

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN MAGLENTE Y CERVANTES ACCUSED-APPELLANT.

G.R. No. 179712. June 27, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Appellant Efren Maglente y Cervantes assails the Decision[1] of the Court of Appeals dated 27 June 2007 in CA-G.R. CR-HC No. 02181, affirming the Decision[2] dated 5 September 2005 of Branch 76 of the Regional Trial Court (RTC) of San Mateo, Rizal, in Criminal Case No. 6295. The RTC found appellant guilty beyond reasonable doubt for the rape of his fourteen-year old daughter.

On 29 July 2002, an Information[3] was filed before the RTC charging appellant with Rape under paragraph 1 of Article 266-A, in relation to number 1 of paragraph 6 of Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8369.[4] The information against him reads:

That on or about the 13[th] day of July 2002, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, being the parent/biological father of AAA[5] (victim) exercising and taking advantage of his moral authority, ascendancy and influence over the said victim and by means of violence and intimidation, with lewd intent to cause or gratify his sexual desire, abuse and maltreat complainant AAA, a minor, 14 years of age, with attendant, aggravating circumstances of Treachery, Abuse of Superior Strength, Nighttime, Craft and Abuse of Confidence, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said complainant against her will and without her consent which debases, degrades or demeans the intrinsic worth and dignity of said child as a human being.

On 5 September 2002, appellant, with the assistance of counsel de oficio, was arraigned and pleaded "Not guilty." Thereafter, pre-trial conference was held, and trial ensued accordingly.[6]

Evidence for the prosecution consisted of the testimonies of private complainant, her aunt CCC and a medico-legal officer, Police Senior Inspector Ruby Grace Sabino.[7]

Private complainant testified that the appellant, her biological father, had subjected her to sexual abuse as early as 1997, when she was still nine years old, until 13 July 2002, when she reached 14 years of age. She attested that she kept silent about her father's abuse as he was constantly threatening her not to tell anyone. She narrated that the last rape occurred on 13 July 2002. While she was sleeping in their house in XXX St., XXX, XXX City, the accused lay by her side and removed all her clothing. Thereafter, he placed himself on top of her body and inserted his penis into her vagina. For twenty minutes, her father raped her and, all the while, touched her private parts. As a result of her father's molestation, she became pregnant and delivered a baby boy on 1 October 2002, which she gave up for adoption. On cross-examination, private complainant testified that she was willing to have her baby undergo DNA testing but its whereabouts was unknown to her.[8]

CCC testified that private complainant is her niece and the daughter of appellant and BBB, the witness' sister. She

confronted her niece about the gossip she had heard about the latter's pregnancy, after her suspicions were confirmed by private complainant's weight gain and other physical changes indicating pregnancy. Private complainant burst into tears and confided in her that she was impregnated by appellant. The witness then assisted private complainant in filing a complaint against her brother-in-law.[9]

Medico-Legal Officer Police Senior Inspector Ruby Grace Sabino, who conducted a forensic chemical interview with private complainant on 19 July 2002, testified that private complainant divulged to her that she was sexually abused by her father when she was in Grade IV and had since done so, the last of which occurred in the evening sometime in July 2002. After the witness examined private complainant, the results showed that she was pregnant. Senior Police Inspector Sabino also observed a total absence of hymenal tissue and injuries at 4:00, 5:00 and 6:00. She presented a document entitled Clock Face as Reference (Exhibit J), which states that: "In general, any irregularities such as lacerations, tears, abrasions that are found on the posterior hymen—between 3 and 9 o'clock, the bottom half of the clock—are more suspicious. Because of the biomechanics of fingering and vaginal penetration, injuries between 3 and 9 are more specific for abuse than other injuries." [10] According to her, the absence of hymenal tissue and the lacerations may have been caused by the entry of a penis into the private complainant's genitals. Both the disclosures of the victim and the physical findings indicate that sexual abuse took place sometime in July 2002. After the examination, witness issued a provisional Medico-Legal Report (Exhibit K) followed by an official report, designated as Medico-Legal Report No. 0267-07-19-02 (Exhibit D.) [11]

Prosecution filed its Formal Offer of Evidence.[12] The Sworn Statements of the private complainant and her aunt CCC were marked as Exhibits "A" and "B." The private complainant's Certificate of Live Birth was also marked as Exhibit "E" to prove her minority and the father-daughter relationship between the appellant and private complainant.

