THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICARDO COMANDA Y CAMOTE, APPELLANT.

G.R. No. 175880 (FORMERLY G.R. No. 153217). July 06, 2007

Ponente: TINGA, J.

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TINGA, J.:

Appellant Ricardo Comanda assails the decision[1] of the Court of Appeals dated 12 October 2006, affirming in toto the Judgment[2] of the Regional Trial Court (RTC), Br. 17,[3] Davao City, dated 20 December 2001, finding him guilty beyond reasonable doubt of the crime of statutory rape and sentencing him to suffer the penalty of reclusion perpetua.

On 12 January 1998, appellant was charged with rape in an Information[4] filed by Prosecutor Rico T. Garcia, the text of which reads:

Criminal Case No. 40, 254-98

> The undersigned accuses the above-named accused of the crime of RAPE, under Art. 335 of the Revised Penal Code, as amended by Presidential Decree[5] (sic) No. 7659, upon the instance of BBB[6] — mother of the complainant, whose affidavit is hereto attached and form part of this Information, committed as follows:
>
> That on or about January 11, 1998, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there wilfully (sic), unlawfully and feloniously have carnal knowledge with (sic) the complainant — AAA,[7] nine (9) years old, against her will.
>
> Contrary to law.

When arraigned, appellant pleaded not guilty. Before trial could proceed however, the RTC issued an Order[8] on 30 July 1998, granting appellant's request that he undergo psychiatric examination to determine his mental condition to withstand trial.

On 28 June 1999, Dr. Rowena Lacida, a medical officer at the Davao Medical Center, testified to confirm her report that based on her psychiatric evaluation of appellant and the psychological test conducted by psychologist Evangeline Castro, appellant was psychotic and was suffering from mental disorder. Thus, she concluded that he could not understand the accusation of a serious offense against him.[9] Further proceedings were therefore held in abeyance by the RTC in an order[10] dated 22 July 1999, until such time that appellant's mental condition made him fit to stand trial. In the meantime, appellant was ordered to submit himself for further treatment.

Thereafter, the continuing examination of appellant was referred to Dr. Rosemina Laud-Quirapas, likewise a medical officer at the Davao Medical Center.[11] On 12 March 2001, she submitted her mental status report finding appellant competent to stand trial. On 13 March 2001, she affirmed, in open court, her conclusion that appellant's mental status examination and neurological test results show that he is already fit to stand trial.[12]

Hence, trial on the merits ensued. The evidence for the prosecution establishes the following facts:

While the Talandang Elementary School in Talandang, Davao City, where AAA was a Grade IV student, was in the midst of its "Bayanihan" project, at around 1 p.m. of 11 January 1998, AAA went with her father to the school where he was to do some carpentry work for the project. Appellant, AAA's paternal granduncle whom she called Uncle Dodo, likewise went with them. At some point, AAA was instructed by her teacher to request appellant to fetch another uncle of hers to help with the project. AAA relayed the request to appellant, who readily agreed. He brought her along. Appellant took a shortcut to their supposed destination, justifying the move to AAA with the ruse that her uncle, who lived with AAA's grandmother, was on the hill fetching his carabao. On their way, appellant suddenly laid down on a grassy area, unzipped his pants, lowered AAA's underwear and told her not to make any noise or to tell anybody. He forced AAA to lie on top of him, kissed her lips and embraced her tightly, unzipping the back of her dress in the process. AAA then felt appellant's penis penetrate her vagina.[13]

After about thirty (30) minutes, AAA heard her mother, BBB, shouting. AAA grabbed her underwear, hurriedly put it on and ran to her mother, crying. In her mother's embrace, AAA fell unconscious. She was brought to the house of her aunt, accompanied by her mother, grandmother, aunt and appellant. When they arrived thereat and upon regaining her senses, AAA told them that her Uncle Dodo was "yawa" and "bastos" (devil and uncouth).[14] She was later taken to the hospital for examination. The following day, accompanied by her parents, AAA went to the Mintal Police Station to report the incident.[15]

In her testimony, BBB presented AAA's birth certificate to establish that the latter was born on 22 April 1988 and was therefore only nine (9) years old at the time of the rape. She testified that on 11 January 1998, at around one o'clock in the afternoon, her husband, AAA and appellant went to Talandang Elementary School to help in the "Bayanihan" project. Her husband thrice returned to their house to get slabs of lumber for use in the school. When asked about AAA's whereabouts, he said that the latter went with appellant to her (BBB) mother-in-law's house.

