

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO BUADO, JR. Y CIPRIANO, ACCUSED-APPELLANT.

G.R. No. 170634. January 08, 2013

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

This case tells the revolting story of a lecherous father who made two of his very young daughters his sex slaves for several years right in the family home. The trial court convicted him and prescribed the death penalty for each of the two counts of rape. There would be no hesitation to affirm the penalty, but the intervening passage of the law prohibiting the imposition of the death penalty now spares him from the supreme penalty.

The Case

Under final review is the Decision promulgated on April 27, 2005,[1] whereby the Court of Appeals (CA) affirmed with modification the May 5, 2003 judgment rendered in Criminal Case No. 912-V-99 and Criminal Case No. 974-V-99 by the Regional Trial Court (Branch 171) in Valenzuela City (RTC),[2] finding Pedro Buado y Cipriano Jr. guilty of two counts of rape committed against his two minor daughters.

Antecedents

The amended informations alleged as follows:

Criminal Case No. 912-V-99

That sometime April 1999, in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, actuated by lust, force, threat and intimidation, did then and there willfully, unlawfully and feloniously lie and have carnal knowledge of AAA,[3] his daughter, a ten (10) year old minor, against her will and consent, to her damage and prejudice in whatever amounts may be awarded her under the provisions of the Civil Code.

Contrary to Law.

Criminal Case No. 974-V-99

That on or about November 10, 1999 in Valenzuela City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with one BBB, 8 years old, his daughter.

Contrary to Law.[4]

The accused, assisted by counsel de officio, pled not guilty to each of the amended informations.

Evidence of the Prosecution

The Prosecution presented eight witnesses, namely: victims AAA and BBB; their mother CCC and older sister DDD; Dr. Ida de Perio-Daniel; Dr. Mariella S. Castillo; PO2 Luisito M. Dela Cruz; and Rosalina E. Chiong.

The accused and CCC were legally married, and used to live together in F. Bautista Street at Marulas, Valenzuela City with their 13 children, eight of whom are girls. Among their children were AAA and BBB. AAA was born on February 13, 1989,[5] and BBB on October 11, 1990.[6]

A.

The rape of AAA

On April 13, 1999, at about 3:00 p.m., CCC and her children were attending a get-together party in the adjacent house of DDD, then already married. The accused summoned AAA home from the party. Upon AAA getting home, he ordered her to enter the bedroom, and once she was inside, he undressed her and inserted his finger in her vagina.[7] He then went on top of her and inserted his penis in her vagina, giving vent to his lust.[8] AAA could only cry while he was forcing himself on her.[9]

Missing AAA at the party, CCC returned to the house and saw that her husband was there. He cursed her many times, but she simply ignored him and went upstairs, where she found AAA crying. AAA told her mother that her father had just molested her. AAA further told her mother that he had done the same thing to her several times in the past,[10] starting when she was still in Grade I. At the time, AAA was already in Grade 4. AAA told her mother that he had also raped her several times in the past only when CCC was not home, but that she had kept silent about the rapes because she had been too afraid of him to complain. Besides, AAA also knew that he kept a gun at home and had a violent temper, having frequently beaten his wife and children for no apparent reason. AAA explained in court that she finally revealed her ordeals to her mother because her sufferings had become unbearable,[11] saying: Nahihirapan po ako.[12]

It was not until June 9, 1999, however, that CCC and AAA mustered the courage to leave home and denounce the father's crimes. They hastened to the National Bureau of Investigation (NBI) to finally lodge a complaint against him. AAA was examined by Dr. Ida Perio-Daniel, who incorporated her findings in Living Case No. MG-99-537,[13] to wit:

GENERAL PHYSICAL EXAMINATION:

Height: 123.0 cms. Weight: 44 lbs

Fairly nourished conscious, coherent, cooperative, ambulatory subject. Breast infantile. Areola, light brown, 1.4 cm, in diameter, Nipples light brown, flat 0.3 cm. In diameter.

No extragenital physical injury noted.

GENITAL EXAMINATION:

Pubic hair, no growth. Labia majora and minora, coaptated. Fourchette, tense. Vestibular mucosa, pinkish. Hymen, short, thin, with old healed complete laceration at 6 o'clock position corresponding to the face of a watch, edges rounded non-coaptable. Hymenal orifice, admits a tube 2.0 in diameter. Vaginal walls, tight. Rugosities, prominent.

