

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PASCUAL BALBARONA, APPELLANT.

G.R. No. 146854. April 28, 2004

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-146854/>

CARPIO MORALES, J.:

For automatic review is the October 31, 2000 Judgment[1] rendered by the Regional Trial Court of Lanao Del Norte, Branch 2 convicting appellant, Pascual B. Balbarona, of raping his minor daughter and imposing on him the supreme penalty of death.

The Information[2] for rape filed on May 31, 2000 charges appellant as follows:

That on or about May 28, 2000, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Odette M. Balbarona his daughter, a minor under fifteen (15) years of age, against her will.

Appellant pleaded not guilty to the accusation.[3] The prosecution and defense subsequently entered into a stipulation of facts[4] where it was admitted that the victim, Odette M. Balbarona, was appellant's daughter and was fifteen at the time of the alleged rape; and that appellant was then living with the victim and his two other daughters.

Based primarily on the testimony of the victim, the prosecution presented its case as follows:

In the afternoon of May 28, 2000, at about 2:00 p.m., the victim, her two younger sisters Gina and Jocelyn, and their widower father-herein appellant were at their house in Barangay Tambacan, Iligan City. Gina and Jocelyn soon after left for their neighbor's house to watch TV.

The victim, in the meantime, was about to go downstairs, after cleaning the second floor of their two-storey house, when appellant pushed her back. He then removed her clothes, made her lie down on the floor, pulled her panty down to her knees, and went on top of her.

Appalled, the victim asked appellant what he was doing, to which he replied that they were the only ones left in the house. She thereupon resisted by kicking him at his ear. The victim's strength was no match to the appellant's, however, as he held her hand and then inserted his penis inside her vagina, drawing the victim to shout in pain. Appellant thus got up immediately, put on his clothes, and later left the house.[5]

The victim, meanwhile, got dressed and ran to the neighboring house of her elder sister Tessie Balbarona Commandro (Tessie) to whom she reported the dastardly act committed by their father upon her.

From her sister's house, the victim proceeded to another neighboring house, that of a friend, one Jean, to whom she likewise related the incident.

Jean thus accompanied the victim to Wilfredo Sarsaba (Saabada), a member of the paramilitary Civil Security

Unit before whom the rape incident was also related.

After the occurrence of the incident and for the next two days, the victim stayed at Jean's house and refused to return home.[6] She was later taken into custody by the Department of Social Welfare and Development. And she was examined by Dr. Leonardo Labanon, Medical Officer V of the Iligan City Health Office.

Corroborating her sister's after the fact account, Tessie went on to declare that she did not at first believe the victim whom she knew to be suffering from some mental imbalance since birth, but that anyway she advised her to have herself examined by a doctor and for her to stay in her (Tessie's) house.[7]

Sarsaba, at the witness stand, recalled that when the victim, in the company of Jean, reported to him the incident, she appeared pale and distraught. He thus suggested that he accompany the two to the police precinct but they refused and left. Sarsaba added that later in the evening, he echoed to barangay councilor Tuto Babatido the victim's report.[8]

Prosecution witness Dr. Labanon affirmed his findings in the Medical Certificate[9] he issued concerning the pelvic examination he conducted upon the victim on May 30, 2000. On his finding that the victim had "hymenal notches at 6, 1 and 11 o'clock positions," Dr. Labanon stated that the notches were indentations at the inner surface of the hymen which notches were regarded as normal variants of a hymen and not indicia of lacerations. As for his finding that the victim's "introitus [is] still tight, admits only one finger with minimal resistance," Dr. Labanon opined that it was unlikely that the victim's introitus was already penetrated by a normal size penis. He conceded, however, the possibility that there could have been penetration of the victim's sex organ but only at the level of the labia since a partially erect penis may still penetrate the vagina to the extent of the labia and not the introitus.