Worried, BBB immediately proceeded to the said house but failed to find AAA and appellant thereat. She continued to search for them, all the while shouting and calling their names. Suddenly, AAA appeared from behind a thick shrub, running towards her and crying. Her dress was unzipped at the back and her underwear lowered. AAA collapsed as she embraced BBB. Appellant soon after approached them from behind while buttoning his shirt. When asked what he did to AAA, appellant answered that she fell from the hill.

According to BBB, when the victim's shock receded, she heard her shout at appellant, uttering "yawa ka," "bastos ka," "isumbong tika ni papa" (you're a devil, uncouth, I will tell my father).[16] BBB took her daughter home and the latter complained of difficulty in urinating. AAA then told her that appellant made her lie on top him and inserted his penis inside her vagina. BBB immediately brought AAA to the hospital. Thereafter, they proceeded to the Mintal Police Station.[17]

BBB claims that following appellant's arrest, the latter repeatedly asked for forgiveness and, after the case was already filed, even wrote them a letter begging for forgiveness.[18]

Prosecution witness SPO1 Kervin Magno, a police officer of Mintal police precinct, Tugbok, Davao City, identified appellant in open court, as well as the police blotter of AAA's complaint dated 11 January 1998.[19] The prosecution was unable to locate and present Dr. Daruesa, the physician who personally conducted the physical examination of the victim. Nonetheless, it submitted the doctor's examination report of AAA.

The defense presented appellant as its sole witness. In his testimony, appellant asserted that he could not remember having been with the victim on 11 January 1998 or any incident proximate to the date of his arrest.[20] However, appellant admitted that AAA was known to him since her birth and that she was a sickly child who

suffered from periodic convulsions.[21]

The trial court found appellant guilty of rape and sentenced him to suffer the penalty of reclusion perpetua, to indemnify the victim for damages in the amount of P50,000.00 by way of civil indemnity, P50,000.00 as moral damages and P50,000.00 as exemplary damages.[22]

Conformably with this Court's decision in People v. Mateo,[23] appellant's appeal by way of automatic review was transferred to the Court of Appeals. Finding no sufficient basis to disturb the finding and conclusions of the trial court, the appellate court, on 12 October 2006, rendered its decision affirming in toto appellant's conviction.[24]

Now, the case is with the Court again.

In his brief,[25] appellant makes a lone assignment of error, maintaining that the court a quo gravely erred in finding him guilty of the crime charged despite failure of the prosecution to prove his guilt beyond reasonable doubt.

According to appellant, AAA simply stated that she lay on top of him while he was embracing her and trying to insert his penis into her vagina, without any showing from her narration that her legs were

ever spread apart. Thus, he concludes that it is inconceivable that he successfully inserted his penis into her vagina in such a position.[26] Moreover, appellant avers that AAA's assertion that his penis penetrated her vagina for thirty (30) minutes is preposterous. If this were true, he argues, then AAA should have bled profusely considering that this was presumably her first sexual experience.[27] Thus, the defense maintains that assuming appellant was the one who molested AAA, he should only be convicted for acts of lasciviousness.[28]

We affirm the decision of the Court of Appeals.

