

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARLON BARSAGA ABELLA, ACCUSED-APPELLANT.

G.R. No. 177295. January 06, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Under automatic review is the Decision[1] dated September 21, 2006 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02085 which affirmed with modification the Judgment[2] promulgated on June 3, 2003 by Branch 25 of the Regional Trial Court (RTC) of Naga City convicting accused-appellant Marlon Barsaga Abella of the crime of rape, defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended, sentencing him to suffer the penalty of reclusion perpetua, ordering him to pay civil indemnity and damages, and further ordering him to acknowledge and support his offspring with the private offended party.

In a Minute Resolution[3] dated June 27, 2007, we required the parties to file their respective supplemental briefs. The parties, however, manifested that they have exhausted their arguments before the CA and, thus, will no longer file any supplemental brief.[4]

The antecedent facts are culled from the records of this case. Consistent with our ruling in *People v. Cabalquinto*[5] and *People v. Guillermo*,[6] this Court withholds the real name of the private offended party and her immediate family members as well as such other personal circumstance or information tending to establish her identity. The initials AAA represent the private complainant and the initials BBB refer to the mother of the private complainant.

The accusatory portion of the information reads:

That sometime on December 1999, in the afternoon, at Barangay San Vicente, Municipality of Pamplona, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with "Balisong" and under the influence of liquor, by means of force and intimidation and with lewd design, did then and there willfully and feloniously enter the house of herein complainant and then and there have sexual intercourse with AAA, a woman of feeble mind, against her will to her damage and prejudice.

Acts contrary to law.

Accused-appellant Abella pleaded not guilty upon arraignment.[7] The pre-trial conference followed and, thereafter, trial ensued.

The prosecution presented five (5) witnesses, namely, AAA,[8] BBB,[9] Dr. Emelito Alegre,[10] Dr. Imelda Escudra[11] and Corazon Alipante,[12] and documentary exhibits consisting of the Ultrasound Report[13] of AAA dated September 14, 2000 issued by Dr. Alegre, the Medical Certificate[14] of AAA dated July 14, 2000 and Clinical Record[15] of AAA dated June 13, 2000 issued by Dr. Alcantara, the Psychiatric Evaluation[16] of AAA dated September 25, 2001 of Dr. Escudra, and the Certificate of Live Birth[17] of the daughter of AAA

issued by the Office of the Civil Registrar of the City of Naga.

The defense, on the other hand, presented the testimonies of the accused-appellant[18] and his father, Danilo Abella,[19] and documentary exhibits consisting of two (2) Barangay Blotters[20] dated March 15 and September 16, 2000 issued by the Barangay Captain of San Vicente, Municipality of Pamplona, Province of Camarines Sur.

After trial, the RTC convicted the accused-appellant. The trial court found the 38-year old AAA as a credible witness and her testimony candid and truthful despite her "moderate mental retardation" or intellectual quotient of a 7 to 8-year old child. In contrast, the trial court found that the defenses of denial and alibi of the accused-appellant were flimsy and farfetched. It further ruled that the child conceived and delivered by AAA was fathered by the accused-appellant. The dispositive portion of the judgment reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused MARLON ABELLA y BARSAGA guilty beyond reasonable doubt for the crime of Rape, and hereby sentences him to suffer the penalty of reclusion perpetua. Accused is likewise directed to recognize [xxx] as his illegitimate daughter, and provide for her support as soon as his financial means permit. Furthermore, he is hereby ordered to pay complainant the sum of P75,000.00 as indemnity, P50,000.00 as moral damages and P50,000.00 as exemplary damages. With costs de officio.

Considering that the accused has been undergoing detention during the pendency of the trial of this case, the same is hereby credited in the service of his sentence.

The decision of the RTC was directly elevated to this Court. The accused-appellant filed his Brief[21] on August 23, 2005 while the plaintiff-appellee filed its Brief[22] on December 19, 2005. In a Minute Resolution[23] dated February 15, 2006, we transferred this case to the CA for appropriate action conformably with our ruling in *People v. Mateo*. [24]

The CA summarized the evidence of the parties as follows:

Dr. Emelito Alegre, a radiologist and sonologist, testified that he had conducted an ultrasound examination on AAA on 10 July 2000. Through the conduct of the necessary measurements and ultrasound examination, he confirmed AAA's pregnancy. At the time of the examination, AAA was already 30.7 weeks pregnant. The testimony of the Municipal health Officer, Dr. Marietta Alcantara, in turn, was dispensed with on account of the admission of the defense of the existence and genuineness of the medical certificate that she had executed in relation to the instant case.

