

PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. FEDERICO ARNAIZ Y ARMONIO, APPELLANT.

G.R. NO. 171447. November 29, 2006

Ponente: TINGA, J.

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TINGA, J.:

This treats of the appeal from the Decision[1] dated 2 December 2005 of the Court of Appeals (CA) affirming the Decision[2] dated 25 May 1999 of the Regional Trial Court (RTC) of Parañaque City, Branch 259 in Criminal Case No. 97-150 finding Federico Arnaiz y Armonio (accused) guilty of the crime of rape and sentencing him as follows:

WHEREFORE, premises considered, the prosecution having been able to prove the guilt of the accused FEDERICO ARNAIZ [y ARMONIO] beyond reasonable doubt, the Court finds FEDERICO ARNAIZ [y ARMONIO] GUILTY of the crime of rape punishable under Article 335 of the Revised Penal Code, as amended, by Section 11 of R.A. [No.] 7659 and hereby sentences him to suffer the penalty of Reclusion Perpetua[,] which is imprisonment of twenty (20) years and one (1) day to forty (40) years with all the accessories [sic] provided for by law.

Accused FEDERICO ARNAIZ is further ordered to indemnify [AAA[3]] the amount of P50,000.00[,] as and by way of actual damages; P200,000.00 as moral damages; P100,000.00[,] as exemplary damages; and to pay the cost of suit.

SO ORDERED.[4]

In an Information[5] dated 5 February 1997, accused was charged with rape alleged as follows:

That sometime in the month of December, [sic] 1995 in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant [AAA], a minor 15 years old, against her will.

CONTRARY TO LAW.[6]

The accused pleaded not guilty on arraignment. Forthwith, trial ensued which resulted in his conviction for the crime of simple rape, the qualifying circumstance of relationship not having been alleged in the Information.[7] The case was thereafter elevated to this Court for automatic review.[8]

On 9 February 2000, the Court resolved to require the parties to submit their respective briefs.[9] The parties complied. However, the Court issued a Resolution[10] on 25 August 2004, transferring the case to the CA for intermediate review conformably with the ruling in *People v. Mateo*. [11]

The appellate court affirmed the trial court's decision. The case is again before us for our final disposition.

The prosecution presented as witnesses AAA herself, Demelen Renton Dela Cruz of the Forensic Chemistry

Division of the National Bureau of Investigation (NBI) and Dr. Anne Soreta Umil of the Medico-Legal Division of the NBI.

AAA testified that sometime in December 1995, at around 4 o'clock in the morning, she was suddenly awakened from sleep when she felt her stepfather, accused Federico Arnaiz, removing her shorts.[12] The latter told her to keep quiet.[13] He then moved her to the sala away from

her siblings who were sleeping in the same room.[14] While pointing a gun at her left temple, accused removed her underwear and undressed himself. He then touched her private parts, ordered her to spread her legs and finally inserted his sexual organ into hers.[15] AAA did not struggle for fear that her stepfather will shoot her.[16]

After raping AAA, accused went out of the house leaving her crying in a corner of the sala. At around 6 o'clock of the same morning, her mother, BBB[17] arrived from the market but AAA, fearing for her life, kept mum about the incident.[18] At the time of this incident, she was only fifteen (15) years old.

Thereafter, accused succeeded in raping AAA several times more while her mother was out in the market and each time he threatened her with a gun.[19] He also warned her not to leave the house unless she wanted to be shot in the back.[20]

It was only when AAA was already seven (7) months pregnant that she finally broke her silence. She relayed her unfortunate experience to her grandmother, CCC,[21] who in turn, told AAA's aunt, DDD.[22]

Accused's bestial act produced a child, EEE[23] to whom AAA gave birth on 27 October 1996.[24]

On 1 December 1996, AAA accompanied by CCC and DDD, reported the rape incident to the police and executed a Salaysay.[25] AAA underwent physical examination the following day.