Preliminarily, we note that the Information makes an erroneous designation of the statute violated and appears to have been drafted with the old rape law in mind even though Republic Act No. 8353 was then already in effect.[29] Nonetheless, the oversight has no detrimental effect on the sufficiency of the Information. There is no significant difference in the treatment of statutory rape of females under the old and new rape laws.[30] The allegations of force and intimidation in the Information are mere superfluities, since they are not constitutive of or elemental to statutory rape. The real nature of the criminal charge cannot be determined from the caption or preamble of the Information or from the mere reference to a particular provision of law alleged to have been violated because they are conclusions of law. On the contrary, it is determined by the actual recital of facts in the complaint or information.[31] Thus, an incorrect caption is not a fatal mistake.[32]

On the matter of the prosecution proving the charge beyond reasonable doubt, we find it pertinent to reiterate the settled rule that the determination of the competence and credibility of a witness rests primarily with the trial court,[33] because it has the unique position of observing the witness' deportment on the stand while testifying. Absent any substantial reason to justify the reversal of the assessments and conclusions of the trial court, the reviewing court is generally bound by the former's findings.[34]

In rape cases particularly, the conviction or acquittal of the accused, more often than not, depends almost entirely on the credibility of the complainant's testimony. By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself.[35] Her testimony is most vital and must be received with the utmost caution.[36] However, when a rape victim's testimony is straightforward, unflawed by any material or significant inconsistency, then it deserves full faith and credit and cannot be discarded. Once found credible, her lone testimony is sufficient to sustain a conviction.[37]

In scrutinizing such credibility, jurisprudence has established the following doctrinal guidelines: (1) the reviewing court will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that could affect the result of the case; (2) the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect and even finality as it had the opportunity to examine their demeanor when they testified on the witness stand; and (3) a witness who testified in a clear, positive and convincing manner and remained consistent on cross-examination is a credible witness.[38]

Applying the principles to the instant case, we find AAA's narration of her harrowing experience trustworthy and convincing:

> x x x x
>
> Atty. Olaguer:
>
> Q
>
> Where were you on January 11, 1998?
>
> A
>
> I was in school.
>
> Q
>
> Where? What school?
>
> A
>
> At Talandang Elementary School.
>
> Q
>
> Who were you with in school at that time?
>
> A
>
> I was with my father.
>
> Q
>
> Did you not have any classes at that time?
>
> A
>
> None.
>
> Q
>
> Why were you in school together with your father?
>
> A
>
> I went with him.
>
> Q
>
> Were there any other persons in your school at that time?

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A

Yes, sir.

Q

What time did you arrived (sic) in school at that time?

A

1:00 p.m.

Q

What were you and your father doing in school together with the other people in school?

A

They were doing carpentry job.

Q

Why were they doing carpentry job?

A

It was a school project.

Q

What happened when you were there?

A

I was send (sic) for an errand by my teacher.

Q

Who was your teacher?

A

Mrs. Ferolino

Q

Where did she send you?

A

To a store.

Q

Did you go to the store?

A

Yes, sir.

Q

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Who was your companion?

A

I was alone.

Q

After that, you went back to the school?

A

Yes, sir.

Q

After that, what happened next?

A

Mrs. Ferolino asked me to tell my uncle Dodo to tell my uncle Nilo to join in the bayanihan.

Q

Who were the other persons present when your teacher tell (sic) you to call your uncle Dodo?

A

There were.

Q

Who is that uncle Dodo you are referring to?

A

He is my uncle.

Q

Is he present right now, in court?

A

Yes, sir.

Q

If he is present in court right now, can you please point him out?

A

(witness pointing to a person in the courtroom, wearing white t-shirt, who identified himself as Ricardo Comanda, the accused).

Q

Why do you call him uncle Dodo? How were (sic) you related to him, if you know?

A

He is the uncle of my father.

Q

Do you know, why he became the uncle of your father?

A

Because he is the cousin of my grandmother.

Q

Are you referring to the grandmother of your paternal side or maternal side?

A

Paternal side.

Q

Do you know the degree of relationship when you say that he is the cousin of the mother of your father? Are they first or second cousin (sic), if you know?

A

I do not know.

Q

You said that your teacher asked you to call your uncle Dodo to go to your uncle Nilo, to join the bayanihan. Who is uncle Nilo?

A

The brother of my father.

Q

Where was he at that time if you know?