Dr. Imelda Escuadra of the Women and Children Protection Unit of Bicol Medical Center, Naga City, and a specialist in the field of psychiatry testified that AAA was referred to her clinic for examination and evaluation by the Department of Social Work and Development (DSWD). During the first examination, she noticed that AAA was pregnant, was coughing, but responsive, coherent and relevant with no auditory nor visual hallucinations or delusions shown. AAA, as she had observed, was not psychotic at the time of the examination.

Dr. Escuadra added that AAA had recurrent thoughts of the rape incident and the threats to kill her if she would divulge the matter. It was also observed that AAA was not oriented as regards to persons and dates and that she showed poor grasp of general information. During the last examination on 24 July 2000, AAA looked depressed and claimed that her baby was moving.

Dr. Escuadra further testified that AAA's mental ability particularly on the arithmetic aspect was poor, as she could not even count from 1-100. She concluded that although AAA's chronological age was 38 years old, she manifested a mental age of between 7-8 years old. AAA's intelligence quotient was only 51, which is classified as moderate mental retardation. Aside from her mental disadvantage, AAA also suffers from dwarfism being only three (3) feet and eight (8) inches tall.

Corazon Alipante, a psychologist of the Bicol Medical Center who conducted the psychological testing on AAA, confirmed that the latter's mental capacity is functioning within the moderate mental retardation level with an average intelligent quotient of 51 and that her perception of reality is impaired.

AAA testified that she knew the appellant personally since he was a child because they lived in the same neighborhood. She narrated that sometime at around 1:00 o'clock in the afternoon while she was alone at home the appellant entered their house and started molesting her. Appellant pulled down her shorts with his left hand while covering her mouth with his right hand. Appellant then placed himself on top of her and inserted his penis into her vagina. At that time, she did not shout as the appellant was holding a knife. AAA recalled that when appellant inserted his penis into her vagina, she had felt pain. Afraid for her life, she did not tell her parents about the rape incident.

Continuing with her narration, AAA stated that several months after the incident, her stomach became big. Thinking that she was just ill, she drank some bitter solution upon her mother's instruction. As her stomach continued to grow, AAA was forced to tell her mother about the rape incident. Thereafter, AAA consulted a doctor who confirmed that she was pregnant. Consequently she gave birth to a baby girl.

BBB, AAA's mother, on the other hand, testified that the appellant is the cousin of her husband. She claimed that she noticed her daughter becoming pale and thinner. She also noticed that AAA's stomach was getting bigger and thus decided to bring her to a doctor, who in turn informed her that her daughter might be pregnant. An ultrasound examination confirmed that AAA was indeed pregnant. BBB then asked her daughter who was responsible for her pregnancy, AAA replied that it was the appellant.

BBB further claimed that prior to the confirmation of the pregnancy, the appellant had given her some mahogany seeds which he said AAA should take so that she will have her menstruation. But since the mahogany seeds made AAA weaker, BBB discontinued it and decided to consult a doctor instead. Upon learning that it was the appellant who had raped her daughter, BBB immediately reported the matter to the Municipal Hall of Pamplona. Thereafter, the appellant was arrested.

BBB also testified that appellant's parents had tried to settle the case by offering the sum of Twenty Thousand Pesos (P20,000.00). They however declined said offer, as it was not even commensurate to the expenses they have already spent for their daughter and her child. AAA gave birth to a baby girl on 16 August [2000] but the appellant and his family had never given them any financial support.

Aside from the testimony of the [accused]-appellant, the defense also called Danilo Abella, appellant's father, to the stand. Both testimonies were principally anchored on denial, and attributed that the filing of this case against the accused was ill motivated and was due to the bad blood and personal animosities between their family and that of the complainant. Appellant contends that a certain Mang Ben, a construction worker of the China Geo, was the one responsible in impregnating the complainant.

