

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RUSTICO BARTOLINI Y AMPIS, APPELLANT.

G.R. No. 179498. August 03, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

We review the May 31, 2007 Decision[1] of the Court of Appeals (CA) which affirmed the guilty verdict rendered by Branch 29 of the Regional Trial Court (RTC) of Bislig City[2] in Criminal Case Nos. 99-1-2083-H, 99-1-2084-H and 99-1-2085-H, finding appellant Rustico Bartolini y Ampis guilty of three (3) counts of incestuous rape against his two (2) daughters, AAA and BBB.[3]

The facts are culled from the findings of both the trial and appellate courts.

Appellant Bartolini was charged with three (3) counts of rape before the RTC, Branch 29, of Bislig City, Surigao del Sur. The informations filed against him read:

Criminal Case No. 99-1-2083-H:

That on or about 7:00 o'clock in the morning sometime in the month of March 1995, at Sitio [ABC], Barangay [123], Municipality of Hinatuan, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd and unchaste designs, did then and there wilfully, unlawfully and feloniously rape [his] daughter, [AAA], by means of force and intimidation, and against his daughter's will, to the damage and prejudice of the said [AAA], who was then 14 years old.

CONTRARY TO LAW: In violation of Article 335 of the Revised Penal Code as amended by Section 11 of Republic Act No. 7659.

Bislig, Surigao del Sur, November 23, 1998.[4]

Criminal Case No. 99-1-2084-H:

That on or about March 2, 1998, at 8:00 o'clock in the morning, more or less, at Sitio [ABC], Barangay [123], Municipality of Hinatuan, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously [have] carnal knowledge or rape his own daughter, [BBB], against the latter's will, to the damage and prejudice of said [BBB].

CONTRARY TO LAW: In violation of Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659.

Bislig, Surigao del Sur, November 27, 1998.[5]

Criminal Case No. 99-1-2085-H:

That on or about 3:00 o'clock in the afternoon sometime in the month of March 1994, at Sitio [ABC], Barangay [123], Municipality of Hinatuan, Province of Surigao del Sur, Philippines, and within the jurisdiction

of this Honorable Court, the above-named accused with lewd and unchaste designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously rape [his] daughter [BBB], 16 years old, against the latter's will, to the damage and prejudice of the said [BBB].

CONTRARY TO LAW: In violation of Article 335 of the Revised Penal Code as amended by Section 11 of Republic Act No. 7659.

Bislig, Surigao del Sur, November 27, 1998.[6]

Upon arraignment on May 4, 1999, Bartolini pleaded not guilty to all the three (3) charges filed against him.[7] The three (3) criminal cases were thereafter tried jointly.

In the course of the trial, the prosecution presented four (4) witnesses: AAA; BBB; CCC, appellant's wife and mother of both victims; and Dr. Emelie S. Viola, the Municipal Health Officer of Hinatuan District Hospital who conducted the physical examination of both victims.

Below are the facts established by their testimonies.

Bartolini is married to CCC.[8] They begot six (6) children, the eldest being BBB who was born on January 14, 1978,[9] followed by AAA who was born on June 16, 1980.[10]

Sometime in March 1994, at around 3:00 in the afternoon, while BBB was weeding the grass on their vegetable garden with her father, the latter suddenly pulled her to the ground and forced her to lie down. Bartolini then lifted BBB's skirt, removed her panty and proceeded to have sexual intercourse with her. As BBB struggled, appellant punched her and hit her at her back. Afterwards, appellant put back his clothes and left. When BBB went inside their house, appellant, who was waiting for her, warned her not to tell CCC about the incident. Despite the warning, BBB reported the incident to her mother, but the latter told her to just keep quiet.[11]

After the said incident, appellant repeatedly had sexual intercourse with BBB, the last of which happened on March 2, 1998 at about 8:00 in the morning inside their house while her mother was away selling fish and while all her siblings were attending school. That morning, appellant ordered BBB to get his clothes for him. Appellant then followed BBB to the room, took off her clothes and raped her.[12]

