

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AVELINO FELAN, ACCUSED-APPELLANT.

G.R. No. 176631. February 02, 2011

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-176631/>

BERSAMIN, J.:

His own daughter commenced the prosecution of Avelino Felan for qualified rape through her complaint dated May 30, 1996.[1] The information subsequently filed in the Regional Trial Court (RTC) in Ormoc City alleged:

That on or about the 12[th] day of February 1995, at around 10:00 o'clock in the evening, at Brgy. Tambulilid, Ormoc City, and within the jurisdiction of this Honorable Court, the above-named accused AVELINO FELAN, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his very own daughter, AAA,[2] a fourteen (14) years old lass, against her will.[3]

The Prosecution showed that at about 10:00 p.m. on February 12, 1995, the accused roused his daughter AAA, the complainant, then 14 years old, from sleep inside their house; that he told her not to be afraid; that he removed her panty, spread her legs, and went on top of her; that she resisted but he overpowered her; that he inserted his penis into her vagina and made pumping movements until he satisfied himself; that she cried due to vaginal pain; that she left the house and stayed with her friends, who advised her to report the rape to Mrs. Charito Aris, a social worker of the Department of Social Welfare and Development (DSWD) in Ormoc City; that Mrs. Aris later brought her first to the police station for reporting of the rape, and then to Dr. Gloria Esmero Pastor, City Health Officer of Ormoc City, for medical examination; that Dr. Pastor found that AAA's hymen was torn; and that Dr. Pastor concluded that the hymenal laceration could be caused by sexual intercourse.

The accused denied the accusation, branding it as the fabrication of AAA out of anger at him for not giving her basic needs and for admonishing her to stop using illegal drugs.

After trial, on November 26, 1997, the RTC convicted the accused of qualified rape and imposed the death penalty. He was also ordered to pay AAA P50,000.00 as civil indemnity.[4]

On July 14, 2006, the Court of Appeals (CA) modified the criminal and civil liabilities of the accused after finding him guilty of simple rape on account of AAA's minority not being established beyond reasonable doubt. The CA lowered the penalty to reclusion perpetua and sentenced him to pay an amount of P50,000.00 as moral damages and P25,000.00 as exemplary damages in addition to the civil indemnity of P50,000.00.[5]

In his appeal to this Court, the accused contends that the RTC and the CA erred in relying mainly on AAA's testimony, despite her not being a credible witness and although her testimony was doubtful by reason of her having used illegal drugs and having engaged in prostitution, aside from possessing a poor memory. He insists that he could control his sexual urge.[6]

The appeal lacks merit and persuasion. We affirm the conviction.

The law applicable is Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No.

7659,[7] which provides:

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

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The State competently and sufficiently established these elements beyond reasonable doubt. AAA rendered a complete and credible narration of her ordeal at the hands of the accused, whom she positively identified. In a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things, as in this case.[8] Here, the victim's testimony was even corroborated on material points by the testimonies of Mrs. Aris and Dr. Pastor as well as by the documentary evidences adduced.

It is notable that the RTC and the CA both found and considered AAA as a credible witness whose testimony should be believed. We accord great weight to the trial judge's assessment of the credibility of AAA and of her testimony because the trial judge, having personally observed AAA's conduct and demeanor as a witness, was thereby enabled to discern if she was telling or inventing the truth.[9] The trial judge's evaluation, when affirmed by the CA, is binding on the Court, and it becomes the burden of the accused to project to us facts or circumstances of weight that were overlooked, misapprehended, or misinterpreted which, when duly considered, would materially affect the disposition of the case differently.[10] We do not vary from this rule now, however, considering that the accused did not make any showing that the RTC, in the first instance, and the CA, on review, ignored, misapprehended, or misinterpreted facts or circumstances supportive of or crucial to his defense.