After its review of the evidence, the CA agreed with the findings of the RTC and affirmed the conviction of the accused-appellant. However, as prayed for by the plaintiff-appellee, the appellate court deleted the award of exemplary damages in favor of AAA for lack of basis, thus:

WHEREFORE, the foregoing considered, the assailed Decision is AFFIRMED with the MODIFICATION that the award for exemplary damages is DELETED. No costs.

The accused-appellant did not move for the reconsideration of the appellate court's judgment. He instead elevated for review his conviction before us.

Accused-appellant reiterates the issues and arguments he has raised before the courts below as follows:

I

The trial court gravely erred in failing to consider the motive behind the filing of the instant case against the accused-appellant.

II

The court a quo gravely erred in convicting the accused-appellant of the crime charged although his actual participation in the alleged act was not proven with certainty.

Accused-appellant asserts that he should be acquitted of the crime charged. AAA allegedly testified unsurely as to the identity of her assailant and that she testified incoherently as to the details surrounding the rape incident. Accused-appellant points out that AAA mentioned that she was raped by a certain Mang Ben. AAA then testified that the accused-appellant was holding a knife while her pants were being pulled by him with his left hand and her mouth being covered with his right hand. She also allegedly said that the accused-appellant opened his knife when he was about to molest her but he left after opening the knife.

Accused-appellant insists that AAA was coached to testify against him in furtherance of the hostility between their families. He claims that AAA's mental disability made her so subservient to her parents that she would believe everything that they tell her. He further argues that the alleged P20,000.00 offer of accused-appellant's family to settle this criminal case happened before this case was actually filed which proves that the said offer was either concocted by AAA's family or they were extorting money.

The plaintiff-appellee maintains that the prosecution has proven the guilt of the accused-appellant of the crime charged. AAA allegedly testified clearly and convincingly that she was raped by accused-appellant. The plaintiff-appellee points out that AAA clarified on the witness stand that it was accused-appellant, and not Mang Ben, who raped her; that she did not say that the accused-appellant simultaneously pointed a knife at her, covered her mouth, and pulled down her pants - she rather testified that, after her mouth was covered and pants pulled down, the accused-appellant forced her to lay down and then drew a knife; and that AAA said that the accused-appellant left after raping her. Assuming there were inconsistencies in AAA's testimony, the same pertain to insignificant details which rather support, not destroy, her credibility.

The plaintiff-appellee claims that the contention that the crime charged against the accused-appellant was prompted by revenge or ill-motive on the part of AAA's family was baseless and that the mental disability of AAA did not affect her credibility and veracity of her testimony. The psychiatric evaluation of AAA allegedly proves that she was generally "coherent and relevant" and that her extensive examination on the witness stand shows that she could distinguish good from bad and truth from lies.

We affirm the conviction of the accused-appellant.

Article 266-A of the Revised Penal Code provides that the crime of rape is committed by a man having carnal knowledge of a woman under any of the following circumstances: (1) through force, threat or intimidation; (2) when the offended party is deprived of reason or otherwise unconscious; (3) by means of fraudulent machination or grave abuse of authority; and (4) when the offended party is under 12 years of age or is demented, even though none of the circumstances mentioned above be present. In *People v. Andaya*,^[25] it was held that "sexual intercourse with a woman who is a mental retardate with the mental age of a child below 12 years old constitutes statutory rape" with or without the attendance of force, threat, or intimidation.

In the case before us, the prosecution has established beyond reasonable doubt that the accused-appellant had carnal knowledge of AAA, a demented person, through force, threat or intimidation. AAA was psychiatrically evaluated as an adult woman with the mental age of a 7 to 8-year old child and that she gave birth to a child despite her mental inability to give her consent to a sexual relationship. These facts support the allegation of

sexual abuse. AAA also identified without uncertainty the accused-appellant as her attacker and related distinctly that he forcibly laid her down, held her at knifepoint, and sexually abused her. She testified on direct examination as follows:

PROS. TADEO:

xxx xxx xxx

Q:

Do you know the accused in this case?

A:

Yes sir.

Q:

What is his name?

A:

Marlon Abella.

Q:

Is he in court, please identify him?

A:

Yes sir.

Q:

Please point to him.

A:

(Witness pointed to the accused Marlon Abella)

Q:

Since when have you known Marlon?

A:

Since he was a child.

Q:

Why do you know him?

A:

He is my neighbor.

Q:

Do you have any relationship with Marlon?

A:

None sir.

