PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIX ORTOA Y OBIA, ACCUSED-APPELLANT.

G.R. NO. 176266. August 08, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review is the Decision[1] of the Court of Appeals in CA-G.R. CR HC No. 01745, which affirmed with modification the Decision[2] of the Regional Trial Court (RTC) of Mandaluyong City, Branch 208, finding accused-appellant Felix Ortoa y Obia guilty of raping his own thirteen-year old daughter, AAA.[3]

Appellant was charged with rape, defined and penalized under Article 335 of the Revised Penal Code, as amended, in relation to Republic Act No. 7610.[4] The Information against him reads:

> That on or about the 3[rd] day of April, 2001, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge with (sic) his own daughter, AAA, a minor (13 years old), against her will and consent, thus debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.[5]

Upon arraignment, appellant, duly assisted by counsel de oficio, entered a plea of not guilty.[6] Trial on the merits ensued.

The prosecution's version of the incidents is anchored principally on the testimonies of AAA; her mother, BBB; Dr. Ma. Cristina Freyra (Dr. Freyra), who conducted the physical examination on the victim; and Police Officer Sonia Gaviana (PO Gaviana), the officer-in-charge of the case.

AAA testified that in the afternoon of 3 April 2001, she was at home together with her mother and four siblings. Suddenly, she felt the need to defecate. As they were occupying a small house, she asked her mother and siblings to leave her alone so that she could relieve herself using a plastic bag - a practice their family has been accustomed to do given the cramped space of their abode. And so her mother and her siblings went to the nearby house of a relative leaving AAA by herself. It was at that time when appellant arrived home from the barbershop where he worked. Appellant then closed the windows and the door of their house, removed AAA's underwear and shorts, and proceeded to molest her on their makeshift bed. After satisfying his sexual urge, appellant ordered her to put on her panty and shorts. A few minutes later, her mother and her siblings arrived. AAA was still lying then on the bed while her father was sitting on one of its edges. After about an hour, appellant decided to go back to work. With appellant gone, BBB asked AAA about what had just happened and the latter revealed her harrowing ordeal in the hands of her own father. BBB then went to see appellant's employer, a certain Diosdado Daylo, to seek his help.

AAA also stated that it was not the first time that appellant had sexually molested her. She alleged that appellant started raping her when she was about three years old by inserting his finger in her vagina. Thinking that appellant was merely playing a game with her, AAA did not tell anyone about such incident. Eventually, however, her

mother discovered appellant's reprehensible conduct when AAA got pregnant. When asked if she delivered a child, AAA claimed that she had an abortion after appellant made her take medicines.

BBB testified that she and appellant were in a common law relationship and together they have seven children. She recalled that on 3 April 2001, she was at home with some of her children including AAA. AAA then requested her and her other children to leave the house as the former was experiencing stomach ache and had to relieve herself. She then took her other children to the house of her aunt. While conversing with her relative, BBB claimed that she suddenly felt nervous. Sensing that something unusual was happening, she hurriedly went home. When she arrived, she found AAA lying on the makeshift bed with appellant sitting thereon. She noticed that AAA was on the verge of crying and her shorts seemed to be hastily pulled up. She knew then appellant had again done the unthinkable to their daughter AAA. When she confronted appellant about what he had just done in their house at that time, he allegedly retorted, "Why is your face like that again as if you're always sinasalisihan."[7] After their brief confrontation, appellant went back to the barbershop. It was at that moment when BBB was able to finally talk to AAA. The latter allegedly told her that she was again raped by appellant. Later that day, she went to discuss the matter with Daylo who assured her of his help in going to the police.

The following night, BBB, together with AAA and Daylo, went to the police station where they were referred to PO Gaviana. While she and AAA were being interviewed by said police officer, her younger daughter, CCC, purportedly said, "Ako rin po Ma, ginagawa din sa akin ni Papa iyong ginagawa niya kay Ate."[8] This statement made her feel even worse since it turned out that two of her daughters had fallen prey to appellant's bestial desires. BBB also corroborated AAA's testimony regarding the latter's pregnancy and the abortion induced by appellant.

