

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. SALVADOR NIETO y CABALSE @ “ADOR,” Accused-Appellant.

G.R. No. 177756. March 03, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 31 October 2006 of the Court of Appeals in CA-G.R. CR-HC No. 02006, which affirmed the Decision[2] dated 15 September 2000 of the Regional Trial Court (RTC) of Urdaneta City, Branch 46, in Criminal Cases No. U-10586 and No. U-10587, finding herein appellant Salvador Nieto y Cabalse @ “Ador” guilty beyond reasonable doubt of the crime of simple rape in both cases committed against AAA,[3] a mental retardate with a mental age of five years and three months, and sentencing him in each case to suffer the penalty of reclusion perpetua, and to indemnify AAA in the amount of P50,000.00 as civil indemnity and P20,000.00 as exemplary damages with the modification for an additional award of moral damages amounting to P50,000.00.

On 13 March 2000, appellant was charged in two separate Informations with the crime of rape, as defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 8353,[4] committed against AAA on 30 December 1999 and 3 January 2000, respectively. The two Informations read as follows:

Criminal Case No. U-10586

The undersigned accuses SALVADOR NIETO alias “Ador,” of the crime of RAPE, committed as follows:

That on or about [3 January 2000] at Brgy. xxx, [Municipality of] xxx, [Province of] XXX, and within the jurisdiction of this Honorable Court, the above-named accused by means of force, did then and there wilfully (sic), unlawfully and feloniously have sexual intercourse with AAA, a mentally retardate with mental age of five (5) years and three (3) months, without her consent and against her will, to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 8353.[5]

Criminal Case No. U-10587

The undersigned accuses SALVADOR NIETO Y CABALSE, alias “Ador,” of the crime of RAPE, committed as follows:

That on or about [30 December 1999] at Brgy. XXX, [Municipality of] XXX, [Province of] XXX and within the jurisdiction of this Honorable Court, the above-named accused by means of force, brought and carried at the ricefield AAA, a mentally retardate with a mental age of five (5) years and three (3) months, did then and there wilfully (sic), unlawfully and feloniously have sexual intercourse with said AAA, without her consent and against her will, to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 8353.[6]

When arraigned on 17 April 2000, appellant, assisted by counsel de oficio, pleaded NOT GUILTY to the charges against him. 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; SPO3 Maximiano Balelo, Chief Investigator of the Pozorrubio Philippine National Police (PNP); Dr. Francisco Llamas, Medico-Legal Officer of the Pozorrubio Community Hospital; and Ruby Martinez Bell, the psychologist at the Philippine Mental Health Association, Inc., Baguio-Benguet Chapter.

AAA was already 24 years old when the alleged first rape incident happened. Her parents BBB and CCC were already separated.[7] Since the separation, she started to live with her grandmother in Barangay XXX, Municipality of XXX, Province of XXX, up to the present. AAA only reached Grade II because of her illnesses.[8]

In her testimony, AAA stated that on the night of 30 December 1999, while she was alone at the house of her grandmother, who was in Malokiat, Pangasinan at that time, somebody entered their house. She then recognized that somebody to be the herein appellant, who was also their neighbor. According to AAA, the appellant approached her, fooled her and pulled her out of their house and brought her to the nearby farmland. In the farmland, the appellant removed all his clothes. He likewise undressed her. When they were both naked, the appellant started to fondle her breasts. Thereafter, the appellant inserted his penis into her vagina. As a result, she felt so much pain in her private part.[9]

Again, on the night of 3 January 2000, while AAA's grandmother was in Manila, the appellant went to their house. Initially, appellant struck up a conversation with her. When the appellant learned that AAA's grandmother went to Manila and that only the two of them were in the said house, the appellant began to force her to have sexual intercourse with him. She resisted, but the appellant was much stronger than her; hence, despite her resistance, appellant succeeded in inserting his penis into her vagina.[10]

AAA revealed her harrowing experience in the hands of the appellant to her sister, DDD, and brother, EEE. Her brother cried when she told him about her ordeal; but, her sister was brave enough to tell their mother what had happened to AAA.[11]

AAA, accompanied by her sister and aunt, went to the police station to report the rape incidents that happened to her on 30 December 1999 and 3 January 2000. They also went to the hospital in Urdaneta, Pangasinan, where AAA was physically examined by Dr. Francisco Llamas.[12]

