

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MEDARDO CRESPO Y CRUZ, ACCUSED-APPELLANT.

G.R. No. 180500. September 11, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 29 March 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 00516, which affirmed with modification the Decision[2] dated 17 March 2001 of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31, in Criminal Cases No. 0298-SPL to 0305-SPL, finding herein appellant Medardo Crespo y Cruz guilty beyond reasonable doubt of eight counts of rape committed against his own daughter AAA.[3] In lieu of the death penalty imposed for each count of rape, the appellant was sentenced to suffer the penalty of reclusion perpetua for each count pursuant to Republic Act No. 9346.

Appellant Medardo Crespo y Cruz was charged in eight separate Informations[4] with the crime of rape committed against his own daughter AAA. The cases were archived due to non-apprehension of appellant. It appears, however, that the eight separate Informations failed to allege the father-daughter relationship between the appellant and the private complainant. The prosecution, thus, saw the need to amend the Informations. Hence, for the sole purpose of doing so, it filed before the court a quo a Motion to Revive[5] Cases to Admit Amended Informations.[6] In an Order[7] dated 25 February 1999, the court a quo granted the aforesaid Motion and admitted the Amended Informations.

Whereupon, on 11 February 1999, eight Amended[8] Informations charging the appellant with the crime of rape committed against his own daughter were filed before the court a quo under the same docket numbers. The Amended Information in Criminal Case No. 0298-SPL reads as follows:

Criminal Case No. 0298-SPL

That on or sometime in April or May 1987, in the Municipality of XXX, Province of XXX and within the jurisdiction of this Honorable Court, [appellant] Medardo Crespo, with lewd design and by means of force, threats, violence and intimidation, did then and there wilfully (sic), unlawfully and feloniously have carnal knowledge with his own daughter AAA, ten (10) years old, against her will and consent, to her damage and prejudice.[9]

The Amended Informations in Criminal Cases No. 0299-SPL to 0305-SPL contained similar averments except for the dates of the commission of the crime, to wit:

Criminal Case No. 0299-SPL - sometime in the year 1988

Criminal Case No. 0300-SPL - sometime in the year 1989

Criminal Case No. 0301-SPL - sometime in the year 1990

Criminal Case No. 0302-SPL - sometime in the year 1991

Criminal Case No. 0303-SPL - sometime in the year 1992

Criminal Case No. 0304-SPL - sometime in the year 1993

Criminal Case No. 0305-SPL - sometime in the year 1994

On 25 May 1999, the appellant was arrested.[10] Upon arraignment, the appellant, assisted by counsel de parte, pleaded NOT GUILTY[11] to all the charges against him. During the pre-trial conference,[12] both the prosecution and the defense agreed that (1) the appellant is the father of the private complainant; and (2) the appellant was arrested pursuant to a warrant of arrest. Both of them likewise presented several documents for marking as Exhibits.[13] Thereafter, trial on the merits ensued.

The prosecution presented the following witnesses: AAA, the private complainant herself; Dr. Annabelle Soliman, a medico-legal officer of the National Bureau of Investigation (NBI), Taft Avenue, Manila; BBB, private complainant's mother; and CCC, private complainant's sister.

AAA was born on 1 December 1976, as evidenced by her Certificate of Live Birth.[14] At the time of her testimony, she was 23 years old and already married to DDD. She is the eldest daughter of the appellant and BBB.[15]

AAA testified that in 1987, she was only 10 years old and she was residing with her mother and siblings in a rented house in XXX Village, XXX, XXX. The appellant, her father, was then working in Saudi Arabia as an overseas contract worker (OCW, now Overseas Filipino Worker or OFW). Sometime in April or May, 1987, upon appellant's return from Saudi Arabia, AAA's ordeal began.

AAA narrated that in the month of April or May, 1987, the appellant started touching her breasts, nipples and private part. The said incident happened in the morning inside the master bedroom of the house they were renting. During those times, her mother, a school teacher, was in school, as it was enrolment day, while her siblings were outside their house. She did not tell her mother what the appellant did because she was afraid of him. She said her fear of the appellant came about when she was still young, as she often saw the appellant hurting her mother. The appellant's act of touching her breasts, nipples and private part was repeated for at least ten times. Thereafter, also during the month of April or May, 1987, the appellant went further by inserting his finger into her private part. This happened many times, also inside the master bedroom whenever her mother and siblings were not present.[16]

AAA disclosed that sometime in the last week of May, 1987, when her mother and siblings were not around, the appellant called and told her that they would clean the house. When she approached the appellant, the latter pulled her inside the room and, once inside, pushed her to the bed. The appellant started to remove her panty. He also removed his pajama and underwear. Then, the appellant inserted his finger into her private part. She was then crying and pleading to the appellant, "Huwag na po, tama na po." Instead of listening to her plea, the appellant tried to insert his penis into her private part. She felt pain, as a part of the appellant's penis was inside her vagina. She cried, "Huwag na po." Then, the appellant put cream on her anus before inserting his private part therein. The appellant removed his penis from her anus before it emitted something.[17] Her mother came home in the afternoon. Again, she did not tell her mother what appellant did to her for fear of the appellant. The said acts were repeated many times, usually in the morning until the appellant's departure for abroad in January, 1988.[18]