While Dr. Labanon admitted that he could not determine whether there was penetration of the victim's vagina through the touching by the penis of the labia, he declared that the victim had told him that her father had sexually abused her several times although she could only remember the last incident, that which occurred on May 28, 2000 at their residence.[10]

Another physician, Dr. Ray P. Sagge (Dr. Sagge), City Psychiatrist of the Iligan City Health Office, confirmed his conclusions in his July 18, 2000 Medical Abstract[11] on the victim's mental condition that she is suffering from a mental illness classified as Mood Disorder, Major Depression coupled with a low level of intelligence below that of the average. By Dr. Sagge's account, the victim pointed to the rape incident as the cause of her depression.

The doctor rejected the idea that the victim was experiencing hallucinations, he adding that although she had at times difficulty in understanding questions propounded to her, she was on the whole coherent and was thus competent to become a witness.[12]

Upon the other hand, lone defense witness appellant denied the charge and proffered alibi. He claimed that in the afternoon of May 28, 2000, at 2:00 p.m. when he allegedly raped his daughter, he was still in his workplace in Barangay Saray which is a kilometer away from his residence.

Elaborating, appellant declared as follows: He left home early at 4:00 a.m. of May 28, 2000 to carry out his work as a butcher for his employer Gill Eballo. Having been occupied butchering two cows and two pigs in the morning of said date, and roasting a pig in the afternoon, it was already 7:00 p.m. when he got home, his employer not having allowed him at any time of the day to leave the workplace. On his arrival at home, he found his three daughters watching TV at a neighbor's house, but only Gina and Jocelyn later returned home. Worried of the victim's whereabouts, he looked for her in the neighborhood whereupon his eldest daughter Tessie informed him that the victim had left with her friends. He thus scolded Tessie for allowing the victim to roam around instead of

her (the victim) being of help in looking after her younger sisters. He continued searching for the victim until his arrest on May 31, 2000 at his workplace.[13]

To the trial court appellant ascribes the following errors:

- THE COURT GRAVELY ERRED IN FINDING THAT THE HEREIN . . . APPELLANT HAD INDEED INSERTED HIS PENIS INSIDE THE VAGINA OF THE ALLEGED VICTIM
- THE COURT A-QUO GRAVELY ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF DR. LEONARDO LABANON WHICH APPARENTLY SHOWS THE INNOCENCE OF THE HEREIN . . . APPELLANT OF THE CRIME CHARGED.
- THE COURT A-QUO GRAVELY ERRED IN APPRECIATING THE FACT THAT THE HEREIN . . . HAD INDEED RAPED THE ALLEGED VICTIM ON MAY 28, 2000 AT 2:00 O'CLCOK IN THE AFTERNOON.
- THE COURT A-QUO GRAVELY ERRED IN FINDING THE HEREIN . . . GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DEFINDE AND PENALIZED UNDER ARTICLE 266-A, PAR. 1, CHAPTER 3 OF THE REVISED PENAL CODE, AS AMENDED BY REPUBLIC ACT NO. 8353 (ANTI-RAPE LAW OF 1997).

Appellant assails the victim's testimony as failing to clearly show how it was possible for him to have raped her. He draws attention to her open court statements that she was still wearing her panty and appellant was wearing his brief when he went on top of her.

To belie the claim that there was actual penetration of or insertion of his penis inside the victim's vagina, appellant harps on the medical finding showing no lacerations in her hymen, there being only hymenal notches which are normal to every female. He likewise harps on the medical opinion that since the victim's introitus admits only one finger, it was unlikely that the introitus was penetrated by a normal size erect penis.

Appellant thus argues that superior physical evidence has run counter against the People's testimonial evidence.

Finally, appellant singles out as a major flaw in the victim's testimony her declaration on cross-examination that she was sexually assaulted at 2:00 p.m. of May 28, 2000, albeit she also stated that she, at the same time, went to Jean's house.[14]

Upon close examination of the transcripts of stenographic notes, this Court finds that the testimony of the victim is replete with details of how appellant carried out the sexual assault against her. Consider the following:

(PROSECUTOR CUETO)

Q

On May 28 year 2000, where was your father then?