Dr. Freyra, a medico-legal officer of the Eastern Police District Crime Laboratory, testified that on 5 April 2001, their office received a request for the medical examination on AAA.[9] Pursuant to their office procedure, she interviewed AAA pertaining to her personal circumstances and the reason for the physical examination. AAA disclosed that appellant started molesting her when she was a child. Appellant's malevolence was manifested when he satisfied himself by inserting his finger into AAA's vagina when she was a young child until ultimately, he started thrusting his penis into her sexual organ.

After the interview, Dr. Freyra said that she conducted the physical examination on AAA which yielded the following findings:

> FINDINGS:
> GENERAL AND EXTRAGENITAL:
>
> Fairly developed, fairly nourished and coherent female subject. Breasts are Hemispherical with pale brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.
>
> GENITAL:
>
> There is scanty growth of pubic hair. Labia majora are full, convex and coaptated with pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy - type hymen with deep healed lacerations at 5.7 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency. x x x.[10]

PO Gaviana testified that on 4 April 2001, she interviewed AAA and BBB regarding AAA's complaint of rape against appellant, and that AAA and BBB executed their respective sworn statements[11] in her presence. After the interview, AAA was referred to the crime laboratory for medico legal examination.

Appellant vigorously denied the charge hurled at him. According to appellant, AAA was the eldest of his seven

children with BBB. He claimed that on 3 April 2001, he was working at the barbershop located in F 161 Shaw Boulevard, Mandaluyong City and he stayed there from 9:00 o'clock in the morning until 9:00 o'clock in the evening. He also averred that from 1996 until the time of his arrest, he was a stay-in employee of the barbershop. He asserted that the charge of rape was merely concocted by BBB out of anger after she discovered his affair with a certain Emily. BBB was allegedly so enraged that she threatened to send him to jail because of said relationship. AAA, who found out about Emily through BBB, shared the latter's animosity towards him. As regards AAA's aborted pregnancy, appellant said that he learned about her condition from BBB but he did not do anything about it except to ask the latter as to how AAA got pregnant. He claimed ignorance of the circumstances surrounding the pre-termination of AAA's pregnancy. All that he knew was that AAA already had a boyfriend named Michael who never visited AAA at their house.

The trial court refused to believe appellant's account of the case and rendered a decision finding him guilty as charged, thus:

DISPOSITION

> WHEREFORE, the Court finds accused FELIX ORTOA y OBIA guilty beyond reasonable doubt of the crime of QUALIFIED RAPE under Article 335 of the Revised Penal Code, as amended by RA 7659 in relation to RA 7610, and sentences him to suffer the penalty of DEATH to be implemented in the manner as provided by law. The accused is hereby ordered to pay AAA the sum of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.
>
> The Clerk of Court is hereby ordered to prepare the Mittimus and to transmit the complete records of this case to the Honorable Supreme Court for automatic review.
>
> The City Warden of Mandaluyong, Bureau of Jail Management and Penology is hereby ordered to deliver forthwith the person of FELIX ORTOA y OBIA to the National Bilibid Prisons, Muntinlupa City, with proper escort and security.[12]

The case was automatically elevated to this Court in view of the death penalty imposed by the trial court. On 26 July 2005, we resolved to transfer this case to the Court of Appeals pursuant to our holding in People v. Mateo,[13] which allowed intermediate review by the appellate court of cases where the penalty imposed is death, reclusion perpetua, or life imprisonment.

On 27 September 2006, the Court of Appeals rendered the assailed Decision affirming, with modification, the decision of the court a quo. The dispositive portion of the Decision states:

> WHEREFORE, premises considered, herein appeal is hereby DISMISSED for evident lack of merit and the assailed Judgment is hereby AFFIRMED with MODIFICATION imposing the penalty of RECLUSION PERPETUA upon the Appellant without possibility of parole.[14]

Appellant is once again before Us praying for his acquittal upon the ground that the trial court gravely erred in finding him guilty beyond reasonable doubt of the crime of qualified rape.[15]

Appellant insists that the trial court should not have given "full faith and credence"[16] to AAA's testimony. He points out that the trial court should have taken into account AAA and BBB's motive in filing the case against him as it is possible that they were only moved by resentment towards him. Particularly in the case of AAA, she admitted during her testimony that she felt bitter about her father's strictness towards her while BBB could have been provoked by his illicit relationships and his irresponsibility.[17]

In addition, appellant harps on the inordinate delay in reporting his alleged wrongdoing when he was supposed to

have even impregnated AAA in the past. He argues that it is highly inconceivable for a mother such as BBB to stand idly by while her own child suffered enormous distress. In such a situation, appellant argues, BBB's immediate reaction should have been to report the incident to the authorities particularly in the absence of an allegation that he threatened them with harm.

