

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WENCESLAO ESPINO, JR. Y SAURA, ALIAS “JOE
PRING,”ACCUSED-APPELLANT.**

G.R. No. 176742. June 17, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 13 December 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 02253 which affirmed with modification the Decision[2] dated 26 January 2001 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 21, in Criminal Case No. 599-M-2000, finding herein appellant Wenceslao Espino, Jr. y Saura, alias "Joe Pring" guilty beyond reasonable doubt of the crime of simple rape committed against AAA.[3]

In an Information[4] dated 21 February 2000, appellant Wenceslao Espino, Jr. y Saura, alias "Joe Pring" was charged with the crime of rape, as defined and penalized under Articles 266-A[5] and 266-B[6] of the Revised Penal Code, as amended, committed against AAA. The said Information reads as follows:

The undersigned Asst. Provincial Prosecutor, on complaint of AAA, accuses Wenceslao Espino, Jr. y Saura @ Joe Pring of the crime of rape, penalized under the provisions of Article 266-A-B of the Revised Penal Code as amended, committed as follows:

That on or about the 21[st] day of September, 1999, in the municipality of xxx, province of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of force and with lewd designs have carnal knowledge of the said AAA, a fourteen (14) year old girl, against her will and without her consent.[7]

Upon arraignment, the appellant, assisted by counsel de oficio, pleaded NOT GUILTY to the crime charged. Thereafter, trial on the merits ensued.

The pieces of evidence presented by the prosecution to prove its allegations are the testimonies of the following witnesses: AAA, the victim; BBB, the victim's mother; and Dr. Ivan Richard Viray (Dr. Viray), the medico-legal officer of the Philippine National Police (PNP) Crime Laboratory in Malolos, Bulacan.

AAA was already 15 years old at the time of her testimony before the court a quo.[8] She was only 14 years old when the alleged rape incident happened.

AAA disclosed that on 21 September 1999, at around 1:30 a.m., she and her friend Joa Italia, both residents of Barangay xxx, Municipality of xxx, Province of xxx, were on their way home from the house of their friend whom they called "Kuya Ariel." They left the house of Kuya Ariel at around 11:00 p.m., which was still 20 September 1999, by walking. Rain fell. Because of this sudden downpour, they remained in Barangay Bayugo, Meycauayan, Bulacan, until 1:30 a.m. of 21 September 1999. Suddenly, the barangay tanods of the aforesaid barangay apprehended them for violation of its curfew ordinance. They were then brought to the barangay hall wherein they were asked by Barangay (Brgy.) Captain Renato Ponciano (Brgy. Capt. Ponciano) to pay a fine of

P200.00. They failed to do so, thus, an entry was made in the barangay blotter as regards what had happened.[9]

After a while, the appellant and Macar dela Cruz (Macar) arrived at the barangay hall. Of the two, only the latter went up while the former was left downstairs. Thereafter, Brgy. Capt. Ponciano released AAA and Joa Italia to the custody of Macar and the appellant after the two represented that they knew the parents of the two girls and promised to bring them home. Due to the two girls' desire to go home, they acceded to be given to the custody of appellant and Macar. Brgy. Capt. Ponciano prepared a letter addressed to Macar and asked the latter to affix his signature thereto. Macar complied.[10]

Upon leaving the said barangay hall, appellant and Macar, together with AAA and Joa Italia, passed by a dark alley. The two girls were made to believe that they had to pass by that dark alley to avoid being spotted by the barangay tanods; otherwise, they would be brought again to the barangay hall. Along the way, AAA was held by the appellant, while Joa Italia was held by Macar. Thereafter, AAA and Joa Italia were dragged by the appellant and Macar towards a poultry house. Both AAA and Joa Italia resisted, but to no avail. AAA was forcibly dragged by the appellant to the side of the poultry house. There, the appellant poked a knife at AAA. He then removed AAA's pants. While the appellant was removing her pants, she tried to push him back, but the appellant was too strong and he forced her to lie down on a small bench. The appellant proceeded to remove his own clothes and told AAA not to report that incident to anybody. Then, the appellant raised AAA's left leg and inserted his penis into her vagina. Again, AAA tried to push away the appellant using her hands; she failed. The appellant succeeded in raping her.[11] AAA felt pain in her private organ.[12]