Q:

How about with the family of Marlon, if you know, by consanguinity?

A:

None sir.

Q:

In the information, it appears that you are the offended party, why are you accusing Marlon for rape?

A:

He raped me.

Q:

Do you remember when was that?

A:

No sir.

Q:

What time was that?

A:

1:00 o'clock in the afternoon.

xxx xxx xxx

Q:

Where were you raped?

A:

In our house.

Q:

Do you mean to say that the accused in this case entered your house?

A:

Yes sir.

Q:

After he entered your house, what happened next?

A:

He raped me.

Q:

When you said he raped you, how did he start molesting you?

A:

He pulled down my shorts.

Q:

What hands did he use in pulling down your shorts?

A:

One hand.

Q:

What hand, his right or left?

A:

Left hand.

Q:

While his left hand was pulling down your short pants, what was his right hand doing?

A:

He covered my mouth.

Q:

After your short pants was pulled down, what happened next?

A:

He laid on top of me.

Q:

What happened next? Do you have panty at that time?

A:

Yes sir.

Q:

What happened to your panty?

A:

He pulled down my panty.

Q:

You said a while ago that he placed himself on top of you, what happened next?

A:

He laid on top of me.

Q:

Why, what was your position?

A:

I was lying down.

Q:

When you lied down, was it on your own volition?

A:

No sir.

Q:

Who asked you to lie down or did the accused forced you to lie down?

A:

He forced me to lie down.

Q:

How?

A:

He grabbed me by my shoulder.

Q:

After you were forced to lie down, what did the accused do next?

A:

He inserted his organ.

Q:

Before he inserted his organ, was he wearing something on his body?

A:

Only a T-shirt, without pants.

COURT:

Q:

Where was his shorts?

A:

He removed his shorts.

PROS. TADEO:

xxx xxx xxx

Q:

While removing his shorts, what did you do?

A:

He also undressed me.

Q:

How about you, what did you do?

A:

I did not shout.

COURT:

Q:

Why?

A:

I was afraid.

Q:

Why were you afraid?

A:

He had a sharp weapon.

PROS. TADEO:

Q:

What kind of sharp weapon was that?

A:

A knife.

Q:

Where did you see that knife, in what part of his body?

A:

On his waist.

Q:

While he was about to molest you, did he remove that knife from his waist?

A:

Yes sir.

Q:

Where did he place it?

A:

He was holding it.

Q:

What did he do with it?

A:

He told me that if I tell the matter he will kill me.

Q:

Did he tell you those words?

A:

Yes sir.

xxx xxx xxx

COURT:

Q:

What do you mean when you said he did something to you? Did he insert his penis to your vagina?

A:

Yes sir.

Q:

What did you do when he inserted his penis to your vagina?

A:

None because I was afraid.

xxx xxx xxx

Q:

What did you feel when he inserted his organ to your vagina?

A:

Painful.

Q:

Did you not like it?

A:

I did not.

We find no real conflict in the testimony of AAA as to the identity of her assailant. A close scrutiny of the

testimony of AAA that a certain Mang Ben raped her shows her evident confusion to the suggestive questions and insinuations of the defense counsel and to the hypothetical questions of the trial court, thus:

ATTY. MANLAGNIT:

Q:

When you first know Marlon you said he was still a child at that time, you have of age, am I correct?

A:

Yes sir.

Q:

You said you know Marlon because he lives nearby or he is one of your neighbors, is that correct?

A:

Yes sir.

Q:

And as a matter of fact, there are other neighbors staying near your house?

A:

Yes sir.

Q:

How many neighbors aside from Marlon?

A:

Many.

Q:

Would you say 10?

A:

More than.

Q:

12?

A:

Yes sir.

Q:

You also know your neighbors?

A:

Yes sir.

Q:

Could you name a few for us?

A:

Mang Ben.

Q:

Who else?

A:

Julia.

Q:

Who else?

A:

My sister.

Q:

And your sister has already a husband?

A:

Yes sir.

Q:

And your sister and her husband are living near your house?

A:

Yes sir.

xxx xxx xxx

COURT:

Q:

Do you know to distinguish truth from lies?

A:

I am not telling a lie.

Q:

You are not telling a lie because what you are telling us is the truth?

A:

Yes sir.

Q:

Therefore, you can tell the court and distinguish truth from a lie?