From January, 1988 to February, 1989, AAA did not have the courage to tell her mother about her harrowing experiences in the hands of the appellant because she was afraid of the appellant, as the latter threatened that she would no longer see her mother and siblings once she revealed everything. The said threat was made to her every time she resisted his sexual advances.[19]

In February, 1989, when AAA was 12 years old, the appellant returned to the Philippines. He stayed in the country until September, 1989. During the period that he was in the country, he repeatedly raped AAA at different times. It happened sometimes in the evening but most of the time in the morning when her mother and siblings were not in their house. AAA recalled that during the aforesaid period, the appellant raped her by forcibly inserting his penis into her private part. Once at 1:00 a.m. when AAA's mother and siblings were already sleeping, appellant woke her up, tapped her in the arm, pulled her and asked her to go to the living room where she was raped by the latter. The act of rape was repeated many times from the appellant's arrival in February, 1989 until his departure in September, 1989.[20]

The appellant came back to the country in September, 1990. She was 13 years old then. Prior to his arrival, AAA never had the courage to tell her mother that the appellant had been raping her several times whenever he was in the country because of the following reasons, to wit: (1) she was afraid of the appellant; (2) she was aware of how much her mother loved the appellant despite the fact that the latter hurts her mother; (3) she also saw the sacrifices of her mother and how much her mother wanted to keep their family intact; (4) she was ashamed of what happened to her. She did not know to whom to disclose her experiences. She was confused, and even doubted if her mother would believe her once she revealed her plight.[21]

The whole family was already staying in their new rented house at XXX, XXX, XXX. During the appellant's two-month stay in the Philippines, he again raped AAA. It happened every time AAA's mother was not around. The appellant would start molesting AAA by first asking her to enter their room. Once inside, the appellant forced her to lie down on the bed. The appellant would then remove her shorts and underwear. He also forced her to open her legs. Thereafter, the appellant would forcibly insert his penis into her private part and sometimes into her anus. After satisfying his bestial desire, the appellant would ask her to go to the comfort room to wash herself. These acts were repeated many times until the appellant's departure for abroad in November, 1990.[22]

Again, in December, 1991, the appellant came back to the Philippines. Upon his arrival, he and AAA's mother went to Baguio City for a week's vacation. However, upon the return of the appellant and her mother from Baguio in January, 1992, the appellant raped her again by forcibly inserting his private part into hers. The said incident happened four to five times in the master bedroom whenever her mother and siblings were not in their house. The appellant left for abroad in January, 1992.[23]

In March, 1993, the appellant returned to the Philippines and stayed in the country until May, 1993. In less than a week after appellant's arrival, he repeatedly raped AAA in the master bedroom and sometimes in the children's room, usually in the morning by pulling her inside the room and asking her to lie down. The appellant then would remove her shorts and panty; force her to open her legs and insert his private part into her private part. There was also a time when AAA was taking a bath in their comfort room when the appellant forcibly opened its door. Once inside, appellant kissed her. The appellant sat down on the toilet bowl and forced her to sit on his lap. He then forcibly inserted his private part into hers. As he was having a hard time doing it, he asked AAA to face him on a kneeling position and forced her to swallow his private part. She resisted, but the appellant pushed her head down. She was continuously raped by the appellant until his departure in May, 1993.[24]

In December, 1993, the appellant came back again in the country and stayed until January, 1994. From December, 1993 to January, 1994, the appellant raped her for about six times. It happened sometimes in the morning and sometimes in the afternoon. AAA was already 17 years old by then. She recalled that in those times when she was raped by the appellant, the latter stayed on top of her for a while probably for five minutes. The appellant then left the country to work abroad in January, 1994.[25]

Then again, the appellant returned to the Philippines in March, 1995 and stayed in the country for 45 days. The

family went to Bicol for a vacation and stayed there for two to three weeks. The appellant left again for abroad in May, 1995.[26] In April, 1996, when AAA was already 19 years old, she sought her mother's permission to spend her vacation in her aunt's house in Cavite, because she knew that the appellant was expected to come home anytime in 1996. While spending her vacation in Cavite, she met someone who eventually became her boyfriend (now her husband). This enraged her mother. During the confrontation, asked if she had any problem, she started crying until she finally told her mother about the bestial deeds her father had been doing to her since she was 10 years old. Thereafter, AAA and her mother went to the National Bureau of Investigation (NBI) office in Manila to report the same. At the NBI, her statement was taken and she was also subjected to physical examination. Both were reduced into writing.[27]

The appellant did not come back to the country anymore upon learning that she filed a case against him in May, 1996. Instead, AAA received a letter[28] dated 22 March 1997 signed by the appellant asking for her forgiveness.

