

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REDANTE SANTOS Y CRUZ, APPELLANT.

G.R. No. 145305. June 26, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before this Court for automatic review is the Decision^[1] dated 18 October 1999 of the Regional Trial Court of Pasig City, Branch 166, in Criminal Case No. 114100-H. The trial court found appellant Redante Santos y Cruz ("appellant") guilty of the crime of qualified rape and imposed on him the death penalty.

The Charge

The Amended Information charging appellant with the crime of rape reads:

On or about April 9, 1998, in Pasig City and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his step-daughter Danly Santos y Gonzales, twelve years of age, against her will and consent.

Contrary to law.^[2]

Arraignment and Plea

When arraigned on 8 October 1998, appellant, with the assistance of his counsel de oficio, entered a plea of not guilty.^[3]

The Trial

Version of the Prosecution

The prosecution presented three witnesses: (1) Dr. Tomas Suguitan of the Medico-Legal Division of the PNP Crime Laboratory, who conducted the physical examination on complainant; (2) complainant Danly Santos ("Danly"); and (3) Danly's mother Dolores Santos ("Dolores").

In the People's Brief, the Solicitor General summarized the prosecution's version of the incident as follows:

On April 9, 1998, around ten o'clock in the evening, the victim Danly Santos, then only thirteen (13) years old, was sleeping with her younger half-sister in the rented house of her stepfather, appellant herein, located at Mais Street, Manggahan, Pasig City. Danly woke up when she felt someone fondling her private parts. She saw that it was appellant fondling her. Appellant then told Danly not to make any noise otherwise he would kill her. Thereafter, appellant covered Danly's mouth with his hand, removed her shortpants and t-shirt, spread Danly's legs, and raped her. Danly felt pain at the penetration. This was, however, already the second time appellant raped Danly. The first rape occurred on March 25, 1998 which is the subject of another appeal taken by appellant before this Honorable Court, Third Division in G.R. No. 144994 (pp. 11-12, tsn, November 12, 1998).

On April 12, 1998, appellant figured in a stabbing incident and was brought to the Rodriguez Hospital. Appellant insisted that Danly should stay and look after him there. A neighbor of Danly's mother saw both appellant and victim at the hospital by chance. The neighbor reported this matter to Dolores, Danly's mother, because the latter has been looking for her young children all this time. Upon learning of this information, Dolores went to the hospital and fetched Danly (p. 18, *ibid.*; p. 12, *tsn*, August 5, 1999).

Thereafter, Danly told her mother that appellant raped her. They promptly went to the police authorities in Pasig City to file the corresponding complaint against appellant herein. Appellant was arrested on April 13, 1998 (p. 3, *tsn*, January 14, 1999).

Minor victim Danly submitted herself for genital examination. According to Tomas D. Suguitan, M.D., the medico-legal officer who prepared the Medico-Legal Report dated April 14, 1998, the following are the results of this examination:

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pinkish brown areola and nipples from which no secretions could be pressed. Abdomen is flat and soft.

GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex and coaptated, with the pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type with deep healed laceration at 3 o'clock position. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

(Exh. "H" for the prosecution)[4]

Version of the Defense

The defense likewise presented three witnesses: (1) Romualdo Bernardino, (2) Juvelyn Laureto, and (3) appellant Redante Santos.

The Public Attorney summarized the defense's version as follows:

ROMUALDO BERNARDINO, a resident of Libis Concepcion, Marikina City testified on April 9, 1998 at 6:00 o'clock in the morning, accused-appellant, together with private complainant and the latter's little sister arrived in his house in order to borrow One Thousand Five Hundred Pesos (P1,500.00) from him. As security for the loan, accused-appellant pledged the T.V. set owned by his mother, who resides in Antipolo. At around 7:00 o'clock in the morning, they proceeded to Antipolo to get the T.V. set. They arrived therein at around 10:00 o'clock in the morning. They were back at noon in Marikina. Later in the afternoon, accused-appellant and the two (2) girls returned to Bernardino's house. Accused-appellant told herein witness that they were hiding from Danly's mother because they were not in good terms with each other. At around 7:00 o'clock in the evening, Bernardino accompanied them to the house of his sister-in-law where they slept. After about a month, herein witness learned that accused-appellant was charged of rape. (TSN, March 29, 1999, pp. 2-21)