On the part of the defense, only the appellant testified. The appellant admitted that private complainant is his daughter, but denied that he molested her. He claimed that before he was detained, he did not even know that private complainant was pregnant, much less who impregnated her. He maintained that he seldom stayed in their house, where he and his children resided with other members of his wife's family, since he often went out to look for a job. He also averred that his relationship with his in-laws was strained because of their opinion that he is lazy. On cross-examination, he admitted that while he did not have a close relationship with the private complainant, they had no previous quarrel.[13]

In a Decision dated 5 September 2005, the RTC decreed that the accused was guilty without reasonable doubt. The RTC gave full credence to the testimony of the private complainant. It recognized that at her early age, private complainant could easily mistake the date that her father had last raped her to be the date she conceived, resulting in the unwanted pregnancy and the birth of her child. Moreover, such miscalculation is not seriously incongruent to her narration that her father had been raping her since she was nine years old. The trial court further noted that private complainant's testimony was corroborated by the findings of the examining physician. On the other hand, the RTC remained unconvinced by the appellant's barefaced denial and his failure to ascribe any ill motive on the part of the private complainant in filing the rape case against him. The qualifying circumstances, i.e., the minority of the private complainant and the parent-daughter relationship between the appellant and private complainant, were adequately proved. Hence, the RTC imposed the single indivisible penalty of death and ordered the appellant to indemnify the private complainant for moral damages in the amount of P50,000.00, indemnity ex delicto in the amount of P50,000.00, and the costs of suit.[14] According to the dispositive part of the Decision dated 5 September 2005:

WHEREFORE, premises considered, judgment is hereby rendered finding accused EFREN MAGLENTE Y CERVANTES GUILTY BEYOND REASONABLE DOUBT of the crime of RAPE as defined and penalized

under Art. 266-A par. 1 in relation to Art. 266-B 6[th] par. No.1 of the Revised Penal Code, as amended in further relation to R.A. 8367 and sentencing him to suffer the penalty of DEATH and to indemnify the private complainant AAA in the amount of P50,000.00 as indemnity ex-delicto in addition to the amount of P50,000.00 as moral damages and to pay the costs.

Let the records of this case be forwarded to the Court of Appeals for automatic review.

Accused Efren Maglente y Cervantes is hereby ordered to be committed to the Bureau of Corrections, Muntinlupa City for service of sentence.[15]

The appellant filed an appeal before the Court of Appeals docketed as CA-G.R. CR-HC No. 02181.[16]

The Court of Appeals affirmed the findings of the trial court that the appellant was guilty beyond reasonable doubt. It pronounced that the private complainant's testimony and her demeanor during her testimony demonstrated the truth of her statements. Private complainant's delay in reporting the alleged abuse was attributed by the appellate court to the sense of helplessness and fear engendered by the perpetrator's close relationship to the victim. Furthermore, it ruled that the DNA test of the private complainant's child is not indispensable to the prosecution for rape, especially since the private complainant no longer knew the whereabouts of her child. However, in view of the effectivity of Republic Act No. 9346 entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines,"[17] it amended the penalty imposed by the RTC to reclusion perpetua. It also modified the damages awarded by the trial court by increasing the award for civil indemnity to P75,000.00, and moral damages to P75,000.00; and adding an award of exemplary damages in the amount of P25,000.00 due to the qualifying circumstance of minority and relationship.[18] In the Decision dated 27 June 2007, the fallo reads:

WHEREFORE, the decision of the trial court in Crim. Case No. 6295 is hereby AFFIRMED with MODIFICATION. Efren Maglente y Cervantes is sentenced to reclusion perpetua with no possibility of parole. Appellant is further ORDERED to indemnify AAA in the amount of P75,000 as civil indemnity, P75,000 as moral damages and P25,000 as exemplary damages.[19]

Hence, the present petition where the appellant reiterates the sole assignment of error, to wit:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF RAPE.