BBB, AAA's mother, declared, in addition to what had been testified to by her daughter-complainant, that the appellant is her husband as evidenced by their Marriage Contract.[29] She and the appellant begot four children. She affirmed that the private complainant is their eldest daughter. She testified that on 5 April 1995, she and the rest of her family were sleeping in a room inside a house in Guinobatan, Albay, where they were spending their vacation. At around 3:00 a.m. to 4:00 a.m., she saw the appellant lift the mosquito net of AAA, who at that time was fast asleep. She observed that before the appellant lifted the mosquito net, he looked at her trying to find out whether she was asleep. When the appellant thought that she was already asleep, he lifted the mosquito net in the place where AAA was sleeping. She then slapped him but the latter just kept quiet.[30]

Dr. Annabelle Soliman, an NBI Medico-Legal Officer, was presented by the prosecution as a witness solely for the purpose of bringing before the court a quo Living Case Report No. MG-96-754.[31] The said Living Case Report was the medico-legal report of the physical examination of AAA which was prepared by Dr. Louella I. Nario. Dr. Nario was her senior officer at the NBI until the former's demise.[32] The said medico-legal report revealed that there was no evident sign of extragenital physical injuries noted on the body of AAA at the time of examination. But there was an old, deep healed hymenal laceration found therein.[33]

The last witness presented by the prosecution was CCC, the sister of AAA. CCC disclosed that in 1994, there were instances wherein she saw the appellant pull and drag AAA to a room inside their house. AAA resisted by saying, "Ano ba?" She also tried to release her arms from his grip, but the appellant successfully dragged her inside the room. When CCC saw that incident, she did not do anything. She thought that AAA was just tired of making an inventory of their cassette tapes because every time the appellant returned to the country, he would ask AAA to help him in making an inventory of all the cassette tapes he bought. She likewise divulged the fact that there were occasions when she heard the appellant lock the door of the room while AAA was inside. Also, she noticed that whenever the appellant dragged AAA inside the room, he would increase the volume of their stereo.[34]

After the prosecution had rested its case, appellant filed a Motion for Leave of Court to File Demurrer to Evidence[35] on the ground of insufficiency of evidence of the prosecution; the motion was granted. Despite several extensions given, within which to file the aforesaid Demurrer to Evidence, appellant failed to submit one. He filed a last and final motion for extension to submit the demurrer to evidence, but the same was denied. The Motion for Reconsideration of the appellant was likewise denied.

The appellant then filed a Petition for Certiorari with Urgent Prayer for a Temporary Restraining Order and/or Preliminary Injunction[36] before the Court of Appeals. The appellate court issued a Resolution[37] dated 24 May 2000, dismissing[38] the Petition for Certiorari filed by the appellant. The appellant then filed an Amended

Petition for Certiorari,[39] but it was likewise denied in a Resolution[40] of the appellate court dated 30 June 2000. On 11 June 2000,[41] the Resolution of the appellate court dated 24 May 2000, dismissing the Petition for Certiorari filed by the appellant, became final and executory.

Defense henceforth proceeded to present its evidence. It presented the testimonies of the following witnesses to refute the allegations of AAA: (1) the appellant; (2) Rene Collao, private complainant's alleged former boyfriend; (3) the brother of the appellant; and (4) his sister.

The appellant testified that he and BBB got married in February, 1976. They begot four children, and one of them was the private complainant, their eldest child. In 1983, he started to work abroad. He came back to the country yearly. While working abroad, he maintained his communication with his family through telephone calls and writing letters. He also gave them support by sending them money through banks. It was summer of 1987 when he came back to the country to spend time with his family. He stayed in the country for less than 10 months. He vehemently denied that he repeatedly raped AAA for at least three to four times a week during his stay in the country. He alleged that it was impossible for him to do that because he was very close to AAA, and he was always out of their house because he frequently went to the house of his mother in Cavite. He said that the possible reason for the said allegation was the frequency of the quarrels over financial matters between him and his wife. He similarly denied that he touched the breasts of AAA and inserted his finger into her anus after applying cream. He also denied having inserted his private part into hers.[42] He even said that he could not have had anal intercourse with AAA, as his private part was too big. If that indeed happened, AAA would have been hospitalized.[43]