During her cross-examination, AAA disclosed that she had been previously raped, five times, by one Arsenio Corpuz when she was still living in Cuyapo, Nueva Ecija.[13]

SPO3 Maximiano Balelo corroborated the testimony of AAA. He admitted that AAA was brought to him for investigation on 6 January 2000. He took the statements of AAA and those of AAA's sister and aunt. AAA told him that she was sexually abused by the appellant on two occasions. The first rape incident happened on 30 December 1999 and the second was on 3 January 2000.[14] The statements[15] of AAA, her sister and aunt were reduced into writing. He recorded the rape incidents report in the Police Blotter under Entry No. 02858.[16]

Dr. Francisco Llamas, the Medico-Legal Officer of Pozorrubio Community Hospital affirmed that he physically examined AAA on 6 January 2000. On the basis of such examination, he said that he did not find any physical injury on AAA's head and neck. He noticed, however, that there were some hyperemic or red areas on AAA's breasts. AAA also had a healed laceration on her hymen at the 6:00 o'clock position. He concluded that the said laceration could have been caused by a blunt object, possibly an erect penis, which was inserted into AAA's vagina. He further stated that AAA's healed laceration was already a day old.[17] He also reduced his findings into writing as evidenced by the Medico-Legal Report.[18]

Ruby Martinez Bell, the psychologist who examined[19] AAA to determine her mental condition, was also

presented by the prosecution to prove the allegation that AAA is indeed a mental retardate. The said psychologist declared that she gave AAA a Stanford-Binet Test, Draw-a-Person Test, Bender-Gestalt Test and Vineyard Social Maturity Scale and she even attempted to give AAA a Sentence Completion Test, but AAA could not do it as she could not understand the same. Based on the result of the psychological tests, she concluded that AAA belonged to the severely mentally retarded category with an Intelligence Quotient (I.Q.) of 30 and an I.Q. level equivalent to that of a five-year-and-three-month-old child. She further stated that on the basis of the different tests she gave to AAA, she noticed that AAA was unable to comprehend those tests. Although she can recognize some common objects, she cannot, however, do much in terms of reasoning and definition of abstract terms.[20]

On the part of the defense, it presented the testimony of the following witnesses to prove that it was impossible for the appellant to have raped AAA on 30 December 1999 and 3 January 2000, namely: Calixto Parocha; Ernesto Salvatierra; CCC, the father of the victim; Dominador Nieto, the brother of the appellant; Leticia Nieto, the sister-in-law of the appellant; and herein appellant.

The testimonies of Calixto Parocha, Ernesto Salvatierra and CCC focused on the rape incident that happened to AAA while she was still in Cuyapo, Nueva Ecija, which was allegedly committed by Arsenio Corpuz. The aforesaid witnesses admitted that their statements before the trial court were given in connection with the rape incident that happened in Cuyapo, Nueva Ecija, and not on the matters that transpired in Barangay XXX, Municipality of XXX, Province of XXX.[21] Obviously, the testimonies of these witnesses are irrelevant insofar as this case is concerned.

According to Dominador Nieto, on the night of 30 December 1999, he was at the barangay dance party acting as a guard because he was a member of the barangay Civilian Volunteers Organization. He claimed that the appellant was also at the said party because he was the barangay electrician and he was there to fix the lightings. Both of them went there at about 7:00 p.m. and they stayed there until 3:00 a.m. of 31 December 1999. And from that period, there was never an instance that the appellant left the dance party. However, in his cross-examination, he admitted that the place where the dance party was held was only one kilometer away from the place where the rape incident happened.[22]

Leticia Nieto testified that she is the wife of Melecio Nieto, the brother of the appellant. She stated that on 3 January 2000, the appellant went to their house at around 6:00 p.m. in order to compute the cost of the materials for the construction of the terrace and main door of their house. The appellant also had dinner with them at around 8:00 p.m. and stayed there until 11:00 p.m. After that, the appellant went home. She likewise stated that their house was only 20 meters away from the house of the appellant and 100 meters away from the house of the complainant.[23]