The forensic biologist, Ms. Demelen Renton Dela Cruz, testified that she conducted blood examinations on the accused, AAA and EEE, per letter request of the Parañaque Police Department. The blood-grouping test she conducted disclosed that EEE is a possible child of AAA and the accused.[26]

Dr. Louella Nario, the medico-legal officer who examined AAA was not able to testify as she passed away before the case was tried.[27] In her stead, the prosecution presented Dr. Anne Soreta Umil, a medico-legal officer of the NBI to interpret Dr. Nario's findings. Dr. Umil testified that the result of the medical examination conducted on AAA showed her hymen was reduced to caruncula myrtoformis[28] due to the fact that she had already given birth. There was no evident sign of extragenital physical injury noted on her body at the time of examination possibly due to the lapse of time from the commission of the rape up to the time the actual physical examination was performed on AAA.[29] She stated nonetheless that the presence or absence of extragenital physical injury is not determinative of rape because the extent or severity of such injury would depend on the amount of physical force applied on the victim's body, if any.[30]

The defense presented a different version of the facts anchored on the claim that the accused and AAA were lovers so that their sexual encounters were consensual.

The victim's mother, BBB testified for the defense. According to her, AAA is her daughter from a previous relationship. AAA was born on 8 May 1980 and was already five (5) years old when BBB met and eventually married the accused on 6 December 1984.[31] BBB testified that since 1995, AAA had become extraordinarily sweet towards her stepfather, attending to his needs and always flirting with him.[32] She, however, brushed this aside as she did not want to put any malice to it. She likewise testified that whenever she goes to the market at 4 o'clock in the morning, she no longer has any knowledge of what happens at home. According to her, she did not notice AAA's pregnancy because the latter had a small belly and always wore large shirts.[33] When AAA gave

birth, BBB inquired several times who the father is but AAA would not answer.[34] CCC never discussed the matter with BBB and the latter was surprised when her husband was arrested on 1 December 1996.[35] When she asked the police officers why her husband was being arrested, she was told that he was in possession of a gun. She was not aware that he ever owned one and the police officers found none when they searched their house that same day, unarmed with a search warrant.[36]

The accused also took the witness stand. He vehemently denied the charges against him, insisting that he and AAA were having an affair. Their alleged relationship started with a kiss sometime in December 1995 when BBB was in the market. They did not profess any love for each other but he knew they had a mutual understanding.[37] They continued to be intimate with each other until 12 February 1996 when AAA crawled beside him in bed and they had their first sexual intercourse while his wife was in the market. He testified that he initially tried to resist AAA's advances but she would always stop him from leaving her side.[38] They again had sexual intercourse on 4 April 1996 while his wife was out of the house.[39] On both occasions, he alleged that he never forced AAA to have sex with him.

He further testified that he did not know that he impregnated AAA. It was only when AAA told him that she wanted to go to Antique to give birth did he learn of her pregnancy.[40] When AAA gave birth to EEE, they did not tell his wife who fathered the child.[41]

On 1 December 1996, AAA's aunts, all relatives of his wife, took AAA and EEE away, and had him arrested. Around five (5) to six (6) police officers went to his house, handcuffed him without showing any warrant for his arrest, and proceeded to search their house looking for a gun. When they found none, they brought him to the Coastal Police Headquarters where he finally learned that he was arrested for rape.[42]

In convicting the accused, the RTC made the following legal conclusions, thus:

The testimony of [AAA] that she was raped by Federico, her stepfather, whom she positively identified in Court, must be given greater weight and full credence as "no 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 a public trial if she was not motivated solely by a desire to have the culprit apprehended and punished" (People v. Yambao, 193 SCRA 571). x x x Records reveal with crystal clarity that [AAA] was able to narrate what happened to her in a clear and categorical manner although in the course thereof was ashamed (TSN[,] p. 10, November 13, 1997), and crying (p. 26, *ibid*) and despite the lengthy cross-examination by the defense counsel. While the Court noted some inconsistencies in her testimony, they are harmless, trivial, insignificant and did not in any way affect her credibility. Minor lapses are to be expected when a person is recounting details of a traumatic experience like rape, as in this case, which happened almost two (2) years from the time she testified. What is important is that [AAA] was emphatic in describing how she was raped several times by her stepfather which cause (sic) her to be impregnated and bore him a daughter, [EEE], who was born on October 27, 1996 (Exh. "B"). x x x