After thoroughly reviewing the records of this case and thoughtfully weighing the parties' respective claims, we hold that a denial of this appeal is in order.

In resolving rape cases, this Court has been traditionally guided by three principles: (a) 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) in view of the intrinsic nature of the crime of rape where only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) 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.[18]

In the crime of rape, the conviction of an accused invariably depends upon the credibility of the victim as she is oftentimes the sole witness to the dastardly act. Thus, the rule is that when a woman claims that she has been raped, she says in effect all that is necessary to show that rape has been committed and that if her testimony meets the crucible test of credibility, the accused may be convicted on the basis thereof.[19] Ultimately and oftentimes, the resolution of the case hinges on the credibility of the victim's testimony - a question that this Court usually leaves for the trial court to determine, for it is doctrinal that factual findings of trial courts, particularly the assessment of the credibility of witnesses, are given much weight and accorded the highest respect on appeal.[20] This is only proper considering that the trial court has the unique and singular opportunity to personally observe a witness' demeanor, conduct, and attitude under grueling examination.[21] It is already well-settled that an appellate court would generally not disturb the factual findings of the trial court in the absence of a clear showing that the court had failed to appreciate facts and circumstances which, if taken into account, would materially affect the outcome of the case.[22]

In the case before us, AAA recalled her cruel experience in the following manner:

> Fiscal Tacla: Now, what happened? Is there anything that happened on April 3, 2001, at your residence?
>
> Witness: "Pinatungan niya po ako," he raped me.
>
> Fiscal Tacla: What did your father do first on that day?
>
> Witness: He closed the windows and the door.
>
> Fiscal Tacla: What happened next?
>
> Witness: He asked me [to] undress, sir.
>
> Fiscal Tacla: Your upper dress or what?
>
> Witness: He told me to remove my panty and my shorts.
>
> Fiscal Tacla: What did you do when your father told you to remove your shorts and panty?
>
> Witness: I did not agree.
>
> Fiscal Tacla: So anything happened?
>
> Witness: There was, sir.

Fiscal Tacla: What was it?

Witness: He told me to spread my legs, sir.

Fiscal Tacla: Did you spread your legs?

Witness: No, sir.

Fiscal Tacla: So, in other words, you were made to remove your shorts and panty?

Witness: My father removed my shorts and my panty and he told me to spread my legs.

Fiscal Tacla: Where were you at that time when your father told you to spread your legs?

Witness: I was lying on the makeshift, sir.

Fiscal Tacla: Did you comply when you were told by your father to spread your legs?

Witness: No, sir.

Fiscal Tacla: So nothing happen[ed] when you did not spread your legs?

Witness: He was the one who spread my legs, sir.

Fiscal Tacla: When these things were happening to you, what did you do if any?

Witness: I did not like it, sir.

Fiscal Tacla: Did you tell that to your father?

Witness: Yes, sir.

Fiscal Tacla: How did your father react when you said "ayaw mo"?

Witness: He said[,] "sandali lang ito."

Fiscal Tacla: While your legs were forcibly spread by your father, what did you do[,] if any?

Witness: He went on top of me, sir.

Fiscal Tacla: When he was on top of you, were his pants on?

Witness: Yes, but the pants' zipper was open.

Fiscal Tacla: What happened next when he opened the zipper?

Witness: He inserted his penis in my vagina.

Fiscal Tacla: How sure are you that he inserted his penis to your vagina?

Witness: I saw it and I felt it, sir.

Fiscal Tacla: How did you feel?

Witness: "Masakit", sir.

Fiscal Tacla: Did you tell that to your father while he was performing that act?

Witness: Yes, sir.

Fiscal Tacla: How did your father react, if any?