* * *

CONCLUSIONS:

1. No evident sign of extragenital physical injury present on the body of the subject at the time of the examination.
2. Old healed hymenal laceration present.

Afterwards, CCC and AAA, still in fear of the accused, did not want to return home. Hence, the NBI referred

them for temporary shelter to the Department of Social Welfare and Development (DSWD) Haven in Alabang, Muntinlupa City. The rest of the unmarried children, including the then 9-year old BBB, continued to live with their father.

B.

The rape of BBB

The rape of BBB was committed a few months later. At 6:00 a.m. of November 10, 1999, the accused commanded BBB, who was then in the kitchen of their house, to undress and lie down on a piece of plywood laid out on the ground.[14] Already naked from the waist down, he pushed her down to the floor, and lubricated his penis and BBB's vagina with cooking oil.[15] He next went on top of her, inserted his penis into her genitalia, and made pumping motions.[16] He ignored all her pleas for him to stop.[17] She stated that he had also raped her many times previously but that she had kept silent about the rapes out of fear of him.[18] But she could not anymore bear her pain that last time; hence, she went to her older sister DDD's house and finally reported the rape to DDD.[19] When BBB was narrating about her last rape, DDD could only embrace her young sister and cry.

Later on, DDD called up their mother who was then staying at the DSWD Haven in Alabang to tell her about what the accused had just committed against BBB. CCC advised DDD to bring BBB to the DSWD office in Valenzuela. The DSWD office endorsed BBB to the Child Protection Unit of the Philippine General Hospital (PGH), where Dr. Mariella S. Castillo examined the child. The findings were initially reflected in a provisional medical certificate on November 10, 1999,[20] and ultimately in a final medical certificate issued on the same date,[21] to wit:

GENITAL EXAMINATION:

External Genitalia: normal

Hymen: crescentic, (+) absent hymenal tissue at 6 o'clock, (+) attenuation from 2 o'clock to 6 o'clock, no hematoma, no laceration, no discharge

Anus: Normal

LABORATORY EXAMINATION:

Vaginal swab smear: no spermatozoa seen.

IMPRESSION:

Disclosure of physical and sexual abuse.

Multiple hematomas on chest and lower extremities.

Hematomas on chest and extremities are consistent with the patient's disclosure

Genital finding of absent posterior hymen and is indicative of prior penetration injury that has healed.

Armed with the provisional medical certificate issued by Dr. Castillo, DDD brought BBB to the Valenzuela Police Station to charge the accused with rape. A police team was immediately dispatched to the house of the accused to invite him for investigation. After the accused was brought in to the station, BBB and her elder sister gave their respective written statements.[22] On that occasion, BBB positively pointed to her father as the rapist.[23]

Version of the Defense

The accused was his own sole witness. He denied raping AAA and BBB.[24] He justified the medico-legal findings on BBB by shifting the blame on his drug addict son EEE, stating that in May 1999, BBB had told him about EEE raping her;[25] that BBB even showed him a plastic sachet containing small white granules that EEE had supposedly dropped when he raped her;[26] that he hit EEE upon learning about the rape; that he wanted to charge EEE but his wife prevented him from doing so in order to avoid embarrassment to the family; and that after CCC left home, he planned on reporting the rape to the police authorities, but EEE became aware of his plan and quickly left home and stayed away.

The accused testified that he was a shoemaker earning an average of P15,000.00/month; that although he thought that his income sufficed for him and his family, CCC felt differently, because she was envious of their rich neighbors; that CCC suggested that he change his livelihood and deal in prohibited drugs; that because he refused, CCC became angry and caused AAA and BBB to bring the false charges against him;[27] that CCC also wanted to reconcile with her former live-in partner with whom she had cohabited prior to their marriage; that he could not understand why she wanted to do that, but there was nothing he could do about it; that in May 1999, CCC left their conjugal home along with their two youngest daughters; that he had no idea about where they had gone to until he learned that they were sheltered in the DSWD Haven in Alabang; and that they returned home after six months only when he was already in detention.[28]

The accused said that he had disciplined his children either verbally or physically (i.e., by hitting them with his bare hands or with a piece of wood).[29] In that regard, he admitted having been charged with child abuse in 1999 for spanking FFF, another son, but he insisted that the charge had been dismissed.