A

He was just in our house.

Q

Did he work on that day, as a butcher?

A

No, sir.

Q

How about you, where were you on that day, specifically about 2:00 o'clock in the afternoon?

A

I was in our house.

Q

Who was with you then?

A

My younger sisters.

(COURT)

Q

Your two younger sisters? You are referring to your two younger sisters?

A

Yes, Your Honor.

(PROSECUTOR CUETO)

Q

How about your father, was he there?

A

Yes, sir.

Q

Was there any instance whereby your two sisters left?

A

Yes, sir.

Q

So when your two sisters left, you and your father were left behind?

A

Yes, sir.

Q

While you were left alone with your father, was there any unusual incident that happened?

A

Yes, sir.

Q

What was that incident?

A

I was cleaning the upstairs portion of our house.

Q

While you were cleaning your house, what happened next?

A

My father suddenly went upstairs.

Q

When he went upstairs, what happened?

A

I was about to go down when my father instead pushed me inside the upper portion.

Q

After he pushed you, what happened to you?

A

He immediately removed my clothes.

Q

How about your underwears?

A

He likewise removed it.

Q

How about your father, what did he do?

A

He likewise removed his clothes.

Q

After removing your clothes by your father and after your father had removed his clothes, what happened next?

A

He made me lie down and then he immediately climbed on top of me.

Q

What did he do after climbing on top of you?

(COURT)

Q

Climb or mount?

A

Once he mounted on top of me, he inserted his penis into my vagina.

(PROSECUTOR CUETO)

Q

Was he able to penetrate or insert his penis to your vagina?

A

Yes, sir.

Q

Are you sure of that?

A

Yes, sir.

Q

And what did you feel?

A

It was so painful.

Q

After that, what happened?

A

I immediately put on my clothes and went downstairs.

Q

Did you not resist your father?

A

I resisted him. I even fought back but he held my hands.

Q

Did you not shout?

A

I shouted.

Q

Despite your resistance, your father still proceeded with what he had done?

A

Yes, sir.

Q

How long did it take for your father to do such act?

A

He did not put it inside my vagina for a long time. It was just for a short time because I shouted that it was so painful.

Q

You said that you resisted. After you resisted and shouted, did your father insist on having sexual intercourse with you, after you shouted that it was painful?

A

No more, sir. He immediately got off of me.

Q

And how about you, what did you do after your father get up?

A

I immediately put on my clothes and went downstairs.

x x x (Emphasis supplied).[15]

As tested by jurisprudentially established rules in evaluating rape cases, the victim's above-quoted account could not have been merely concocted by her, a naive young barrio girl.

Testimonies of rape victims who are young and immature deserve full credence, considering that no young woman especially of tender age would fabricate a story of defloration, allow examination of her private parts, and pervert herself by being subjected to a public trial, if she was not moved solely by the desire to secure justice for the wrong done against her.[16]

The tale of the victim unmistakably brought out, as charged in the information, the elements of rape, to wit: (1) that there has been carnal knowledge of the victim by the accused; and (2) that the accused achieves the act by force and intimidation upon the victim.[17]

What is more, there was no attempt at all by the defense to show any ill motive behind the victim's accusation against appellant. Appellant in fact admitted that he had good relations with the victim before and on May 28, 2000.[18] The absence of evidence showing any improper motive on the part of a witness strongly tends to sustain the conclusion that no such improper motive exists and that his or her testimony is worthy of full faith and credit.[19]

Buttressing the victim's credibility is the fact that soon after her ordeal, she disclosed it to her elder sister and other members of the community who confirmed such disclosure. A complainant's act of immediately reporting the commission of rape has been deemed by this Court as a factor strengthening her credibility.[20]

The victim was firm for the most part in her testimony, save for some understandable minor inconsistencies respecting the place, date, time and manner by which the rape took place. Thus, as to the victim's supposed lapse that she and appellant were still wearing their underwear at the time he had carnal knowledge of her, the same does not infirm her claim, which she clarified on questioning by the court, that appellant removed her panty

before inserting his penis in her vagina.

x x x

(COURT)

Q

Where were you laid down, on the floor?