After carefully examining the records of this case, this Court finds that this appeal must be denied.

In the crime of rape, the credibility of the private complainant's testimony is determinative of the outcome of rape cases for the reason that when an alleged victim of rape says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[20]

In the present case, private complainant categorically testified that she was raped by her own father. She recounted her horrible and traumatic ordeal in the following manner:

Q:

Miss Witness, could you please tell us where you were sometime July 13, 2002, at past 12:00 midnight?

A:

I was in our house, sir.

Q:

What is the address of your house?

A:

XXX St., XXX, XXX, sir.

Q:

Tell us, what was your present condition then on July 13, 2002?

A:

None, sir.

Q:

What do you mean by none?

A:

I was just sleeping then, sir.

Q:

While you were sleeping did you continue to sleep up to the following morning of that date?

A:

No, sir.

Q:

What made you awakened?

A:

He lay beside me, sir.

Q:

You were referring to whom?

A:

To my father, sir.

Q:

When he lay beside you what caused you to wake up?

A:

He was undressing me, sir.

Q:

What were you wearing then?

A:

I cannot remember anymore but it was a T-shirt and shorts, sir.

Q:

And what did he remove?

A:

All, sir.

Q:

After removing all your clothes what did he do next, if any?

A:

He went on top of me, sir.

Q:

Was he clothed when he went on top of you?

A:

No, sir.

Q:

When he went on top of you what else did he do, if any?

A:

He inserted his penis into my vagina, sir.

Q:

And what did you do?

A:

I got mad, sir.

Q:

Thereafter what did he do after inserting his penis into your private part?

A:

He returned beside my sister, sir.

Q:

How long did that take place, the insertion of his penis into your vagina?

A:

It took long, sir.

Q:

In terms of minutes, how many minutes?

A:

About twenty (20) minutes, sir.

Q:

In that span of twenty (20) minutes what was he doing?

A:

He inserted his penis into my vagina, sir.

Q:

After inserting his penis what else did he do, if he did anything?

A:

He touched my private parts, sir.

Q:

How many rooms does your house have?

A:

Two (2), sir.

Q:

At that time how old were you, July 13, 2002?

A:

Fourteen (14), sir.

Q:

You said that it took twenty (20) minutes and after that where did he go to?

A:

He returned beside my sister and slept again, sir.

PROS. GONZALES:

May we make it of record that the witness is crying.

Q:

Is July 13, 2002 the first time that your father did this to you?

A:

No, sir.

Q:

When was the first time that he did it to you, if you could remember?

A:

Since 1997, sir.[21]

When the offended party is a young and immature girl testifying against a parent, courts are inclined to lend credence to her version of what transpired.[22] Youth and immaturity are given full weight and credit.[23] Incestuous rape is not an ordinary crime that can be easily invented because of its heavy psychological toll.[24] It is unlikely that a young woman of tender years would be willing to concoct a story which would subject her to a lifetime of gossip and scandal among neighbors and friends and even condemn her father to death. [25]

Undergoing all of the humiliating and invasive procedures for the case—the initial police interrogation, the medical examination, the formal charge, the public trial and the cross-examination—proves to be the litmus test for truth, especially when endured by a minor who gives her consistent and unwavering testimony on the details of her ordeal. [26] Despite the serious anguish she suffered in relating her traumatic experience, private complainant gave her testimony in a categorical, straightforward, spontaneous and candid manner and was considered by the trial court to be worthy of belief. It is a matter of judicial cognizance that the tears that were spontaneously shed

by a rape victim during her testimony are an indication of credibility.[27]

Appellant contends that the private complainant's narration was too sweeping and bereft of details. In assessing the testimony of the private complainant, it would be unfair to apply the standards used for adults. It should be viewed as a narration of a minor who barely understands sex and sexuality.[28]

