

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY BIDOC Y ROQUE, ACCUSED-APPELLANT.

G.R. NO. 169430. October 31, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00778 dated 6 June 2005 which affirmed in toto the Joint Decision[2] of the Regional Trial Court (RTC) of Luna, Apayao, Branch 26, dated 13 July 2001 in Criminal Cases No. 10-2000 and 11-2000 finding herein appellant Henry Bidoc y Roque guilty beyond reasonable doubt of two counts of rape committed against his 14-year old daughter, and sentencing him to suffer the supreme penalty of death for each count, and to indemnify the victim in the amount of P75,000.00 as civil indemnity, plus moral and exemplary damages in the amount of P70,000.00, and the costs of the suit.

On 9 May 2000, appellant Roque was charged in two separate Informations with the crime of rape, as defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 8353[3] and Republic Act No. 7610,[4] committed against his very own daughter, on 21 November 1999 and sometime in December 1999, respectively. The two Informations stated:

Criminal Case No.10-2000

The undersigned Assistant Provincial Prosecutor, accuses HENRY BIDOC, of the crime of RAPE defined and penalized under Article 335 of the [RPC] as amended by R.A. [No.] 8353 and [R.A. No.] 7610 committed as follows:

That on or about November 21, 1999 at Sitio xxx, Brgy. xxx, [Municipality of] xxx, [Province of] xxx[5] and within the jurisdiction of the Honorable Court, the above-named [appellant] did then and there willfully, unlawfully and feloniously with the use of force and intimidation and taking advantage as a father over his daughter AAA,[6] 14 years old, succeeded having sexual intercourse against her will.[7]

Criminal Case No. 11-2000

The undersigned Assistant Provincial Prosecutor, accuses HENRY BIDOC y [Roque] of the crime of RAPE defined and penalized under Article 335 of the Revised Penal Code as amended by R.A. [No.] 8353 and [R.A. No.] 7610, committed as follows:

That on or about December, 1999 at Sitio xxx, Barangay xxx, [Municipality of] xxx, {Province of} xxx and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously with the use of force and intimidation and taking advantage as a father over his daughter AAA, 14 years old, succeeded having sexual intercourse against her will.[8]

On 5 June 2000, the appellant was arraigned in both cases to which he entered a plea of NOT GUILTY to the charges against him. After pre-trial, a joint trial on the merits ensued.

The prosecution presented the following witnesses: AAA, the victim; SPO1 Reynante Agculao; and Dr. Thelma

Dangao. As rebuttal witness, the prosecution offered the testimony of the victim's mother, BBB.

AAA testified that she was only 14 years of age when the first rape incident happened on 21 November 1999. She narrated that on the said date, she was in their house at Sitio xxx, Barangay xxx, Municipality of xxx, Province of xxx. At that time, her mother, BBB, was washing clothes in a brook, which was quite far from their house. Her sister, CCC, who was then six years old, went with their mother, while her other siblings DDD and EEE, who were then three and two years old, respectively, were playing outside their house. On that very moment, when only AAA and her father, herein appellant, were left inside the house, the latter started kissing her and went on removing her clothes. She resisted but the appellant was much stronger, hence, despite her resistance, appellant succeeded in undressing her. When she was already naked, appellant inserted his penis into her vagina, did all what he wanted and thereby succeeded in having sexual intercourse with her. As a result, she felt so much pain in her private part. Worse, after satisfying his lust, appellant even threatened to kill her if she will reveal to anybody what had happened. Terribly frightened and hardly able to comprehend the situation, she could only cry out in utter helplessness and desperation. When her mother came back, she did not tell what happened for fear that appellant might carry out his threat.[9]