A:

Yes sir.

Q:

And you know what is good from what is bad?

A:

Yes sir.

Q:

You testified on cross that you obeyed what your parents told you that you were reminded that you were raped by Marlon, is that right?

A:

Yes sir.

Q:

Was that reminder made to you by your parents correct or wrong?

A:

Correct.

Q:

Why do you say that the reminder by your parents was correct?

A:

Because they told me.

Q:

Supposed your parents told that it was Mang Ben who raped you, will you obey your parents?

A:

Yes sir.

Q:

So you will testify before this court that Mang Ben raped you because that was what your parents told you?

A:

Yes sir.

Q:

Did Mang Ben actually rape you?

A:

Yes sir.

Q:

How many times did Mang Ben rape you?

A:

Only one.

Q:

Did you not tell that to your parents that Mang Ben raped you?

A:

Yes sir.

Q:

Aside from Mang Ben, will you tell the court if the penis of Mang Ben was inserted into your vagina?

A:

Yes sir.

Q:

How many times did that happen to you - that the penis of Mang Ben was inserted into your vagina?

A:

Only one.

Q:

Which came first, when Mang Ben raped you or when Marlon raped you?

A:

Marlon.

Q:

Do you know of any person who raped you other than Mang Ben and Marlon?

A:

None.

AAA's puzzling answers are understandable considering her undisputed low mental ability to comprehend the true import of the questions. Nonetheless, on further clarificatory questions of the trial court, AAA rectified her answers and testified consistently that she was raped by the accused-appellant, and not by a certain Mang Ben, thus:

COURT:

xxx xxx xxx

Q:

Do you know the government prosecutor?

A:

Yes sir.

Q:

Suppose your mother tells you that you were raped by the government prosecutor, will you tell that to the court?

A:

No sir.

Q:

Supposed you were told by your parents that you were not raped by Marlon, will you testify before this court that you were raped by Marlon?

A:

I will not obey.

xxx xxx xxx

Q:

On direct examination you said it was only the accused who raped you. However, during the clarificatory question by the court you also said that you were also raped by Mang Ben. Tell the court, which is now correct, was it only Marlon who raped you or it was also Mang Ben who raped you?

A:

Only Marlon.

Q:

When you said only Marlon, are you telling the court that Mang Ben did not rape you?

A:

He did not.

Q:

Are you very sure of your answer?

A:

Yes, it was Marlon.

Q:

Did you not testify on clarificatory question from the court that you were also raped by Mang Ben?

A:

No, only Marlon.

Q:

So your answer which you gave to the court a while ago when you were asked whether you were also raped by

Mang Ben was not true?

A:

It is not true.

Q:

Let us assume that your parents tell you that Mang Ben raped you, will you testify that in court?

xxx xxx xxx

A:

No sir.

Q:

So if your parents will tell you something which is not true, will you tell the court that you will not obey your parents?

A:

I will not obey them.

Moreover, we accord great weight and respect to the conclusion of the trial court that AAA is "candid, sincere, straightforward and simple" in her testimony as well as to the ruling of the appellate court that the alleged flaws in her statements do not affect her credibility and veracity of her testimony that the accused-appellant raped her, and that the defenses of denial and alibi of the accused-appellant cannot prevail over the positive testimony of AAA.

By well-entrenched jurisprudence, the issue of credibility of witnesses is "a question best addressed to the province of the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying which opportunity is denied to the appellate courts" and "[a]bsent any substantial reason which would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the former's findings, particularly when no significant facts and circumstances are shown to have been overlooked or disregarded which when considered would have affected the outcome of the case." [26] In *People v. Santos*, [27] this policy has been emphasized as follows:

We stress the well-settled doctrine that the lower court's assessment of the credibility of a witness is accorded great respect owing to its direct opportunity to observe the latter's demeanor during trial. In *People v. Ayuda*, we held:

"It is doctrinally settled that the factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the victim through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, or the carriage and mien. ..." [Emphasis ours]

The foregoing doctrine is more stringently applied if the trial court is sustained by the appellate court.