Simultaneously, her friend Joa Italia, who was about three or four meters away,[13] was allegedly raped by Macar.[14] After about 15 minutes, the appellant told AAA to stand up. She dressed up and went home. She did not, however, immediately tell her parents about her ordeal. On the same day, AAA and her friend Joa Italia went to the house of their friend named "Kuya Olan" and told the latter about their harrowing experience. Subsequently, they reported the rape incident to Brgy. Capt. Ponciano and the latter summoned the appellant and Macar at around 7:00 p.m. of 21 September 1999. AAA and Joa Italia were advised by Brgy. Capt. Ponciano to file the proper complaint before the police authorities. As it was already late, AAA went home and finally told her parents that she was raped. Immediately, AAA's parents accompanied her to the police station and reported that the appellant sexually abused her.[15] AAA likewise executed a sworn statement or a "Malaya at Kusang Loob na Salaysay"[16] before the Meycauayan Police Station.[17]

On 24 September 1999, AAA was submitted to a physical and medical examination by Dr. Viray,[18] a medico-legal officer of the PNP Crime Laboratory in Malolos, Bulacan, as evidenced by Medico-Legal Report No. MR-130-99.[19] During his testimony, Dr. Viray revealed that AAA suffered superficial burns on the right hand measuring .3 x .3 centimeter. The same could have been inflicted two to three days prior to the date of examination and caused by a cigar as AAA herself told him. Dr. Viray also found deep-healed lacerations at 3, 5, 7, 9 and 10 o'clock positions in the victim's vagina, which could have been inflicted more than one week prior to the examination date. The said lacerations could have been caused by the insertion of a hard object, like an erect penis. Despite the lacerations, Dr. Viray found the "vaginal canal, narrow, prominent" ("masikip pa") because the patient had not yet given birth. Dr. Viray concluded that AAA was in a non-virgin state physically at the time of her examination.[20]

The mother of the victim, BBB, was also presented by the prosecution as a witness. BBB testified that AAA was 15 years old at the time she gave her testimony in court. AAA was born on 11 April 1985.[21] On 21 September 1999, at about 3:00 a.m., her daughter came home alone. AAA told her that she was apprehended by the barangay tanods at Barangay Bayugo, Meycauayan, Bulacan, for violating its curfew ordinance. She was coming from a friend's house when suddenly the barangay tanods of the aforesaid barangay apprehended her. BBB thought that

AAA wanted to tell her something but then she failed to listen to her daughter. Later, on the night of 21 September 1999, AAA, together with the barangay tanods, arrived in their house. It was the barangay tanods who informed her that her daughter AAA was raped. They then proceeded to Meycauayan, Bulacan Police Station and reported the rape incident. AAA executed a sworn statement[22] with respect to the rape incident. BBB affixed her signature to the sworn statement made by her daughter. Her daughter subsequently subjected herself to a physical and medical examination conducted by Dr. Viray.[23]

On the part of the defense, it presented the testimony of the appellant, who interposed the defenses of denial and alibi. Also, it presented Renato Ponciano, the barangay captain of Barangay Bayugo, Meycauayan, Bulacan, to prove that he did not see the appellant in the company of Macar during the time that the latter went to the barangay hall, and it was only Macar who took custody of AAA and Joa Italia.

The appellant testified that on 21 September 1999, at around 1:30 a.m., he was in their house located at Barangay Bayugo, Meycauayan, Bulacan.[24] He averred that on 20 September 1999, at around 7:00 p.m., he saw Macar at a birthday party in Barangay Bayugo, Meycauayan, Bulacan. Thereafter, at about 11:00 p.m. of the same day, Macar went to his house to borrow money for the release of the two young ladies. Macar also asked him to accompany him to the barangay hall to facilitate the release of the said two young ladies, named AAA and Joa Italia. The appellant, however, refused Macar's requests. Macar then threatened him that he might regret what he did to him. Then at around 2:00 a.m. to 3:00 a.m. of 21 September 1999, Macar came back to appellant's house, together with AAA and Joa Italia. AAA asked appellant for the money that Macar gave him, purportedly intended as a payment for sexual favors from AAA and Joa Italia. Appellant did not give them any money.[25] Instead, he gave them P15.00 for their transportation fee and for them to stop pestering him, as his wife and child might be awakened.[26] When the appellant failed to give them the money they were asking for, AAA told the appellant, "Watch out the two of you." [27]