It also appears that sometime in March 1995, at about 6:30 in the morning, while having breakfast, appellant instructed his second eldest daughter, AAA, to burn the dried leaves in their garden. Dutifully, AAA went to the garden at around 7:00 that morning and met her father there. To her surprise, appellant immediately pulled her and brought her near a big fallen tree while threatening to kill her and all the members of their family if she would not acquiesce to his demands. Appellant told her to remove her panties, but since AAA was crying and pushing her father away, appellant himself took off AAA's panties, laid her on the ground and placed one (1) of her feet on top of the fallen tree. Afterwards, appellant removed his pants and raped her. After having sexual intercourse with AAA, appellant put back his pants and went to the barangay hall to report for duty as appellant was a barangay kagawad at that time. Like her sister, AAA also told the incident to their mother, but the latter told her to keep silent for fear that appellant would fulfill his threats. Consequently, AAA was repeatedly raped by appellant until sometime in October 1998, a month before she gave birth to appellant's child.[13]

When CCC discovered that AAA was pregnant, she confided the matter to her sister-in-law, DDD, who, in turn, reported the incident to the barangay captain and to a representative of the Department of Social Welfare and Development (DSWD) in Butuan City. On November 19, 1998, while under the custody of the DSWD, AAA gave birth to her child.[14]

During the trial, CCC testified that sometime in March 1994, her daughter BBB confided to her that she was

raped by appellant. She just kept silent about the incident for fear that her husband will maul her when confronted. AAA also reported to her that she was raped by her father sometime in 1995. In one (1) instance, CCC even saw appellant touching AAA's vagina while the two (2) were inside their kitchen. She got angry and told her parents-in-law about the incident, but the latter replied that she has no other evidence to prove her accusation. CCC also testified that appellant, despite being an elected barangay kagawad, was a drunkard, violent and an irresponsible individual. She added that she had received a letter from appellant threatening to kill them.

Dr. Emelie S. Viola, Municipal Health Officer of Hinatuan District Hospital, testified that sometime in October 1998, BBB and AAA were brought to her clinic for physical examination. Although there were no visible signs of physical trauma, Dr. Viola found that BBB had deep healed hymenal lacerations at the 6 and 7 o'clock positions, as well as superficial healed hymenal laceration at the 10 o'clock position, which indicate that there was a penetration of an object or a male reproductive organ at BBB's female genitalia.[15]

Dr. Viola also examined AAA and found that the latter had deep healed lacerations at the 12 o'clock position and superficial healed hymenal lacerations at the 3, 9 and 10 o'clock positions, also indicating penetration of an object or a male reproductive organ at AAA's vagina. AAA was also pregnant.[16]

The defense, on the other hand, presented its lone witness, appellant Bartolini, who interposed the defense of denial and alibi. According to him, he could not have raped BBB in the morning of March 2, 1998 because he has been out of their house from 4:00 a.m. that day to deliver shrimps, prawns, and crabs to a certain Benjamin Castañas who resides in Hinatuan, Surigao del Sur. Appellant claims that he arrived at Castañas's house at around 4:20 a.m. and stayed there for breakfast upon the latter's invitation. After getting paid, he left for home at around 10:00 a.m. and reached his house fifteen (15) minutes later.[17]

On September 4, 2000, a subpoena was issued for Benjamin Castañas to appear as witness for the defense.[18] Castañas, however, failed to appear before the trial court. A warrant of arrest was thereafter issued against him,[19] but to no avail. Thus, on July 24, 2002, the trial court issued another subpoena to Castañas.[20] When Castañas still failed to appear, the trial court issued an order declaring the case submitted for decision.[21]

On September 18, 2002, the RTC promulgated its decision finding appellant guilty beyond reasonable doubt of three (3) counts of rape committed against AAA and BBB. The fallo reads:

WHEREFORE, finding the accused RUSTICO BARTOLINI Y AMPIS, forty-four (44) years of age, a fisherman and a resident of [ABC, 123,] Hinatuan, Surigao del Sur, guilty beyond reasonable doubt of the crime of RAPE pursuant to Article 335 of the Revised Penal Code, as amended by Section 11, Republic Act No. 7659, paragraph (1), this Court hereby sentences him:

- In Criminal Case No. [99-1-]2083-H, to suffer the penalty of Death by Lethal Injection. To pay Seventy-Five Thousand (P75,000.00) pesos as civil indemnity and Fifty Thousand (P50,000.00) pesos as moral damages and to pay the costs;

- In Criminal Case No. [99-1-]2084-H, to suffer the penalty of Death by Lethal Injection. To pay Seventy-Five Thousand (P75,000.00) pesos as civil indemnity and Fifty Thousand (P50,000.00) pesos as moral damages and to pay the costs; [and]

- In Criminal Case No. [99-1-]2085-H, to suffer the penalty of Death by Lethal Injection. To pay Seventy-Five Thousand (P75,000.00) pesos as civil indemnity and Fifty Thousand (P50,000.00) pesos as moral damages and to pay the costs.