Notwithstanding the absence of any reference to violence or intimidation employed upon private complainant in the latter's testimony, this Court is convinced that the appellant is nevertheless guilty as charged. When a father commits the odious crime of rape against his own daughter, his moral ascendancy or influence over the latter substitutes for violence and intimidation. The absence of violence or offer of resistance would not affect the outcome of the case because the overpowering and overbearing moral influence of the father over his daughter takes the place of violence and offer of resistance required in rape cases committed by an accused who did not have blood relationship with the victim.[29]

On cross-examination, private complainant's testimony simply, but sufficiently, expresses how her intense fear of the accused motivated her actions:

Q: You did not make any attempt to stop that by way of telling your parent or auntie or your teachers?

A: No, sir.

Q: Why?

A: I was afraid of him, sir.

Q: You were in school, you were away from him, what made you afraid of him?

A: Because he told me not to tell it to anybody, sir.[30]

Appellant mistakenly argues that every charge of rape from the time private complainant alleged that appellant started raping her when she was still nine years old until 13 July 2002 when she was fourteen years old is a distinct and separate crime, which needs to be proved. Such argument is misplaced since the appellant was charged in the Information only with the rape which occurred on 13 July 2002, not the previous rapes that occurred before that date. Private complainant's testimony on that particular incident was found sufficient by the trial court, and was corroborated by the findings of the medico-legal officer. Thereafter, appellant was convicted of the rape which occurred on 13 July 2002, and not of the rapes that occurred before that time.

Appellant insists on assailing the petitioner's testimony by minutely examining circumstances surrounding her pregnancy. He points out that the alleged rape on 13 July 2002 did not cause her pregnancy, since she was already six months pregnant at that time. Moreover, appellant claims that while he was willing to undergo a DNA test, private complainant had concealed the whereabouts of the child.

It is clear from the testimony of the private complainant that she was willing to have her child undergo the DNA examination, but that she no longer knew of its whereabouts, to wit:

Q.

Madam Witness, the reason why we are asking for the whereabouts of your child is for the purpose of having an examination of your child and of the accused thru a test because if it be proven that the child's and your father's blood have the same nature and character and it will yield the same result it will be for your favor, that

is why we are asking the whereabouts of your child for the conduct of DNA test.

A.

I want my child to undergo a DNA test but I really don't know the whereabouts of my child, sir.[31]

It should also be noted that during the pre-trial on 25 September 2002, appellant had not mentioned anything about a DNA test. Soon thereafter, on 1 October 2002, the child was born. Still, the subject of the DNA test was not brought up by the appellant. It was only after six months had elapsed since the child was born and was already adopted by strangers, that the appellant began to ask private complainant about the child's whereabouts. The records fail to show that the appellant had employed any of the court processes available to him to compel private complainant to reveal the identity of the person who had arranged the adoption, and thereby trace the whereabouts of the child. After the lack of interest consistently shown by the appellant to locate the child, he cannot now be allowed to impute any reluctance to conduct the DNA test to the private complainant.

Be that as it may, even if the DNA test were conducted and it established that appellant had not fathered the private complainant's child, it would still be inconclusive to prove that appellant was not guilty of having raped private complainant on 13 July 2002. Appellant cannot obtain an acquittal based on the circumstances of private complainant's pregnancy. Impregnation is not an element of rape. Even the proof that the child was fathered by another man does not show that the appellant is not guilty. For the conviction of an accused, the pregnancy of the victim is not required to be proved, since it is sufficient that the prosecution establish beyond reasonable doubt, as it had in this case, that the accused had forced sexual relations with the victim.[32]

After examining the records, this Court finds that nowhere in the private complainant's testimony and her Sworn Statement before the police officers did she attribute her pregnancy to her last rape on 13 July 2002, the incident for which appellant is charged. Nonetheless, even assuming that she had made such statement, her pregnancy could have been caused by an earlier rape as this would be consistent with her testimony that she had been abused since she was nine years old until she was fourteen years old. Given her immaturity, she is not expected to possess the knowledge which will allow her to identify which rape had caused her pregnancy.