JUVELYN LAURETO, 14 years of age and a resident of Tumana, Concepcion, Marikina, testified that on April 9, 1998 at about 8:00 o'clock in the evening, accused-appellant together with private complainant Danly

Santos and her sister arrived in their house. At around 10:00 o'clock after eating supper and playing cards, they slept side by side with each other near the kitchen area. She recalled that she was not able to sleep well that night, because Danly's sister suffered asthma and she had to wake up to give her a glass of water. She saw that accused-appellant and private complainant were taking turns in massaging and rubbing the back of the child so that the latter would feel better. (TSN, June 30, 1999, pp. 2-13)

Accused-appellant REDANTE SANTOS testified that, on April 9, 1998 at about 6:00 o'clock in the morning, he, together with private complainant Danly Santos and her little sister went to the house of his friend, Romualdo Bernardino and obtained from the latter a loan in the sum of One Thousand Five Hundred Pesos (P1,500.00). As security for the said loan, he pledged the T.V. set of his mother, which they picked up in Antipolo. They arrived thereat at around 10:00 o'clock in the morning and was able to return to Marikina by noon. Accused-appellant and the two (2) girls stayed in the town of Marikina at the Sports Center until late in the afternoon. They spotted private complainant's mother in the area so the three of them went into hiding. They returned to Bernardino's house and requested if they could spend the night therein but the latter refused. Nevertheless, Bernardino accompanied them into a nearby house of his sister-in-law where accused-appellant and the two (2) girls spent the night. They woke at around 5:30 in the morning and left right after eating their breakfast.

On April 12, 1998 at around 3:30 in the afternoon, accused-appellant figured in a stabbing incident and was confined at the Rodriguez Hospital. When Dolores came to visit, she saw Danly taking care of the accused-appellant. Dolores got mad and forcibly took Danly with her. The following day, April 13, 1998, accused-appellant was arrested and detained at the Pasig Police Station. (TSN, August 5, 1999, pp. 2-23)[5]

The Trial Court's Ruling

The trial court gave full faith and credence to the evidence of the prosecution. The trial court found that the prosecution sufficiently established the following facts:

- On April 9, 1998, private complainant Danly Santos y Gonzales was 12 years and 7 months old.
- Accused Redante Santos y Cruz is the stepfather of Danly Santos.
- On April 9, 1998, at about 10:00 o'clock in the evening, in the house of accused in Manggahan, Pasig City, accused had carnal knowledge of Danly Santos by using force and intimidation.[6]

Appellant raised the defense of alibi and asserted that Danly's mother Dolores merely fabricated the charge against him. On this, the trial court stated:

Accused was positively identified by Danly Santos as the person who raped her, so that accused's defense of alibi is unavailing.

Accused's assertion that the charge against him was fabricated by his wife and the latter's relatives because they have a grudge against him, finds no support in the record. Even assuming in gratia argumenti that accused's wife and his in-laws disliked and hated him, it is unthinkable and definitely inconsistent with human experience that they would utilize as instrument of revenge their own flesh and blood, a young and innocent girl, and consign her to a life of shame, embarrassment and ridicule.

The prosecution has sufficiently overcome the constitutional presumption of innocence in favor of the accused.[7]

Thus, the trial court rendered a judgment of conviction on 18 October 1999. The dispositive portion of the trial court's decision reads:

WHEREFORE, the Court finds accused REDANTE SANTOS Y CRUZ Guilty beyond reasonable doubt of the crime of Rape, as charged in the Amended Information and defined and penalized under Article 335 of the

Revised Penal Code, as amended by R.A. 7659, better known as the Death Penalty Law, and he is hereby sentenced to suffer the supreme penalty of Death, and indemnify the victim Danly Santos y Gonzales the sum of P50,000.00, plus the costs of suit.