Likewise, the fact that [AAA] only reported her pregnancy to her grandmother when she was seven (7) months pregnant can be attributable to the threat of Federico for her not to tell anybody as he will kill her siblings (TSN, pp. 26-28, December 4, 1997) and was also afraid to tell her mother. The delay in telling someone about what happened to her should not be taken against her. "Procrastination by the victim in rape cases is not unknown; verily, the failure of the victim to immediately report the rape is never taken to be an indication of a fabricated charge. Young girls usually do conceal for some time the fact of their ordeal particularly when they are threatened against revealing the offense." (People v. Escala, 292 SCRA 48).

x x x x

The Court, however, is not convinced that [AAA] made amorous advances to Federico and was the one who

initiated their lovemaking on February 12, 1996. It cannot be gainsaid that she was then only fifteen (15) years old, an adolescent, too young in mind and heart to act in such manner. Not only that, Federico, being the stepfather of [AAA], should have asserted his parental authority and moral ascendancy over her as he is morally and duty bound to protect her and should have repulsed her advances to him at all cost (sic), if true. x x x But no, instead Federico would like the Court to believe that he succumbed to the temptation of the flesh, flesh of his own minor stepdaughter because of her alleged amorous advances. x x x The "nagkakaunawaan" relationship interposed as defense of Federico[,] between him and [AAA][,] to the Court is too incredulous to be true, preposterous and unworthy of belief, because "when a woman says that she has been raped, she says in effect all that is necessary to show that she has indeed been raped." (People v. Pagupat, G.R. Nos. 125313-16, July 31, 1998). Thus, it is highly impossible, nay, improbable for [AAA] to come forward and report that she was raped by her stepfather unless, it is, in fact, the truth. And the rule is that, "an affirmative testimony is far stronger than a negative testimony, especially so when it comes from the mouth of a credible witness" (People v. Sta. Ana, 291 SCRA 188) and the Court does not see any reason to doubt the testimony of [AAA].

Anent the issue that he was arrested without any warrant of arrest, suffice it to say that, "any irregularity attendant to his arrest was cured when he voluntarily submitted himself to the jurisdiction of the trial court by entering a plea of not guilty and (by) participating in the trial" (People v. Rabang, 187 SCRA 682 vis-à-vis People v. Manlulu, 231 SCRA 701).

x x x [43]

Like the RTC, the CA gave full faith and credence to AAA's straightforward and unwavering testimony. It rejected the defense's "sweetheart theory" as highly incredible given AAA's tender age at the time of the rape as well as the fact that accused was like a second father to her, having known him since she was only five years old.[44] According great respect to the findings and conclusions of the trial court on the credibility of witnesses, the CA affirmed the RTC's decision in its entirety.

In his Brief,[45] the accused alleges that the trial court erred (1) finding that the sexual acts between him and AAA were not consensual in nature; and (2) in finding him guilty beyond reasonable doubt of the crime of rape.[46]

The accused insists that he never forced AAA to have sex with him as evidenced by the fact that AAA did not struggle nor did she shout to awaken her siblings. Furthermore, she had all the chance to tell her mother about the alleged rape incidents but she revealed the same only after she had given birth to EEE. He challenges the truthfulness of AAA's accusations stating that her grandmother initiated the complaint for personal reasons and that the delay of one year in reporting the matter signifies falsity in their actuations. The fact that AAA failed to rebut his allegations that she seduced him bolsters his defense, he claims.