It has been stressed, moreover, that the bare denials and uncorroborated alibis of an accused cannot overcome the positive identification of the accused and straightforward recounting of the accused's commission of a crime. In *People v. Nieto*, [28] this Court held:

It is an established jurisprudential rule that a mere denial, without any strong evidence to support it, can scarcely overcome the positive declaration by the victim of the identity and involvement of appellant in the crimes attributed to him. The defense of alibi is likewise unavailing. Firstly, alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law. Secondly, alibi is unacceptable when there is a positive identification of the accused by a credible witness. Lastly, in order that alibi might prosper, it is not enough 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.

In the present case, we do not perceive any cogent reason to justify the reversal of the trial and appellate courts' high regard of the truthfulness of AAA's testimony and we find the bare denials and uncorroborated alibis of the accused-appellant devoid of any evidentiary value. We quote with approval the pertinent disquisitions of the trial court on the testimonies of the witnesses as follows:

By the very nature of the crime of rape, the same precludes any eyewitness to the incident, except the victim and the perpetrator. Hence, to prove the same will depend largely from the testimony of the victim, and the acquittal of the accused will not lie on the strength of his defense. Thus, the case for the prosecution will rise or fall on the basis of the victim's testimony, which the court will consider with utmost caution.

In the instant case, victim AAA was a mental retardate, which the court finds, not only on the basis of the expert testimony of Dr. Escuadra but also on the basis of its observations. It noted that even if the victim had a mental age of a 7 to 8 year-old child, yet, she was candid, sincere, straightforward and simple in her testimony in court despite the grueling cross-examination conducted by Atty. Manlangit. The aforesaid demeanor of the complainant only showed that she was telling the truth. Complainant never wavered in her testimony, that it was Marlon who raped her, the circumstances or details under which she was raped; and in positively identifying Marlon in court. The court likewise noted the limited mental ability and poor aptitude of the complainant when she was extensively grilled and cross-examined, and even upon clarificatory questions from the court, thus giving the impression to the court that she was just being obedient and was coached by her parents in filing this instant case against Marlon. She likewise admitted that a certain Mang Ben also raped her, but, later corrected herself. Such was understandable. Even Atty. Manlangit noted that the victim was already tired and exhausted while testifying in court. (TSN, p. 43, Sept. 24, 2002) Besides, there was no testimony from the complainant that she was merely instructed by her parents to file the rape case against Marlon even if the same were not true. The court considered the inconsistencies in complainant's testimony as minor inconsistencies which even strengthen her testimony. Xxx xxx xxx

The Court notes that the appellate court's own evaluation of the evidence concurred with the findings and conclusions of the trial court as follows:

We likewise find no merit in the insinuations made by the [accused]-appellant that the instant complaint was motivated by the malevolent design of the complainant's family to put him down or the greedy scheme of the latter to extort money from his family. At best, these insinuations, trivial and inane, are merely conclusory and unfounded. It cannot tarnish AAA's account of how the [accused]-appellant had sexually assaulted her.

As aptly observed by the court a quo, it is hard to fathom that a parent would use her children as engines of malice, especially if the same would subject them to humiliation, nay stigma. No mother would expose her child to possible public ridicule if the only motive is to get back at the [accused]-appellant. Said the trial court:

"Marlon and his father, Danilo, attributed ill-will, personal animosities and bad blood between their family and that of the complainant as the reasons behind why a fabricated case was filed against Marlon. It is incomprehensible to the mind of the court that because at one time or another Marlon chased complainant's father with a hoe, or the complainant's brothers unlawfully entered the premises of the accused, or that they

peeped or pried upon Marlon's privacy, causing the latter to chase them with a bolo as the reasons why, out of revenge, a rape case was concocted and filed against him. Such are flimsy excuses, which do not deserve belief from any reasonable being. This Court could not, in the exercise of sound judgment, accept the flimsy reasons advanced by the accused that the victim, a mental retardate, was only coached by her parents in implicating the accused as the person responsible for the crime. A mother will never compromise the reputation of her daughter in order to implicate a person with a crime he did not commit. Besides, it was quite absurd and illogical that families in feud would make their mental retardate a tool to give a scripted and concocted testimony in court that she was raped just to send her family's enemy to jail. It is unnatural for a parent to use his offspring as an engine of malice especially if it will subject a daughter to embarrassment and even stigma. No parent in their right mind would possibly stoop so low as to subject their daughter to the hardship and shame concomitant to a rape just to assuage their own hurt feelings." [Citations omitted]

The criminal information failed to allege the qualifying circumstance that the accused-appellant knew of the mental disability of the private offended party, thus, his conviction of statutory or simple rape committed with the use of a deadly weapon, instead of qualified rape, is in order.