Appellant was the final witness presented by the defense. The justification offered by him by way of exculpation was both denial and alibi. He denied having seen AAA on 30 December 1999 and 3 January 2000; thus, it was impossible for him to have committed the offenses he was charged with. He maintained that on 30 December 1999, he was at the barangay dance hall. Being the barangay electrician, he was designated to install the sound system and the lights to be used at the dance party. He went there at around 7:00 p.m. and stayed there until 3:00 a.m. of 31 December 1999. Further, on 3 January 2000, he testified that he was at his brother's house located about 20 meters away from his house. His brother is Melecio Nieto, the husband of Leticia Nieto. He stated that he went to his brother's house at around 6:00 p.m. to talk about the cost of the materials to be used in constructing the terrace and main door of his brother's house. He even ate dinner there at around 8:00 p.m. He stayed there until 11:00 p.m. and then he went home.[24]

During his cross-examination, he affirmed that the dance hall where he was on 30 December 1999 was only a

kilometer away from the house of the complainant. A tricycle could reach the said house as it was near the road. By walking, he could reach the said house in about an hour. Likewise, he admitted that the house of his brother was more than 100 meters away from the house of the complainant and the house of the latter was about 80 meters away from his house.[25]

After trial, the RTC rendered the assailed Decision on 15 September 2000, finding the appellant guilty beyond reasonable doubt of the crime of simple rape in both cases. The decretal portion of the aforesaid Decision reads, thus:

WHEREFORE, JUDGMENT is hereby rendered CONVICTING beyond reasonable doubt SALVADOR NIETO of the crime of Simple Rape and the Court sentences him:

- CRIM. CASE NO. U-10586, to suffer the penalty of Reclusion Perpetua; to indemnify AAA the sum of P50,000.00 and to pay another sum of P20,000.00 as exemplary damages;
- CRIM. CASE NO. U-10587, to suffer the penalty of Reclusion Perpetua; to indemnify AAA the sum of P50,000.00 and to pay another sum of P20,000.00 as exemplary damages.[26]

The records of this case were originally transmitted before this Court on appeal. Pursuant to *People v. Mateo*,[27] the records were transferred to the Court of Appeals for appropriate action and disposition.

In his brief, the appellant's lone assignment of error was, the court a quo gravely erred in finding appellant guilty beyond reasonable doubt of the crime of rape.[28]

Accordingly, the Court of Appeals, taking into consideration the assignment of error stated by the appellant in his Appellant's Brief and after a thorough study of the records of the case, rendered a Decision on 31 October 2006, affirming the conviction of the appellant for two counts of simple rape with the modification for an additional award of moral damages in the amount of P50,000.00 in each case. The dispositive portion of the Decision reads:

WHEREFORE, the Decision of the Regional Trial Court, Branch 46, of Urdaneta City dated 15 September 2000 is hereby AFFIRMED with a modification that an additional award of moral damages amounting to P50,000.00 each in both instances is hereby awarded to the complainant.[29]

The appellant filed a Notice of Appeal.[30] In view thereof, the appellate court forwarded to this Court the records of this case.

On 11 July 2007,[31] this Court resolved to accept the present case and notify the parties that they may file their respective supplemental briefs, if they so desired. Both the Office of the Solicitor General and the appellant manifested that they were adopting their respective briefs dated 30 May 2002 and 24 January 2002, filed before the appellate court, respectively, as their supplemental briefs.

After a meticulous review of the records of the present case, this Court finds no reason to reverse the judgment of the trial court and the appellate court.

There appears to be no controversy that the victim in this case is a mental retardate. Such fact was proven by the testimony of Ruby Martinez Bell, the psychologist who examined AAA to determine her mental condition, and by the psychological report she prepared. The series of psychological tests she gave to AAA revealed that the latter is a mental retardate. AAA belonged to the severely mentally retarded category with an I.Q. of 30 and an I.Q. level equivalent to that of a five-year-and-three-month-old child.[32] Thus, the only issue left for this Court's resolution is the credibility of the victim's testimony as regards the fact of sexual congress between her and the appellant.

The appellant averred that the testimony of AAA should be disregarded, as there are serious and inexplicable

discrepancies in material details in the said testimony; hence, there is doubt as to its credibility. The discrepancies referred to by the appellant were embodied in the following testimony of the victim during her cross-examination regarding an alleged prior rape incident with another person, thus:

Q:

Madam Witness, will you tell us of your experience while you were in Cuyapo, Nueva Ecija?