Let the entire records of this case be forwarded to the Supreme Court for automatic review pursuant to Section 22 of Republic Act No. 7659.

SO ORDERED.[22]

At the CA, Bartolini argued that he should not have been convicted of the crime of qualified rape since the information in Criminal Case No. 99-1-2085-H was defective because it failed to allege that the act was committed by force or intimidation as required by law, while there was no allegation of minority of the victim in the information for Criminal Case No. 99-1-2084-H. Bartolini also argued that the prosecution failed to prove his guilt beyond reasonable doubt.[23]

After an extensive discussion on the issues raised by Bartolini, the appellate court found no compelling reason to deviate from the findings of the trial court. Nevertheless, the CA modified the penalties by reducing the penalty of death to reclusion perpetua following the abolition of the death penalty and by modifying the monetary award in favor of the victims. The dispositive portion of the appellate court's decision reads,

WHEREFORE, the Decision dated September 18, 2002 of the Regional Trial Court, 11[th] Judicial Region, Branch 29, Bislig City, in Criminal Case Nos. [99-1-]2083-H, [99-1-]2084-H and [99-1-]2085-H finding appellant Rustico Bartolini y Ampis guilty beyond reasonable doubt for three counts of rape is AFFIRMED with the following MODIFICATIONS:

(a) in Criminal Case Nos. [99-1-]2083-H and [99-1-]2085-H, the penalty of death is reduced to reclusion perpetua; and to pay the amount of seventy-five thousand pesos (P75,000.00) as civil indemnity, seventy-five thousand pesos (P75,000.00) as moral damages and twenty-five thousand pesos (P25,000.00) as exemplary damages for each count; and

(b) in Criminal Case No. [99-1-]2084-H, the accused is sentenced to suffer the penalty of reclusion perpetua; and to pay the amount of fifty thousand pesos (P50,000.00) as civil indemnity, the amount of fifty thousand pesos (P50,000.00) as moral damages, and twenty-five thousand pesos (P25,000.00) as exemplary damages;

(c) with costs.

SO ORDERED.[24]

On August 30, 2007, the records of the case were forwarded to this Court for automatic review.[25] The Court accepted the appeal and directed the parties to file their respective supplemental briefs if they so desire. However, both the Office of the Solicitor General, for the appellee, and the appellant submitted manifestations[26] stating that they replead and adopt the arguments raised in their respective briefs[27] before the CA.

Appellant raises the following issues:

- Whether the trial court erred in convicting the appellant;
- Whether the trial court erred in convicting the appellant in Criminal Case No. 99-1-2085-H despite the fact that the information therein was allegedly defective; and
- Whether the trial court erred in imposing the death penalty upon the appellant after finding him guilty in Criminal Case No. 99-1-2084-H considering the failure of the information to allege minority.[28]

We shall first discuss the second and third issues raised by the appellant, i.e., whether the element of force and intimidation was correctly alleged in the information in Criminal Case No. 99-1-2085-H and whether the penalty of death was properly imposed upon the appellant in Criminal Case No. 99-1-2084-H.

The appellant's arguments are partially meritorious.

Rape is committed by having carnal knowledge of a woman under any of the following circumstances: (1) when force or intimidation is used; (2) when the woman is deprived of reason or is otherwise unconscious; and (3) when

she is under 12 years of age.[29]

A perusal of the information used as basis for Criminal Case No. 99-1-2085-H readily reveals the allegation that appellant employed force and intimidation in raping BBB. We reproduce the contents of the information below:

Criminal Case No. 99-1-2085-H:

That on or about 3:00 o'clock in the afternoon sometime in the month of March 1994, at Sitio [ABC], Barangay [123], Municipality of Hinatuan, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd and unchaste designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously rape [his] daughter [BBB], 16 years old, against the latter's will, to the damage and prejudice of the said [BBB].