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Witness: He told me that, "sandali na lang matatapos na."

Fiscal Tacla: What happened when your father's penis was inserted in your vagina?

Witness: "Yumuyogyog po siya". (push and pull movement).

Fiscal Tacla: When your father was doing this push and pull movement, how did you feel?

Witness: It's painful, sir.

Fiscal Tacla: In particular, where was the pain?

Witness: Inside my vagina, sir.

Fiscal Tacla: What could be the reason why you felt pain?

Witness: Because my vagina was moved.

Fiscal Tacla: Is it normal for you to feel pain?

Witness: Yes, sir.

Fiscal Tacla: Even without your father's penis inserted in your vagina, you still feel pain?

Witness: Sometimes.

Fiscal Tacla: What is that pain all about?

Witness: It's painful when I am urinating, sir.

Fiscal Tacla: Was that before or after the incident?

Witness: After sexual intercourse, sir.

Fiscal Tacla: How long did it take for your father to insert his penis in [your] vagina?

Witness: I do not know exactly how long (sic)?

Fiscal Tacla: Did it take the whole afternoon for your father to insert his penis?

Witness: No, sir.

Fiscal Tacla: Did your father finally take off his penis from your vagina?

Witness: Yes, sir.

Fiscal Tacla: When was that?

Witness: After he raped me.

Fiscal Tacla: After that, what happened next?

Witness: He ordered me to put on my panty and my shorts and then he stood up and opened the door and the windows.[23]

AAA's vivid recollection of her ordeal that afternoon reveals her utter lack of reluctance in charging appellant with the grave crime of rape. Her simple, straightforward, and definitive answers to the questions propounded to her underscores the truthfulness of her narration and the substance of her accusation. Moreover, as AAA was only thirteen years old when the crime was perpetrated, jurisprudence enjoins us to accord more weight to her testimony, thus:

> Moreover, settled is the rule that testimonies of rape victims, especially child victims, are given full weight and credit. xxx. We have ruled that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Youth and immaturity are generally badges of truth. Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished. The embarrassment and stigma of allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rule out the possibility of false accusations of rape.[24]

Thus, notwithstanding the absence of reference to violence or intimidation employed upon AAA, we are convinced that the assailed Decision of the Court of Appeals, insofar as it finds him guilty as charged, should be affirmed. When a father commits the odious crime of rape against his own daughter, his moral ascendancy or influence over the latter substitutes for violence and intimidation.[25] The absence of violence or offer of resistance would not be significant because there exists the overpowering and overbearing moral influence of the father over the daughter which takes the place of violence and offer of resistance required in rape cases committed by an accused who did not have blood relationship with the victim.[26]

To parry AAA's testimony as well as its damning implication against him, appellant offered the defense of denial and alibi. In this regard, we affirm the trial court's ruling that -

> (Appellant) having proferred the defense of denial and alibi, suffice it to say that denial and alibi are the weakest defense and are practically worthless against the positive identification made by the prosecution witness, especially by the rape victim. Between the positive and categorical testimony of a rape victim on one hand and the accused's bare denial on the other hand, the former generally prevails. Universally accepted is the rule that denial is a self-serving negative evidence that cannot be given greater weight than the declaration of credible witness who testified on affirmative matters.[27]

In addition, AAA's testimony was corroborated by Dr. Freyna whose medico-legal examination confirmed that AAA was already in a non-virgin state physically. When the victim's testimony of her violation is supported by a physician's findings of penetration, sufficient foundation exists to conclude the existence of carnal knowledge.[28]