On the evening of December 1999, AAA was raped for the second time by herein appellant. On that occasion, only AAA and appellant were present at their house, because her mother brought her two siblings, DDD and EEE to the hospital located in the Municipality of xxx, Province of xxx while her other sibling, CCC went to the house of their grandmother. In their place of residence, they have no neighbor or neighbors near them. The nearest house could not be seen from their house. When asked how the second rape incident happened, she narrated that the appellant first removed all her clothing and when she was already naked, while lying down, appellant inserted his penis into her vagina and kissed her. After the sexual act, appellant told her not to reveal what happened to anybody or else he will kill her.[10]

In the early part of January 2000, AAA took chances in going to the PNP Station located in Kabugao, Apayao, and reported that she was raped twice by the appellant. She was alone when she reported the incidents to SPO1 Agculao, an investigator of Kabugao Municipal Police.[11]

SPO1 Agculao corroborated the matter of reporting the two rape incidents to the PNP Station in Kabugao, Apayao. He testified that on 6 January 2000, AAA voluntarily came to the police station to report that her own father, herein appellant, had raped her. He then conducted an investigation at the Investigation Section of PNP Kabugao regarding the complaint of AAA. The result of the said investigation was reduced into writing. As part of the investigation, he asked AAA to undergo a medical examination. He brought her to the Rural Health Office for the medical examination and even made a request to Dr. Dangao for the issuance of a medical certificate.[12]

At the Rural Health Office, Dr. Dangao, who was then the Rural Health Officer of Kabugao, Apayao, conducted a medical examination on AAA. She declared in court that her examination indicated that AAA's genital area reveals healed hymenal lacerations at 3, 7, and 10 o'clock positions, and the vaginal opening admits one finger with ease. She further avowed that the said lacerations could have been caused by any penetration, by any hard object or a man's penis. She also mentioned in court that those lacerations could have occurred during the months of November or December 1999.[13]

On the part of the defense, it presented the testimony of the following witnesses: Ruben Bidoc, John Lawani, Teodoro Lawani, SPO1 Felipe Erving, Julio Bidoc, and herein appellant.

In the testimony of Ruben, the brother of the appellant, he claimed that on the first week of November 1999, he and the appellant went to Ripang, Conner, Apayao, to work for the construction of the house of Bongbong Lawani and they only left the said place at the end of November 1999. He averred that Ripang, Conner, Apayao, is an

hour ride away from Sitio xxx where the incident happened and on the nights of 20 and 21 November 1999, he and the appellant slept in the house of Bongbong's father in Ripang, Conner, Apayao. According to him, on 21 November 1999, the date when the alleged rape incident happened, appellant never left Ripang. In fact, on the said date, he and appellant were constructing the house of their cousin, Bongbong Lawani, together with the latter's father and brother.[14]

John Lawani merely corroborated the testimony of Ruben that the appellant was in Ripang, Conner, Apayao, working as a carpenter in the house of Bongbong when the alleged rape incident happened on 21 November 1999. He knew this fact because his house is only twenty meters away from Bongbong's house. With respect to the second rape incident, which had happened sometime in December 1999, he stated that during said month, appellant was working as a carpenter at Kabetayan Bridge, Kabugao. He was sure of this because he was the contractor of that bridge, but he was not sure if appellant went home during said month. [15]

Another defense witness, Teodoro, also testified that the appellant had worked as a carpenter in the house of Bongbong in the month of November 1999. He was not sure however if appellant stayed there during the entire month of November 1999.[16]

SPO1 Felipe Erving asserted he noticed AAA was staying in the house of her grandfather since the opening of the schoolyear until the months of November and December 1999. He knew this fact because his house is only one hundred meters away from the house of Julio, the father of the appellant, and whenever he was home, he always saw AAA in her grandfather's place. On 3 January 2000, he alleged that AAA came to their house and asked for help, because her father had whipped and slapped her. He brought her to the barangay captain, but the latter was not around so he told AAA to just wait for the captain. Instead of waiting, she left. He stressed that there is a distance of one and one-half kilometers between the house of the appellant and that of Julio, a distance of two kilometers between appellant's house to that of his house, and the nearest house to the house of the appellant is one hundred meters away. Nonetheless, he divulged in court that during the whole month of November and December 1999, he was not in Sitio xxx because he was assigned at the PNP Station of Kabugao, Apayao.[17]