SO ORDERED.[8]

Hence, this automatic review.

The Issues

Appellant seeks the reversal of his conviction by contending that:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING ON APPELLANT THE DEATH PENALTY DESPITE THE FAILURE BY THE PROSECUTION TO PROVE WITH CERTAINTY THE ALLEGED RELATIONSHIP OF PRIVATE COMPLAINANT WITH APPELLANT.[9]

The Court's Ruling

The Court sustains the conviction of appellant, but the correct penalty is reclusion perpetua and not death.

We agree with the trial court that the prosecution has proven beyond reasonable doubt appellant's guilt for the crime of rape.

This Court has consistently observed the following guidelines in deciding rape cases: (1) to accuse a man of rape is easy, but to disprove the accusation is difficult even if the accused is innocent; (2) since rape usually involves only two persons, the testimony of the complainant must be examined with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merit and should not draw strength from the weakness of the evidence for the defense.[10]

Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353,[11] provides:

Article 266-A. Rape. When and How Committed. — Rape is committed —

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

x x x.

To show that appellant had carnal knowledge of her by means of threat or intimidation, Danly testified thus:

Q Where were you on April 9, 1998 at around 10 p.m.?

A Yes, I was at Mais St., Manggahan, Pasig City.

Q At [sic] particular, were you in a house or what?

A In a house sir.

Q Who was your companion at that time inside the house?

A My stepfather Redante Santos.

Q How about your mother where was she at that time?

A She was not in the house[.] I was told she was in Marikina.

Q Why were you in that house at Pasig City at that time?

A I was brought there by Redante.

Q

From where did he take you?

A From Marikina.

Q Where is your actual residence?

A 75 Bantayog St., Marikina.

Q So you were brought in Pasig by your stepfather now at around 10 p.m., while you were inside the house was there anything unusual that happened?

A None sir.

Q What happened?

A He committed a rape against me.

Q

Who raped you?

A My stepfather Redante Santos.

Q Will you point to him if he is in court.

A There he is. (Witness pointed to a person who when asked gave his name as Redante Santos).

Q You pointed to a man by the name of Redante Santos as the one who raped you[.] How did he rape you?

A At about 10 p.m. I was already asleep and then I woke up because I felt somebody was touching my private part.

Q And then what happened?

A When I woke up I saw him and he told me not to make any noise otherwise he will kill me.

Q

After that what happened?

A He covered my mouth.

Q What else[?]

A [He] removed my shortpants and t-shirt.

Q Then what happened?

A He was trying to spread my legs.

Q Then what happened?

A And he was trying to insert his private organ[.]

Q

Was he able to insert his private organ to yours?

A Yes.

Q Where did he insert his penis?

A In my vagina.

Q What did you feel?

A I felt pain.

Q How long did he insert his penis into your vagina?

A A long time, I do not recall the exact time.

Q Did you feel anything when he inserted his sex organ?

Court She said she felt pain.

Q What else did you feel aside from being painful?

A As if my vaginal canal [was] large.[12]

Dr. Tomas Suguitan, who conducted the medico-legal examination on Danly, corroborated Danly's testimony. Dr. Suguitan testified:

Q When [was complainant referred to you]?

A April 13, 1998.

Q

Did you conduct any examination upon the victim?

A Yessir [sic].

Q What kind of examination?

A General inspection of the whole body and [then I] proceeded to examine the genitalia.

Q And what was your finding?

A On the hymen there was a deep healed laceration at [the] 3:00 o'clock [position].

xxx

Q

When you say deep healed laceration, what do you mean?

A Since the hymen is a round organ, we compared it to the face of the clock, so the laceration was located at 3:00 o'clock position.

Q Was the victim a virgin?

A During the time of the examination, she was no longer a virgin.

Q What is the healing period of this laceration?