A

Yes, at his residence.

Q

You said that your uncle Nilo was at his residence. Do you know if (sic) how far was (sic) the house of your uncle Nilo from your school?

A

Yes, sir.

Q

How far was it?

A

I know it is far.

Q

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When your teacher tell (sic) you to call your uncle Dodo to fetch your uncle Nilo, were there other persons around?

A

None.

Q

So, it was only you and the teacher, am I correct?

A

Yes, sir.

Q

After she told you to tell your uncle Dodo, you immediately told your uncle Dodo on (sic) what your teacher told you?

A

Yes, sir.

Q

Where was he at that time?

A

He was in school also.

Q

Doing the same job, helping the bayanihan?

A

Yes, sir.

Q

What did you tell your uncle Dodo when you saw him?

A

I told him that my teacher, Mrs. Ferolino, is asking him to fetch uncle Nilo, for him to help in the bayanihan.

Q

What did your uncle Dodo answered (sic)?

A

He acceeded (sic).

Q

Did you go with him when he fetch (sic) your uncle Nilo?

A

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He made me went (sic) with him. He brought me along with him.

Q

Were there any other persons around, when he told you that he is going to bring you to the house of your uncle Nilo?

A

None.

Q

Where was your father at that time, if you know?

A

They were working on the school project.

Q

When he said that he is going to bring you with him, did you in fact go with him to the house of your uncle Nilo?

A

Yes, sir.

Q

And would you please tell us, if there are houses along the way from your school to the house of your uncle Nilo?

A

None, because the road he took, was on the short cut (sic).

Q

Were you able to reach the house of your uncle Nilo?

A

No.

Q

What happened while you were on the way, to the house of your uncle Nilo?

A

He used the short cut (sic) road.

Q

What else transpired?

A

He told me that my uncle Nilo was on the hilly portion of the place, fetching the carabao.

Q

Did you believed (sic) him?

A

Yes, sir.

Q

What happened after that?

A

He lie (sic) down on the grassy portion.

Q

Who lie (sic) down?

A

Uncle Dodo.

Q

Did you not asked (sic) him, why he lie (sic) down on the ground?

A

No.

Q

What happened after that?

A

He unzipped his pants.

Q

What happened after that? After unzipping his pants?

A

He lowered my underwear.

Q

What did you do when he lowered your underwear?

A

I was shocked because he told me not to tell anybody and not to create any noise.

Q

Did you not shout?

A

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No.

Q

But were you afraid?

A

Yes, sir.

Q

Why? Why were you afraid of your uncle Dodo?

A

I was scared that he might kill me.

Q

What other words that (sic) he uttered to you at that time?

A

None.

Q

So, when he unzipped his pants and took off your panty, what happened next?

A

He asked me to lay (sic) on top of him.

x x x

Q

What transpired after that time?

x x x

A

He kissed my lips.

Q

What did you feel when he kissed your lips?

A

I was very scared.

Q

What else did he do after he kissed your lips?

A

His penis and my vagina touched.

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Q

How did his penis and your vagina touched (sic)? How did he do it?

A

He attempted his penis to penetrate my vagina.

Q

What was your position at that time when he tried to insert his penis to (sic) your vagina?

A

I was lying on top of him.

Q

Was he embracing you when he tried to insert his penis to (sic) your vagina?

A

Yes, he was embracing me.

Q

Was his penis able to penetrate your vagina?

A

Yes, sir.

Q

Were you already undressed at that time?

A

He unzipped the back of my dress.

Q

Was his penis able to touch your vagina?

A

Yes, his penis touched my vagina.

Q

How long was he doing that?

A

I think, more or less 30 minutes only, because I heard somebody shouted (sic).

x x x

Atty. Gonzales:

Q

When your uncle Dodo's penis, by the way, were you able to hold your uncle Dodo's penis?

A

I cannot remember.

Q

When your uncle Dodo made you lie down on top of him, did you not resisted (sic) it?

A

I was angry and I even wiggled.