Julio substantiated the declaration of SPO1 Erving that her granddaughter, AAA stayed in his house during the schoolyear until November and December 1999. Nevertheless, he stated that during weekends, AAA goes back to the house of her parents and on his cross-examination, he attested that as a Department of Public Works and Highways (DPWH) maintenance man, he stayed at work the whole day and even ate his lunch on his worksite. Hence, most of the time, he did not know what was going on in his house because he was out for work the whole day.[18]

Appellant was the final witness presented by the defense. The justification offered by him by way of exculpation, was both denial and alibi. He denied having committed the offenses charged against him. He claimed that from the first week until the last week of November 1999 he was at Ripang, Conner, Apayao, together with his brother, working as a carpenter in the construction of Bongbong's house, while in the month of December 1999, he was at Barangay Kabetayan, Kabugao, Apayao, also working as a carpenter in the construction of a bridge. According to appellant, her daughter was motivated in filing the present cases against him to get even with him because he slapped her on 3 January 2000 in front of her "barkadas" and he even threatened to kill her for fear that she might get pregnant because of her going out at night and coming home late. However, during his cross-examination, he admitted that AAA goes home whenever his wife fetches the former.[19]

To refute the aforesaid testimony of the accused, the prosecution presented BBB, the wife of the appellant and the mother of AAA. In her testimony, she disclosed that appellant left their house in the month of August (no year was stated) but during the months of November and December 1999, her husband, herein appellant, was at their

house in Sitio xxx, Barangay xxx, Municipality of xxx, Province of xxx. She also mentioned that her daughter AAA often came home to their house during said months and she alternately slept in her grandfather's house and in their house. She further attested that whenever AAA came home, appellant was in their house. When the court asked her, she affirmed that appellant did not work during said months.[20]

On 13 July 2001, after consideration of the respective evidence of the prosecution and defense, the trial court rendered the assailed Joint Decision convicting the appellant for two counts of rape, the decretal portion of which reads, thus:

WHEREFORE, finding the [appellant], HENRY BIDOC y ROQUE guilty beyond reasonable doubt of the two (2) counts of rape charged against him, this court hereby sentences said [appellant] to suffer the Supreme Penalty of DEATH in each of the case filed against him.

The [appellant] is further ordered to indemnify the victim [AAA] the amount of SEVENTY FIVE THOUSAND PESOS (P75,000.00) as civil indemnity plus moral and exemplary damages in the amount of SEVENTY THOUSAND PESOS (P70,000.00), all in Philippine Currency, and the costs of the suit.[21]

The records of this case were originally transmitted before this Court on automatic review.

In his brief, appellant assigns the following errors, viz:

- The trial court gravely erred in convicting appellant of two counts of rape not on the basis of the strength of the prosecution's evidence but rather on the weakness of the defense's evidence.
- The trial court gravely erred in not considering the Information in Criminal Case No. 11-2000 as insufficient to support a judgment of conviction for failure of the prosecution to state the precise date of commission of the alleged rape, it being an essential element of the crime charged.

Pursuant to *People v. Mateo*,[22] the records of the present case were transferred to the Court of Appeals for appropriate action and disposition.

Accordingly, the Court of Appeals, taking into consideration the assignment of errors stated by the appellant in his Appellant's Brief and after a thorough study of the records of the case, rendered a Decision on 6 June 2005, affirming in toto the Joint Decision of the RTC of Luna, Apayao. The dispositive portion of the decision reads as follows:

WHEREFORE, the assailed [J]oint [D]ecision of Branch 26 of the RTC of Luna, Apayao, is hereby AFFIRMED in toto. Pursuant to A.M. No. 5-03-SC, let this case be certified to and elevated to the Hon. Supreme Court for further review.[23]

Aggrieved, appellant filed a Motion for Reconsideration on 27 June 2005, which was denied by the Court of Appeals in its Resolution dated 17 August 2005 for lack of merit.