Settled is the rule that the date of the occurrence of the rape is not an essential element of the commission of rape.[33] Inconsistencies and discrepancies in details which are irrelevant to the elements of the crime are not grounds for acquittal.[34] As long as the inaccuracies concern only minor matters, the same do not affect the credibility of witnesses. Truth-telling witnesses are not always expected to give error-free testimonies considering the lapse of time and treachery of human memory. Inaccuracies may even suggest that the witnesses are telling the truth and have not been rehearsed.[35]

In *People v. Acala*,[36] the Court held that the fact that the victim was confused when she executed her first sworn affidavit and forgot the dates of commission of the other rapes should not be taken against her since it would be unfair to judge the action of a child who had undergone traumatic experiences by the norms of behavior expected of mature individuals under either the same or normal circumstances. The effects of the fear and intimidation instilled in the minds of victims of incestuous rapes cannot be tested by any hard and fast rule, so that they must be viewed in the light of the victim's perception and judgment not only at the time of the commission of the crime, but also at the time immediately after.

Appellant claims that the reason he was falsely implicated for the rape of his daughter is simply because his in-laws disliked him. He attributes the aloofness of his in-laws to his inability to find work. There is nothing novel in the dubious defense that familial discord and influence caused the private complainant to file a case for rape

against her own father.[37] The claimed ill motives of the appellant's in-laws were not even established by the testimony of impartial witnesses. That such a motive drove his in-laws to cause private complainant to accuse him falsely of rape is speculative and unsubstantiated. Where the charges against the appellant involve a heinous offense, a minor disagreement, even if true, does not amount to a sufficient justification for dragging a young girl's honor to a merciless public scrutiny that a rape trial brings in its wake.[38]

Absent any showing, or even an allegation, of any improper motive on the part of the victim to falsely testify against or implicate the accused in the commission of the crime, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence.[39] In the present case, appellant testified that although he and the private complainant never shared a close relationship, no disagreements or quarrels had come between them.

Ultimately, the resolution of the case hinges on the credibility of the victim's testimony—the determination of which is a matter best undertaken by the trial judge, who has the advantage of having observed, firsthand, the demeanor of the witnesses on the stand, and, therefore, is in a better position to form an accurate impression and conclusion. Absent any showing that certain facts of value have clearly been overlooked, which if considered could affect the result of the case, or that the trial court's findings are clearly arbitrary, the conclusions reached by the court of origin must be respected and the judgment rendered affirmed.[40]

The trial court assessed the testimony of private complainant thus:

The victim's brief but candid and straightforward narration of how she was raped by her father bears the earmarks of credibility. Her testimony though simple, remained consistent and firm in her denunciation of the accused, her very own father, who habitually raped her in a span of many years. Her poor recollection of some minor particulars may even be due to her conscious attempt to erase all memories of her dreadful experiences in the hands of her father. It is possible that she was already resigned to just suffer in silence. It is only due to an unhidden truth (pregnancy) that she was forced to reveal the history of sexual abuse committed on her by her father.[41]

There is no compelling reason to doubt the veracity of and deviate from the findings of the trial court. The findings of a trial court, when affirmed by the Court of Appeals are accorded with great weight.[42] Thus, the same should be deemed conclusive and binding on this Court.

Furthermore, private complainant's testimony was corroborated by Senior Police Inspector Sabino whose medico-legal examination confirmed that there were lacerations in her posterior hymen at 4:00, 5:00, and 6:00, which the repeated act of forced sex causes.