Q

When you were on top of your uncle Dodo, did your uncle Dodo held (sic) you?

A

Yes, he held me in (sic) both arms.

Q

And did your body touched (sic) his body at that time?

A

Yes, sir.

Q

For what your uncle have (sic) done to you, did your vagina bleed?

A

No.

Q

Actually, you did not see the penis of your uncle Dodo?

A

I see (sic).

Q

That was when (sic) the time, when he undressed himself?

A

Yes, sir. At that time, he unzipped his pants.

Q

When you were already on top of the body of your uncle Dodo, you did not anymore see his penis?

A

No.

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Q

So, you did not also see your uncle Dodo's penis touch your vagina?

A

I was not able to see it but I felt it.

Q

So, you did not also see your uncle Dodo's penis touch your vagina?

A

I was not able to see it but I felt it.

Q

When you speak of your vagina, you are only talking on (sic) its outer part of your private part?

A

Yes, sir.

Q

And when you say outer part, you only refer to a portion of your vagina, which is bulging?

x x x

A

On the opening, not outside.

x x x[39]

To be sure, a young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out the details of an assault to her dignity, cannot be so easily dismissed as a mere concoction.[40] AAA, it might be noted, has not been shown to entertain any ill-motive to impute such a grave offense against her own granduncle.[41] Considering that AAA was a child of tender years and not exposed to the ways of the world, it is improbable that she would impute a crime as serious as rape to appellant, her paternal granduncle.[42]

Appellant presents a two-fold defense to free himself of liability. One, he claims to suffer from amnesia, insanity or some form of mental abnormality. Two, he argues that the victim's assertions are riddled with dubious inconsistencies.

In stark contrast to AAA's convincing recital of facts is appellant's unsupported and pitiful defense of insanity before the trial court, which the latter properly rejected. We agree with the astute observations of the court a quo:

> It is incredible for accused to remember all the small details involving the complainant from the time she was born up to the years she was studying, including her alleged sickness and confinement in the hospital, as well as other matters relating to accused['s] closeness with complainant and collateral relatives of complainant, from her maternal and paternal side: all these things, including the important fact, accused clearly remembered he was arrested by a policeman and put inside the jail, on account of the complaint of complainant and her mother of the offense charged yet claimed, he cannot remember what happened to complainant on the very incident of rape testified to by complainant.[43]

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Verily, appellant's seeming selective amnesia makes his denial suspect. During the proceedings, he could remember distant and specific details about AAA's history and family yet when the matter referred to the crux of his incarceration, he could not recall a thing. All told, the series of elastic representations cast serious pitfalls on appellant's credibility, as an experience of this nature will, for certain, linger in one's mind unlike the unusual amnesia displayed by appellant before the trial court. The point is, appellant has not done much to turn the tide, so to speak, to his side.[44]

The defense of insanity or imbecility must be clearly proved,[45] for there is a presumption that acts penalized by law are voluntary.[46] Appellant has utterly failed to overthrow the presumption of sanity. The defense did not present any expert witness, any psychiatric evaluation report, or any psychological findings or evidence regarding his mental condition at the time of the commission of the offense. Appellant's charade of amnesia is evidently a desperate maneuver for exculpation. Yet, amnesia, in and of itself, is no defense to a criminal charge unless it is shown by competent proof that the accused did not know the nature and quality of his action and that it was wrong. Failure to remember is in itself no proof of the mental condition of the accused when the crime was performed.[47]

There is likewise no showing that appellant had a history of any mental aberration. The report submitted by Dr. Lacida in 1999 merely stated that it was "the opinion of the medical staff that the patient is psychotic but the duration and onset of mental illness could not be determined due to the absence of a reliable informant."[48] No conclusive evidence supports appellant's assertions of insanity, more remarkably because its cause and duration could not be determined with certainty. Moreover, by 2001, he was already found to be competent to stand trial.[49]

Appellant alleges improbabilities in AAA's accusations on two (2) points: first, that the victim failed to state that her legs were spread apart in order for appellant to have penetrated her; and second, that appellant could not have penetrated her for thirty (30) minutes.