The case was then certified and elevated to this Court for further review. On 27 September 2005, this Court resolved to accept the present case and to require the parties to simultaneously submit their respective supplemental briefs. The Office of the Solicitor General filed a Manifestation and Motion stating that it will no longer file any supplemental briefs, but instead, it will merely adopt its Appellee's Brief filed on 25 March 2003. Correspondingly, appellant filed a Manifestation in lieu of supplemental brief manifesting he will merely adopt his Appellant's Brief where his innocence had been assiduously discussed.

After a careful review of the records of this case, this Court affirms appellant's conviction.

In reviewing rape cases, the Court is guided by these principles: First, the prosecution has to show the guilt of the

accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. Second, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. Third, the disposition of rape cases are governed by the following guidelines: (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 of rape 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 merits and cannot draw strength from the weakness of the evidence of the defense.[24]

In the case at bar, appellant contends that the court a quo gravely erred in convicting him for two counts of rape based not on the strength of prosecution's evidence but on the weakness of his defense. This Court finds such contention untenable.

It is settled that when a woman, moreso if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed[25] and if her testimony meets the test of credibility, that is sufficient to convict the accused.[26] As in this case, when AAA testified in court, her testimony described in details the hideous experiences suffered by her on 21 November 1999 and sometime in December 1999 in the hands of her own father. In her narration on the manner of how the appellant took advantage of her, she never wavered in her testimonies. In fact, she even exemplified the details of the incident without flourish and innuendo.

As the Court of Appeals mentioned in its Decision, that even before AAA faced the court, she had courageously reported the incidents when she went to the police station and made her statement before SPO1 Agculao. She later retold and described the same incidents clearly before Municipal Circuit Trial Court (MCTC) Judge Pinera Biden when she went through an interrogation during the preliminary investigation, and once again, when she narrated her dreadful experience before the court a quo during her direct and cross-examinations. All her statements had been consistent and to the point.

The trial court also noted that AAA testified on the incidents in a clear and straightforward manner. Additionally, the court a quo found AAA's testimony very categorical and her statements were corroborated by the medical findings of Dr. Dangao, the Municipal Health Officer who conducted the medical examination on her. In the testimony of Dr. Dangao, she declared to have found healed hymenal lacerations at 3, 7, and 10 o'clock notch on the private part of AAA, which could have been caused by the penetration to the body of any hard object, more particularly a man's penis. She also avowed that such penetration could have occurred during the months of November or December 1999, which coincides to the dates the rape incidents happened. It has been said that when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established.[27] Hence, such testimony of Dr. Dangao strengthens even more the claim of rape by AAA against herein appellant.

As compared to the evidence presented by the prosecution, the bare denial and alibi offered by the appellant as a defense cannot hold water. It is well-settled that denial is an intrinsically weak defense, which must be buttressed by strong evidence of non-culpability to merit credibility.[28] A mere denial, like alibi, constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters. [29] For alibi to succeed as a defense, the accused must establish by clear and convincing evidence (a) his presence at another place at the time of the perpetration of the offense and (b) the physical impossibility of his presence at the scene of the crime.[30]

As can be gleaned from the records of this case, appellant's argument centered only on the fact that it was impossible for him to commit the crime of rape against his daughter because on the alleged dates the incidents of

rape happened, to wit: (1) on 21 November 1999 he was at Ripang, Conner, Apayao, working as a carpenter for the construction of the house of Bongbong; in fact, he was there the whole month of November; and (2) in December 1999 he was at Barangay Kabetayan, Kabugao, Apayao, working also as a carpenter for the construction of Kabetayan Bridge, and such claims of the appellant were corroborated by other defense witnesses. However, as correctly ruled by the trial court and the Court of Appeals, appellant failed to present convincing proof that it was physically impossible for him to be at the locus criminis during the aforementioned dates when the separate acts of rape were committed.