Thereafter, at around 8:00 p.m. of 21 September 1999, the barangay tanods of Barangay Bayugo, Meycauayan, Bulacan, fetched him from his house and brought him to the barangay hall because of a complaint for rape against him that was filed by AAA. He claimed that he only came to know AAA at the barangay hall of the aforesaid barangay after being summoned to answer for the rape charge filed against him. The appellant avowed that the accusation against him was merely fabricated by AAA who was just extorting money from him. He also described AAA as a woman of loose morals who was known in their barangay as having been in the company of different men. The appellant further stated that the reason why he was charged with rape was because of AAA and Joa Italia's habit of extorting money.

Appellant denied raping AAA. He, however, admitted having known Macar, as the latter is his "kumpare," because Macar is the godfather of his eldest child. He denied that he was with Macar on 21 September 1999 when Macar requested the barangay tanods for the release of AAA and Joa Italia.[28] To further bolster his claim, the appellant pointed out that the rape charge filed against Macar was subsequently dismissed on the basis of Joa Italia's "Pag-uurong ng Demanda"[29] dated 20 September 2000.[30]

The defense also presented Brgy. Capt. Ponciano, the barangay captain of Barangay Bayugo, Meycauayan, Bulacan. He disclosed that on 20 September 1999, at about 11:40 p.m., there was only one entry in their barangay blotter relative to the violation of the curfew ordinance of their barangay committed by AAA and Joa Italia. He further testified that on that night, Macar suddenly appeared at the barangay hall requesting the release of AAA and Joa Italia. Since Macar was the son of his barangay tanod and a law-abiding citizen, he released the two girls to Macar's custody after the latter told him that he personally knew AAA and Joa Italia and after Macar signed the barangay blotter in his presence.

Brgy. Capt. Ponciano denied having seen the appellant at the barangay hall on the nights of 20 and 21 September 1999. He averred that Macar was alone when the latter requested the release of AAA and Joa Italia. Ponciano stated that it was only on the night of 21 September 1999 when AAA and Joa Italia made a complaint that he had seen the appellant. The barangay captain revealed that he did not conduct an investigation on the alleged rape incident because the case was not within his jurisdiction. Instead, he referred the victims to the police station.[31]

After trial, the RTC rendered a Decision[32] on 26 January 2001, finding the appellant guilty beyond reasonable doubt of the crime of simple rape. The dispositive portion of the said Decision reads as follows:

Wherefore, all premises considered, this Court resolves and so holds that the [appellant] is GUILTY beyond reasonable doubt, of the crime of simple Rape penalized under Article 266-A and B of the Revised Penal Code, as amended by [Republic Act] RA [No.] 7659.[33]

Accordingly, [appellant] is hereby sentenced to suffer the penalty of Reclusion Perpetua. Further he is ordered to indemnify AAA in the sum of P50,000.00; pay her P100,000.00 for moral damages and another P50,000.00 for compensatory damages.

With costs against the [appellant].[34]

The records of this case were originally transmitted before this Court on appeal. Pursuant to *People v. Mateo*,[35] the records were transferred to the Court of Appeals for appropriate action and disposition.

In his brief, the appellants raised the following assignment of errors:

- THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE TESTIMONY OF [AAA].
- THE TRIAL COURT GRAVELY ERRED IN FINDING THE [APPELLANT] GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.[36]

The Court of Appeals rendered its Decision on 13 December 2006, affirming appellant's conviction for the crime of simple rape with modification by deleting the award of P50,000.00 as compensatory damages and reducing the award of moral damages from P100,000.00 to P50,000.00. The decretal portion of the said Decision reads as follows:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated [26 January 2001] of the RTC of Malolos, Bulacan, Branch 21, is hereby AFFIRMED with modification deleting the award of P50,000.00 as compensatory damages and reducing the award of moral damages from P100,000.00 to P50,000.00.[37]

The appellant filed a Notice of Appeal.[38] In view thereof, the appellate court forwarded to this Court the records of this case.