CONTRARY TO LAW: In violation of Article 335 of the Revised Penal Code as amended by Section 11 of Republic Act No. 7659.

Bislig, Surigao del Sur, November 27, 1998.[30]

The same allegation was proven during the trial. We quote BBB's testimony during her direct examination:

Q: Do you recall of any unusual incident that happened on March 1994, while you were still residing at [Sitio ABC], [123], Lingig, Surigao del Sur, together with your parents?

A: Yes, sir.

Q: What was that unusual incident all about?

A: We were weeding grasses, sir.

Q: Where were you [weeding] grasses?

A: We were weeding grasses near to our house, sir.

Q: Were you alone while you were weeding grasses at [Sitio ABC], [123], Lingig, Surigao del Sur?

A: We were two, me and my father, sir.

Q: What time was that?

A: Afternoon, sir.

Q: Now, while you were weeding grasses near your house in the afternoon of March 1994, with your father, what happened if any?

A: He pulled me, sir.

Q: Where did he bring you?

A: At the place where we were weeding grasses, sir.

Q: What happened next after you[r] father brought you near the place where you were weeding grasses?

A: He made me lie down, sir.

Q: What did you do when your father made you lie down?

A: He lift[ed] my skirt and took up my panty, sir.

Q: What did you do when your father pulled you[r] panty?

A: I pushed aside his hands, sir.

Q: What did your father do next?

A: He made me lie down, sir.

Q: Afterward[s], what happened next?

A: He also took [off] his brief and his pant[s], sir.

Q: You want to tell this Honorable Court that you were already [lying] down when your father removed his brief and his pant[s]?

A: Yes, sir.

Q: In relation to you[,] where was your father situated when he removed his brief and pant[s]?

A: [Just by] my side[,] just near me, sir.

Q: What happened after your father removed his pant[s] and brief?

A: He inserted his penis in my vagina, sir.

x x x x

Q: While his penis was inside your vagina, what happened?

A: He boxed me, sir.

Q: Were you hit by the blow?

A: Yes, sir.

Q: Where?

A: [O]n my back, sir.

x x x x

Q: When you reached to your house, what did [he] do?

A: He scolded me, sir.

Q: Who scolded you?

A: My father, sir.

Q: Why did he scold you?

A: He was afraid I might tell my mother, sir.

Q: Did you tell your mother about the incident?

A:

Yes, sir.[31]

We are adequately convinced that the prosecution proved that appellant employed force and intimidation upon his victim. This being so, we find no cogent reason to disturb the ruling of both the RTC and the appellate court on this matter.

However, we disagree with the trial court's ruling convicting appellant Bartolini for qualified rape under Criminal Case No. 99-1-2084-H. The appellate court was correct in sustaining appellant's argument that the special qualifying circumstance cannot be appreciated in Criminal Case No. 99-1-2084-H since the age of the victim was not specifically alleged in the information.[32]

Our disquisition in *People v. Tagud, Sr.*[33] succinctly explains the matter. There, we said:

To justify the imposition of the death penalty in this case, the single special qualifying circumstance of the minority of the victim and her relationship to the offender must be specifically alleged in the Information and proven during the trial. x x x

x x x x

Even under the old Rules of Criminal Procedure, jurisprudence already required that qualifying circumstances must be specifically alleged in the Information to be appreciated as such.

x x x x

Notably, the amended Information merely stated that appellant had carnal knowledge of his minor daughter without stating Arwin's actual age. In a rape case where the very life of the accused is at stake, such an inexact allegation of the age of the victim is insufficient to qualify the rape and raise the penalty to death. The sufficiency of the Information is held to a higher standard when the only imposable penalty is death. The constitutional right of the accused to be properly informed of the nature and cause of the accusation against him assumes the greatest importance when the only imposable penalty in case of conviction is death.[34]