From the records of the case, it appeared that Ripang, Conner, Apayao, is only an hour ride away from the place where the incident of rape happened on 21 November 1999. Hence, it was very much possible for the appellant to be present at the locus criminis, which is the place of his residence considering that it is very accessible by land transportation being along the national highway. Besides, 21 November 1999 fell on a Sunday, which fact was overlooked by the appellant and his witnesses; therefore, appellant could have gone home for a weekend vacation. In addition, the testimonies of his co-workers in Ripang, Conner, Apayao, revealed that they were not sure if appellant never went home during the months of November. With respect to the claim of appellant that in December 1999 he was at Barangay Kabetayan, so it was impossible for him to have committed the crime of rape as charged against him by his daughter, the same was not proven by clear and convincing evidence. In fact, even his own witness was not sure if he stayed at his place of work the entire month of December. Therefore, appellant failed to establish by clear and convincing evidence that it was physically impossible for him to be at the scene of the crime at the time of its commission.

While denial is a legitimate defense in rape cases, bare assertions to this effect cannot overcome the categorical testimony of the victim. It is an established rule that an affirmative testimony is far stronger than a negative testimony, especially so when it comes from a credible witness.[31] It is hornbook doctrine that the positive and categorical testimony of a rape victim-daughter, identifying her own father as the one who sexually attacked her, prevails over his bare denial. No daughter will charge a father, especially a good father, with rape. The charge is not only embarrassing to the victim and the family. It means death to the head of the family. A father so charged cannot exculpate himself by a bare-bone denial.[32]

At any rate, the appellant's bare denials, which were unsubstantiated by convincing evidence, were not sufficient to create a reasonable doubt of the commission of the crimes. Even the witnesses for the defense could not categorically pinpoint the whereabouts of the appellant on the specific dates the crimes of rape were committed. Furthermore, BBB, the mother of AAA and appellant's wife, on her rebuttal testimony, emphatically affirmed in court that the appellant was in their house at Sitio xxx on the said dates of the commission of the crimes of rape because appellant did not work during the months of November and December. Consequently, the defense was not able to cast any doubt on the credibility of AAA's testimony.

As to appellant's contention that her daughter accused him of the crime of rape because he slapped and whipped her in front of her "barkadas," the same is unjustifiable. In previous cases, this Court held that parental punishment or disciplinary chastisement is not enough reason for a daughter in a Filipino family to falsely accuse her father of rape. She would not subject herself to an examination of her private parts, undergo the trauma and humiliation of public trial, and embarrass herself with the need to narrate in detail how she was raped if she was not in fact raped. It takes depravity for a young girl to concoct a tale of defloration, which would put her own father on death row, drag herself and the rest of her family to a lifetime of shame, and make them the object of gossip among their classmates and friends.[33]

Given the foregoing, this Court is convinced that the trial court correctly convicted the accused for two counts of rape and such conviction was not based on the weakness of defense evidence as the appellant claimed it to be, but

on the strength of the evidence of the prosecution. The straightforward testimony given by AAA, corroborated with the testimonies of SPO1 Agculao and Dr. Dangao, were sufficient to convict the appellant. Besides, appellant's defense was not able to destroy the truthfulness and the credibility of AAA's testimony and the testimonies of her witnesses.

With regard to the second assignment of error by the appellant that the trial court gravely erred in not considering the Information in Criminal Case No. 11-2000 as insufficient to support a judgment of conviction for failure of the prosecution to state the precise date of the commission of the crime of rape, the same lacks merit.