A:

I lived in Cuyapo. What happened there is another thing.

Q:

You said that what happened there is another thing, will you tell us what is that another thing?

A:

The brother of the wife of my father fooled me also, sir.

COURT:

Who raped you?

A:

Jolin-jolin raped me, sir.

Q:

Who is Jolin-jolin?

A:

The husband of the sister of my father, sir.

ATTY. FLORENDO: You are referring to Arsenio Corpuz, am I correct?

A:

Yes, sir.

Q:

In other words, Arsenio Corpuz raped you also while you were in Cuyapo, Nueva Ecija?

A:

Yes, sir, he raped me.

x x x x

Q:

How many times did Jolin-jolin or Arsenio Corpuz fuck you?

A:

Five times, your Honor.

Q:

That five times that Jolin-jolin or Arsenio Corpuz fucked you, was it on the same day or on different days?

A:

Different dates but successive nights, your Honor.

Q:

Did you mother come to know what Jolin-jolin did to you in Cuyapo, Nueva Ecija?

A:

When I was already in [Brgy. xxx], sir.

x x x x

Q: [The appellant] is a relative of your father, am I correct?

A: My grandparents are the relatives of [the appellant] and they are neighbors, sir.

Q:

And because of what Jolin-jolin did to you in Cuyapo, Nueva Ecija, you cannot forget that anymore?

A:

I always remember it, sir.

Q:

That is why whenever you see [the appellant] you remember what happened to you in Cuyapo?

A:

I can also remember what he did to me, sir.

Q:

Eventhough [the appellant] did not really fuck you you said he fucked you because of what happened to you in Cuyapo, is that correct?

A:

Yes, sir.[33] (Emphases supplied.)

The aforesaid argument raised by the appellant is untenable.

Sexual crimes where the culprit denies culpability is actually a test of credibility. The issue of credibility has, time and again, been settled by this Court as 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. Absent 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.[34] The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.[35]

In the present case, no cogent reason can be appreciated to warrant a departure from the findings of the trial court with respect to the assessment of AAA's testimony.

As can be gleaned from the records of this case, this Court notes that the testimony given by AAA before the trial court can be characterized as categorical and straightforward. She was able to describe before the court a quo how she was ravished by the appellant on 30 December 1999 and 3 January 2000. She even demonstrated the sexual act by spreading her two legs and placing her finger to her vagina.[36] And during her testimony, she positively identified the appellant as the person who had raped her on the aforesaid dates.[37] The straightforward narration of AAA of what transpired, accompanied by her categorical identification of appellant as the malefactor, sealed the case for the prosecution.[38] Further, it was not shown that she had been motivated by any ill desire that would make her testify falsely against the accused. Moreover, having the mental age of a five-year-and-three-month-old child would even bolster her credibility as a witness considering that a victim at such tender age would not publicly admit that she had been criminally abused and ravished unless that was the truth. For no woman, especially one of tender age, practically only a girl, would concoct a story of defloration, allow an examination of her private parts and thereafter expose herself to a public trial, if she were not motivated solely by the desire to have the culprit apprehended and punished to avenge her honor and to condemn a grave injustice to her.[39]

More so, hymenal lacerations, whether healed or fresh, are the best physical evidence of forcible defloration. And when the unwavering and forthright testimony of a rape victim is consistent with the medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.[40] In this case, Dr. Llamas's medical findings showed that AAA's hymen had a day-old healed laceration at the 6 o'clock position, which, according to Dr. Llamas, could have resulted from sexual intercourse. Thus, the said medical findings, together with the straightforward testimony of AAA, even strengthen her claim of

sexual violation by appellant.

The appellant cannot find protection in the discrepancies in the victim's testimony during her cross-examination to relieve him from culpability. As the Court of Appeals opined in its Decision, thus:

The Court notes that the prior alleged rape is not relevant in the present case. The previous rape, if it indeed occur (sic), cannot in anyway prove that [appellant] did not rape AAA. Moreover, considering the mental age of the victim and the tenor of questions asked during the cross-examination, it is understandable why AAA gave the apparently conflicting answers. What is important is that during her direct examination, she testified that [appellant] had sexual intercourse with her.[41] (Emphasis supplied.)