After his stay in the Philippines for at least 10 months in 1987, he went abroad, this time in Libya. He returned to the country in 1988 and stayed here for at least three months. He denied having raped AAA during this period.[44] Also, the appellant denied having raped AAA in 1989, 1990, 1991, 1992, 1993 and 1994 because during those years he was working abroad. Further, he could not have done such acts against his own daughter, because his very purpose in working abroad was to give AAA as well as his other children a better future and not to ruin their lives. The appellant disclosed that whenever he came home from abroad, his children, especially AAA, welcomed him at the airport with hugs and kisses. AAA would even tell him that she missed him. There was not even a single trace of anger on AAA's face whenever she met him at the airport.[45] The appellant also denied that AAA was afraid of him, as she often saw him hurting her mother. He averred that as much as possible, they hid their quarrels from their children. The appellant, however, admitted that there was one occasion wherein he hit his wife because he found out that she continued communicating with her cousin, a priest, with whom she had sexual relations. The appellant also denied that he threatened AAA that she would no longer see her mother and siblings if she reported to anybody what he did to her. He vowed that he did not know any reason why AAA would be afraid of him, and why she would accused him of such a grave offense.[46]

The appellant likewise denied the accusation of his wife that he lifted the mosquito net of AAA in the early morning of 5 April 1995 in Guinobatan, Albay, when they were having their family vacation. He even denied that on 22 May 1996, his wife confronted him over the telephone about the sexual abuse he had done to AAA, and that he apologized for doing such things to their daughter. He declared that their conversation on that occasion was only as regards the remittances he had been sending to his family, and he had also inquired as to the possible reason why his children were no longer writing him letters. Similarly, he denied that he was a jealous husband. He revealed before the court a quo that he and his wife were not in a good and smooth marital relationship, as his wife was always after the money. He even characterized his relationship with his wife as the worst. But, he admitted that despite such fact, still, he maintained his sexual relations with her and also frequently received letters from his wife every time he was abroad. They still called each other "Honey." They also posed together in

picture takings, though he claimed that it was, "pakitang tao na lang." [47]

The appellant admitted that on 22 March 1997, he wrote a letter to AAA, asking for her forgiveness for the molestiya he had done to her. He, however, explained that the term molestiya was just his common expression and had no malicious connotation. When he used the term molestiya in his letter to AAA, he was referring to his shortcomings, his badmouthing and cruelty to her, and his frequent absences at home. [48] In his own letter to his sister, the appellant said that he also used the word molestiya, as he had asked favor or financial help from her for his family. Even his sister and brother, who testified, were one in the view that the term molestiya meant asking too much favor. The said word, according to him, was taught to them by their parents in order for them to help each other, instead of asking favors from their neighbors and other people. [49]

He also could not fathom the motive of his daughter for filing these cases against him, as he had a very close relationship with her, being his favorite child. His relationship with his wife, though, was not pleasant. He believed that his wife's amorous relationship with her cousin priest was the motivating factor for these criminal cases against him as these would pave the way for his incarceration and for his wife to freely maintain her relationship with her lover priest. [50]

The former boyfriend of AAA was also presented by the defense. He alleged that he and AAA became sweethearts on 26 May 1992. In December, 1995, he brought her once in a motel, where they had sex; and they communicated through letters and cards. [51]

On 17 March 2001, the trial court rendered its Decision convicting the appellant of eight counts of rape and sentencing him to suffer the extreme penalty of death for each count. The court a quo also ordered the appellant to pay AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages for each count of rape, and to pay the costs also for each count.

The records of this case were originally transmitted to this Court on appeal. Pursuant to *People v. Mateo*, [52] the records were transferred to the Court of Appeals for appropriate action and disposition.

In his brief, appellant assigns the following errors, viz:

- Whether or not the trial Judge committed grave abuse of discretion amounting to lack or excess in jurisdiction for issuing [O]rders, dated [10, 17 March 2000] and [24 April 2000], respectively, unjustly, capriciously and whimsically.
- Whether or not the Prosecution failed to prove beyond reasonable doubt the elements of the crimes charged.
- Whether or not the trial court erred in the imposition of the penalty of death in all of the crimes charged.
- Whether or not the Hon. Trial Judge failed to hear the instant case with the required impartiality and diligence. [53]

The Court of Appeals rendered a Decision on 29 March 2007, affirming the Decision of the RTC, with the modification that in lieu of the death penalty imposed upon the appellant for each count of rape, the appellant was sentenced to suffer only the penalty of reclusion perpetua for each count pursuant to Republic Act No. 9346.

Hence, this appeal.

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

Appellant alleges that the court a quo committed grave abuse of discretion in issuing the Order dated 17 March 2000, which denied his Urgent Ex-Parte Motion for Last and Final Extension of Time to File Demurrer to

Evidence. The said Order, according to the appellant, was issued whimsically and capriciously for being based purely on the ground of the non-extendibility of the prior period granted to him in an Order dated 10 March 2000, within which to file his Demurrer to Evidence. This assertion of the appellant is specious.

As aptly found by the appellate court, the court a quo had already granted the appellant's Motion for Extension of Time to File Demurrer to Evidence twice. In fact, it had already given the appellant a total of 20 days within which to file his Demurrer to Evidence. It was only on the third Motion for Extension of Time to File Demurrer to Evidence that the trial court denied the same. Considering the several extensions prayed for by the appellant, this Court cannot fault the trial court for finally denying the Motion for Extension of Time to File Demurrer to Evidence filed by the appellant.

