PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALEX CANDAZA Y CALVADORES, APPELLANT.

G.R. NO. 170474. June 16, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For review is the Decision[1] of the Court of Appeals in CA-G.R. CR HC No. 00474 which affirmed in toto the judgment of Branch 172, Regional Trial Court, Valenzuela City in Criminal Case Nos. 676-V-00 and 677-V-00 finding appellant Alex Candaza y Calvadores guilty beyond reasonable doubt of the crimes of simple rape and acts of lasciviousness.

The prosecution's version of the antecedent facts is as follows:

At around three o'clock in the afternoon of June 18, 2000, the then 13-year old victim, Kristine Dorado, was alone sleeping in their house at No. 395 Rico Compound, Barangay Palasan, Valenzuela City, when she was awakened by somebody's presence. Upon opening her eyes, she saw her neighbor, appellant Alex Candaza, standing behind her. Kristine was about to stand up when appellant, who was drunk, held her shoulders and told her to remain lying down. Appellant then pinned Kristine down by putting both his hands around her neck. He subsequently released his right hand from Kristine's neck and removed her short pants and underwear.[2] Kristine tried to free herself but appellant was too strong.

While warning Kristine not to report the incident to anyone, appellant removed his own short pants and briefs. He thereafter mounted the girl, inserted his penis into her vagina and lay motionless on top of her for five minutes. He also mashed her breasts and kissed her lips. Because of his relative strength, Kristine failed to ward off appellant's sexual advances.

Subsequently, Kristine asked appellant to stop, pushed him aside and stood up. Before she could leave the house, however, appellant threatened to kill her family if she would report the incident to anyone.[3]

Kristine's sordid encounter with appellant did not prove to be the last. On August 12, 2000, she woke up at 10:30 in the evening to fix the water containers in their yard, when appellant suddenly approached her. He told Kristine not to go to sleep yet but when she refused, he held her shoulders and slapped her. Afterwards, he led her to a nearby bench, instructed her to sit down and proceeded to undress her. He subsequently kissed her on the lips, licked her vagina and mashed her breasts. Kristine tried to push appellant away but could not do so. After a while, appellant stopped.

Kristine then put on her clothes and wept. Appellant sat beside her and placed his hand on her shoulders. Again, he told Kristine not to report the incident to anyone or he would kill her family. No one saw them since the place was dark and there were no light posts around.[4]

Six days later, Kristine's father, Arturo Dorado, Jr., looked for Kristine and found her crying in the house of her aunt, Jenny Tenorio, who lived three houses away. At that time, Kristine had already told her aunt that appellant

raped her. But when Kristine could not bring herself to reveal the incidents to her father, Arturo asked a barangay volunteer, Rolando Hernandez, to speak to his daughter. It was then that Kristine related what appellant did to her.[5]

Kristine was thus brought to the Philippine National Police (PNP) Women and Children Concern Office (WACCO) at Camp Crame, Quezon City where she executed a sworn written statement.[6] She was also brought to the PNP Crime Laboratory where a medico-legal examination was conducted by Dr. Winston Tan who issued a medico-legal report[7] dated August 18, 2000 with the following findings:

> Hymen: presence of deep healed laceration at 3 o'clock position.
>
> x x x x
>
> Conclusion: Subject is in non-virgin state physically.
>
> There are no external signs of application of any form of trauma.[8]

On August 21, 2000, two separate informations for rape and acts of lasciviousness were filed against appellant before the Regional Trial Court of Valenzuela City, respectively docketed as Criminal Case Nos. 676-V-00 and 677-V-00 and raffled to Branch 172 presided by Judge Floro P. Alejo. The information in Criminal Case No. 676-V-00 alleged:

> That on or about the 18[th] day of June 2000, in the City of Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and feloniously have sexual intercourse with one KRISTINE DORADO, 14 years old (minor).
>
> CONTRARY TO LAW.[9]

Meanwhile, the information in Criminal Case No. 677-V-00 stated:

> That on or about the 12[th] day of August 2000, in the City of Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and feloniously commit act of lasciviousness, upon the person of one KRISTINE DORADO, 14 years old (minor) by licking her vagina and mashing her breast.
>
> CONTRARY TO LAW.[10]

Appellant interposed a negative plea to both charges[11] after which trial on the merits ensued.