We, likewise, find as preposterous appellant's claim that AAA's resentment towards him motivated her to file this case. Indeed, it is not uncommon in incestuous rape for the accused to claim that the case is a mere fabrication and that the victim was moved by familial discord and influence, hostility, or revenge. There is nothing novel about such defense and this Court has had the occasion to address it in the past. In People v. Melivo,[29] we declared that "(e)ven when consumed with revenge, it takes a certain amount of psychological depravity for a young woman to concoct a story which would put her own father for the most of his remaining life to jail and drag herself and the rest of her family to a lifetime of shame." Verily, no child would knowingly expose herself and the rest of her family to the humiliation and strain that a public trial surely entails unless she is so moved by her desire to see to it that the person who forcibly robbed her of her cherished innocence is penalized for his dastardly act. The imputation of ill motives to the victim of an incestuous rape becomes even more unconvincing as the victim and the accused are not strangers to each other. By electing to proceed with the filing of the complaint, the victim risks not only losing a parent, one whom, before his moral descent, she previously adored and looked up to, but also the likelihood of losing the affection of her relatives who may not believe her claim. Indeed, it is not uncommon for families to be torn apart by an accusation of incestuous rape. Given the serious nature of the crime and its adverse consequences not only to her, it is highly improbable for a daughter to manufacture a rape charge for the sole purpose of getting even with her father. Thus, the alleged ill motives have never swayed the Court against giving credence to the testimonies of victims who remained firm and steadfast in their account of how

they were ravished by their sex offenders.[30]

Besides, it is not correct, as appellant would have us believe, that AAA was impelled to initiate this case by his strictness towards her. It is true that AAA testified that she abhorred appellant's sternness but that was not the end of her statement before the court. What she really detested was the fact that hiding behind appellant's pretentious concern for her well-being was a perverse sexual desire that respected no one, not even his own child.[31]

We likewise reject appellant's contention that BBB initiated the filing of the charge against him because of his relationship with another woman. No matter how enraged a mother could be, it would take nothing less than psychological depravity for her to concoct a story too damaging to the welfare and well-being of her own daughter.[32] Courts are seldom if at all convinced that a mother would stoop so low as to expose her own daughter to the physical, mental and emotional hardship concomitant to a rape prosecution just to assuage her own hurt feelings.[33] It must also be emphasized that in this case, when BBB first found out about appellant's sexual transgression, she did not go to the police right away; instead, she respected AAA's desire to keep her misfortune a private matter. Indeed, nothing could be more wrenching for a mother than to watch her own daughter suffer such irreparable injury. Yet BBB chose to abide by her child's entreaty. It was only when they were confronted with the hopelessness of the situation that they finally summoned the courage to have appellant account for his misdeeds.

Anent the claim that the truthfulness of the accusation is affected by AAA's failure to report the purported previous incidents of rape, we likewise rule against appellant. There is no uniform behavior that can be expected from those who had the misfortune of being sexually molested.[34] Some may have found the courage early on to reveal the abuse they experienced; there are those who have opted to initially keep the harrowing ordeal to themselves and tried to move on with their lives. Again, to quote our holding in People v. Melivo -

> A rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror, which would, he hopes, numb his victim into silence and submissiveness. Incestuous rape magnifies this terror, because the perpetrator is a person normally expected to give solace and protection to the victim. Furthermore, in incest, access to the victim is guaranteed by the blood relationship, proximity magnifying the sense of helplessness and the degree of fear.[35]

In this case, the delay was sufficiently explained by AAA. According to her, when she was still a young child and already subjected to the revolting behavior of appellant, the latter threatened her with physical harm should she divulge his misdeeds to anyone else. When she became pregnant, appellant resorted to emotional blackmail by telling her that he would be imprisoned should she tell anyone about what he had been doing to her. And when BBB wanted appellant to move out of their house because of his appalling conduct, appellant had the audacity to confront BBB with the fact that he was the sole breadwinner of their family. It is therefore clear that appellant used every scheme he could think of to dissuade AAA and BBB from going to the proper authorities. But more than appellant's actuations, AAA was discouraged by the public ridicule that she expected to come her way. In her words:

> Nalaman na noon ng aking Mama ang ginagawa ng aking Papa sa akin at tinanong ako kung anong gusto kong mangyari, ang sabi ko ayoko pa dahil hindi ko pa kaya na humarap sa ibang tao. [36]

Having sustained the findings of the trial court and the Court of Appeals, we shall now turn to the penalty to be imposed upon appellant. Under Article 266-B of the Revised Penal Code, the death penalty shall be imposed if the crime of rape is committed with any aggravating/qualifying circumstances enumerated thereunder. One of these is "(w)hen 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

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victim." The Information in this case alleges both the minority of AAA and her relationship with appellant and these were duly established during the trial. Hence, the imposition of the death penalty by the trial court was proper.