The power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court. The purpose is to determine whether the accused in filing his demurrer is merely stalling the proceedings. Unless there is grave abuse thereof amounting to lack or excess of jurisdiction, which is not present in the instant case, the trial court's denial of prior leave to file demurrer to evidence may not be disturbed.[54] Moreover, this Court is in full conformity with the appellate court that concomitant with the right of the accused to a speedy trial is the right of the victim to obtain justice without delay. "To allow and grant every motion for extension of time would unduly delay the process of administering and dispensing justice." [55]

The second assignment of error posited by the appellant was the failure of the prosecution to establish beyond reasonable doubt the elements of the crimes charged.

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[56] Thus, in the disposition and review of rape cases, the Court is guided by these principles: First, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. Second, the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense. Third, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. Fourth, an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove. And fifth, in view of the intrinsic nature of the crime of rape, in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.[57]

In this case, the appellant argues that each and every incident of rape is a separate and distinct crime, so each of them should be proven beyond reasonable doubt. He maintains that the prosecution failed to establish beyond reasonable doubt the existence of carnal knowledge as regards the rape incidents which happened from the year 1987 to 1994. He also points out that AAA's statements in open court were inconsistent with her statements in her Sinumpaang Salaysay.

Truly, each and every instance of rape is a separate and distinct crime, and each should be proven beyond reasonable doubt.[58] As can be gleaned from the records of this case, AAA clearly, candidly, straightforwardly and explicitly narrated before the trial court how the appellant took advantage of her in the years 1987, 1988, 1989, 1990, 1992, 1993 and 1994. From 1987 to 1994, with the exception of the year 1991 when AAA categorically said in her direct testimony that in 1991 nothing happened, AAA repeatedly pointed out the horrendous part of her ordeal when his father would insert his penis into her vagina/anus against her will, as well as the threat and intimidation that accompanied the sexual abuse.

While AAA can no longer remember the exact date and time of the commission of all the offenses, it is worth

noting that AAA was just 10 ten years old when the appellant started raping her. She had been continuously ravished by her father since she was 10 years old until she reached the age of 17. It cannot be expected that AAA would remember the exact dates and times of all the rapes committed against her by the appellant. Under the circumstances of the case at bar, the Court cannot impose the burden of exactness, detailedness and flawlessness on the victim's recollections of her harrowing experiences. It is all the more understandable that she may have been confused as to the exact details of each and every rape incident, considering that she had been sexually ravished from 1987 to 1994. It is in fact expected that she would rather wish to purposely forget the abhorrent memories of every single occasion. Very definitely, an errorless testimony cannot be expected, especially when a witness is recounting details of a harrowing experience. A court cannot expect a rape victim to remember every detail of the appalling outrage. Besides, this Court has already ruled that discrepancy between the witnesses' testimonies in court and the affidavits they had her previously signed, as to minor details regarding the commission of the crime, do not constitute sufficient ground to impeach the credibility of said witnesses, where on material and important points their declarations are consistent.[59]

Appellant pointedly argues that despite the number of times he had raped AAA, she still managed to regularly write him sweet, warm and affectionate letters without any trace of hatred, anger and condemnation; she still met, kissed and hugged him at the airport every time he arrived from abroad; she affordably smiled and posed joyfully and voluntarily with him in any picture-taking after the rape incidents. AAA's actuations were incongruent to those of a person who has been ravished by her own father, ravishment that could certainly have installed in her feelings of inferiority and hatred.

We are not persuaded to look otherwise. AAA's reaction can very well be explained by her desire to resume her normal life after her harrowing experiences in the hands of her own father. It bears stressing that nobody knew that her father was raping her, as she was ashamed to tell it to anybody. She was confused and had doubts whether her mother would believe her if she told her the truth, because she knew how much her mother loved her father, and how much she wanted to keep their family together. Thus, despite the pain caused by her father's acts of raping her, she just kept these to herself and pretended that nothing happened.

As this Court has repeatedly observed, no standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. People react differently to emotional stress, and rape victims are no different from them.[60] Some may shout, some may faint, while others may be shocked into insensibility.[61] Emphasis must also be given to the fact that AAA was only 10 years old when her father started raping her, and this continued until she was 17 years old; thus, she was still a minor. She cannot therefore be expected to react as an adult and realize the repercussions of the wrong committed upon her by the man she considered as her father.[62] This Court indeed has not laid down any rule on how a rape victim should behave immediately after she has been abused. This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted by any modicum of doubt.[63] In this case, as the appellate court has observed, "AAA opted to suffer her ordeal in silence, keep the tormenting experience to herself and make things just as normal as if nothing happened." [64]