A

On the floor, Your Honor.

Q

On the floor of the upper portion of your house?

A

Yes, Your Honor.

Q

After he was already on top of you, what happened next?

A

He told me not to tell anybody.

Q

You were able to lie down on the floor of the upper portion of your house, am I correct?

A

Yes, Your Honor.

Q

When you were on such position, what happened next?

A

He immediately inserted his penis, Your Honor.

Q

You mean to say, when you lied down on the floor, he immediately inserted his penis?

A

Yes, Your Honor.

Q

You mean to say then, that he inserted his penis even if you are wearing a panty, am I correct?

A

He pulled my panty up to my knees, Your Honor.

Q

Does the Court understand that before he inserted his penis on your vagina, he pulled your panty up down?

A

Yes, Your Honor.

Q

Seeing that your panty was pulled down, what did you do then?

A

I moved around trying to evade the thrust of his penis to my vagina, Your Honor.

x x x (Emphasis and underscoring supplied).[21]

The victim may not have been definite on whether appellant removed her panty before or after he clambered atop her. What is certain, however, as she repeatedly pointed out, is that appellant pulled down her panty before he inserted his penis inside her vagina.

By the victim's account then, it is gathered that appellant inserted his penis inside her vagina after he placed himself on top of her and pulled down her panty. That appellant may at that point have been wearing his brief does not mean that he failed to have carnal knowledge of her. For he may have subsequently removed his brief or simply let out his penis therefrom prior to the sexual congress with the victim.[22]

Appellant cites as a serious contradiction the victim's assertion that she was raped at 2:00 p.m. of May 28, 2000 while admitting that she was also at her friend's house at that same time. The contradiction is more apparent than real. The victim ably explained, in all of her naiveté, what she meant by her said statement in this wise:

x x x

(ATTY. UMPA)

Q

Miss Witness, what time did you go to your friend Jean on May 28?

A

At around 2:00 in the afternoon.

Q

So at around 2:00 o'clock in the afternoon, you went to the house of your friend Jean?

A

Yes, sir.

Q

So that was also the time that you were allegedly raped by your father, am I correct?

A

Yes, sir.

Q

How is it possible?

(PROSECUTOR CUETO)

The statement is that after the rape she went to the house of her friend. Actually, that was about 2:00 o'clock in the afternoon. You cannot at the same time be raped and went to the house of a friend.

(ATTY. UMPA)

Q

I was not finished, Your Honor. How was it possible that according to you, you went to the house of your friend Jean at 2:00 o'clock and now at the same time you said that you were allegedly raped by your father at 2:00 o'clock, could you please explain?

A

He raped me at about 2:00 o'clock and then he did not rape me for a long time. Right after the rape was made, I immediately ran to Jean's house.

x x x (Emphasis supplied).[23]

Rape victims are not expected to make an errorless recollection of the incident, so humiliating and painful that they might in fact be trying to obliterate it from their memory.[24] Thus, a few inconsistent remarks in rape cases will not necessarily impair the testimony of the offended party.[25]

The inconsistencies in the victim's account are clearly understandable in light of her tender age and attested low level of mentality. Besides, as the determination of the credibility of witnesses rests largely with the trial court, its assessment of the witnesses' testimonies is treated with great respect on appeal, absent grave abuse of discretion on its part, it having the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses.[26]

In fine, this Court finds no compelling reason to disturb the trial court's evaluation of the victim's credibility.

Appellant raises the ultimate challenge to his conviction – that there was no penetration by his penis of the victim's vagina based on the medical findings of the lack of lacerations in the victim's hymen and of the tightness of her introitus as to admit of only one finger.

This Court is not persuaded.