On 4 June 2007,[39] this Court resolved to accept the present case and notified the parties that they may file their respective supplemental briefs, if they so desired. The Office of the Solicitor General manifested that it was adopting in toto its brief dated 15 May 2003 filed before the appellate court, as its supplemental brief.

After a meticulous review of the records, this Court affirms appellant's conviction.

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[40] Thus, in the disposition and review of rape cases, the Court is guided by these principles: First, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces

conviction. Second, the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense. Third, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. Fourth, an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove. And fifth, in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.[41]

In this case, appellant's first assignment of error hinges on the credibility of the victim's testimony. The appellant sought to impugn the credibility of the victim on the bases of her reputation as a habitual delinquent and of her occupation as a beerhouse employee.[42] Similarly, the appellant firmly averred that the victim was not the innocent, naïve and unsophisticated girl she projected herself to be. Thus, her accusation of rape against him should not be given any credence.

The aforesaid contentions posed by the appellant deserve scant consideration.

Time and again, we have held that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the result of the case. The trial judge enjoys the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" -- all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies. Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying.[43] The rule finds an even more stringent application where said findings are sustained by the Court of Appeals.[44]

In the case at bar, this Court finds no compelling reason to deviate from the aforesaid rule that factual findings of the trial court should not be disturbed on appeal, as they are not clearly arbitrary or unfounded.

A careful perusal of the records revealed that when AAA testified in court as regards her ordeal, she described in detail how she was sexually abused by the appellant on that fateful day of 21 September 1999. Her testimony can be regarded as straightforward, categorical and candid. A candid narration by a rape victim deserves credence particularly where no ill motive is attributed to her that would make her testify falsely against the accused. For no woman in her right mind will admit to having been raped, allow an examination of her most private parts and subject herself as well as her family to the humiliation and shame concomitant with a rape prosecution, unless the charges are true. Where an alleged rape victim says she was sexually abused, she says almost all that is necessary to show that rape has been inflicted on her person, provided her testimony meets the test of credibility.[45]

The appellant in this case considered his failure to give money to AAA as the latter's motive for charging him with the crime of rape; such allegation, however, remained unsubstantiated; therefore, it is self-serving. It is an accepted doctrine that in the absence of evidence of improper motive on the part of the victim to falsely testify against the accused, her testimony deserves credence.[46] Thus, the aforesaid allegation of the appellant cannot even shed any cloud of doubt on the credibility of the victim's testimony. Further, during AAA's testimony before the court a quo, there were instances when AAA cried[47] while narrating and testifying in court about her horrible experience in the hands of the appellant. The fact that the victim cried during her testimony is evidence of

the credibility of the rape charge[48] for the display of such emotion indicates the pain that the victim felt when asked to recount her traumatic experience.[49]

Moreover, in rape cases, the moral character of the victim is immaterial. Rape may be committed not only against single women and children but also against those who are married, middle-aged, or pregnant. Even a prostitute may be a victim of rape.[50] Thus, the fact that AAA worked in a beerhouse is insignificant and cannot be used by the appellant to destroy AAA's credibility.

The appellant also harps on the inconsistency found in the testimony of AAA in order to discredit her. The appellant averred that in the testimony of AAA before the court a quo, she stated that the sexual assault lasted for 15 minutes while during the preliminary investigation of Joa Italia, which was adopted by AAA, the latter mentioned that the sexual assault lasted for two hours. No matter.

Inconsistencies in the testimonies of witnesses which refer to minor and insignificant details do not destroy their credibility.[51] The aforesaid inconsistency pointed out by the appellant did not erase the fact that the appellant had raped AAA. Verily, the issue of how long such sexual assault lasted was insignificant to the case of the prosecution. It cannot exonerate the appellant from the crime charged because the fact remains that he was AAA's ravisher. Rather than weakening the testimony of AAA, the aforesaid inconsistency serves to strengthen the veracity of the victim's story as it erases doubts that her testimony has been coached or rehearsed.[52] More so, rape, being a harrowing experience, is usually not fully remembered. Rather, the victim of such an atrocity is normally inclined to forget certain details surrounding the execrable event and sweep them into her dustbin of unwanted experiences and memories. What is important is her complete and vivid narration of the rape itself, which the trial court herein found to be truthful and credible.[53] Further, by way of clarification, during AAA's cross-examination, she denied that the sexual assault against her lasted for two hours. She simply stated that she could not anymore remember how long she was raped by the appellant.[54]