During her testimony before the court a quo, AAA cried[65] several times whenever she had to recall and narrate what happened to her. The crying of a victim during her testimony is evidence of the truth of the rape charges, for the display of such emotion indicates the pain that the victim feels when asked to recount her traumatic experience.[66] The truthfulness of AAA's testimony was even bolstered by appellant's letter to her dated 22 March 1997. In the said letter, the appellant, with all his heart and soul, asked the forgiveness of AAA for the molestiya he had done to her since she was a child. The appellant tried to convince this Court that the word molestiya simply meant asking too much favor; that he used that word because of the badmouthing he did to

AAA, i.e., for telling her," Siguro anak ka ng pari kaya ganyan ang ugali mo, matigas ang ulo mo. Siguro hindi kita anak." It is highly unusual for the appellant to ask forgiveness with all his heart and soul and to admit that what he did was abominable or kasuklamsuklam, if only because of his badmouthing of AAA.

The defense makes a fuss about the delay in reporting the rape incidents, for it took AAA nine years before she revealed to her mother the incessant violations of her honor. This delay, however, can be justified by AAA's fear of her father and the threat that she would no longer see her mother and siblings, a threat that was made by the appellant every time she resisted his sexual advances. Even though her father was working abroad, her fear of him remained, as he returned to the country every year. She was also so ashamed of what had happened to her that she would just want to keep it to herself. She was unsure whether her mother would believe her if she told her the truth, because she knew how much her mother loved her father, and how much her mother wanted to keep their family together. Also, AAA must have been overwhelmed by fear and confusion and shock over the fact that her own father had defiled her. Indeed, studies show that victims of rape committed by their fathers take much longer in reporting the incidents to the authorities than do other victims.[67]

In this connection, it has been held that delay in making a criminal accusation does not impair the credibility of a witness if such delay is satisfactorily explained, as in the case at bar. In *People v. Coloma*[68] in which the complainant was only 13 years old when first molested by her father, the Court adverted to the father's moral and physical control over the young complainant in explaining the delay of eight years before the complaint against her father was made.

Finally, AAA positively identified[69] the appellant as her ravisher. The straightforward narration by AAA of what transpired, accompanied by her categorical identification of appellant as the malefactor, sealed the case for the prosecution.[70] No daughter will charge a father, especially a good father, with rape. The charge is not only embarrassing to the victim and the family, it means death to the head of the family.[71]

It bears stressing once again that no woman would concoct a story of defloration, allow the examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her. It is settled jurisprudence that when a woman says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. A woman would think twice before she concocts a story of rape, especially against her own father, unless she is motivated by a patent desire to seek justice for the wrong committed against her.[72]

Having established the commission of the crime and the identity of the appellant, motive now becomes immaterial, rendering it unnecessary to discuss what motivated the complainant to file these cases.[73]

As to penalty. In this case, the trial court convicted the appellant of eight counts of rape qualified by minority and relationship and sentenced him to suffer the extreme penalty of death for each count. The appellate court affirmed the conviction, but sentenced the appellant to suffer the penalty of reclusion perpetua for each count pursuant to Republic Act No. 9346.

This Court does not agree that the appellant should be convicted of eight counts of rape. It is clear from the direct testimony of the private complainant that in the year 1991 (Criminal Case No. 0301-SPL) nothing happened, meaning she was not sexually abused by the appellant in that year. Thus, the appellant should be convicted only of seven counts of rape; that for the years 1987, 1988, 1989, 1990, 1992, 1993 and 1994.

The penalty of death imposed by the trial court was not proper. The penalty of reclusion perpetua for each count of rape imposed by the appellate court was proper. However, it is not correct to say that the same was pursuant to Republic Act No. 9346.

It should be emphasized that the crimes of rape were committed by the appellant in the years 1987 up to 1994. The governing law then at the time of its commission was Article 335 of the Revised Penal Code, which states that:

Article 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by reclusion perpetua.

When the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death. (As amended by Rep. Act No. 2632, approved June 18, 1960, and Rep. Act No. 4111, approved June 20, 1964.)

Thus, from the afore-quoted provision of law, the proper penalty to be imposed upon the appellant is only reclusion perpetua and not death, for each count of rape. Also, the circumstances of minority and relationship that would qualify the crime of rape and require the imposition of the death penalty was not yet included in the enumeration in Article 335. This is the reason why the instances of rape committed by the appellant against AAA from 1987 to 1993 cannot be regarded as qualified rape.