Ruling of the RTC

After trial, the RTC convicted the accused, disposing as follows:

WHEREFORE, premised on the foregoing, the Court finds accused PEDRO BUADO, JR. y CIPRIANO GUILTY beyond reasonable doubt of the crime of two (2) counts of Rape penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659, and sentencing him to suffer in each case the death penalty and to pay in each case the victims the following sums: Seventy Five Thousand Pesos (P75,000.00) as civil indemnity; Fifty Thousand Pesos (P50,000.00) as moral damages and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages.

Pursuant to the Constitution, let the entire records of these cases be forwarded to the Honorable Supreme Court for automatic review.

SO ORDERED.[30]

Ruling of the CA

Elevated to the Court on automatic appeal, the records were transferred to the CA for intermediate review pursuant to *People v. Mateo*. [31]

In due course, on April 27, 2005, the CA affirmed the conviction, but reduced the death penalty to reclusion perpetua in Criminal Case No. 912-V-99,[32] as follows:

WHEREFORE, premises considered, the Decision of Branch 171, Regional Trial Court, Valenzuela City, dated May 5, 2003, is MODIFIED relative to Criminal Case No. 912-V-99 wherein the penalty imposed is reduced to Reclusion Perpetua and the civil liability ex delicto is reduced to P50,000.00. The award of moral and exemplary damages is AFFIRMED.

Relative to Criminal Case No. 974-V-99, the penalty of death and the award of civil liability ex delicto of P75,000.00 and exemplary damages of P25,000.00 are AFFIRMED. The award of moral damages is hereby

INCREASED to P75,000.00

SO ORDERED.

Issues

Hence, this appeal upon the following errors, namely:[33]

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY UPON THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE THE SPECIAL QUALIFYING CIRCUMSTANCES OF RELATIONSHIP AND MINORITY.

The accused continues to assail the credibility of AAA and BBB, stressing that their testimonies were replete with incredulous statements, and insisting that they were motivated by anger and revenge rather than by a sincere call for justice.

Ruling

The appeal has no merit.

In reviewing rape convictions, the Court has been guided by three principles, namely: (a) that an accusation of rape can be made with facility; it is difficult for the complainant to prove but more difficult for the accused, though innocent, to disprove; (b) that in view of the intrinsic nature of the crime of rape as involving only two persons, the rapist and the victim, the testimony of the complainant must be scrutinized with extreme caution; and (c) that the evidence for the Prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the Defense.[34]

Ultimately and frequently, the resolution of the charge of rape hinges on the credibility of the victim's testimony. The Court has consistently relied on the assessment of such credibility by the trial court, because the factual findings of the trial court, particularly those bearing on such assessment, are the product of the trial judge's peculiar opportunity to observe the deportment and demeanor of the witnesses while they personally appear and testify during the trial, as contrasted with the dependence by the appellate courts on the mute pages of the records of the trial.[35] This consistent reliance proceeds from the reality that the trial judge is in the best position to detect that frequently thin line between truth and prevarication that determines the guilt or innocence of the accused.[36] Thus, an appellate court will not disturb the credence the trial court accorded to the testimonies of the witnesses unless the trial court is shown to have overlooked or arbitrarily disregarded facts and circumstances of significance in the correct resolution of the case.[37]

Here, the RTC as the trial court and the CA as the intermediately reviewing tribunal did not overlook or disregard any fact or circumstance of significance. Instead, they correctly appreciated the evidence, and rightly concluded that the accused committed the rapes of his own daughters. They regarded and accepted AAA and BBB as credible witnesses whose recollections about their father's lecherous acts deserved the fullest faith and credence.

The trial records entirely supported the lower courts' findings in favor of the credibility of AAA and BBB's recollections. Indeed, AAA and BBB deserved the credence accorded to them, for they were reliable in their recollection of their ordeals at the hands of the accused.

AAA narrated the rape in sufficient detail and candor during her direct examination, viz:

x x x x

ATTY. VINARAO

Q.

Now, will you please tell this Court what if anything happened to you on that date, April 13, 1999?

A.

I was called by my father to go to the bedroom, maam.

Q.

And what happened if any inside the room?

A.

He removed my clothes and he placed his fingers to my vagina and he placed his penis into my vagina, maam.

Q.

What was your reaction if any when your father was committing those sexual acts?

A.

I was crying, maam.

Q.

Is that the only time the sexual acts was committed to you by your father?

A.

No ma'am, several times.

Q.

When you mentioned the words "several times", can you please give us the numerical value of such word?