Appellant denied the criminal acts imputed to him. He averred that at the day and time that the alleged rape transpired, he was inside their house resting with his live-in partner, Melissa Abarico, and their one-year old child. He was then very tired as he had just come home from work.

On the other hand, he was in Caloocan City at the place of his employer, Engineer Hector Cornejo, at around 10:30 in the evening of August 12, 2000. He worked overtime and it was only at about 11:00 in the evening that he left his place of work.

Abarico and Cornejo corroborated appellant's alibi.[12] Another defense witness, Renato Candazo, claimed that at the day and time of the alleged rape, he was in the house with appellant and the latter's family.[13]

According to appellant, Kristine may have filed the cases against him because she had a crush on him and did not want him to take Abarico as his common-law wife. Kristine allegedly showed interest in him by always approaching him and touching his head. He allegedly told Kristine to stay away from him because she was too

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young.[14]

In due course, the trial court rendered judgment convicting appellant thus:

> WHEREFORE, judgment is hereby rendered as follows:
>
> 1) In Crim. Case No. 676-V-00, the Court finds accused ALEX CANDAZA y CALVADORES guilty beyond reasonable doubt and as principal of the crime of rape in relation to Republic Act 7610 as defined and penalized under Article 266-A, par. 1(a) and Article 266-B, 1st par. of the Revised Penal Code, without any attending mitigating or aggravating circumstance, and hereby sentences him to reclusion perpetua. The accused is further sentenced to pay Kristine Dorado the amount of P50,000.00 as moral damages and to indemnify said complaining witness the amount of P50,000.00, both without subsidiary imprisonment in case of insolvency. Finally, the accused is sentenced to pay the costs of suit.
>
> 2) In Crim. Case No. 677-V-00, the Court finds accused ALEX CANDAZA y CALVADORES guilty beyond reasonable doubt and as principal of the crime of acts of lasciviousness as defined and penalized under Article III, par. 5(b) of Republic Act 7160 without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to suffer a penalty of TWELVE (12) YEARS and FOUR (4) MONTHS of reclusion temporal as minimum to FOURTEEN (14) YEARS EIGHT (8) MONTHS and ONE (1) DAY OF reclusion temporal as maximum. The accused is further sentenced to pay Kristine Dorado the amount of P30,000.00 as moral damages and to indemnify said complaining witness the amount of P30,000.00, both without subsidiary imprisonment in case of insolvency. Finally, the accused is sentenced to pay the costs of suit.
>
> SO ORDERED.[15]

In view of the penalty of reclusion perpetua imposed on appellant, the cases were at first directly elevated to this Court for review. Subsequently, however, these were referred to the Court of Appeals[16] pursuant to our ruling in People v. Mateo.[17] The appellate court eventually rendered the assailed decision dated September 28, 2005, affirming the trial court in toto. Hence, the instant appeal.

On February 8, 2006, the Court required the parties to simultaneously submit their respective supplemental briefs if they so desire.[18] Both parties manifested that they shall adopt their briefs filed before the appellate court in order to avoid repetition of their arguments and to expedite the resolution of the instant case.[19] Thereafter, the case was deemed submitted for decision.

Appellant contends that he could not be convicted under the two informations which, he claims, are defective. The information in Criminal Case No. 676-V-00 did not allege "force and intimidation", which is an essential element of the crime of rape, while the information in Criminal Case No. 677-V-00 failed to allege "coercion" as an essential element of acts of lasciviousness.[20]

In addition, appellant maintains that the prosecution failed to prove his guilt beyond reasonable doubt. He questions Kristine's credibility on the ground that her account of the events is contrary to human experience. He asserts that it would have been unnatural for him to lie motionless on top of Kristine for five minutes after he had fully penetrated the latter. Likewise, it was improbable that he would commit lascivious acts against Kristine in front of her house where her father and sisters were sleeping. Unless he was so sure that Kristine would not make any noise or summon her father, he would not dare expose himself to the danger of being caught in flagrante delicto.