The Office of the Solicitor General (OSG) maintains that accused's guilt has been proven beyond reasonable doubt by the positive and categorical testimony of the victim, AAA. That she did not struggle, awaken her siblings nor tell her mother about the rape were all due to the threat and intimidation employed upon her by the accused during and after the rape incidents. It argues that the delay in reporting the incident should not be taken against AAA who cannot be expected to have the courage and maturity to immediately report her stepfather's sexual assaults against her, especially when accompanied by death threats. The OSG further argues that accused's "sweetheart theory" amounts to an affirmative defense that must be supported by convincing evidence. Lastly, the OSG submits that the duration of twenty (20) years and one (1) day to forty (40) years stated in the dispositive portion of the RTC's decision is a surplusage as the penalty of reclusion perpetua is an indivisible penalty. It prays that the same be deleted to avoid confusion as to the duration of the penalty imposed.

A careful perusal of the records as well as the transcripts of stenographic notes of the instant case lead us to affirm

the accused's conviction.

At the core of almost all rape cases is the issue of credibility of witnesses, specifically the complainant's, and the trial court is in the best position to resolve the question, having heard the witnesses and observed their demeanor during trial.[47] Thus, appellate courts will not disturb the credence accorded by the trial court to the testimonies of witnesses unless it is shown that the latter has overlooked or disregarded arbitrarily facts and circumstances of significance to the case.[48] None of the exceptions apply to the case at bar.

We find no cogent reason to doubt the veracity of AAA's testimony. Although the medico-legal officer who conducted the physical examination on AAA was not presented in court and that the medical findings do not point to any injury in AAA's hymen as she had already given birth, the same has no bearing on the fact that AAA was indeed raped by the accused. Medical findings are at best corroborative and therefore not indispensable in proving the commission of the crime of rape.[49] The lone credible testimony of AAA is sufficient to convict accused for the crime charged. Well-trenched in our jurisprudence is the rule that when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. AAA's straightforward account of the incident even during rigorous cross-examination clearly established the commission of the crime of rape:

x x x x

Q

You were saying a while ago that when your mother was out at about 4:00 o'clock in the morning, you noticed that somebody was pulling off your shorts, is it not?

A

Yes, sir.

Q

And according to you, you were also wearing your panty at that time?

A

Yes, sir.

Q

After that, you said, you were brought to the sala of your house?

A

Yes, sir.

x x x x

Q

At the sala, who removed your panty?

A

My stepfather, sir.

Q

What was his position when he removed your panty? How did he do it?

A

He was standing and after he removed my panty, he told me to sit down.

Q

When he told you to sit down, you followed him?

A

Yes, sir.

Q

How did he remove your panty, with both hands?

A

Only one hand.

x x x x

Q

So, when you sat down, the accused told you to lie down eventually?

A

Yes, sir.

Q

And you followed?

A

Yes, sir.

Q

How was your position? What was your position when you laid down as being told?

A

I was lying down.

Q

With your back towards the floor?

A

Yes, sir.

Q

And did you open your two legs?

A

He ordered me to spread my legs.

Q

When the accused told you to spread your legs, you also followed?

A

Yes, sir.

Q

And according to you, this was the time that you felt that his organ penetrated your organ also?

A

Yes, sir.

x x x x

Q

In your affidavit marked as Exh. "A," in [Q]uestion [N]o. 10 and I quote:

Q:

Nang makita mo na ang iyong stepfather ay may masamang tangka sa iyo, ano ang iyong ginawa?

A:

Nang mamalayan ko po ang ginagawa ng aking stepfather, natakot po ako at nagtangkang sumigaw pero tinutukan po niya ako ng baril at sinabing papatayin niya ako pati rin ang nanay ko at ang mga kapatid ko kapag pumalag daw ako kaya hinayaan ko na lang po siya na gawin iyon."[sic]

Q:

Now, do you remember having given this statement to the police?

A:

Yes, sir.

Q

When you said in your statement, "hinayaan ko na lang po siya na gawin iyon," did you understand clearly when you have given this answer?

A

Yes, sir.