Bent on destroying AAA's credibility, the appellant further contends that the medical findings do not support the theory that AAA had been raped. He avers that the findings of old lacerations on AAA's vagina three days after the alleged rape were contrary to her allegation that she was raped by the appellant. The appellant emphasized that during Dr. Viray's testimony, the latter explained that with the kind of lacerations found on AAA's vagina, there could have been no trace anymore as to what possible date or time AAA obtained the same. The appellant also insists that if AAA really felt pain as a result of the insertion of his private organ into her vagina, there should have been some traces of abrasions or contusions on AAA's vagina or at most, a fresh laceration therein at the time of the examination. But, there was none in this case.

Appellant's attempt to capitalize on the medical report which found "old healed lacerations" in the victim's hymen when she was examined on 24 September 1999 or barely three days from the date of the alleged rape incident, must fail.

The presence of old healed lacerations in the victim's hymen is irrelevant to appellant's defense. In the same way that their presence does not mean the victim was not raped recently, the absence of fresh lacerations does not negate rape either. Indeed, hymenal laceration is not an element of the crime of rape.[55] In the crime of rape, the testimony of the victim, and not the findings of the medico-legal officer, is the most important element to prove that the felony had been committed. Even without a medical report, a medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone if credible is sufficient to convict the accused of the crime.[56] AAA's testimony was, indeed, credible and sufficient to convict the appellant.

From all the foregoing, appellant utterly failed to destroy the credibility of the rape victim. AAA's candid and direct narration of the details of the rape, as reviewed by this Court in the transcript of stenographic notes,

evidently deserves full faith and credence. It bears stressing that AAA was only fourteen years old when she was sexually abused by the appellant. Again, settled is the rule that testimonies of child-victims are given full weight. 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.[57] Indeed, the findings of the trial court, which had the opportunity to observe her deportment on the witness stand, should be affirmed.

As a last-ditch effort, appellant claims that it was unnatural and surprising that Joa Italia, the victim's friend, who could have been a vital witness in the instant case, as she was with AAA on that fateful day, failed to testify in court. He also points out that the barangay blotter dated 21 September 1999 revealed that he was not with Macar when the latter went to the barangay hall of Barangay Bayuga, Meycauayan, Bulacan, and took custody of AAA and Joa Italia.

Jurisprudence has steadfastly been already repetitious that the accused may be convicted on the sole testimony of the victim in a rape case, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.[58] In the case at bar, as is being heretofore emphasized, AAA testified in a direct, unequivocal, and consistent manner with regard to the rape committed against her by the appellant. The straightforward narration by AAA of what transpired, accompanied by her categorical identification[59] of appellant as the malefactor, sealed the case for the prosecution.[60]

Corollarily, appellant's bare denial must likewise fail. It is well settled that denial is an intrinsically weak defense, which must be buttressed by strong evidence of non-culpability to merit credibility.[61] Mere denial, without any strong evidence to support it, can scarcely overcome the positive declaration by the child-victim of the identity of appellant and his involvement in the crime attributed to him.

The defense of alibi is likewise unavailing. It is not enough, in order that alibi might prosper, to prove that the accused has been somewhere else during the commission of the crime; it must also be shown that it would have been impossible for him to be anywhere within the vicinity of the crime scene.[62]

In this regard, we quote, with approval, the discussions made by the appellate court in its Decision, to wit:

x x x. In this case, [the appellant's] allegation that he could not have raped AAA since he was at home was uncorroborated. Neither is Barangay Captain Ponciano's testimony that he did not see [the appellant] with Macar on the night in question sufficient to exculpate him in the light of AAA's testimony that [the appellant] was waiting downstairs[63] when they were released. Nor is the absence of his name in the barangay blotter[64] tenable. As held in the case of *People vs. Sandig*,[65] "(E)ntries in a police or barangay blotter, although regularly done in the course of the performance of official duty, are not conclusive proof of the truth of such entries, for these are often incomplete and inaccurate." x x x. Besides, [the appellant] failed to establish that it was physically impossible for him to be at the scene of the crime considering the RTC's finding that his house was only a good walking distance[66] therefrom.[67] (Emphasis supplied.)