Appellant's argument that the delay in reporting rape incidents runs contrary to human experience is erroneous. In similar cases,[43] this Court has consistently held that delay in reporting an incident of rape is not necessarily an indication that the charge is fabricated. Delay could be attributed to the private complainant's tender age and the appellant's threats. Indeed, a rape victim's actions are oftentimes influenced by fear, rather than reason. In incestuous rape, this fear is magnified because the victim usually lives under the same roof as the perpetrator or is at any rate subject to his dominance because of their blood relationship.[44] Furthermore, it is entirely possible for a rape victim to go through what psychologists describe as a "state of denial" which is a way of coping with the overwhelming emotional stress of an extremely shocking event. While in that state of denial, the victim refuses either to accept reality or to allow the occurrence to "sink in." The offender should not be allowed to take advantage of these horrific consequences that render a victim unnaturally silent for periods of time and use them in his defense.[45]

In her Sworn Statement dated 20 July 2002, given before police officers, private complainant narrates that:

T- Bakit ngayon mo lamang naisipang magreklamo?

S- Sa dahilang ako po ay natakot sa kanya at isa pa ay sinasabihan po niya ako na wag daw po akong magsusumbong dahil mabibitay daw po siya at magiging kaawa-awa daw po kaming magkapatid pag siya ay nawala, marami pa daw po siyang pangarap sa akin at papatayin daw niya si nanay.[46]

The bare denial proffered by appellant cannot outweigh the positive and consistent testimony of complainant. Denial, when unsubstantiated by clear and convincing evidence, as in this case is negative and self-serving evidence, which deserves no greater evidentiary value than the testimony of credible witnesses who testify on affirmative matters.[47] Denial is an inherently weak defense, which becomes even weaker in the face of positive identification by the victim of the appellant as the violator of her honor.[48] The prosecution, with testimonial and medical evidence, effectively discharged its burden of proving appellant's guilt beyond reasonable doubt.

The concurrence of the minority of the private complainant and her relationship to appellant, as alleged in the Information, was sufficiently shown by the prosecution. The Certificate of Live Birth, marked as Exhibit "E" adequately proved that the private complainant was 14 years old on 13 July 2002, when the last rape occurred. The prosecution also established the father-daughter relationship between appellant and private complainant. Moreover, the relationship between appellant and private complainant is admitted by the appellant. Therefore, the aforementioned qualifying circumstances justify the imposition of the death penalty, in accordance with Article 266-B of the Revised Penal Code, as amended.

However, the enactment of Republic Act No. 9346 entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines" prohibited the imposition of Death Penalty. The proper penalty to be imposed on appellant in this case is provided under Section 2, paragraph (a) of said law which prescribes that the penalty of reclusion perpetua be imposed when the law violated makes use of the nomenclatures of penalties under the Revised Penal Code.

Civil indemnity is mandatory upon the finding of the fact of rape. If the crime of rape is committed or effectively qualified by any of the circumstances under which death penalty is authorized by law, the indemnity for the victim shall be P75,000.00.[49] Moral damages may additionally be awarded in the amount of P75,000.00,[50] as well as exemplary damages of P25,000.00.[51]

WHEREFORE, the instant appeal is DENIED. The Decision of the Court of Appeals dated 27 June 2007 in CA-GR. CR-H.C. No. 02181 is AFFIRMED in toto. Appellant Efren Maglente y Cervantes is found GUILTY BEYOND REASONABLE DOUBT of qualified rape. He is sentenced to suffer the penalty of reclusion perpetua and he is ordered to pay AAA the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages. No costs.

SO ORDERED.

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

[1] Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Juan Q. Enriquez, Jr. and Vicente S.E. Veloso, concurring; Rollo, pp. 2-16.

[2] Penned by Presiding Judge Josephine Zarate-Fernandez; CA rollo, pp. 11-20.

[3] Records, p. 1.

[4] Article 266-A. Rape; When And How Committed. - Rape is committed:

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

- a) Through force, threat or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

Article 266-B. Penalty. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x x

"The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

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

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

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

[6] CA rollo, pp. 12-13.

[7] Id. at 102.

[8] TSN, 7 March 2003, pp. 2-9.

[9] TSN, 19 December 2002, pp. 2-7.

[10] Records, p. 111.

[11] TSN, 17 October 2002, pp. 2-10.