It bears emphasis that in the victim's testimony during her cross-examination, she admitted that Arsenio Corpuz, also known as "Jolin-jolin," raped her five times at the time when she was still in Cuyapo, Nueva Ecija. She also affirmed that "Jolin-jolin" was a relative of her father. She emphasized, though, that what happened in Cuyapo, Nueva Ecija, was "another thing." On the other hand, when she testified as regards the rape incident that had happened to her in Brgy. XXX, Municipality of XXX, province of XXX, she revealed that it was the appellant who had raped her twice. The first rape incident was on 30 December 1999 and the second rape incident happened on 3 January 2000. She also said that the appellant was a relative of her grandparents. With the said testimony of the victim, it cannot be said that she only filed a case against the appellant because of what had happened to her in Cuyapo, Nueva Ecija, and that she was just confused as to the identity of her assailant.

As this Court previously stated, AAA positively identified the appellant as the person who had raped her on 30 December 1999 and 3 January 2000. Her narration of the rape incidents was categorical and straightforward. Therefore, despite the imagined discrepancies in her testimony during her cross-examination, it is beyond cavil of doubt that the appellant was the real perpetrator of the crime of rape against AAA.

Hence, this Court agrees in the findings of both the trial court and the appellate court that the testimony of AAA was credible and deserves full faith and credit.

In stark contrast to the simple but clear declarations of AAA, all that the appellant stresses in his defense are denial and alibi.

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.[42] 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.[43] Secondly, alibi is unacceptable when there is a positive identification of the accused by a credible witness.[44] 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.[45]

In the case at bar, the appellant denied that he had raped AAA. He avowed that on the 30 December 1999, the date of the first rape incident, he was at the barangay dance party because, being the barangay electrician, he was tasked to set up the sound system and the lightings. On 3 January 2000, the date of the second rape incident, he claimed to have been in the house of her brother to compute the cost of materials to be used in the construction of the terrace and main door in his brother's house. Such claims of the appellant were corroborated by other defense witnesses.

This Court notes that the witnesses who corroborated the testimony of the appellant that he was somewhere else

during the commission of the rapes were his brother, Dominador Nieto, and sister-in-law, Leticia Nieto. Because they were his close relatives, we cannot give credence to their testimonies. The testimonies of close relatives and friends are necessarily suspect and cannot prevail over the unequivocal declaration of the complaining witness.[46]

The appellant also failed to present convincing proof that it was physically impossible for him to be at the locus criminis during the aforementioned dates when the separate acts of rape were committed.

Surprisingly, the appellant himself, as well as Dominador Nieto, admitted before the trial court that the place where the dance party was held on 30 December 1999 was only one kilometer away from the place where the rape incident happened. The appellant even affirmed that a tricycle could reach the said house as it was near the road. And by walking, he could reach the house in about an hour. He likewise admitted that the house of his brother where he stayed until 11:00 p.m. on 3 January 2000 was only more than 100 meters away from the house of the complainant and the house of the latter was only about 80 meters away from his house.[47] Therefore, the appellant failed to establish by clear and convincing evidence that it was physically impossible for him to be at the scene of the crime at the time of its commission.

In sum, the straightforward testimony of AAA, as well as her unwavering and positive identification of her defiler and tormentor, corroborated by the medical findings of Dr. Francisco Llamas, was sufficient to convict the appellant. Besides, the appellant's flimsy and self-serving defenses of denial and alibi were not able to destroy the truthfulness and the credibility of AAA's testimony. Thus, this Court is convinced that the trial court and the appellate court correctly convicted the appellant of the crime of simple rape[48] in both cases, which is punishable by reclusion perpetua.[49]

As to the damages. The award of civil indemnity to the rape victim is mandatory upon the finding of the fact of rape.[50] Thus, this Court affirms the award of P50,000.00 in each case as civil indemnity given by the trial court to the victim.

As regards the award of exemplary damages, Article 2230 of the New Civil Code provides:

Art. 2230. 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 circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

In this case, there being no aggravating circumstance that can be considered, as it is not even alleged in the information, the award of exemplary damages by the lower courts would have to be deleted.