It is a settled rule that the absence of hymenal lacerations or abrasions (as well as of seminal fluid, spermatozoa, or hematoma) around the genital area does not negate the commission of rape.[27] For the mere touching by the male organ of the labia of the pudendum already constitutes rape such that any degree of penetration, however slight, of the female organ by the male organ consummates such crime.[28] In the case at bar, the victim positively and unwaveringly maintained that appellant inserted his sex organ inside her vagina as a result of which she experienced extreme pain to draw her to shout, causing appellant to withdraw his penis:

x x x

(PROSECUTOR CUETO)

Q

What did he do after climbing on top of you?

(COURT)

Q

Climb or mount?

A

Once he mounted on top of me, he inserted his penis into my vagina.

(PROSECUTOR CUETO)

Q

Was he able to penetrate or insert his penis to your vagina?

A

Yes, sir.

Q

Are you sure of that?

A

Yes, sir.

Q

And what did you feel?

A

It was so painful.

x x x (Emphasis and underscoring supplied).[29]

(PROSECUTOR CUETO)

Q

How long did it take for your father to do such act?

A

He did not put it inside my vagina for a long time. It was just for a short time because I shouted that it was so painful.

You said that you resisted. After you resisted and shouted, did your father insist on having sexual intercourse with you, after you shouted that it was painful?

No more, sir. He immediately got off of me.

x x x (Emphasis and underscoring supplied).[30]

(COURT)

Q

When you were on such position, what happened next?

A

He immediately inserted his penis, Your Honor.

Q

You mean to say, when you lied down on the floor, he immediately inserted his penis?

A

Yes, Your Honor.

Q

You mean to say then, that he inserted his penis even if you are wearing a panty, am I correct?

A

He pulled my panty up to my knees, Your Honor.

Q

Does the Court understand that before he inserted his penis on your vagina, he pulled your panty up down?

A

Yes, Your Honor.

x x x (Emphasis and underscoring supplied supplied).[31]

(ATTY. UMPA)

Q

Aside from mounting on top of you, what did he do?

A

He immediately inserted his penis into my vagina.

x x x (Emphasis and underscoring supplied).[32]

(ATTY. UMPA)

Q

Miss Witness, after he mounted on top of you and he inserted his penis into your vagina, how long did he insert his penis into your vagina?

A

Just a very short time. Just as soon as he entered.

Q

So after that, he immediately pulled away?

A

Yes, sir. Because I cried.

(COURT)

Q

What made him pulled away his penis?

A

Because I cried, Your Honor.

Q

So you are telling us that he inserted his penis into your vagina, only once?

A

Yes, sir.

x x x (Emphasis and underscoring supplied).[33]

(COURT)

Q

While he was mounting on you, while he was on top of you, what happened?

A

He inserted his penis into my vagina and I shouted.

Q

Because you shouted, what happened then?

A

He immediately removed himself, Your Honor. He pulled away.

x x x (Emphasis and underscoring supplied).[34]

The victim's testimony, which bears the hallmarks of credibility, has indubitably established the penetration of the victim's vagina by appellant's penis. The sharp pain that according to the victim she experienced during her ordeal could be nothing but the result of penile penetration sufficient to constitute rape.[35] Thus, although the medical certificate issued and testified to by witness Dr. Labanon yielded negative findings of injury to her genitalia, this cannot adversely affect the determinative fact proven by the victim's testimony. A medical certificate is not necessary to prove the commission of rape[36] and a medical examination of the victim is not indispensable in a prosecution for rape.[37] The rationale behind the treatment of medical findings as not essential in rape cases was succinctly elucidated in *People v. Bohol*,[38] thus:

There is no gainsaying that medical evidence is merely corroborative, and is even dispensable, in proving the crime of rape. In child sexual abuse cases particularly, normal physical findings are common due to several factors, such as delay in seeking medical examination, the rapid healing of injuries, washing, urinating or defecating after the sexual assault, the elasticity of the hymen, changes in the hymenal tissue due to estrogen effect when the victim is at the pubertal stage, or the type of sexual molestation involved, such as fondling, oral sodomy, or cunnilingus, which leaves no physical marks. The child's disclosure is the most important evidence of the sexual abuse she has gone through.