The circumstances of minority and relationship, which qualify the crime of rape and require the imposition of the death penalty, came about only when Republic Act No. 7659 took effect on 1 January 1994. Therefore, for the crime of rape committed by the appellant against AAA in January, 1994 (Criminal Case No. 0305-SPL), the applicable law is Article 335, as amended by Republic Act No. 7659. The minority of AAA was properly proven by the prosecution by presenting her Certificate of Live Birth showing that she was born on 1 December 1976; therefore, in January, 1994, she was only 17 years old, still a minor. The relationship between AAA and the appellant was also proven by AAA's Certificate of Live Birth. Moreover, it was admitted by the appellant that AAA is indeed, his eldest daughter. Having said that, this Court finds the appellant guilty beyond reasonable doubt of the crime of qualified rape for the rape committed in January, 1994 and imposes upon him the penalty of death. However, pursuant to Republic Act No. 9346, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the penalty to be meted out to the appellant shall be reclusion perpetua.

As to damages. This Court affirms the award of P50,000.00 as civil indemnity given by the lower courts to the victim for each count of rape committed in 1987 to 1993. Civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[74]

Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma, with mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require their recital at the trial by the victim, since we even assume and acknowledge such agony as a gauge of her credibility.[75] Thus, this Court finds that the award of moral damages by both lower courts, in the amount of

P50,000.00 for the each count of rape, was proper.

As regards the award of exemplary damages for the crimes of rape committed in 1987 to 1993, 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, because at the time of the commission of the crime, minority and relationship were not yet considered as aggravating circumstances, the award of exemplary damages by the lower courts will have to be deleted.

For the crime of qualified rape committed in January, 1994, the civil indemnity as well as the moral damages should be increased from P50,000.00 to P75,000.00, and the award for exemplary damages should be reduced from P30,000.00 to P25,000.00. The same is in accordance with this Court's ruling in *People v. Sambrano*,^[76] which states:

As to damages, [this Court] held that if the rape is perpetrated with any of the attending qualifying aggravating circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be P75,000. Thus, the trial court's award of P75,000 as civil indemnity is in line with existing case law. Also, in rape cases moral damages are awarded without need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of P50,000 as moral damages should also be increased to P75,000 pursuant to current jurisprudence on qualified rape. Lastly, exemplary damages in the amount of P25,000 is also called for, by way of public example, and to protect the young from sexual abuse.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00516, dated 17 March 2001 is hereby MODIFIED as follows: (1) in Criminal Cases No. 0299-SPL to 0301-SPL, 0303-SPL and 0304-SPL, the appellant Medardo Crespo y Cruz is hereby found GUILTY beyond reasonable doubt of the crime of rape committed against his own daughter beginning 1987 until 1993, except 1991, and is hereby sentenced to suffer the penalty of reclusion perpetua in each case. He is further ordered to pay the private complainant P50,000.00 as civil indemnity and P50,000.00 as moral damages in each case. The award of exemplary damages by the lower courts was deleted for lack of legal basis; (2) in Criminal Case No. 0305-SPL the appellant is hereby found GUILTY of the crime of qualified rape committed against his own daughter in January, 1994 and is hereby sentenced to suffer the penalty of reclusion perpetua pursuant to Republic Act No. 9346. He is further ordered to indemnify the private complainant in the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages; and (3) in Criminal Case No. 0302-SPL, the appellant is hereby ACQUITTED, as the private complainant herself admitted that nothing happened in the year 1991.

SO ORDERED.

Tinga[*], Velasco, Jr.[*], Nachura, and Reyes, JJ., concur.

[*] Per Special Order No. 517, dated 27 August 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justices Dante O. Tinga and Presbitero J. Velasco, Jr. to replace Associate Justices Consuelo Ynares-Santiago and Ma. Alicia Austria-Martinez, who are on official leave.

[1] Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Jose L. Sabio, Jr. and Myrna

Dimaranan Vidal, concurring, rollo, pp. 3-28.

[2] Penned by Judge Stella Cabuco Andres, CA rollo, pp. 70-82.

[3] 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 R.A. No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of R.A. No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.

[4] CA rollo, pp. 14-30.

[5] The prosecution moved to revive these cases, which have been ordered archived for non-apprehension of the appellant, for the sole purpose of admitting the Amended Informations.

[6] Records, p. 64.

[7] Id. at 81.

[8] CA rollo, pp. 31-46.

[9] Id. at 31.

[10] As evidenced by the Report on the Service of Warrant of Arrest, records, p. 134.

[11] As evidenced by Certificates of Arraignment, id. at 248-255.

[12] As evidenced by a Pre-trial Order dated 4 November 1999, id. at 265-266.

[13] The prosecution presented the following documents for marking:

- Medico-legal certificate issued by the NBI to the private complainant as Exhibit "A";
- "Sinumpaang Salaysay" of AAA dated 27 May 1996 as Exhibit "B";
- "Sinumpaang Salaysay" of CCC dated 28 May 1996 as Exhibit "C";
- "Sinumpaang Salaysay" of BBB dated 28 May 1996 as Exhibit "D";
- Letter dated 22 March 1997 as Exhibit "E."