Appellant's arguments warrant scant consideration. The lapses that he highlights are but mere trivial details which do not overthrow the weight of evidence against him. The position of the parties during sexual intercourse is not material in the crime of rape.[50] For rape to be consummated, the hymen of the victim need not be penetrated or ruptured. It is enough that the penis reaches the pudendum, or, at the very least, the labia. The briefest of contacts under circumstances of force, intimidation or unconsciousness, even without laceration of the hymen, is deemed to be rape in our jurisprudence.[51] The mere introduction of the penis into the aperture of the female organ, thereby touching the labia of the pudendum, already consummates the crime of rape.[52]

Likewise, we have ruled that ambulatory difficulty and pain in a woman's genitalia are not standard consequences after a first ever sexual intercourse.[53] Moreover, whether sexual contact between appellant and AAA lasted for thirty (30) minutes or thirty (30) seconds matters not. The essence of the offense as charged is the deplorable sexual congress appellant had with a child under twelve (12) years of age. Notably, a child of such tender years cannot be expected to have an accurate concept of time, especially under the circumstances she then suffered.

All told, we rule that the finding of guilt as pronounced by the RTC and the Court of Appeals should be sustained. AAA's minority was alleged in the Information and proven with certainty. There is thus no impediment in affirming the sentence of reclusion perpetua. Anent the civil liability of appellant, we modify the award of damages in line with prevailing jurisprudence. Consequently, the court finds appellant liable to AAA in the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages.[54]

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CR— H.C. No. 00189-MIN is AFFIRMED

WITH MODIFICATION. Appellant RICARDO COMANDA y CAMOTE is sentenced to suffer the penalty of reclusion perpetua and to pay the victim AAA (to be identified through the Information in this case) the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages. No pronouncement as to cost.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.
Quisumbing, (Chairperson), J., on official leave.

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[1] Rollo, pp. 4-21. Penned by Associate Justice Sixto C. Marella, Jr. and concurred in by Associate Justices Edgardo A. Camello and Mario V. Lopez.

[2] CA rollo, pp. 19-43.

[3] Presided by Judge Renato A. Fuentes.

[4] CA rollo, p. 9.

[5] Should be Republic Act. See discussion, infra.

[6] The real name of the victim's mother is withheld to protect her and the victim's privacy, also pursuant to R.A. No. 7610 and R.A. No. 9262.

[7] The real name of the victim is withheld per R.A. No. 7610 and R.A. No. 9262. See People v. Cabalquinto, G.R. No. 167693, 19 September 2006.

[8] Records, p. 41.

[9] TSN, 28 June 1999, pp. 3-6.

[10] Records, pp. 71-72.

[11] TSN, 7 February 2001, p. 3.

[12] TSN, 13 March 2001, pp. 3-5.

[13] TSN, 30 April 2001, pp. 12-19, 23-26, 27-30.

[14] Id. at 21.

[15]Id. at 19-22, 31.

[16] TSN, 6 July 2001, p. 6.

[17] Id. at 3-11.

[18] Exhibit "D;" Supra note 17, at 130-131. See also TSN, 6 July 2001, p. 11.

[19] TSN, 10 May 2001, pp. 6-9.

[20]TSN, 29 October 2001, pp. 3, 5-8.

[21]Id. at 4-5.

[22] CA rollo, p. 43.

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

[24] Rollo, pp. 20-21.

[25] CA rollo, pp. 60-69.

[26]Id. at 67.

[27] Id.

[28] Id. at 68.

[29] Republic Act No. 8353 took effect on 22 October 1997 while the Information alleges that the rape was committed on 11 January 1998.