Q

That is why when you said[,] that the accused was on top of you, using you at that time for a period of thirty minutes, is that what you mean when you said "hinayaan ko na lang po siya na gawin ito?"

A

Yes, sir. Wala naman po akong laban.

Q

And you never shouted to awaken your brothers and sisters?

A

No, sir.

x x x x[50]

Q

You have given your testimony that your stepfather had a gun?

A

Yes, sir.

Q

Have you seen that gun before December 1995?

A

Yes, sir.

Q

How did it look like?

A

De bola, sir.

Q

How long was it?

A

More or less 5 to 6 inches.

Q

Where was that gun when you were brought to the sala and you were made to lay down?

A

He was holding it?

Q

With what hand did he use in holding it?

A

His left hand.

Q

With what hand was he holding your private part?

A

His right hand, sir.

x x x x[51]

That AAA failed to struggle while the accused satisfied his carnal desires is not tantamount to consent on her part. Her stepfather held her at gunpoint just a couple of meters away from her younger siblings. Danger to their lives and hers was not only apparent but also imminent. On direct examination, AAA testified, thus:

x x x x

Q

Habang ipinapasok niya ang ari niya sa ari mo, was he doing anything more to you?

A

He was pointing his gun on (sic) me.

Q

In (sic) which part of your body was he pointing the gun on (sic) you?

A

Sa may sentido ko po.

Q

Did you struggle while he was doing this act to you?

A

No, sir.

Q

Why did you not struggle?

A

Nanakot po siya, sabi niya huwag akong sisigaw dahil papuputukin niya ang baril niya.

Q

That was what he said to you?

A

Yes, sir.

Q

When he said those things to you, what was your reaction, if any?

A

Natatakot po ako.

Q

Nakuha ba niya ang pagkababae mo?

A

Yes, sir.

x x x x[52]

In *People v. Adajio*,^[53] it was found that fear of bodily harm and fear for the safety of her family prevented therein complainant from shouting for help, caused her to spread her legs upon the order of her rapist and compelled her to follow the latter to the piggery where the second charge of rape occurred. We held therein that physical resistance need not be established in rape when threats and intimidation are employed and the victim submits herself to the embrace of her rapist because of fear.^[54] The same applies to the case at bar.

Neither does AAA's failure to tell her mother about the incident nor her long delay in reporting the matter to the authorities negate rape. As correctly observed by the OSG, the delay in reporting the rape incident does not weaken the case for the prosecution. It is not uncommon for a young girl to conceal assaults on her virtue, especially when the rapist is living with her.^[55] In fact, we have previously ruled in *People v. Coloma*,^[56] that even a delay of 8 years is not a sign of fabrication.

Furthermore, being AAA's step-father, accused possessed moral ascendancy over her which should be considered a factor in her failure to struggle against him and to immediately report rape incidents. It was observed in *People v. Melivo*,^[57] that, in incestuous rapes, "[t]he rapist perverts whatever moral ascendancy and influence he has over his victim in order to intimidate and force the latter to submit to repeated acts of rape over a period of time. In many instances, he succeeds and the crime is forever kept on a lid. In a few cases, the victim suddenly finds the will to summon unknown sources of courage to cry out for help and bring her depraved malefactor to justice."^[58] That ascendancy or influence flows from the father's parental authority over his children and from the latter's correlative duty of reverence and respect towards the former.^[59] Although we have subsequently held that the moral ascendancy of the accused in incestuous rapes, alone, does not lead to the conclusion that sufficient intimidation was present,^[60] it may be considered a contributing factor when coupled with other threatening circumstances such as those in this case.

Nevertheless, AAA's clear and categorical narration of the sexual assault against her, free from material inconsistency and coupled with a spontaneous outburst of emotions deserve full faith and credence.