The appeal has no merit.

In People v. Galido,[21] the Court held that the failure to allege the element of force and intimidation in an

information for rape is not a fatal omission that would deprive the accused of the right to be informed of the nature and cause of accusation against him. This is based on the fact that the offended party's sworn written complaint specifically charged the accused with rape through force and intimidation, which gave the latter the opportunity to readily ascertain at the outset what crime he is being charged with. In other words, although the information failed to allege this essential element, the complaint, as in this case, nonetheless stated the ultimate facts which constitute the offense; and since the complaint forms part of the records and is furnished the accused, the latter may still suitably prepare his defense and answer the criminal charges hurled against him.

We also held in People v. Palarca[22] that the failure of the accused to interpose any objection to the presentation of evidence which tended to prove the element of force and intimidation constitutes a waiver of his right to be informed of the nature and cause of accusation against him. Any insufficiency in the allegations in the information should be raised prior to arraignment by filing a motion to quash, otherwise the accused is deemed to have waived any objection on such ground.[23] This is consistent with the omnibus motion rule embodied in Section 9, Rule 117 of the Rules of Court.[24]

Consequently, it is now too late for appellant to assail the sufficiency of the informations on the ground that there was failure to allege therein an essential element of the crime. An information which lacks essential allegations may still sustain a conviction when the accused fails to object to its sufficiency during the trial, and the deficiency was cured by competent evidence presented therein.[25] In the instant case, appellant did not question the sufficiency of the informations at any time that the criminal cases were pending before the trial court. Neither did he object to the evidence of the prosecution which proved the elements of force and intimidation, as well as coercion, in the commission of the two offenses. He is thus deemed to have waived any objections against the sufficiency of the informations.

On appellant's indictment for rape through force and intimidation, the victim in this case testified as follows:

> FISCAL BORNASAL:Miss Witness on June 18, 2000 at around 3:00 o'clock in the afternoon do you recall where you were?
>
> A I was inside our house, sir.
>
> x x x x
>
> Q What were you doing Miss Witness on June 18, 2000 at around 3:00 p.m.?
>
> A I was sleeping, sir.
>
> Q So while you were sleeping were you awaken from your sleep?
>
> ATTY. AGUSTIN:Leading, your Honor
>
> FISCAL:I am allowed to ask leading questions, your Honor.
>
> A Yes, sir.
>
> x x x x
>
> Q Why were you awaken?
>
> A Because it seems to me that there was a person at my back and then I saw the suspect, sir.
>
> Q Who is this suspect you are referring to?
>
> A Alex Candaza, sir.

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COURT:And what was Alex Candaza doing at your back?

A He was just standing, your Honor.

FISCAL:When you noticed that Alex Candaza was standing at your back what did you do?

A I was about to stand up to go outside but he held me in my two shoulders, sir.

Q What happened next?

A He asked me to lie down in our bed, sir.

Q Did you not try to resist him?

A I tried to go out but he was stronger than me, sir.

COURT:Was there anything unusual that you noticed in the person of Alex Candaza at that time?

A He was drunk, your Honor.

x x x x

Q Now Miss Witness after you were made to lie down by the accused Alex Candaza what else did he try to do to you?

A He strangled me on my neck, sir.

Q How did Alex Candaza strangle you by your neck?

A He placed his two hands on my neck, sir.

FISCAL BORNASAL:The witness, your Honor, demonstrating that she was strangled by the accused using both hands of the accused.

Q After you were strangled by the accused using his two hands, what happened next?

A He removed his one hand on my neck, sir and he removed my shorts and then my panty.

Q While he was holding you by your neck with one hand and removing your shorts and panty with the other hand did Alex Candaza tell something to you?

A He was telling me not to report the incident because he would kill all of us, sir.

x x x x

Q After removing your shorts and panty what else did Alex Candaza do to you?