Dr. Labanon himself did not rule out the possibility, despite the normal medical results of the pelvic examination of the victim, that there was penetration of the victim's vagina but only up to the level of the labia. Still,

regardless of Dr. Labanon's findings and the possibilities he had raised therefrom, the credibility of the victim, who was found to be a competent witness by psychiatrist Dr. Sagge, remains the single most important issue in this prosecution for rape, and since her testimony satisfies the test of credibility, appellant's conviction solely on the basis thereof[39] must be sustained.

As for appellant's denial, it is, like alibi, inherently weak as a defense and constitutes a self-serving negative evidence.[40] Against the victim's positive averments, appellant's plain denial of any wrongdoing cannot prevail. And so can not his alibi. For, for alibi to prosper, appellant must be able to show the physical impossibility of his being at the scene of the crime at the time it was committed.[41] This appellant failed to discharge. He himself attested to the fact that the slaughter house where he worked was only one kilometer away from his residence where the rape took place:

x x x

(PROSECUTOR CUETO)

Q

Now, this workplace of your[s], a residence of Gil Eballe as you said, is one kilometer away from your residence, at Tambacan, Iligan City, did I get you right?

A

More or less.

Q

So if you are going to work with that distance between your residence to your workplace at Saray, Iligan City, it would take you only, about fifteen (15) minutes?

A

Approximately.

Q

If you take a ride, for example, a bicycle or passenger vehicle, let's say, would not it take you less than five minutes?

A

Yes, sir.

Q

And in fact, if you are going let's say, you are going from Gil Eballe residence to your residence, to get something and get back to your place of work, it would only take you about thirty (30) minutes, all in all, if you are going to walk?

A

Yes, sir.

x x x[42]

It is thus clear that the place where appellant claimed he was at the time the sexual assault was carried out did not preclude the possibility of his being at the locus criminis.

Appellant's insistence that he did not leave the slaughter house at anytime during the daytime of May 28, 2000 on instructions of his employer bore no corroboration by his employer or any of his fellow workers, leaving much to be desired as to the credibility of such claim.

Appellant's culpability for the crime charged notwithstanding, the trial court's imposition of the death penalty upon him does not lie.

Rape is punished with death when the victim is under eighteen (18) years of age and the offender is a parent of the victim.

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

x x x[43]

As a special qualifying circumstance raising the penalty for rape to death, the minority of the victim and her relationship to the offender must be alleged in the criminal complaint or information and proved conclusively and indubitably as the crime itself.[44] While the above-quoted information alleged the concurrence of the victim's minority and her relationship to appellant as his daughter, the jurisprudentially required evidence to prove such circumstance is utterly lacking.

To prove a rape victim's minority, the prosecution must adduce in evidence her birth certificate for it is the best evidence to prove her age at the time of the commission of the crime.[45] Substitutionary evidence, absent proof of loss or destruction of the original of the birth certificate or the unavailability thereof without fault of the prosecution, will not suffice.[46]

Likewise, the relationship of the accused to the victim cannot be established by mere testimony or even by the accused's very own admission of such relationship.[47]

Except for the bare testimonies of the parties, no birth certificate exists in the records to prove that the victim was fifteen (15) years old at the time she was raped by appellant. And yet there was no showing that her birth certificate was lost or destroyed or was unavailable without the prosecution's fault. Thus, substitutionary evidence – the victim's and appellant's testimonies – was inadmissible.

Much reliance is had on the stipulation of facts embodied in the trial court's June 22, 2000 Pre-trial Order whereby appellant admitted to the victim being his daughter and her being fifteen (15) years old at the time of the rape incident. This Court in *People v. Sitao*[48] rejected stipulation of facts as a specie of evidence to prove the qualifying circumstances of rape:

Neither can a stipulation of the parties with respect to the victim's age be considered sufficient proof of minority. Circumstances that qualify a crime and increase its penalty to death cannot be the subject of stipulation. An accused cannot be condemned to suffer the extreme penalty of death on the basis of stipulations or his own admissions. This strict rule is warranted by the seriousness of the penalty of death.