A.

More than ten (10) times, maam, but I cannot remember the exact date but it started when I was in Grade I.

Q.

And what grade were you when your father raped you last April 13, 1999?

A.

When I was going to Grade 4, sir.

Q.

On what occasion does this sexual act occurred?

A.

Everytime my mother is not in the house, ma'am.

Q.

And what did you do if any after the last incident on April 13, 1999?

A.

I reported it to my mother, maam.

Q.

Why did you not tell your mother or any other person regarding the incident on April 13, 1999?

A.

Because I was threatened by my father that he will kill me if I will report the matter to my mother, maam.

Q.

And what made you decide to tell your mother finally about the incident on April 13, 1999?

A.

Because I was suffering, maam. (Nahihirapanpoako).[38]

x x x x

On her part, BBB directly and candidly reported the details of the rape, to wit:

x x x x

Q.

Do you recall the 10[th] of November, 1999?

A.

Yes, maam.

Q.

Where were you on that day?

A.

I was in our house, maam.[39]

x x x x

Q.

Now, will you please tell this Court what if anything happened to you on that day?

A.

At 6: 00 a.m., I was in our kitchen and I was instructed by my father to undress and lie on a plywood. He placed a cooking oil in my crotch and he inserted it in my crotch.

Q.

When you mentioned the word "Singit", what part of your body are you referring to?

A.

In my vagina, maam. (Witness pointing to her vagina)

Q.

And when you mentioned the word “Singit”, what part of your father's body were you referring to?

A.

His penis, maam.

Q.

So what was your reaction when your father was committing those sexual acts on you?

A.

I was pleading on him and told him to stop, maam.

Q:

Was that the only time that your father committed sexual acts on you?

A:

No, maam.[40]

x x x x

Q:

So what did you do after that incident on November 10, 1999?

A:

I told my DDD about that incident, maam.

Q:

Why did you not tell your mother or other persons about that incident on November 10, 1999?

A:

Because I was afraid of my father. He always maul us, maam.

Q:

And what made you decide to tell your sister DDD about the November 10,1999 incident?

A:

Because I can no longer bear anymore the things my father was doing to me, maam.[41]

x x x x

ATTY. CRISOSTOMO

Q:

This oil, let’s be specific about this oil. What is this oil you are speaking of?

A:

The one used in frying fish, sir.

Q:

Did you follow your father's order for you to apply oil in your crotch?

A:

No. sir.

Q:

So you did not apply oil in your crotch?

A:

Yes, sir.

Q:

What about his order for you to lie down on the plywood, did you heed his order?

A:

He made me to lie down, sir.

Q:

How did he make lie down?

A:

He made me lie down; and he suddenly pushed me, sir.

Q:

After that what happened?

A:

He placed an edible oil on his crotch sir.

Q:

How did he do it?

A:

He got some cooking oil and placed it on his crotch, sir.

Q:

Not on your crotch?

A:

Also on my crotch, sir.[42]

ATTY. CRISOSTOMO

Q:

Was he naked at the time he applied oil on his crotch or (was) he still wearing his pants?

A:

He was already naked, sir.

Q:

Naked from the waist down only?

A:

Yes, sir.

Q:

And after he applied oil on his crotch, you said he placed his penis between your thighs, is that correct?

A:

Yes, sir.

Q:

In other words, for clarity, what he did was to, what he did, in Tagalog, "IPINAIPIIT NIYA ANG ARI NIYA SA HITTA MO", ganyan ba ang ginawa nya?

A:

Yes, sir.[43]

Q:

What did you feel when your father inserted his penis between your tightly closed thighs?

A:

It was painful, sir.

Q:

What part of your body was aching?

A:

(Witness pointing to her vagina)

Q:

Not your thighs?

A:

My vagina, sir. PEPE

Q:

Did you bleed when your father did what you just described, to you?

A:

Yes, sir.

Q:

All this time that your father was doing the alleged act which according to you lasted for two (2) hours, what are you doing or how were you reacting? What is your reaction?

A:

I was pleading to him, sir.[44]

x x x x

On the other hand, the accused did not bring to the Court's attention any facts and circumstances of weight that, if properly considered, would change the result into one favorable to him. He did not also submit to us any argument that would lead us to doubt the findings of the RTC and the CA on the credibility of AAA and BBB.