The denial of the accused, being worthless, was properly disregarded. It was both self-serving and uncorroborated. It could not, therefore, overcome the positive declarations against the accused and the positive identification of the accused by AAA,[11] whose good motive to impute such a heinous act to her own father was not disproved or refuted. We do consider to be highly inconceivable for a daughter like AAA to impute against her own father a crime as serious and despicable as incest rape, unless the imputation was the plain truth. In fact, as we observed before, it takes "a certain amount of psychological depravity for a young woman to concoct a story which would put her own father to jail for the rest of his remaining life and drag the rest of the family including herself to a lifetime of shame." [12]

The attempt to discredit AAA on the ground of her being a user of illegal drugs and of her having engaged in prostitution deserved no consideration. First of all, AAA's use of illegal drugs and engaging in prostitution, even if true, did not destroy her credibility as a witness or negate the rape. Indeed, the Court has ruled that the victim's moral character was immaterial in the prosecution and conviction of an accused for rape, there being absolutely no nexus between it and the odious deed committed.[13] Moreover, even a prostitute or a woman of loose morals could fall victim of rape, for she could still refuse a man's lustful advances.[14]

The CA correctly pronounced the accused liable for simple rape and properly punished him with reclusion perpetua. Under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, supra, rape is qualified and punished by death if it is alleged and proved that the victim was a minor during the commission of the crime and that the offender was her parent.[15] Although the information alleged that the victim was only 14 years of age at the time of the rape, the State did not duly establish such circumstance because no birth certificate, or baptismal certificate, or other competent document showing her age was presented. Her

testimony regarding her age without any independent proof is not sufficient.[16] As a result, the penalty for simple rape was properly reclusion perpetua.

Prevailing jurisprudence leads us to affirm the CA's ruling that AAA was entitled to P50,000.00 as civil indemnity,[17] and P50,000.00 as moral damages,[18] without need of any pleading and proof. Similarly correct was the CA's grant of P25,000.00 as exemplary damages. [19] In *People v. Mira*,[20] we observed that "when either one of the qualifying circumstances of relationship and minority is omitted or lacking, that which is pleaded in the information and proved by the evidence may be considered as an aggravating circumstance." In this case, the relationship between the victim and the accused is an aggravating circumstance because it was alleged in the information and duly proved during the trial. Thus, conformably with Article 2230 of the Civil Code, which provides that "in criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstance," we ratify the award of exemplary damages.

WHEREFORE, the Court affirms the decision promulgated on July 14, 2006 in CA-G.R. CR. H.C. No. 00158.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Villarama, Jr., and Sereno JJ., concur.

[1] Records, p. 2-3.

[2] Pursuant to Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), and its implementing rules, the real name of the victim and the real names of her immediate family members are withheld and, instead, fictitious initials are used to represent her to protect her privacy. See also *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[3] Supra note 1.

[4] Records, pp. 191-200.

[5] Rollo, pp. 7-14; penned by Associate Justice Agustin S. Dizon (retired), with Associate Justice Isaias P. Dicdican and Associate Justice Apolinario D. Bruselas, Jr., concurring.

[6] CA rollo, pp. 33-40.

[7] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, and for other Purposes. (The law took effect on December 31, 1993).

[8] *People v. Montesa*, G.R. No. 181899, November 27, 2008, 572 SCRA 317, 331.

[9] *People v. Lantano*, G.R. No. 176734, January 28, 2008, 542 SCRA 640, 651-652.

[10] *People v. Domingo*, G.R. No. 184958, September 17, 2009, 600 SCRA 280, 288; *Gerasta v. People*, G.R. No. 176981, December 24, 2008, 575 SCRA 503, 512.

[11] *People v. Agsaoay, Jr.*, G.R. Nos. 132125-26, June 3, 2004, 430 SCRA 450.

[12] *People v. Javier*, G.R. No. 126096, July 26, 1999, 311 SCRA 122, 133.

[13] Supra note 11, p. 466.

[14] Ibid.

[15] Article 335. xxx

xxx

The death penalty shall be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.

xxx

[16] *People v. Mira*, G.R. No. 175324, October 10, 2007, 535 SCRA 543, 561.

[17] *People v. Dalisay*, G.R. No. 188106, November 25, 2009, 605 SCRA 807, 816.

[18] *People v. Gragasin*, G.R. No. 186496, August 25, 2009, 597 SCRA 214, 233.

[19] *People v. Arcosiba*, G.R. No. 181081, September 4, 2009, 598 SCRA 517, 525.

[20] *Supra*, note 16, p. 562.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.