[12] Records, pp. 94-96.

[13] TSN, 1 July 2004, pp. 3-7.

[14] CA rollo, pp. 15-20.

[15] Id. at 19-20

[16] Rollo, pp. 2-16.

[17] Section 2 of Republic Act No. 9346, effective on 24 June 2006, states that:

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

[18] CA rollo, pp. 108-114.

[19] Rollo, p. 16.

[20] *People v. Hermosa*, 452 Phil. 404, 411 (2003); *People v. Rosario*, 455 Phil. 876, 886 (2003); *People v. Umayam*, 450 Phil. 543, 560 (2003).

[21] TSN, 7 March 2003, pp. 3-4.

[22] *People v. Servano*, 454 Phil. 256, 271-272 (2003); *People v. Rosario*, supra note 20 at 886; *People v. Umayam*, supra note 20 at 560.

[23] *People v. Alfaro*, 458 Phil. 942, 957 (2003).

[24] *People v. Santos*, 418 Phil. 299, 308 (2001).

[25] *People v. Mascariñas*, 432 Phil. 96, 102 (2002); *People v. Tundag*, 396 Phil. 873, 882 (2000); *People v. Acala*, 366 Phil. 797, 814 (1999).

[26] *People v. Quilatan*, 395 Phil. 444, 450 (2000).

[27] *People v. Servano*, supra note 22 at 272 (2003); *People v. Quilatan*, id. at 451.

[28] *People v. Umayam*, supra note 20 at 561.

[29] *People v. Ortoa*, G.R. No. 176266, 8 August 2007, 529 SCRA 536, 550-551.

[30] TSN, 7 March 2003, p. 8.

[31] Id. at 6.

[32] *People v. Malapo*, G.R. No. 123115, 25 August 1998, 294 SCRA 579, 588.

[33] *People v. Quilatan*, supra note 26 at 452-453.

[34] *People v. Maglente*, 366 Phil. 221, 244 (1999).

[35] *People v. Quilatan*, supra note 26 at 451.

[36] Supra note 25 at 810-811.

[37] *People v. Ortoa*, supra note 29 at 551; *People v. Torres*, 418 Phil. 694, 711-712 (2001).

[38] *People v. Hermosa*, supra note 20 at 411.

[39] *People v. Umayam*, supra note 20 at 566.

[40] *People v. Tundag*, supra note 25 at 882-883; *People v. Maglente*, supra note 34 at 235-236; *People v. Ortoa*, supra note 29 at 546; *People v. Torres*, supra note 37 at 706.

[41] CA rollo, p. 16.

[42] *Aclon v. Court of Appeals*, 436 Phil. 219, 230 (2002); *American President Lines, Ltd. v. Court of Appeals*, 391 Phil. 473, 478 (2000); *Fuentes v. Court of Appeals*, 335 Phil. 1163, 1167-1168 (1997).

[43] *People v. Ortoa*, supra note 29 at 553-554; *People v. Santos*, supra note 24 at 307; *People v. Torres*, supra note 37 at 712; *People v. Ocampo*, G.R. Nos. 90247, 13 February 1992, 206 SCRA 223, 232.

[44] *People v. Alfaro*, supra note 23 at 961.

[45] *People v. Servano*, supra note 22 at 282.

[46] CA rollo, p. 97.

[47] *People v. Quilatan*, supra note 26 at 450-451.

[48] *People v. Tundag*, supra note 25 at 882-883; *People v. Maglente*, supra note 34 at 253; *People v. Acala*, supra note 25 at 814-815.

[49] *People v. Quilatan*, supra note 26 at 454; *People v. Ortoa*, supra note 29 at 555-556; *People v. Escano*, 427 Phil. 162, 198 (2002).

[50] *People v. Ortoa*, supra note 29 at 556; *People v. Soriano*, 436 Phil. 719, 756 (2002).

[51] *People v. Ortoa*, id.; *People v. Montemayor*, 444 Phil. 169, 190 (2003).

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