Although the accused would discredit AAA by harping on her failure to immediately report the rape and to denounce him sooner to the proper authorities, the Court cannot but reject his attempt to discredit AAA's accusation. The attempt would rest on drawing an inference of estoppel against AAA, in that AAA would have denounced him sooner if he had truly ravished her. However, the inference of estoppel could be properly drawn against AAA only if the trial records did not plausibly explain the cause of delay. We find that his frequent acts of domestic violence against even the young members of his family caused AAA and her mother to fear him. He justified his violent tendencies by describing himself as a strict disciplinarian at home. His justification was implausible, however, considering that his having been once charged with child abuse in which the victim had been one of his own sons confirmed that his chastisement had exceeded the tolerable limits of parental discipline. Moreover, AAA knew that he had kept a gun at home. This, coupled by his children's undue fear of him, cowed AAA into silence about her great sufferings for a long period of time, and explained why she came out into the open to denounce him only on June 9, 1999. By then, his unabated lecherousness towards AAA had become unbearable. Under the circumstances, the delay in reporting him to the proper authorities is not a factor in determining the credibility of the charge against him of his own daughter.[45] To a child of very tender years like AAA, the threats of actual physical harm would definitely instill a fear overwhelming enough to force her to suffer her ordeals in silence for a period of time.

Verily, there has never been any uniformity or consistency of behavior to be expected from those who had the misfortune of being sexually molested.[46] The Court has pointed out that some of them have found the courage early on to publicly denounce the abuses they experienced, but that there were others who have opted to initially keep their harrowing ordeals to themselves and to just move on with their lives as if nothing had happened,[47] until the limits of their tolerance were reached. AAA belonged to the latter group of victims, as her honest declarations to the trial court revealed. Also, we cannot expect from the immature and inexperienced AAA to measure up to the same standard of conduct and reaction that we would expect from adults whose maturity in age and experience could have brought them to stand up more quickly to their interest. Lastly, long silence and delay in reporting the crime of rape to the proper authorities have not always been considered as an indication of a false accusation.[48]

The ill motive that supposedly impelled AAA and BBB to initiate the charges against their own father (i.e., they hated him because of the physical abuse he had inflicted on them and on their mother) is unworthy of serious consideration. To start with, the imputation of ill motive, being outrightly speculative, was unreliable. Moreover, the imputed ill motive, even assuming it to be true, did not necessarily mean that the very serious charges of rape

were fabricated only to get back at him. And, finally, the Court has not been deterred from affirming the conviction in incestuous rape by rejecting the lecherous father's imputation of ill motive based on alleged familial discord and undue influence, hostility or revenge,[49] or on parental punishment or disciplinary chastisement.[50]

The accused argues that the findings of old healed vaginal lacerations during the physical examinations disproved the charges against him, stressing that the old healed lacerations, being indicative of the lapse of three months from the time of the alleged sexual assault to the time of the medical examination, belied AAA's claim of being raped on April 13, 1999, which was but only two months prior to the medical examination. He insists that the finding that her genitalia showed no fresh laceration or hymenal injury suffered in the previous seven days was inconsistent with BBB's claim about being raped nine hours prior to her physical examination.

The arguments of the accused are unwarranted. The essence of rape is the carnal knowledge of a female either against her will (through force or intimidation) or without her consent (where the female is deprived of reason or otherwise unconscious, or is under 12 years of age, or is demented).[51]

Carnal knowledge of a female simply means a male having bodily connections with a female. As such, the presence or absence of injury or laceration in the genitalia of the victim is not decisive of whether rape has been committed or not.[52] Such injury or laceration is material only if force or intimidation is an element of the rape charged; otherwise, it is merely circumstantial evidence of the commission of the rape. Verily, a medical examination and a medical certificate, albeit corroborative of the commission of rape, are not indispensable to a successful prosecution for rape.[53] The accused may then be convicted solely on the basis of the victim's credible, natural and convincing testimony.[54] This is no less true when the rape victim testifies against her own father; unquestionably, there would be reason to give her testimony greater weight than usual.[55]

In fine, the proof of guilt adduced against the accused for each of the rapes charged was beyond reasonable doubt if all he could assert in his defense was a mere denial of the positive declarations of his two minor daughters. He now deserves to the fullest extent the condign penalties the law sets for his crimes.

We next deal with the penalty to be properly meted on the accused.