IN ALL, the defenses of denial and alibi offered by the appellant cannot prevail over the straightforward narration of AAA as well as her categorical identification of the appellant as her assailant. The above disquisitions necessarily render the second assignment of error (failure to prove guilt beyond reasonable doubt) moot and academic.

As to penalty. Based on the records, there was a mention of a knife, which the appellant used in threatening AAA to make her submit to his bestial desire. In *People v. Fraga*,[68] when the rape is committed "with the use of a deadly weapon," i.e., when a deadly weapon is used to make the victim submit to the will of the offender, the penalty is "reclusion perpetua to death." This circumstance must, however, be alleged in the information because it is also in the nature of a qualifying circumstance which increases the range of the penalty to include death.[69]

In the case at bar, while AAA testified that the appellant raped her after threatening her with a knife, the "use of a deadly weapon" in the commission of the crime was not alleged in the information. Therefore, even if the same was proved, it cannot be appreciated as a qualifying circumstance. The same can only be treated as a generic aggravating circumstance which, in this case, cannot affect the penalty to be imposed, i.e., reclusion perpetua.[70] Thus, both the trial court and the appellate court properly sentenced the appellant to suffer the penalty of reclusion perpetua for the crime of rape he committed against AAA.

Further, even though the Information alleged that AAA was only 14 years of age when she was raped by the appellant, said allegation cannot qualify the crime committed by the appellant from simple rape to rape in its qualified form. It bears emphasis that the age of the victim was not properly proven or established by the prosecution. No birth certificate or baptismal certificate was ever presented to prove the same. As the trial court mentioned in its Decision, citing *People v. Veloso*,^[71] this Court cannot rely solely on the testimony of the victim; not even the testimony of her mother would have sufficed in this regard. The circumstances that qualify a crime should be proved beyond reasonable doubt just as the crime itself. Moreover, even assuming *arguendo* that the minority of the victim was properly proven, still, the appellant cannot be convicted of qualified rape. The twin circumstances of minority of the victim and her relationship to the offender must concur to qualify the crime of rape.^[72] Both relationship and minority must be alleged in the Information to qualify the crime as punishable by death.^[73] In this case, it is clear that the appellant was not related to the victim in any way. Thus, it is impossible to convict the appellant of the crime of qualified rape. Hence, the crime committed by the appellant was only simple rape.

As to damages. The appellate court correctly ruled that AAA was entitled to the award of P50,000.00 as civil indemnity because it is mandatory upon the finding of the fact of rape and the same is not to be considered as moral damages, the latter being based on different jural foundations.^[74] Likewise, the Court of Appeals properly deleted the award of P50,000.00 as actual or compensatory damages given by the trial court to AAA. As we have explained in a number of cases, the indemnity provided in criminal law as civil liability is the equivalent of actual or compensatory damages in civil law.^[75] Thus, the award of P50,000.00 as civil indemnity also stands for actual or compensatory damages. Lastly, the appellate court was correct in reducing the award of moral damages from P100,000.00 to P50,000.00 in accordance with current jurisprudence.^[76]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02253 dated 13 December 2006 finding herein appellant guilty beyond reasonable doubt of the crime of rape is hereby AFFIRMED.

SO ORDERED.

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

* Per Special Order No. 507, dated 28 May 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justice Arturo D. Brion to replace Associate Justice Antonio Eduardo B. Nachura, who is on official leave under the Court's Wellness Program.

[1] Penned by Associate Justice Estela M. Perlas-Bernabe with Associate Justices Renato C. Dacudao and Rosmari D. Carandang, concurring; rollo, pp. 2-11.

[2] Penned by Judge Cesar M. Solis; CA rollo, pp. 16-21.

[3] This is pursuant to the ruling of this Court in the case of *People of the Philippines v. Cabalquinto*, G.R. No.

167693, 19 September 2006, 502 SCRA 419, wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "xxx" as in "No. xxx Street, xxx District, City of xxx."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.

[4] CA rollo, p. 6.