The precise time of the crime has no substantial bearing on its commission. As such, it is not essential that it be alleged in the information with ultimate precision. Section 11 of Rule 110[34] of the Rules on Criminal Procedure provides that it is not necessary to state in the complaint or information the precise time at which the offense was committed except when time is a material ingredient of the offense, but that the act may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit. The exact date of the commission is not an essential element of the crime of rape, for the gravamen of the offense is carnal knowledge of a woman without her consent.[35] In this case, the prosecution adequately proved the fact of sexual intercourse by appellant against the will of AAA sometime in December 1999. The veracity of the rape charge is not dependent on the time of the commission of the offense but on the credibility of the offended party.[36]

This Court also affirms the imposition of the supreme penalty of death by the trial court and the Court of Appeals. In this case, AAA's minority and her relationship to the appellant have been properly alleged in the two Informations charging appellant with the crime of rape. While appellant admitted the existence of the Live Birth Certificate[37] of AAA, he denied its contents because the first name of AAA in the said Birth Certificate lacks the letter "R." The contents, however, of the Birth Certificate of AAA was properly proven during trial, that is the name appearing in the said Birth Certificate and AAA is the same.[38] All the other information in the said Birth Certificate like the date of birth, name of the parents and address match the information testified to by AAA during trial. Hence, AAA's minority and her relationship to the appellant have not only been properly alleged in the Information but likewise it was also proven during trial.

All told, the prosecution was able to prove that the appellant is guilty beyond reasonable doubt of the two counts of rape under Article 266-A[39] of the Revised Penal Code, as amended by Republic Act No. 8353. Taking into consideration the presence of the special qualifying circumstances of minority and relationship as stated under Article 266-B[40] of the Revised Penal Code, the same have been properly alleged in the two Informations charging the appellant of the crime of rape and have been proven during trial, thus, this Court has no option but to impose on the appellant the supreme penalty of death, thereby affirming the Decision by both the trial court and the Court of Appeals.

With the enactment of Republic Act No. 9346, otherwise known as, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," signed into law on 24 June 2006, the imposition of the death penalty has been prohibited. The law provides:

Section 1. The imposition of the penalty of death is hereby prohibited. - Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection, is hereby repealed. Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A. No. 7659), otherwise known as the Death Penalty Law, and all other laws, executive orders and decrees, insofar as they impose the death penalty are hereby repealed or amended accordingly.

Section 2. In lieu of the death penalty, the following shall be imposed:(a) the penalty of reclusion perpetua,

when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

Section 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

Accordingly, the penalty to be meted on appellant is reclusion perpetua in accordance with Section 2 of Republic Act No. 9346, and as provided under Section 3 of the said law, the appellant shall not be eligible for parole under the Indeterminate Sentence Law.[41]

This Court likewise affirms the civil indemnity awarded by the trial court, as affirmed by the Court of Appeals, to AAA in accordance with the ruling in *People v. Sambrano*,[42] which states:

As to damages, [this Court] held that if the rape is perpetrated with any of the attending qualifying aggravating circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be P75,000. Thus, the trial court's award of P75,000 as civil indemnity is in line with existing case law. Also, in rape cases moral damages are awarded without need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of P50,000 as moral damages should also be increased to P75,000 pursuant to current jurisprudence on qualified rape. Lastly, exemplary damages in the amount of P25,000 is also called for, by way of public example, and to protect the young from sexual abuse.

It should be noted that while the new law prohibits the imposition of the death penalty, the penalty provided for by law for a heinous offense is still death and the offense is still heinous. Consequently, the civil indemnity for the victim is still P75,000.00.[43]

Finally, this Court modifies the award of moral and exemplary damages by the trial court as affirmed by the Court of Appeals. The trial court merely imposes the sum of P70,000.00 as moral and exemplary damages. To conform to the ruling in *People v. Sambrano*,[44] this Court hereby orders the appellant to indemnify the victim, AAA P75,000.00 as moral damages and P25,000.00 as exemplary damages in each of the cases.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00778 dated 6 June 2005 finding appellant Henry Bidoc y Roque guilty beyond reasonable doubt of the two counts of rape committed against his 14-year old daughter is **AFFIRMED** with the **MODIFICATION** that the amount of moral and exemplary damages in each of the cases shall be P75,000.00 and P25,000.00, respectively. In view, however, of Republic Act No. 9346 prohibiting the imposition of the death penalty, appellant is hereby sentenced to suffer the penalty of reclusion perpetua in each of the cases filed against him without the benefit of parole. Costs against appellant.