A Within ... three to five days.[13]

Carnal knowledge is proven by two details: pain in the victim's genitalia and the findings of the medico-legal officer.[14] Danly was certain that appellant penetrated her genitalia because she felt pain in her genitalia. She also stated that appellant spread her legs and inserted his penis in her vagina.[15] The testimony of a rape victim, who is barely in her teens, is credible and deserves full credit, especially where the sexual assault on her is proven

as in this case.[16] The pain in the victim's genitalia could only be caused by the penetration, even though slight, of the male organ into its opening.[17] Moreover, Dr. Suguitan's medical findings of penetration corroborated Danly's testimony. Thus, there is sufficient evidence to conclude the existence of the essential element of carnal knowledge.

This Court has repeatedly noted in rape cases that it is common for a girl of tender age to be intimidated by the mildest threat against her life.[18] Rape is committed when the accused intimidates the victim who submits to sexual intercourse out of fear for her life or personal safety.[19] Intimidation is addressed to the mind of the victim, and being subjective, its presence cannot be tested by any hard and fast rule. Instead, intimidation should be viewed in the light of the victim's perception and judgment at the time of the commission of the rape.[20] Danly described appellant's acts of intimidation on her as follows:

Q Could you tell the court how you were able to go to Pasig?

A Redante wanted me to be with him in Pasig but I refused. So he warned me that if I will refuse he will be with us in Marikina.

x x x

Q Why did you go if you did not like at first?

A Because according to him if I will not go with him in Pasig he will come to Marikina and ruin my life.

x x x

Q You narrated in this affidavit what according to you was done by your stepfather, did you not shout for help, Ms. Witness?

A I was not able to shout because he was covering my mouth.

Q

What hand did he use?

A Left hand.

Q You said that after allegedly you claimed that you are sexually abused you were asked by your father to sleep?

A Yes mam [sic].

Q And why did you sleep in that house?

A Because I was scared because he threatens [sic] me that if I will ask for help he will kill me.

x x x

Q You mentioned awhile ago "nung itakas niya po kami," what do [sic] you mean?

A Yes, I said itakas because he did not want anybody to know that he was bringing us to Pasig.

Q

And why did you not tell him that you do not want to go with him?

A I told him that I did not want to go but he said that if I will not go he will come back to Marikina and ruin my life.

x x x

Q Before doing what you said he did to you did he not tell you that he wanted to do it?

A No he did not ask me.

Q So you mean without talking to you at all he just started undressing you?

A He told me if I will shout he will kill me.

Q And what did you answer him if any?

A I can not talk then because he was covering my mouth.[21]

Danly was five years old when appellant started living with her mother.[22] Appellant and her mother have been living as husband and wife for seven years.[23] Since appellant was Danly's father figure when she was growing up, appellant's moral ascendancy and influence over Danly can even take the place of threat or intimidation.[24]

The trial court found Danly's testimony to be credible and straightforward. We give great weight to the trial court's evaluation of the testimony of a witness because the trial court can observe the facial expression, gesture, and tone of voice of a witness while testifying. The trial court is in a better position to determine whether a witness is lying or telling the truth. We also find no basis to deviate from the settled rule that testimonies of rape victims who are young and immature are credible.[25]

Appellant's elaborate explanation, raising the twin defenses of denial and alibi, fail to hold up against Danly's testimony. Many persons convicted of rape have attributed the charges against them to family feuds, resentment, or revenge. However, such supposed motives have never swayed the Court from lending full credence to the testimony of a rape victim who remained steadfast throughout her direct and cross-examination.[26] It is unnatural for a parent to use her offspring as a battering ram to extract revenge, especially if it will subject them to

disgrace and humiliation.[27] No mother in her right mind would expose her daughter to the stigma and trauma resulting from a prosecution for rape if she did not have a genuine desire to seek justice against the person responsible for her daughter's defilement.[28]

Appellant also asserted that he could not have raped Danly on 9 April 1998 as they were actually in Marikina and not in Pasig on this date and he had witnesses to prove such fact.[29] Danly refuted this, stating that they were in Marikina on 7 April 1998 and that they were in Pasig on 9 April 1998.[30] Even if appellant and Danly were in Marikina on 9 April 1998, such fact does not preclude the commission of the crime of rape. It is sufficient that the information alleges that the crime was committed on or about a specific date since time is not a material element of rape.[31]

The death penalty imposed by the trial court on appellant is not correct. Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, states:

Article 266-B. Penalties. — x x x

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

1) 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; x x x.