[30]Article 335 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659, provides ï¿½

Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

x x x

3. When the woman is under twelve years of age or is demented.

On the other hand, Article 266-A of the RPC, as amended by Republic Act No. 8353 defines statutory rape as follows:

Art. 266-A. Rape, When and How Committed. ï¿½ Rape is committed ï¿½

x x x

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

[31] People v. Enfermo, G.R. Nos. 148682-85, 30 November 2005, 476 SCRA 515, 527, citing People v. Diaz, 377 Phil. 997, 1006 (1999), citing Reyes v. Camillon, et al., G.R. No. L-46198, 20 December 1990, 192 SCRA 445; Pecho v. People, 331 Phil. 1, 13-14 (1996), citing Matilde v. Jabson, 68 SCRA 456 (1975).

[32] People v. Diaz, supra; citing US v. Lim San, 17 Phil. 273.

[33] People v. Biong, 450 Phil. 432, 445 (2003), citing People v. Tadeo, G.R. Nos. 128884-85, 3 December 2001.

[34]Id., citing People v. Glabo, G.R. No. 129248, 7 December 2001.

[35] People v. Corral, 446 Phil. 652, 661 (2003).

[36] People v. Penaso, 383 Phil. 200, 208 (2000), citing People v. Domogoy, et al., G.R. No. 116738, 22 March 1999, p. 11, citing People v. Casim, 218 SCRA 390 (1992). See also People v. Babera, 388 Phil. 44, 53 (2000), citing People v. Gallo, 284 SCRA 590, citing People v. Rivera, 242 SCRA 26.

[37] People v. Penaso, supra, citing People v. Caratay, G.R. Nos. 119418, 119436-37, 5 October 1999, p. 5. See also People v. Babera, supra, citing People v. Gapasan, 243 SCRA 53 and People v. Bulaybulay, 248 SCRA 601.

[38]People v. Penaso, supra; See also People v. Corral, supra note 35 at 661-662; People v. Antonio, 447 Phil. 731, 738-739 (2003); People v. Pascua, 462 Phil. 245 (2003).

[39]TSN, 30 April 2001, pp. 12-19, 23-24.

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[40] People v. Antonio, 447 Phil. 731, 741-742 (2003).

[41] People v. Garcia, 431 Phil. 485, 495 (2002).

[42]People v. Bascugin, G.R. No. 144195, 25 May 2004, 429 SCRA 140, 151.

[43] CA rollo, p. 35.

[44]Jacobo v. CA, 337 Phil. 7 (1997).

[45] People v. Medina, 349 Phil. 718, 729 (1998), citing People v. Bonoan, 64 Phil. 87 (1937), per Laurel, J. See also People v. Opuran, G.R. Nos. 147674-75, 17 March 2004, 425 SCRA 654; People v. Galigao, 443 Phil. 246 (2003); People v. Banez, 361 Phil. 198 (1999).

[46] People v. Medina, supra, citing People v. Formigones, 87 Phil. 658 (1950). See also People v. Rafanan, Jr., G.R. No. 54135, 21 November 1991, 204 SCRA 65; People v. Belonio, G.R. No. 148695, 27 May 2004, 429 SCRA 579; People v. Estrada, G.R. No. 130487, 19 June 2000, 333 SCRA 699.

[47] People v. Tabugoca, 349 Phil. 236, 250-251 (1998). See also People v. Robiños, 432 Phil. 322 (2002).

[48] Records, p. 46.

[49] Id. at 92.

[50]People v. Vedra, 396 Phil. 487, 495 (2000).

[51] People v. Bascugin, G.R. No. 144195, 25 May 2004, 429 SCRA 140, 150, citing People v. Tagaylo, 345 SCRA 284 (2000).

[52] Id.,citing People v. Campuhan, 329 SCRA 270 (2000) and People v. Balgos, 323 SCRA 372 (2000).

[53] People v. Loriega, 383 Phil. 572, 582 (2000).

[54] People v. Ibanez, G.R. No. 174656, 11 May 2007; People v. Cabalquinto, G.R. No. 167693, 19 September 2006, 502 SCRA 419, 435-436; People v. Salome, G.R. No. 169077, 31 August 2006, 500 SCRA 659, 676; People v. Quiachon, G.R. No. 170236, 31 August 2006, 500 SCRA 704, 719.

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