A After that he inserted his organ into my organ, sir.

Q But Alex Candaza based from your testimony he was still dressed up how will he be able to insert his organ into your organ?

A He removed his shorts and then he removed his brief.

Q What happened, what about his upper garments?

A He did not remove anymore, sir.

Q So he removed his shorts and brief using which hand?

A His right hand, sir.

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Q What about his left hand what was his left hand doing?

A He was strangling me, sir.

x x x x

Q Now after inserting his penis into your vagina what happened next?

A He kissed me, sir.

COURT:Where?

A On my lips, your Honor.

FISCAL:Was he able to kiss you on your lips?

A Yes, sir.

Q Did you not try to remove your face away from his face so that he might not be able to kiss you on your lips?

A I tried, sir.

x x x x

Q Aside from kissing what else did Alex Candaza do to you?

A He mashed my breast, sir.

x x x x

FISCAL:Now after Alex Candaza has inserted his penis into your vagina, kissed you and mashed your breast how did all these things stop?

A I told him I do not want anymore, sir.

Q After you said you do not want anymore immediately he stopped what he was doing to you?

A No, sir, he did not, he continued and then he stood up and he told me not to report the incident.

Q And then what happened next after the two of you both stood up?

A Nothing more, sir.

x x x x

Q For how long did the penis of Alex Candaza inserted or stayed in your vagina?

A Five minutes, your Honor.

Q During that period of five minutes Alex did not move his body while his penis was inside your vagina?

A He did not, your Honor.

x x x x

COURT:So Alex did not withdraw his penis inside your vagina anymore?

A He did not, your Honor.

Q But did you not state earlier that the penis of Alex was inside your vagina only for five minutes?

A Yes, your Honor.

Q So after five minutes what did Alex do to his penis?

A After I told him I do not want anymore he withdrew his penis into my vagina, your Honor.

Q Why did you not tell Alex that earlier?

A Because I was afraid, your Honor, he might hurt me.[26]

As to the second incident for which appellant was charged with acts of lasciviousness, the victim testified in this wise:

Q Now on August 12, 2000 at around 10:30 in the evening do you recall where were you?

A Yes, sir.

Q Where were you?

A I was inside our house, sir.

Q When you said your house you are referring to your house located at 395 Rico Compound, Palasan, Valenzuela City?

A Yes, sir.

Q What were you doing at that time?

A I was sleeping, sir.

Q Did you ever awake?

A Yes, sir.

Q Why did you awake?

A Because I was worrying about our water and failed to bring the water inside.

Q So what did you do?

A I went out, sir.

Q While outside what did you do?

A I kept our water, sir.

Q How did you keep your water where was the water placed?

A Under the table, sir.

Q So while you were keeping your water do you recall of any unusual that happened?

A There was, sir, when he approached me.

Q When you said he you are referring to whom?

A Alex, sir.

x x x x

Q When Alex Candaza approached you what happened next?

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A He asked me if I will go to sleep, sir.

Q What was your reply?

A I told him yes.

Q What did he tell you then?

A He told me not to go to sleep yet but I refused because I told him I am already sleepy, sir.

Q When you answered that to Alex what happened next.

A He held me by my two shoulders and he slapped me, sir.

Q Do you know of any reason why he would do that?

A None, sir.

Q After doing that to you what did you do if any?

A None, sir, I just cried.

Q What happened while you were crying?

A He asked me to sit down on our bench, sir.

Q Where was this bench located?

A In front of our house outside, sir.

Q When he made you to sit down on that bench what happened?

A He moved my shorts and my panty, sir.

Q After removing your shorts and panty what happened next?

A He leaked (sic) my vagina, sir.

x x x x

FISCAL:Aside from leaking (sic) your vagina what else did Alex do to you?

A He kissed me, sir.

Q Where did he kiss you?

A On my lips, sir.

Q Aside from your leaking (sic) your vagina and kissing you what else did he do to you?