We cannot by any stretch of imagination accept the defense's "sweetheart theory." Accused's allegation that he and AAA are lovers is baseless and unsubstantiated. While BBB testified that she noticed AAA's extraordinary sweetness towards her stepfather, BBB likewise testified that she had no knowledge of what transpired at home every time she was away. She also testified that AAA is a very good and obedient daughter to her and the accused ever since she was little.^[61] It is highly improbable that AAA, so early in her adolescence would seduce the accused who she looks up to as a father. Neither would she impute to him a crime so grave and subject herself and her whole family to the humiliation and invasive ordeal of public trial unless impelled by a desire to expose the truth and seek justice she so greatly deserves. Thus, we sustain the finding of guilt pronounced by the RTC and CA.

Carnal knowledge of a woman through the use of force or intimidation is rape as defined under Article 335 of the Revised Penal Code, the law in force at the time of the rape in question. The crime of rape is qualified when the victim is under eighteen (18) years of age and the offender is a step-parent of the victim, in which case, the death penalty shall be imposed as provided under the Death Penalty Law of 1993.^[62] In the case at bar, although the victim's minority was alleged and established, the qualifying circumstance of her relationship with the accused as the latter's step-daughter was not properly alleged in the Information, although proven during trial and not refuted by the accused. Thus, accused may only be convicted of simple rape, which is punishable by reclusion perpetua.

In any event, Republic Act No. 9346, entitled an "An Act Prohibiting the Imposition of Death Penalty in the Philippines" which was signed into law on 24 June 2006 prohibits the imposition of the death penalty.

As regards the OSG's prayer that the duration of 20 years and 1 day to 40 years as stated in the dispositive portion of the RTC Decision be deleted for being a surplusage, we feel the statement of said duration is innocuous. In the case of *People v. Lucas*,^[63] we ruled, thus:

X X X X

Prior to R.A. No. 7659, the presence of modifying circumstances would not affect the penalty of reclusion perpetua prescribed for the crime of rape because such a penalty was then indivisible and under Article 63 of the Revised Penal Code, when the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed. However, pursuant to Section 21 of R.A. No. 7659, which amended Article 27 of the Revised Penal Code, reclusion perpetua has now a defined duration, i.e., from twenty (20) years and one (1) day to forty (40) years. There is, however, no corresponding amendment to Article 76 of the same Code for the purpose of converting reclusion perpetua into a divisible penalty with three specific period [sic]" minimum, medium and maximum "and including it in the table provided therein showing the duration and the time included in each of the periods.

It may thus be said that although the law has now fixed the duration of reclusion perpetua, it did not make explicit its intention to convert it into a divisible penalty. x x x^[64]

The case at bar does not involve the presence of any mitigating or aggravating circumstance that would call for the application of the Indeterminate Sentence Law. The RTC in its assailed decision merely restated the duration of the penalty of reclusion perpetua as provided in the law. We see no means by which such statement may cause confusion in the future as feared by the OSG.

Anent the accused's civil liability, we affirm the award of the amount of P50,000.00 by way of actual damages as civil indemnity is mandatory upon conviction of the crime of rape.^[65] We, however, modify the award of moral damages to P50,000.00 in light of prevailing jurisprudence.^[66] We further delete the award of exemplary damages there being no aggravating or qualifying circumstance proven in the commission of the offense but we resolve to award P25,000.00 as temperate damages.^[67]

WHEREFORE, the Decisions of the RTC in Criminal Case No. 97-150 and the CA in CA-G.R. CR No. 01571 are AFFIRMED WITH MODIFICATION. Accused is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the victim, AAA, the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as temperate damages plus costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 3-13; Penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Godardo A. Jacinto and Arturo D. Brion.

[2] CA rollo, pp. 19-35; Penned by Acting Presiding Judge Raul E. De Leon.

[3] The real name of the victim is withheld; see *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

[4] CA rollo, p. 35.

[5]Id. at 11.

[6] Id.

[7] Id. at 33.

[8]Id. at 39.

[9] Id.

[10] Id. at 154.

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

[12] TSN, 13 November 1997, pp. 6-7.

[13]Id. at 7.

[14] Id. at 17-18.

[15] Id. at 11-12, 37.