Under Article 266-B of the Revised Penal Code, the death penalty is imposed if the rape is committed with the attendance of any "aggravating/ qualifying circumstances." One of such "aggravating/qualifying circumstances" is "when the victim is under eighteen (18) years of age and 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." Both minority and actual relationship must be alleged and proved; otherwise, conviction for rape in its qualified form will be barred.[56]

To establish the age of the minor victim, either as an element of the crime or as a qualifying circumstance, the Court has set the guidelines in *People v. Pruna*,[57] as follows:

In order to remove any confusion that may be engendered by the foregoing cases, we hereby set the following guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance.

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by

affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.[58]

In Criminal Case No. 912-V-99, the amended information alleged that AAA was only ten years old when the rape was committed in April 1999 and that she was the daughter of the accused. During the trial, however, the Prosecution adduced no evidence to establish her minority save her testimony and that of her mother's.[59] In the absence of proof of AAA's minority in accordance with the guidelines set in *People v. Pruna*, we concur with the CA's conclusion that he could not be properly found guilty of qualified rape. Indeed, his substantial right to be informed of the nature and cause of the accusation against him would be nullified otherwise. Accordingly, the CA correctly prescribed reclusion perpetua as the penalty.

On the other hand, the amended information in Criminal Case No. 974-V-99 sufficiently stated the minority of BBB and her being the daughter of the accused. Further, the Prosecution established that BBB was only nine years old at the time of the rape on November 10, 1999 through her certificate of live birth. In addition, her own mother and older sister DDD both attested that she was the legitimate daughter of the accused.[60] In fact, even the accused himself admitted his legitimate paternity of BBB.[61] Considering that the Prosecution duly proved BBB's minority and her relationship with the accused, the CA correctly affirmed the penalty of death meted by the RTC.

With the intervening passage on June 24, 2006 of Republic Act No. 9346,[62] however, the imposition of the death penalty has become prohibited. The retroactive application to Criminal Case No. 974-V-99 of the prohibition against the death penalty must be made here because it is favorable to the accused.[63] Nonetheless, he shall not be eligible for parole, because Section 3 of Republic Act No. 9346 expressly provides that persons "whose sentences will be reduced to reclusion perpetua by reason of this Act" shall not be eligible for parole under Act No. 4103 (Indeterminate Sentence Law), as amended.

We uphold the award by the CA of P50,000.00 as civil indemnity, P50,000.00 as moral damages, but raise the amount of exemplary damages in Criminal Case No. 912-V-99 to P30,000.00 to conform to prevailing jurisprudence.

In Criminal Case No. 974-V-99, the CA sustained the P75,000.00 granted as civil indemnity, increased the moral damages to P175,000.00, and retained P25,000.00 as exemplary damages. Instructive on the civil liabilities to be imposed in Criminal Case No. 974-V-99 is *People v. Antonio*,[64] where the Court held that Republic Act No.

9346 prohibited only the imposition of the death penalty and did not affect the corresponding pecuniary or civil liabilities. Based on the pronouncement in *People v. Bejic*[65] to the effect that the civil indemnity should be in the amount of

P75,000.00 if the crime is qualified by circumstances that warrant the imposition of the death penalty, the Court affirms the separate amounts of P75,000.00 for civil indemnity and moral damages, without need of any pleading and proof, but raises the amount of exemplary damages from P25,000.00 to P30,000.00.[66]

WHEREFORE, the Court AFFIRMS the decision promulgated on April 27, 2005 in all respects, subject to the MODIFICATION that: (a) the penalty in Criminal Case No. 974-V-99 is reclusion perpetua, without eligibility for parole; (b) the amount of exemplary damages in Criminal Case No. 912-V-99 and Criminal Case No. 974-V-99 is raised to P30,000.00 each; and (c) all the items of civil liability shall earn interest of 6% per annum from the finality of this decision until full payment.

The accused shall further pay the costs of suit.

SO ORDERED.

Sereno, C.J, Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and Leonen, JJ., concur.

[1] Rollo, pp. 3-18; penned by Associate Justice Arcangelita Romilla-Lontok (retired), and concurred in by Associate Justice Rodrigo V. Cosico (retired) and Associate Justice Danilo B. Pine (retired).

[2] CA rollo, pp. 72-85.

[3] For purposes of this decision, the real names of the victims in these two cases and of their mother and sister are withheld pursuant to Republic Act No. 7610 and Republic Act No. 9262; in lieu of their real names, they are designated by assumed appellations and sufficient descriptions; see also *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] CA rollo, p. 143

[5] TSN, 8 May 2000, p. 6.