Similar to Tagud, the qualifying circumstance of relationship of BBB to appellant was specifically alleged and proven during the trial. Notably absent in the information, however, is a specific averment of the victim's age at the time the offense against her was committed. Such an omission committed by the prosecutor is fatal in the imposition of the supreme penalty of death against the offender. It must be borne in mind that the requirement for complete allegations on the particulars of the indictment is based on the right of the accused to be fully informed of the nature of the charges against him so that he may adequately prepare for his defense pursuant to the constitutional requirement on due process,[35] specially so if the case involves the imposition of the death penalty in case the accused is convicted. Thus, even if the victim is below eighteen (18) years of age and the offender is her parent, but these facts are not alleged in the information, or if only one (1) is so alleged such as what happened in the instant case, their proof as such by evidence offered during trial cannot sanction the imposition of the death penalty.[36]

Appellant also argues that both the trial court and the CA committed reversible errors when he was found guilty for the three (3) counts of rape even if his guilt was not proven beyond reasonable doubt. In particular, appellant attacks AAA's credibility by arguing that it would have been physically impossible for him to rape said victim on top of a log as claimed by AAA in her testimony. Appellant also questions the motive of both victims saying that it is unnatural for both to report the abuses made on them only after the lapse of several years.

We cannot subscribe to appellant's desperate attempt to save himself from the consequences of his dastardly acts.

Settled is the rule that when the issue is one (1) of credibility of witnesses, appellate courts will generally not disturb the findings of the trial courts considering that the latter are in a better position to decide the question as they have heard the witnesses and observed their deportment and manner of testifying during the trial. It is for this reason that the findings of the trial court are given the highest degree of respect. These findings will not ordinarily be disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood, or misapplied some facts or circumstances of weight or substance which could very well affect the outcome of the case.[37]

Moreover, AAA's testimony was vivid and precise. She said:

Q: What was your position at that time when you said your father spread your legs apart?

A: When I spread my legs, I was laying (sic), and he put my one leg on top of the fallen tree.[38]

We note with approval the CA's observation that such revelation is plausible and consistent with human experience. Indeed, if there is any incongruity in the manner of intercourse as portrayed by the appellant, the same would be trivial and will not smother AAA's revelation of sexual abuse.[39]

How the victims managed to endure the bestial treatment of their father to them for four (4) long years, with one (1) even having to live with the shame of siring an offspring from her very own father, should not be taken against them. Children of tender age have natural respect and reverence for their loved ones. More often than not, they would try to keep to themselves if anything unnatural was committed against them, especially if the offender is

one (1) of their relatives. A father is known to have a strong natural, cultural and psychological hold upon his child. Hence, it would be too assuming for us to ask the victims why they have kept these facts of abuse to themselves, when their very own mother decided to be mum on the matter as well.

Anent the award of damages, we find modifications to be in order. We increase the award of civil indemnity and moral damages in Criminal Case No. 99-1-2084-H from P50,000.00 to P75,000.00 each. In *People v. Catubig*,^[40] we explained that the commission of an offense has a two (2)-pronged effect, one (1) on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings. Each effect is respectively addressed by the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. But unlike the criminal liability which is basically the State's concern, the award of damages is in general intended for the offended party who suffers thereby. Hence, although it is essential to observe the requirements imposed by Sections 8^[41] and 9^[42] of Rule 110 of the Revised Rules of Criminal Procedure, as amended, the requirements should affect only the criminal liability of the accused, which is the State's concern, and should not affect the civil liability of the accused, which is for the benefit of the injured party. Where the special qualifying circumstances of age and relationship, although not alleged in the information, are nonetheless established during the trial, the award of civil indemnity and moral damages in a conviction for simple rape should equal the award of civil indemnity and moral damages in convictions for qualified rape. Truly, BBB's moral suffering is just as great as when her father who raped her is convicted for qualified rape as when he is convicted only for simple rape due to a technicality.

Likewise, we modify the award for exemplary damages. Pursuant to prevailing jurisprudence, the award of exemplary damages for the two (2) counts of qualified rape under Criminal Case Nos. 99-1-2083-H and 99-1-2085-H and for the crime of simple rape in Criminal Case No. 99-1-2084-H is increased to P30,000.00 for each count of rape.^[43]

WHEREFORE, the judgment on review is AFFIRMED with MODIFICATIONS.