SO ORDERED.

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

[1] Penned by Associate Justice Delilah Vidallon-Magtolis with Associate Justices Perlita J. Tria Tirona and Jose C. Reyes, Jr.; concurring, rollo, pp. 3-19.

[2] Penned by Executive Judge Quirino M. Andaya, CA rollo, pp. 18-29.

[3] Otherwise known as, "The Anti-Rape Law of 1997."

[4] Otherwise known as, "Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act."

[5] This is pursuant to the ruling of this Court in the case of *People of the Philippines vs. Cabalquinto*, G.R. No. 167693, 12 September 2006, wherein this Court has resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "xxx" as in "No. xxx Street, xxx District, City of xxx."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of R.A. No. 7610, otherwise known as, Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of R.A. No. 9262, otherwise known as, Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as, Rule on Violence Against Women and Their Children effective November 15, 2004.

[6]Id.

[7] CA rollo, p. 10.

[8] Id. at 11.

[9]TSN, 21 November 2000, pp. 11-28.

[10] Id.

[11] Id.

[12] RTC Records, Vol. 1, p. 4; TSN, 21 November 2000, pp. 1-11.

[13]TSN, 8 January 2001, pp. 1-12.

[14]TSN, 19 February 2001, pp. 1-9.

[15] TSN, 20 March 2001, pp. 1-7.

[16] Id. at 8-13.

[17]TSN, 19 February 2001, pp. 10-16.

[18] Id. at 16-19.

[19] TSN, 26 April 2001, pp. 1-10.

[20] Id. at 11-15.

[21] CA rollo, pp. 28-29.

[22] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.

[23]Rollo, p. 18.

[24] *People v. Lou*, G.R. No. 146803, 14 January 2004, 419 SCRA 345, 348.

- [25] *People v. Ancheta*, G.R. No. 142431, 14 January 2004, 419 SCRA 307, 313.
- [26] *People v. Luceriano*, G.R. No. 145223, 11 February 2004, 422 SCRA 486, 491.
- [27] *People v. Muros*, G.R. No. 142511, 16 February 2004, 423 SCRA 69, 81.
- [28] *People v. Aaron*, G.R. Nos. 136300-02, 24 September 2002, 389 SCRA 526, 535.
- [29] *People v. Magtibay*, G.R. No. 142985, 6 August 2002, 386 SCRA 332, 348.
- [30] *People v. Ortizuella*, G.R. No. 135675, 23 June 2004, 432 SCRA 574, 584.
- [31] *People v. Abaño*, G.R. No. 142728, 23 January 2002, 374 SCRA 431, 443.
- [32] *People v. Abellano*, G.R. No. 146468, 13 November 2002, 391 SCRA 612, 617.
- [33] *People v. Villanueva*, G.R. Nos. 146464-67, 15 November 2002, 391 SCRA 718, 730.
- [34] Section 11. Date of commission of the offense. - It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.
- [35] *People v. Escaño*, G.R. Nos. 140218-23, 13 February 2002, 376 SCRA 670, 700-701.
- [36] *People v. Escultor*, G.R. Nos. 149366-67, 27 May 2004, 429 SCRA 651, 660.
- [37] RTC Records, Vol. 1, p. 46.
- [38] TSN, 21 November 2000, pp. 11-28.
- [39] Article 266-A. Rape; When and How Committed.- Rape is committed:
- 1) By a man who have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
 - 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.
- [40] Article 266-B. Penalties. x x x.
- x x x x
- The death penalty shall 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, stepparent, 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.
- [41] *People v. Nicanor Salome*, G.R. No. 169077, 31 August 2006; *People v. Quiachon*, G.R. No. 170236, 31 August 2006; *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006.

[42] G.R. No. 143708, 24 February 2003, 398 SCRA 106, 117.

[43] *People v. Nicanor Salome*, supra note 41; *People v. Quiachon*, supra note 41.

[44] *Id.*

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