We also accord high respect to the ruling of the trial court, as well as to the appellate court's deference thereto, that the accused-appellant was the biological father of the two-year old daughter of AAA as a result of the rape incident and in view of their "striking facial similarities and features." The order to acknowledge and support accused-appellant's offspring is in accordance with Article 345 of the Revised Penal Code.

This Court, however, modifies the award of civil indemnity and damages in favor of AAA. In line with recent case laws, the compensation to be awarded in favor of the private offended party in cases of statutory rape or simple rape committed with the use of a deadly weapon should be in the amounts of P75,000.00 as civil indemnity and another P75,000.00 as moral damages.[29] Exemplary or corrective damages are imposed by way of example or correction for the public good and when the crime was committed with one or more aggravating circumstances.[30] According to current jurisprudence, exemplary damages should be awarded in favor of the private offended party in the amount of P30,000.00 in statutory or simple rape cases.[31] In the present case, the award of P75,000.00 as civil indemnity and another P75,000.00 as moral damages in favor of AAA is appropriate. The award of P30,000.00 as exemplary damages should also be imposed as a public example in order "to protect hapless individuals from [sexual] molestation"[32] and because of the presence of the aggravating circumstance of the commission of the crime in the dwelling[33] of AAA.

WHEREFORE, in view of the foregoing, the Decision dated September 21, 2006 of the CA in CA-G.R. CR-HC No. 02085, which affirmed with modification the Judgment promulgated on June 3, 2003 by Branch 25 of the RTC of Naga City, is hereby AFFIRMED with the MODIFICATION that accused-appellant is hereby ordered to pay the private offended party civil indemnity in the amount of Seventy-Five Thousand Pesos (P75,000.00), moral damages also in the amount of Seventy-Five Thousand Pesos (P75,000.00), and exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00), plus interest on all damages awarded at the legal rate of 6% from this date until fully paid. No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Bersamin, and Villarama, Jr., JJ., concur.

[1] Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Vicente Q. Roxas and Apolinario D. Bruselas, Jr. concurring; rollo, pp. 3-16.

[2] CA rollo, pp. 37-44.

- [3] Rollo, p. 20.
- [4] Id. at 21-22 and 25-26.
- [5] G.R. No. 167693, September 19, 2006, 502 SCRA 419.
- [6] G.R. No. 173787, April 23, 2007, 521 SCRA 597, 599.
- [7] Records, pp. 27-29.
- [8] Id., TSN dated September 24, 2002.
- [9] Id., TSN dated November 18, 2002 and February 14, 2003.
- [10] Id., TSN dated March 16, 2001.
- [11] Id., TSN dated June 5, 2002.
- [12] Id., TSN dated September 9, 2002.
- [13] Id. at 218.
- [14] Id. at 219.
- [15] Id. at 220.
- [16] Id. at 221-227.
- [17] Id. at 228.
- [18] Id., TSN dated December 17, 2002 and January 9, 2003.
- [19] Id., TSN dated January 14, 2003 and February 14, 2003.
- [20] Id. at 241-242.
- [21] CA rollo, pp. 68-95.
- [22] Id. at 103-119.
- [23] Id. at 121.
- [24] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [25] G.R. No. 126545, April 21, 1999, 306 SCRA 202, 216.
- [26] *People v. Nieto*, G.R. No. 177756, March 3, 2008, 547 SCRA 511, 524.
- [27] G.R. Nos. 137828-33, March 23, 2004, 426 SCRA 133, 156, citing *People v. Ayuda*, G.R. No. 128882, October 2, 2003, 412 SCRA 538, 546.
- [28] *Supra* note 26.
- [29] *People v. Araojo*, G.R. No. 185203, September 17, 2009, citing *People v. Sia*, G.R. No. 174059, February 27, 2009 and *People v. Abay*, G.R. No. 177752, February 24, 2009.
- [30] Articles 2229 and 2230 of the Civil Code.
- [31] *People v. Araojo*, *supra* note 29.

[32] People v. Neverio, G.R. No. 182792, August 25, 2009.

[33] Sierra v. People, G.R. No. 182941, July 3, 2009.

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