidence of force and intimidation, we rule that the same does not militate against the finding of rape. Under Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, the governing law in this case, rape is committed by having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under twelve years of age or is demented. The prosecution need not prove the presence of force and intimidation because proof of the allegation of the fact that the victim, LANIE, was mentally ill at the time of the commission of the crime will suffice for the conviction of rape.

VICTOR's sole defense of denial is unsubstantiated. We have time and again ruled that mere denial cannot

prevail over the positive testimony of a witness. A mere denial, just like alibi, is a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. As between a categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.[25]

In his further attempt to cast doubt on the credibility of the prosecution witnesses, VICTOR points to alleged inconsistencies between the testimonies of Rodrigo and Leonilo as to (1) who informed Rodrigo of the rape incident; (2) where VICTOR met Rodrigo; and (3) whether Leonilo and Julito were present at the time Rodrigo confronted VICTOR about the incident. The inconsistencies on these matters are too trivial and inconsequential to merit even a short shrift. Time-honored is the doctrine that discrepancies referring to minor details and collateral matters do not affect the veracity of the witnesses' declarations. In fact, they strengthen, rather than impair, the witnesses' credibility, for they erase any suspicion of rehearsed testimony.[26]

VICTOR next asserts that considering that Julito was requested by LANIE's mother to watch over LANIE while she was away, it was unnatural and unbelievable that he did not do anything to protect LANIE when he saw her being sexually abused.

We find nothing unnatural in the way Julito reacted to what he had witnessed. We have long recognized that different people react differently to a given situation. There is no standard form of behavioral response when one is confronted with a strange, startling, or frightful experience. One person's spontaneous response may be aggression, while another's may be cold indifference.[27]

While we affirm the trial court's judgment of conviction, we do not agree with the trial court's imposition of the death penalty on the basis of the relationship between VICTOR and LANIE under the following provision of Article 335 of the Revised Penal Code, as amended by R.A. No. 7659:

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree or the common-law spouse of the parent of the victim.

The information merely states that LANIE is VICTOR's niece. It does not state the specific degree of their relationship. Moreover, it turned out during the trial that their relationship is within the fifth degree of consanguinity only. Besides LANIE was not under 18 years old when the rape was committed.

Neither can the imposition of death penalty be justified under the following provision of the same Article:

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

The information does not state that LANIE became insane by reason or on the occasion of the rape; it merely alleges that LANIE is VICTOR's 18-year old mentally-ill niece. Moreover, the prosecution and the defense are one in saying that LANIE was already mentally-ill or demented at the time she was raped.

It may not be amiss to state that under Article 266-B (10) of R.A. No. 8353, otherwise known as "The Anti-Rape Law of 1997," amending further Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, if the offender knew of the mental disability, emotional disorder, or physical handicap of the victim at the time of the commission of the rape, the death penalty shall be imposed. But since this law took effect only on 22 October 1997[28] and the crime was committed on 29 December 1996, it cannot be applied to this case. Such provision, being unfavorable to the accused, cannot be given retroactive effect.

To conclude, VICTOR could only be liable for simple rape.

No other modifying circumstance having been proved, the penalty that can be imposed on VICTOR pursuant to Article 63 of the Revised Penal Code is reclusion perpetua, the lesser of the penalties prescribed by Article 335 of the Revised Penal Code, as amended by R.A. No. 7659.

Conformably with current case law, the trial court's award of indemnity is reduced from P75,000 to P50,000; and the award of P50,000 for moral damages is warranted even without need of pleading or proof as basis thereof.[29]

The belated claim of VICTOR that the trial judge was biased against him for propounding questions that were well within the prerogative of the prosecution to explore and ask is without merit. There is no showing that the trial judge had an interest, personal or otherwise, in the prosecution of the case at bar. He is therefore presumed to have acted regularly and in the manner that preserves the ideal of the "cold neutrality of an impartial judge." On the whole, we find that the questions propounded by the trial judge were merely for clarification purposes. It is a judge's prerogative and duty to ask clarificatory questions to ferret out the truth. Questions which clear up dubious points and bring out additional relevant evidence are within judicial prerogative.[30] The mere fact that the presiding judge asked clarificatory questions during the trial does not make him a biased judge.[31]

WHEREFORE, the judgment of the Regional Trial Court of Zamboanga del Norte, Branch 11, is AFFIRMED with MODIFICATIONS. Accused-appellant VICTOR UGANG is hereby found guilty beyond reasonable doubt, as principal, of the crime of simple rape under Article 335 of the Revised Penal Code, as amended, and sentenced to suffer the penalty of reclusion perpetua. He is also ordered to pay the offended party, LANIE JUMUAD, the amounts of P50,000 as indemnity ex delicto and P50,000 as moral damages.

Costs de officio.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares- Santiago, De Leon, Jr., Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

[1] Rollo, 8.

[2] TSN, 21 August 1998, 3-5, 8, 11.

[3] Id., 5-6, 11-17.

[4] TSN, 23 October 1998, 4-8, 15.

[5] Exhibit "B," OR, 52.

[6] Exhibit "C," Id., 53.

[7] TSN, 8 January 1999, 2-3.

[8] TSN, 11 February 2000, 3-7, 10-11, 14.

[9] Id., 6, 15.

[10] Original Record (OR), 84; Rollo, 13. Per Judge Wilfredo G. Ochotorena.

[11] Rollo, 47-54.

[12] Id., 94-114.

[13] Rollo, 122-160.

[14] TSN, 21 August 1998, 13-17; TSN, 23 October 1998, 5, 15-16; TSN, 11 June 1999, 16-17.

[15] TSN, 11 February 2000, 4-5, 11.

[16] Rollo, 53.

[17] *People v. Nguyen Dinh Nhan*, 200 SCRA 292, 297 [1991].

[18] *Id.*; *People v. Romua*, 272 SCRA 818, 829 [1997]; *People v. Almacin*, 303 SCRA 399, 408 [1999].

[19] See *People v. Romua*, *supra*; *People v. Perez*, 307 SCRA 276 [1999].

[20] *People v. Cabanela*, 299 SCRA 153, 160 [1998]; *People v. Almacin*, *supra* note 18, at 411.

[21] Exhibit "A," OR, 4.

[22] 335 SCRA 371 [2000].

[23] *People v. Aliviano*, *supra*, at 382-383.

[24] *People v. Juntilla*, 314 SCRA 568, 582 [1999]; *People v. Lasola*, 318 SCRA 241, 252 [1999]; *People v. Lacaba*, 318 SCRA 301, 314 [1999]; *People v. Aliviano*, *supra* note 22, at 382-383.

[25] *People v. Villanueva*, 339 SCRA 482, 501 [2000].

[26] *People v. Villanueva*, *supra* note 26, at 499; *People v. Paraiso*, G.R. No. 131823, 17 January 2001.

[27] *People v. Gutierrez*, 339, 452, 457 [2000].

[28] *People v. Lacaba*, *supra* note 23, at 316.

[29] *People v. Prades*, 293 SCRA 411 [1998]; *People v. Flores*, 311 SCRA 170 [1999].

[30] *People v. Castillo*, 289 SCRA 213, 226-227 [1998].

[31] *Barbers v. Laguio*, Adm. Matter No. RTJ 00-1568, 15 February 2001.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.