With respect to moral damages, case law requires automatic award of moral damages to a rape victim without need of proof because from the nature of the crime it can be assumed that she has suffered moral injuries entitling her to such award. This award is separate and distinct from civil indemnity, which case law also automatically awards upon proof of the commission of the crime by the offender.[51] Thus, this Court finds the award of moral damages by the appellate court in the amount of P50,000.00 for each count of rape proper.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 02006 dated 31 October 2006 finding herein appellant guilty beyond reasonable doubt of two counts of simple rape committed against AAA, a mental retardate with a mental age equivalent to a five-year-and-three-month-old child, and sentencing him to suffer the penalty of reclusion perpetua for each count, is hereby **AFFIRMED** with the **MODIFICATION** that the amount of exemplary damages awarded by the lower courts is deleted for want of legal basis. Costs against appellant.

SO ORDERED.

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

[1] Penned by Associate Justice Andres B. Reyes, Jr. with Associate Justices Hakim S. Abdulwahid and Mariflor P. Punzalan Castillo concurring; rollo, pp. 3-20.

[2] Penned by Judge Modesto C. Juanson; CA rollo, pp. 25-34.

[3] This is pursuant to the ruling of this Court in *People 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] Otherwise known as “The Anti-Rape Law of 1997.”

[5] CA rollo, p. 10.

[6] *Id.* at 11-12.

[7] TSN, 24 May 2000, p. 3.

[8] TSN, 23 May 2000, p. 4.

[9] *Id.* at 4-7.

[10] *Id.* at 7-10.

[11] *Id.* at 10-13.

[12] *Id.* at 11-13.

[13] TSN, 24 May 2000, p. 7.

[14] TSN, 16 May 2000, pp. 2-5.

[15] Records, pp. 5-6.

[16] TSN, 16 May 2000, p. 4.

[17] TSN, 15 May 2000, pp. 3-4.

[18] Records, p. 7.

[19] As evidenced by the Psychological Report prepared by Ruby Martinez Bell, *id.* at 8-10.

- [20] TSN, 17 May 2000, pp. 4-6.
- [21] TSN, 5 June 2000, pp. 3-6; TSN, 3-6; TSN, 19 June 2000, pp. 3-6.
- [22] TSN, 6 June 2000, pp. 7-9.
- [23] TSN, 14 June 2000, pp. 2-8.
- [24] TSN, 14 August 2000, pp. 2-5.
- [25] Id. at 5-6.
- [26] CA rollo, p. 34.
- [27] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [28] CA rollo, pp. 70.
- [29] Rollo, p. 20.
- [30] Id. at 21.
- [31] Id. at 23.
- [32] Records, pp. 9.
- [33] TSN, 24 May 2000, pp. 6-9.
- [34] *People v. Glabo*, 423 Phil. 45, 50 (2001).
- [35] *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 547.
- [36] TSN, 23 May 2000, p. 10.
- [37] Id. at 4-5.
- [38] *People v. Macapal, Jr.*, G.R. No. 155335, 14 July 2005, 463 SCRA 387, 400.
- [39] *People v. Agravante*, 392 Phil. 543, 551 (2000).
- [40] *People v. Limio*, G.R. Nos. 148804-06, 27 May 2004, 429 SCRA 597, 610.
- [41] Rollo, pp. 16, 19.
- [42] *People v. Olaybar*, 459 Phil. 114, 127 (2003).
- [43] *People v. Dela Cruz*, G.R. Nos. 141162-63, 11 July 2003, 384 SCRA 453, 463-464.
- [44] *People v. Medios*, G.R. Nos. 132066-67, 29 November 2001, 371 SCRA 120, 129.
- [45] *People v. Olaybar*, supra note 42.
- [46] *People v. Opeliña*, 458 Phil. 1001, 1014 (2003).
- [47] TSN, 14 August 2000, pp. 5-6.
- [48] 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) x x x;

b) When the offended party is deprived of reason or otherwise unconscious. (Revised ` Penal Code).

[49] ART. 266-B. Penalties.-Rape under paragraph 1 of the next preceeding article shall be punished by reclusion perpetua. (Id.)

[50] People v. Alay-ay, 416 Phil. 80, 100-101 (2001).

[51] People v. Orilla, 467 Phil. 253, 286 (2004).

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