[5] ART. 266-A. Rape; When and How Committed.- Rape is committed:

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

a) through force, threat or intimidation;

b) x x x

c) x x x

d) x x x.

[6] ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

[7] CA rollo, p. 6.

[8] TSN, 16 June 2000, p. 2.

[9] Id. at 3-5.

[10] Id. at 6-7.

[11] Id. at 7-10.

[12] TSN, 19 June 2000, p. 2.

[13] TSN, 25 August 2000, p. 8

[14] Id. at 7-13.

[15] TSN, 19 June 2000, pp. 2-4.

[16] Records, pp. 3-4.

[17] TSN, 19 June 2000, pp. 4-5.

[18] Id. at 5.

[19] Records, p. 55.

[20] TSN, 11 October 2000, pp. 3-4.

[21] The prosecution failed to present the Certificate of Live Birth of the victim.

[22] Marked as Exhibit "A," records, pp. 3-4.

[23] TSN, 2 October 2000, pp. 4-6.

[24] TSN, 16 October 2000, p. 4.

[25] Id. at 9-14.

[26] TSN, 18 October 2000, p. 3.

[27] TSN, 16 October 2000, p. 14.

[28] Id. at 5-8.

[29] Marked as Exhibit "4," records, p. 73.

[30] Id.

[31] TSN, 29 November 2000, pp. 2-5.

[32] CA rollo, pp. 16-21.

[33] Otherwise known as "An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, and for Other Purposes. This law, however, was subsequently repealed by Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

[34] CA rollo, p. 21.

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

[36] CA rollo, pp. 46, 52.

[37] Rollo, p. 11.

[38] Id. at 13-14.

[39] Id. at 16.

[40] *People v. Malones*, 469 Phil. 301, 318 (2004).

[41] *People v. Lou*, 464 Phil. 413, 421 (2004).

[42] TSN, 25 August 2000, p. 15.

[43] *People v. Belga*, 402 Phil. 734, 742-743 (2001).

[44] *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 547.

[45] *People v. Sampior*, 383 Phil. 775, 783 (2000).

[46] *People v. Managbanag*, 423 Phil. 97, 110 (2001).

[47] TSN, 16 June 2000, p. 8-9.

[48] *People v. Celis*, 375 Phil. 491, 504-505 (1999).

[49] *People v. Ancheta*, 464 Phil. 360, 371 (2004).

- [50] *People v. Bares*, 407 Phil. 747, 767 (2001).
- [51] *People v. Villadares*, 406 Phil. 530, 540 (2001).
- [52] *People v. Dacara*, 420 Phil. 333, 340 (2001).
- [53] *People v. Santos*, 420 Phil. 620, 631 (2001).
- [54] TSN, 25 August 2000, pp. 10-11.
- [55] *People v. Esteves*, 438 Phil. 687, 699 (2002).
- [56] *People v. Logmao*, 414 Phil. 378, 387 (2001).
- [57] *People v. Dacara*, supra note 52 at 340.
- [58] *People v. Musa*, 422 Phil. 563, 573 (2001).
- [59] TSN, 16 June 2000, p. 6.
- [60] *People v. Macapal, Jr.*, G.R. No. 155335, 14 July 2005, 463 SCRA 387, 400.
- [61] *People v. Aaron*, 438 Phil. 296, 311 (2002).
- [62] *People v. Olaybar*, 459 Phil. 114, 127 (2003).
- [63] TSN, 16 June 2000, p. 7.
- [64] Rollo, pp. 59-60; records, p. 68.
- [65] 454 Phil. 801, 812-813 (2003).
- [66] CA rollo, p. 19
- [67] Rollo, pp. 9-10.
- [68] 386 Phil. 884 (2000).
- [69] *Id.* at 911.
- [70] *Id.*
- [71] 386 Phil. 815, 825 (2000).
- [72] *People v. Aparejado*, 434 Phil. 264, 273-274 (2002).
- [73] *People v. Mauricio*, 405 Phil. 557, 570 (2001).
- [74] *People v. Bernaldez*, 379 Phil. 493, 505-506 (2000).
- [75] *People v. Malapo*, G.R. No. 123115, 25 August 1998, 294 SCRA 579, 591.
- [76] *People v. Pagsanjan*, 442 Phil. 667, 687 (2002)

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