A He removed my clothes and my sando and he held my breast, sir.

x x x x

FISCAL:Now Miss Witness while Alex was leading (sic) your vagina and kissing you on your lips, mashing your breast, did you not try to resist him?

A Yes, sir.

Q What form of resistance did you do?

A I tried to push him but I could not do, sir.

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Q How did all these acts of Candaza stop?

A He just stopped, sir.

Q Now after he stopped what did you do?

A Nothing more, I just sat on the bench I was then crying, sir.

Q Did you not try to put on your clothes?

A I put on my clothes, sir.

x x x x

Q After putting on your clothes did Alex leave you?

A Not yet, sir.

Q What else did he do?

A He sat beside me, sir, and he placed his hand on my shoulders.

Q What was he saying anything?

A He told me not to report what happened, sir.

Q Aside from that what did he try to tell you?

A He told me not to report what happened to us or else he will kill all of us.[27]

We find the foregoing testimonies to be clear, candid and straightforward. When the offended parties are young and immature girls, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed if the matter about which they testified is not true.[28] Moreover, no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.[29]

Appellant's assertion that Kristine filed these cases against him because she did not want him to have a common-law wife is hard to believe. It is inconceivable that she would fabricate the charges only because she has a crush on appellant. When a woman, or a young girl, cries rape, she says in effect all that is necessary to show that rape has been inflicted on her. So long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[30]

Neither are we convinced of appellant's alibis. His witnesses, in the person of Abarico, Cornejo and Candazo, could not have possibly remembered with exactitude the events which transpired on the days in question, because the activities they described are so commonplace that these could have happened on any other day.

Candazo testified that on the day and at the time that the rape was allegedly committed, he was in appellant's house watching "betamax" tapes with the latter.[31] On the other hand, Abarico claimed that, on the same day and time, appellant was resting with her in their house. As for Cornejo, he averred that appellant rendered overtime work for him on the night of August 12, 2000.[32]

We can only regard with suspicion the testimony of the defense witnesses since they could hardly be supposed to have noticed or charged their memory with these events, when there was no special reason why they should

observe it.[33] There was nothing that could fix these days and times in their minds, as to facilitate absolute recollection of the events which transpired.

Moreover, as against appellant's denial and alibi, the victim's positive testimonies must necessarily prevail. Denial and alibi are inherently weak defenses and constitute self-serving negative evidence which can not be accorded greater evidentiary weight than the positive declaration of credible witnesses.[34]

Thus, we agree with the trial court that the prosecution evidence is more credible in this case. It is well-settled that the evaluation of the witnesses' credibility is a matter best left to the trial court, because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude. Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[35] No such facts or circumstances exist in the case at bar.

Appellant's contention that it was highly improbable for him to lie motionless for five minutes on top of Kristine after he had fully penetrated the latter deserves short shrift. Suffice it to say that, just as there are no fixed standards by which victims may react to a sexual trauma, we cannot likewise reasonably assume that perpetrators of crimes would consummate offenses in the usual, expected manner. Similarly, it is not implausible for appellant to have committed the lascivious acts complained of in front of the victim' house. Lust, as we have often held, is no respecter of either place or time.[36]

All told, we are convinced beyond reasonable doubt that appellant committed the crimes imputed to him. The prosecution adequately discharged its burden of proving all the essential elements of simple rape under Article 266-A (1)(a) of the Revised Penal Code, as amended, namely: (a) that the offender had carnal knowledge of a woman; and (b) that the same was committed by using force and intimidation.

Likewise, the prosecution proved that appellant committed acts of lasciviousness upon the victim under Article III, Section 5(b) of RA 7610.[37] Kristine, who was 13 years old when the criminal acts complained of occurred, was sexually abused by appellant since she was coerced and intimidated by the latter to indulge in lascivious conduct.[38]

As correctly found by the trial court, the penalty for simple rape through force and intimidation is reclusion perpetua.[39] Civil indemnity and moral damages in the amount of P50,000.00 each are also awarded to victims of rape in accordance with prevailing jurisprudence.[40]