In Criminal Case Nos. 99-1-2083-H and 99-1-2085-H, appellant Rustico Bartolini y Ampis is found GUILTY beyond reasonable doubt of two (2) counts of QUALIFIED RAPE and is hereby sentenced to suffer the penalty of reclusion perpetua, in lieu of death, without the possibility of parole. He is ORDERED to pay each of his two (2) victims, AAA and BBB, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

In Criminal Case No. 99-1-2084-H, appellant is found GUILTY beyond reasonable doubt of the crime of RAPE and is hereby sentenced to suffer the penalty of reclusion perpetua. He is ORDERED to pay the victim, BBB, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

Costs against the appellant.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Abad,^[*] JJ., concur.

[*] Additional member per Special Order No. 843.

[1] Docketed as CA-G.R. HC-CR. No. 00175, penned by Associate Justice Mario V. Lopez, with Associate Justices Romulo V. Borja and Michael P. Elbinias concurring; rollo, pp. 5-24.

- [2] CA rollo, pp. 17-25. Penned by Acting Judge Romeo C. Buenaflor.
- [3] Pursuant to the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, and Section 44 of Republic Act No. 9262 otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" the real names and personal circumstances of the victims as well as any other information tending to establish or compromise their identities or those of their immediate family or household members are withheld. Fictitious initials and appellations are used instead to represent them.
- [4] CA rollo, p. 6.
- [5] *Id.* at 8.
- [6] *Id.* at 10.
- [7] *Id.* at 18; records, Vol. I, p. 43.
- [8] Exh. "H," records, Vol. II, p. 58.
- [9] Exh. "D," *id.* at 59.
- [10] Exh. "E," records, Vol. I, p. 76.
- [11] CA rollo, p. 61; TSN, September 6, 1999, pp. 4-7.
- [12] *Id.*; *id.* at 7-9.
- [13] *Id.* at 60-61; TSN, August 3, 1999, pp. 7-14.
- [14] *Id.* at 61; TSN, September 6, 1999, p. 23.
- [15] Exh. "H," records, Vol. III, p. 5; TSN, September 15, 1999, pp. 3-8.
- [16] Exh. "G," records, Vol. I, p. 7; *id.* at 8-11.
- [17] TSN, September 4, 2000, pp. 4-6.
- [18] Records, Vol. III, p. 77.
- [19] *Id.* at 83.
- [20] *Id.* at 93.
- [21] *Id.* at 97.
- [22] CA rollo, pp. 24-25.
- [23] *Id.* at 47.
- [24] Rollo, p. 23.
- [25] *Id.* at 1.
- [26] *Id.* at 31-36.
- [27] CA rollo, pp. 38-57, 72-115.
- [28] *Id.* at 40-41.
- [29] *People v. Erese*, 346 Phil. 307, 314 (1997).

[30] CA rollo, p. 10.

[31] TSN, September 6, 1999, pp. 4-7.

[32] The said Information reads:

Criminal Case No. 99-1-2084-H:

That on or about March 2, 1998, at 8:00 o'clock in the morning, more or less, at Sitio [ABC], Barangay [123], Municipality of Hinatuan, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously [have] carnal knowledge or rape[d] his own daughter, [BBB], against the latter's will, to the damage and prejudice of said [BBB].

CONTRARY TO LAW: In violation of Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659.

Bislig, Surigao del Sur, November 27, 1998. (See CA rollo, p. 8.)

[33] G.R. No. 140733, January 30, 2002, 375 SCRA 291.

[34] Id. at 307-308. Emphasis supplied.

[35] People v. Elpedes, G.R. Nos. 137106-07, January 31, 2001, 350 SCRA 716, 729-730.

[36] People v. Salalima, G.R. Nos. 137969-71, August 15, 2001, 363 SCRA 192, 205.

[37] People v. Gopio, G.R. No. 133925, November 29, 2000, 346 SCRA 408, 428.

[38] TSN, August 3, 1999, pp. 9-10.

[39] Rollo, p. 14.

[40] G.R. No.137842, August 23, 2001, 363 SCRA 621.

[41] SEC. 8.Designation of the offense.--The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

[42] SEC. 9.Cause of the accusation.--The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

[43] See People v. Layco, Sr., G.R. No. 182191, May 8, 2009, 587 SCRA 803, 808 and People v. Anguac, G.R. No. 176744, June 5, 2009, 588 SCRA 716, 726.

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