[6] Certificate of Live Birth of BBB; Exh. "A" (Crim. Case No. 974-V-99) for BBB.

[7] TSN, 8 May 2000, pp. 7 and 12.

[8] Id.

[9] Id .

[10] Id. at 7-8.

[11] Id. at 9.

[12] Id.

[13] Exhibit C.

[14] TSN, 21 August 2000, pp. 5-6, 21.

[15] Id.at 6, 23-24.

- [16] Id.at 25.
- [17] Id.at 7-26.
- [18] Id.at 7-8.
- [19] Id.
- [20] Exhibit C (Crim. Case No. 974-V-99) and submarkings.
- [21] Exhibit E and submarkings..
- [22] Exhibit B; Exhibit D.
- [23] TSN, 21 August 2000, p. 12.
- [24] TSN, 29 January 2001, pp. 4-5.
- [25] Id.at 18.
- [26] Id.at17-19.
- [27] Id. at 5-7.
- [28] TSN, 9 August 2001, pp. 4-5.
- [29] TSN, 12 July 2001, p. 19.
- [30] CA rollo, p. 39.
- [31] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [32] Supra note 1, at 18.
- [33] CA rollo, p. 51.
- [34] People v. Ortoa, G.R. No. 176266, August 8, 2007, 529 SCRA 536, 546; People v. Marahay, G.R. Nos. 120625-29, January 28, 2003, 396 SCRA 129, 137.
- [35] People v. Ortoa, p. 546.
- [36] People v. Cruz, G.R. Nos. 128346-48, August 14, 2000, 337 SCRA 680, 693.
- [37] People v. Miranda, G.R. No. 176064, August 7, 2007; 529 SCRA 399, 406-407.
- [38] TSN, 8 May 2000, pp. 7-9.
- [39] TSN, 21 August 2000, p. 5.
- [40] Id.at 6-7.
- [41] Id.at 7-8.
- [42] Id.at 22-23.
- [43] Id.at 24-25.
- [44] Id.at 25-26.
- [45] People v. Dimaano, G.R. No. 168168, September 14, 2005, 469 SCRA 647, 663.

[46] *People v. Ortoa*, supranote 34, at 553.

[47] *Id.*

[48] *People v. Suarez*, G.R. Nos. 153573-76, April 15, 2005, 456 SCRA 333, 346.

[49] *People v. Ortoa*, supra note 34, at p. 551.

[50] *People v. Ceballos, Jr.*, G.R. No. 169642, September 14, 2007, 533 SCRA 493, 510.

[51] *People v. Lupac*, G.R. No. 182230, September 19, 2012; *People v. Taguilid*, G.R. No. 181544, April 11, 2012, 669 SCRA 341, 350; *People v. Butiong*, G.R. No. 168932, October 19, 2011.

[52] *People v. Aguiluz*, G.R. No. 133480, March 15, 2001, 354 SCRA 465, 471-472; *People v. Gabayron*, G.R. No. 102018, August 21, 1997, 278 SCRA 78, 93.

[53] *People v. Ela*, G.R. No. 172368, December 27, 2007; 541 SCRA 508, 512-513.

[54] *Id.* at 513.

[55] *Id.*

[56] *People v. Latag*, G.R. Nos. 140411-13, December 11, 2003, 418 SCRA 122, 134.

[57] G.R. No. 138471, October 10, 2002, 390 SCRA 577.

[58] *Id.* at 603-604.

[59] TSN, 8 May 2000; p. 6; TSN, 7 August 2000, p. 4.

[60] TSN, 7 August 2000, p. 20; TSN, 4 September 2000, p. 5.

[61] TSN, 29 January 2001, pp. 3-4.

[62] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[63] The Revised Penal Code provides:

Article 22. Retroactive effect of penal laws. — Penal Laws shall have a retroactive effect insofar as they favor the persons guilty of a felony, who is not a habitual criminal, as this term is defined in Rule 5 of Article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same.

[64] G.R. No. 180920, March 27, 2008, 549 SCRA 569.

[65] G.R. No. 174060, June 25, 2007, 525 SCRA 488, 513.

[66] *People v. Llanas, Jr.*, G.R. No. 190616, June 29, 2010, 622 SCRA 602; *People v. Miranda*, G.R. No. 176634, April 5, 2010, 617 SCRA 298.

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