To justify imposing the death penalty in this case, the qualifying circumstances of the minority of the victim and her relationship to the offender must be specifically alleged in the Information and proven during the trial.

The Revised Rules of Criminal Procedure, which took effect on 1 December 2000, expressly require both qualifying and aggravating circumstances to be specifically alleged in the Information. Sections 8 and 9, Rule 110 of the Revised Rules of Criminal Procedure provide:

SECTION 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SECTION 9. Cause of the accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

The prosecution bears the burden of establishing the qualifying circumstances that characterize the offense as qualified rape.[32] The concurrence of the minority of the victim and her relationship to the offender, as a qualifying circumstance that increases the penalty to death, should be alleged in the Information to warrant imposing the death penalty.[33] Where the prosecution fails to allege and prove minority and relationship, which transform rape to its qualified state, the accused should only be held liable for the crime of simple rape.[34] The constitutional right of the accused to be informed of the charges against him[35] prevents his conviction for a crime that is not adequately described in the Information.

For the qualifying circumstance of minority to be appreciated, it must be alleged in the Information and proved beyond reasonable doubt. There must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused.[36] In this case, the prosecution presented Danly's birth certificate to show that she was born on 11 September 1985. Hence, when appellant raped

Danly on 9 April 1998, she was only 12 years and almost 7 months old.

The relationship between a stepfather and a stepdaughter assumes the existence of a legitimate relationship, that is, the stepfather should be legally married to the stepdaughter's mother.[37] In contrast, a common-law husband is not legally married to his common-law wife. If such common-law wife has a daughter by another man, the daughter is not a stepdaughter of the common-law husband.[38] A common-law husband is subject to punishment by death if he commits rape[39] against his common-law wife's daughter by another man. However, the death penalty cannot be imposed on the common-law husband if the relationship alleged in the information is that of a stepfather and stepdaughter, and what is proven is the relationship between a common-law husband and the daughter of his common-law wife by another man.[40]

The prosecution failed to establish the relationship of Danly as the stepdaughter of appellant since the prosecution did not offer in evidence the marriage certificate between appellant and Danly's mother. If appellant and Danly's mother were not legally married, a common-law relationship between appellant and Danly's mother would obviously exist. However, the Information did not allege a common-law relationship between appellant and Danly's mother but rather a legitimate relationship since the Information described Danly as appellant's stepdaughter.[41]

The prosecution even tampered with the original copy of Danly's birth certificate to make it appear that appellant and Danly's mother, Dolores Santos, are married to each other. This would have justified that "Dante Santos," instead of "Danilo Esmouth," is the registered father of Danly.[42] The prosecution, however, failed to present the marriage contract between appellant and Dolores Santos. References by Dolores Santos and Danly to appellant as the stepfather of Danly, and references by appellant to Dolores as his "wife," cannot be considered as evidence of the legality of the union between appellant and Dolores. Neither can such references be considered as evidence of the legality of the stepfather-stepdaughter relationship between appellant and Danly.

Because of the disparity between the facts alleged in the Information and the facts proven in court on the real relationship between appellant and Danly, we cannot hold appellant liable for qualified rape but only for simple rape. Hence, reclusion perpetua, and not death, is the correct penalty.

We affirm the trial court's award of P50,000.00 as civil indemnity, following prevailing jurisprudence in rape cases. We also award P50,000.00 as moral damages, which in rape cases may be awarded to the victim without need of pleading or proof of its basis.