With the effectivity, however, of Republic Act No. 9346 entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the imposition of the penalty of death has been prohibited. The proper penalty to be imposed on appellant in this case is provided in Section 2, paragraph (a) of said law which prescribes that the penalty of reclusion perpetua be imposed when the law violated makes use of the nomenclature of the penalties under the Revised Penal Code.

In addition, appellant is not eligible for parole pursuant to Section 3 of Republic Act No. 9346, which states:

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

As regards the award of damages, the appellate court affirmed the court a quo's award of the following amounts: P75,000.00 as civil indemnity; P50,000.00 as moral damages; and P30,000.00 as exemplary damages.

We sustain the amount of P75,000.00 as civil indemnity despite the reduction of the penalty imposed on appellant from death to reclusion perpetua. As we explained in People v. Victor,[37] the said award does not depend upon the imposition of the death penalty; rather, it is awarded based on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense.

On the other hand, we deem it proper to modify the amounts awarded for moral damages and exemplary damages to bring them at par with prevailing jurisprudence. Thus, we increase the amount awarded as moral damages from P50,000.00 to P75,000.00,[38] while the amount awarded as exemplary damages should be reduced from P30,000.00 to P25,000.00.[39]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR HC No. 01745 dated 27 September 2006, finding appellant Felix Ortoa Obia guilty beyond reasonable doubt of qualified rape is AFFIRMED with the MODIFICATION that he is ordered to pay AAA the amount of P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P25,000.00 as exemplary damages. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Bienvenido L. Reyes and Fernanda Lampas Peralta, concurring; CA rollo, pp. 121-136.

[2]Per then Presiding Judge Japar B. Dimaampao (now a member of the Court of Appeals); id. at 63-79.

[3] Under Republic Act No. 9262, also known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, as well as those of her immediate family members, is withheld and fictitious initials are used to identify her in order to protect her privacy; People v. Cabalquinto, G.R. No. 167693, 19 September 2006, 502 SCRA 419, 421-422.

[4]An Act Providing For Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties For its Violation, and for other Purposes.

[5] Records, p. 1.

[6]Id. at 32.

[7]TSN, 7 August 2001, p. 12.

[8]Id. at 22.

[9]The request also included a physical examination on CCC; records, p. 385

[10] Id. at 13.

[11]Id. at 8-9 and 11.

[12] Id. at 468-469.

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

[14]CA rollo, p. 19.

[15] Rollo, p. 55.

[16]Id. at 57.

[17]Id. at 58.

[18] People v. Marahay, 444 Phil. 143, 146 (2003).

[19] People v. Tismo, G.R. No. 44773, 4 December 1991, 204 SCRA 535, 553.

[20] People v. Villanueva, 324 Phil. 443, 450 (1996).

[21]People v. Almendral, G.R. No. 126025, 6 July 2004, 433 SCRA 440, 447.

[22] People v. Canoy, 459 Phil. 933, 942 (2003).

[23] TSN, 30 July 2001, pp. 88-93.

[24]People v. Rosario, 455 Phil. 876, 886-887 (2003).

[25] People v. Agbayani, 348 Phil. 341, 366 (1998).

[26] People v. Mabunga, G.R. No. 96441, 13 November 1992, 215 SCRA 694, 704.

[27]Rollo, pp. 77-78.

[28] People v. Terrible, 440 Phil. 602, 614 (2002).

[29] 323 Phil. 412, 427-428 (1996).

[30] People v. Agbayani, supra note 25 at 364-365.

[31]TSN, 31 July 2001, p. 29.

[32] People v. Padilla, G.R. No. 142899, 31 March 2004, 426 SCRA 648, 664.

[33]People v. Agbayani, supra note 25 at 366-367.

[34]People v. Mendoza, 432 Phil. 666, 682 (2002).

[35] Supra note 29 at 422.

[36]Records, p. 387.

[37] 354 Phil. 195, 209 (1998), cited in People v. Quiachon, G.R. No. 170236, 31 August 2006, 500 SCRA 704, 719.

[38] People v. Pandapatan, G.R. No. 173050, 13 April 2007; People v. Reyes, G.R. No. 168174, 13 April 2007.

[39] Id.

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