[16]Id. at 12.

[17] The real name of the victim's mother is withheld to protect her and the victim's privacy.

[18]TSN, 13 November 1997, pp. 18-19, 41-42.

[19] Id. at 18, 42; Private complainant alleged that accused raped her again in January 1996 and she cannot recall exactly when the other rape incidents after that occurred.

[20] TSN, 13 November 1997, pp.27-28.

[21] The real name of the victim's grandmother is withheld.

[22] The real name of the victim's aunt is likewise withheld.

[23]The real name is withheld.

[24] Records, p. 227; As per Certificate of Live Birth of EEE.

[25] Records, pp. 2-4.

[26] TSN, 5 May 1998, pp. 12-13.

[27] Dr. Louella Nario passed away in April 1997.

[28] TSN, 7 July 1998, p.10; Dr. Umil explained that carinulae myrtoformis are remnants of the hymen or the hymenal tags found in a woman who has given birth.

[29] TSN, 7 July 1998, p. 18.

[30] Id.

[31] TSN, 27 August 1998, pp. 6 and 15.

[32] Id. at 14-15.

[33] Id. at 18.

[34]Id. at 19-20.

[35]Id. at 22.

[36] Id. at 23-24.

[37] TSN, 12 January 1999, p. 35; The accused described his relationship with AAA, thus: "Hindi ko masasabing nag-iibigan basta ang alam ko ay nagkakaunawaan."

[38]Id. at 39-41.

[39]Id. at 47.

[40] Id. at 47-48.

[41]Id. at 50.

[42]Id. at 6, 9-11, 15-16, 21-22.

[43] CA rollo, pp. 27-31.

[44] Rollo, p. 11.

[45] CA rollo, pp. 71-89.

[46] Id. at 73.

[47]Perez v. People, G.R. No. 150443, 20 January 2006, 479 SCRA 209, 220, citing Sim, Jr. v. Court of Appeals, G.R. No. 159280, 18 May 2004, 428 SCRA 459; Magno v. People, G.R. No. 133896, 27 January 2006, 480 SCRA 276, 286, citing People v. Escote, G.R. No. 151834, 431 SCRA 345, 350-351; People v. Manahan, 374 Phil. 77 (1999).

[48] People v. Manahan, *supra*.

[49]People v. Ugang, 431 Phil. 552, 565 (2002), citing People v. Aliviano, 335 SCRA 371, 382-383, People v. Juntilla, 314 SCRA 568, 582 (1999); People v. Lasola, 318 SCRA 241, 252 (1999); People v. Lacaba, 318 SCRA 301, 314 (1999).

[50] TSN, 13 November 1997, pp. 34-40.

[51] Id. at 43-44.

[52]Id. at 12-13.

[53]397 Phil. 354 (2000).

[54] Id. at 331.

[55] People v. Juntilla, G.R. No. 130604, 16 September 1999, 314 SCRA 568, citing People v. Vitor, 245 SCRA 392 (1995).

[56]G.R. No. 95755, 18 May 1993, 222 SCRA 255.

[57] 323 Phil. 412 (1996).

[58] Id. at 422-423.

[59] People v. Maglente, 366 Phil. 221 (1999).

[60] *People of the Philippines v. Solomon*, 434 Phil. 1, 25 (2002).

[61] TSN, 27 August 1998, pp. 33-34.

[62] Art. 335 of the Revised Penal Code has been repealed by Republic Act No. 8353, also known as the Anti-Rape Law of 1997, effective 22 October 1997. New provisions on Rape are found in Arts. 266 A-D of the Revised Penal Code.

[63] G.R. Nos. 108172-73, 25 May 1994, 232 SCRA 537.

[64] *Id.* at 551.

[65] *People v. Glodo*, G.R. No. 136085, 7 July 2004, 433 SCRA 535, 549.

[66] *People v. Pagsanjan*, 442 Phil. 667 (2002).

[67] *People v. Quiachon*, G.R. No. 170236, 31 August 2006.

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