WHEREFORE, the Decision dated 18 October 1999 of the Regional Trial Court of Pasig City, Branch 166, in Criminal Case No. 114100-H, is **AFFIRMED** with **MODIFICATION**. Appellant **REDANTE SANTOS y CRUZ** is adjudged guilty only of **SIMPLE RAPE** and sentenced to suffer the penalty of reclusion perpetua and to pay complainant Danly Santos P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Austria-Martinez, J., on leave.

[1] Penned by Judge Jesus G. Bersamira.

[2] Rollo, p. 4. Emphasis in the original.

- [3] Records, pp. 18-19.
- [4] Rollo, pp. 101-104.
- [5] Ibid., pp. 36-39.
- [6] Ibid., pp. 16-17.
- [7] Ibid., p. 17.
- [8] Ibid.
- [9] Ibid., p. 34.
- [10] *People v. Flores*, G.R. No. 141782, 14 December 2001, 372 SCRA 421.
- [11] Effective 22 October 1997.
- [12] TSN, 12 November 1998, pp. 10-12.
- [13] TSN, 12 November 1998, pp. 4, 5.
- [14] See *People v. Managbanag*, G.R. No. 140101, 7 December 2001, 371 SCRA 615.
- [15] TSN, 12 November 1998, p. 12.
- [16] See *People v. Pine*, G.R. No. 133441, 29 November 2000, 346 SCRA 383.
- [17] See *People v. Dagaojo*, G.R. No. 137834-40, 3 December 2001, 371 SCRA 321.
- [18] *People v. Ombreso*, G.R. No. 142861, 19 December 2001, 372 SCRA 576.
- [19] *People v. Paranzo*, G.R. No. 107800, 26 October 1999, 317 SCRA 367, 384.
- [20] *People v. Nogar*, G.R. No. 133946, 27 September 2000, 341 SCRA 206, 217.
- [21] TSN, 12 November 1998, pp. 15, 18, 21.
- [22] TSN, 12 November 1998, p. 20.
- [23] TSN, 14 January 1999, p. 6.
- [24] *People v. Maglente*, 366 Phil. 221 (1999).
- [25] *People v. Cortes*, G.R. No. 129693, 24 January 2000, 323 SCRA 131.
- [26] *People v. Itdang*, G.R. No. 136393, 18 October 2000, 343 SCRA 624.
- [27] *People v. Bayona*, G.R. No. 133343-44, 2 March 2000, 327 SCRA 190.
- [28] *People v. Quilatan*, G.R. No. 132725, 28 September 2000, 341 SCRA 247.
- [29] TSN, 5 August 1999, p. 3.
- [30] TSN, 23 September 1999, p. 2.
- [31] *People v. Garcia*, G.R. No. 117406, 16 January 2001, 349 SCRA 67.
- [32] *People v. Marcelo*, G.R. No. 126538-39, 20 November 2001, 369 SCRA 661.
- [33] *People v. Cantos, Sr.*, 365 Phil. 341 (1999).

- [34] *People v. Flores*, G.R. No. 130713, 20 January 2000, 322 SCRA 779.
- [35] *People v. Bernaldez*, G.R. No. 132779-82, 19 January 2000, 322 SCRA 462.
- [36] *People v. Bation*, G.R. No. 134769-71, 12 October 2001, 367 SCRA 211.
- [37] *People v. Tolentino*, 369 Phil. 755 (1999).
- [38] *People v. Torio*, G.R. Nos. 132216 & 133479, 17 November 1999, 318 SCRA 345.
- [39] Article 266-B (1) of the Revised Penal Code, as amended by R.A. No. 8353, speaks of an offender who is "the common-law spouse of the parent of the victim."
- [40] *People v. Mangasin*, 365 Phil. 683 (1999).
- [41] *People v. Alcoreza*, G.R. No. 135452-53, 5 October 2001, 366 SCRA 655.
- [42] See Exhibit "E"; TSN, 14 January 1999, p. 3. There were no signs of tampering as to complainant's date of birth. However, "Danilo [illegible]" was replaced by "Dante Santos," presumably for Redante Santos; Danly's surname, Dolores' signature, and Dolores' surname were all likewise changed.

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