However, the penalty for acts of lasciviousness performed on a child under Section 5(b) of R.A. 7610 is reclusion temporal in its medium period to reclusion perpetua. Applying the Indeterminate Sentence Law, the penalty to be imposed on appellant should thus fall within the range of prision mayor medium to reclusion temporal minimum, as minimum, to reclusion temporal maximum, as maximum. Hence, appellant is sentenced to suffer an indeterminate penalty of imprisonment from eight (8) years and one (1) day of prision mayor as minimum to seventeen (17) years, four (4) months and (1) day of reclusion temporal as maximum. Consistent with previous rulings of the Court, appellant must also indemnify the victim in the amount of P15,000.00 as moral damages and pay a fine in the same amount.[41]

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CR HC No. 00474 affirming the judgment of Branch 172, Regional Trial Court, Valenzuela City, in Crim. Case No. 676-V-00, finding appellant Alex Candaza y Calvadores guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay Kristine Dorado the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages, is AFFIRMED. The decision of the Court of Appeals affirming the decision of

Branch 172, Regional Trial Court, Valenzuela City, in Crim. Case No. 677-V-00, finding appellant guilty of acts of lasciviousness, is AFFIRMED with MODIFICATION, in that appellant is sentenced to suffer imprisonment from eight (8) years and one (1) day of prision mayor as minimum to seventeen (17) years, four (4) months and (1) day of reclusion temporal as maximum, as well as to pay moral damages and fine in the amount of P15,000.00 each.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Jose C. Mendoza and Arturo G. Tayag.

[2] TSN, November 29, 2000, p. 4.

[3] TSN, November 8, 2000, pp. 3-11.

[4] Id. at 13-16.

[5] Id. at 17 and TSN, October 25, 2000, pp. 3-5.

[6] Records, pp. 4-6.

[7] Folder of Exhibits, p. 5.

[8] Id.

[9] Records, p. 1.

[10] CA rollo, p. 9.

[11] Records, p. 38.

[12] TSN, August 15, 2001, pp. 2-3 and TSN, June 27, 2001, p. 2.

[13] TSN, May 23, 2001, pp. 2-3.

[14] TSN, April 20, 2000, pp. 2-4.

[15] CA rollo, p. 25.

[16] Rollo, p. 118.

[17] G.R. Nos. 147678-87, July 7, 2004, 464 SCRA 640.

[18] Rollo, p. 29.

[19] Id. at 30 & 32.

[20] CA rollo, pp. 53-56.

[21] G.R. Nos. 148689-92, March 30, 2004, 426 SCRA 502.

[22] 432 Phil. 500, 509 (2002).

[23] People v. Torellos, 448 Phil. 287, 298 (2003).

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[24] SEC. 9. Failure to move to quash or to allege any ground therefor.- The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

[25] People v. Torellos, supra note 23 at 298.

[26] TSN, November 8, 2000, pp. 2-10.

[27] Id. at 12-16.

[28] People v. Mendez, 390 Phil. 449, 459-460 (2000).

[29] People v. Las Piñas, Jr., 427 Phil. 633, 641-642 (2002).

[30] People v. Rosare, 332 Phil. 435, 451 (1996).

[31] TSN, May 23, 2001, p. 3.

[32] TSN, August 15, 2001, pp. 2-3 and TSN, June 27, 2001, p. 2.

[33] People v. Rosare, supra note 30 at 454.

[34] People v. Baway, G.R. No. 130406, January 22, 2001, 350 SCRA 29, 52.

[35] People v. Gonzales, Jr., 424 Phil. 336, 352-353 (2002).

[36] People v. Limos, G.R. Nos. 122114-17, January 20, 2004, 420 SCRA 182, 203.

[37] "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES".

[38] See Olivarez v. Court of Appeals, G.R. No. 163866, July 29, 2005, 465 SCRA 465, 473-476.

[39] Article 266-B of the Revised Penal Code, as amended, states that "(r)ape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua."

[40] People v. Mendez, supra note 28 at 477.

[41] Olivarez v. Court of Appeals, supra note 38.

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