The defense, on the other hand, presented the following documents for marking:

- AAA's letter to the appellant dated 18 October 1994 as Exhibit "1";
- Id., dated 22 August 1995 as Exhibit "2";
- Id., dated 9 October 1995 as Exhibit "3";

- Id., dated 10 October 1995 as Exhibit "4";
- Id., dated 2 April 1996 as Exhibit "5";
- Id., dated 11 April 1996 as Exhibit "6";
- Group of picture as the family picture as Exhibit "7."

[14] Records, p. 373.

[15] TSN, 15 December 1999, pp. 9, 12, 14.

[16] TSN, 15 December 1999, pp. 14-19.

[17] TSN, 16 December 1999, pp. 6-8.

[18] TSN, 7 January 2000, pp. 3-4.

[19] Id. at 7.

[20] Id. at 8-11.

[21] Id. at 12-13.

[22] Id. at 13-17.

[23] Id. at 19-21.

[24] Id. at 22-27.

[25] Id. at 28-30.

[26] Id. at 30-31.

[27] Id. at 32-35.

[28] Records, p. 211.

[29] Id. at 374.

[30] TSN, 2 December 1999, p.4.

[31] Records, p. 45.

[32] TSN, 15 December 1999, pp. 3-6.

[33] Records, p. 45.

[34] TSN, 21 February 2000, pp. 10-22.

[35] Records, pp. 408-410.

[36] Records, pp. 487-502.

[37] Penned by Associate Justice Ramon Mabutas, Jr., with Associate Justices Wenceslao I. Agnir, Jr. and Eriberto U. Rosario, Jr., concurring. Records, Volume II, p. 687.

[38] The Petition for Certiorari filed by the appellant before the Court of Appeals was dismissed for the following reasons: (1) for failure to personally sign the certification of non-forum shopping pursuant to Section 5, Rule 7 of the 1997 Revised Rules of Civil Procedure; (2) for failure to attach copies of all pleadings and other relevant

documents; (3) for failure to state the specific material dates showing that the Petition was filed on time pursuant to Section 4, Rule 65 of the 1997 revised Rules of Civil Procedure; and (4) for failure to implead the People of the Philippines as party respondent, considering that the Petition emanated from a criminal case.

[39] Records, pp. 688-709.

[40] Penned by Associate Justice Angelina Sandoval-Gutierrez with Associate Justices Renato C. Dacudao and Mercedes Gozo-Dadole, concurring; records, p. 724.

[41] As evidenced by an Entry of Judgment; records, p. 817.

[42] TSN, 21 June 2000, pp. 2-12.

[43] TSN, 27 July 2000, p. 7.

[44] TSN, 21 June 2000, p. 12.

[45] TSN, 27 July 2000, pp. 11-25.

[46] TSN, 9 August 2000, pp. 11-13.

[47] Id. at 14-20.

[48] Id. at 22-25.

[49] TSN, 30 August 2000, pp. 2-3, 7; TSN, 11 January 2001, p. 4-5; TSN, 8 January 2001, pp. 4-5.

[50] TSN, 13 September 2000, p. 8.

[51] TSN, 25 September 2000, pp. 2-19.

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

[53] CA rollo, pp. 109-110.

[54] *Bernardo v. Court of Appeals*, G.R. No. 119010, 5 September 1997, 278 SCRA 782, 791-792.

[55] Rollo, p. 18.

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

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

[58] *People v. De Leon*, 377 Phil. 776, 788 (1999).

[59] *People v. Villar*, 379 Phil. 417, 427-428 (2000).

[60] *People v. Iluis*, 447 Phil. 517, 528 (2003).

[61] *People v. Suarez*, G.R. No. 153573-76, 15 April 2005, 456 SCRA 333, 346.

[62] *People v. Dulay*, 431 Phil. 49, 57 (2002).

[63] *People v. Aspuria*, 440 Phil. 41, 50-51 (2002).

[64] Rollo, p. 21.

[65] TSN, 15 December 1999, p. 12; TSN, 16 December 1999, p. 8; TSN, 7 January 2000, p. 13; TSN, 14 January 2000, p. 14 and 35.

- [66] People v. Ancheta, 464 Phil. 360, 371 (2004).
- [67] People v. Bugarin, 339 Phil. 570, 585-586 (1997).
- [68] G.R. No. 95755, 18 May 1993, 222 SCRA 255.
- [69] TSN, 15 December 1999, p. 12.
- [70] People v. Macapal, Jr., G.R. No. 155335, 14 July 2005, 463 SCRA 387, 400.
- [71] People v. Abellano, 440 Phil. 228, 294-295 (2002).
- [72] People v. Bontuan, 437 Phil. 233, 241 (2002).
- [73] People v. Opong, G.R. No. 177822, 17 July 2008.
- [74] People v. Callos, 424 Phil. 506, 516 (2002).
- [75] People v. Docena, 379 Phil. 903, 917-918 (2000).
- [76] 446 Phil. 145, 161-162 (2003).

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