As the prosecution failed to prove then the alleged special qualifying circumstance attendant to appellant's commission of the crime of rape, he is guilty only of simple rape the penalty for which is reclusion perpetua. Accordingly, the award of civil indemnity must be reduced from P75,000.00 to P50,000.00. The award of P50,000.00 as moral damages stays, however.

WHEREFORE, the Decision dated October 31, 2000 of the Regional Trial Court of Lanao Del Norte, Branch 2 is AFFIRMED with MODIFICATION. Appellant PASCUAL B. BALBARONA is hereby found guilty beyond reasonable doubt of simple rape and is sentenced to suffer the penalty of reclusion perpetua and to pay the victim, Odette M. Balbarona, the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Corona, J., on leave.

[1] Records at 42-54.

[2] Id. at 1.

[3] Records at 9.

[4] Id. at 12-14.

[5] TSN, August 4, 2000 at 2-79.

[6] Id. at 13-79.

[7] TSN, July 11, 2000 at 2-18.

[8] TSN, July 19, 2000 at 11-25.

[9] Records, Exhibit "A" at 3.

[10] TSN, July 10, 2000 at 2-18.

[11] Records, Exhibit "B" at 26-28.

[12] TSN, July 19, 2000 at 2-11.

[13] TSN, August 16, 2000 at 2-23.

[14] Rollo at 47-72.

[15] TSN, August 4, 2000 at 6-13.

[16] *People v. Alborida*, 359 SCRA 495 [2001].

[17] *People v. Painitan*, 349 SCRA 266 [2001].

[18] TSN, August 16, 2000 at 18-19.

[19] *People v. Llanita*, 364 SCRA 505 [2001].

[20] *People v. Asuncion*, 358 SCRA 661 [2001].

[21] TSN, August 4, 2000 at 25-27.

[22] *Vide People v. Licanda*, 331 SCRA 357 [2000], where the Court interpreted the victim's statement that the accused was wearing briefs to mean that the accused subsequently removed or lowered it during the sexual act to expose his penis.

- [23] TSN, August 4, 2000 at 38-39.
- [24] *People v. Caniezo*, 354 SCRA 298 [2001].
- [25] *People v. Baring*, 354 SCRA 371 [2001].
- [26] *People v. Francisco*, 354 SCRA 475 [2001].
- [27] *People v. Ombreso*, 372 SCRA 675 [2001].
- [28] *People v. Estrella*, 352 SCRA 632 [2001].
- [29] TSN, August 4, 2000 at 10-11.
- [30] TSN, August 4, 2000 at 13.
- [31] *Id.* at 25-27.
- [32] *Id.* at 31.
- [33] *Id.* at 32.
- [34] TSN, August 4, 2000 at 74-75.
- [35] *People v. Palicte*, 229 SCRA 543 [1994].
- [36] *People v. Bares*, 355 SCRA 435 [2001].
- [37] *People v. Tagaylo*, 345 SCRA 284 [2000].

[38] 363 SCRA 510 [2001].

- [39] *People v. Palero*, 357 SCRA 724 [2001].
- [40] *People v. Alay-ay*, 363 SCRA 603 [2001].
- [41] *People v. Baltazar*, 343 SCRA 250 [2000].
- [42] TSN, August 16, 2000 at 16-17.
- [43] Revised Penal Code, Art. 266-B, As Amended by R.A. No. 8353.
- [44] *People v. Victor*, 393 SCRA 472 [2002].
- [45] *People v. Ramos*, 394 SCRA 452 [2002].
- [46] *Ibid.*
- [47] *Ibid.*

[48] 387 SCRA 701 [2002].

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.