

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADRIANO LEONARDO Y DANTES, ACCUSED-APPELLANT.

G.R. No. 181036. July 06, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

For review is the Decision[1] dated 28 May 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 01092 affirming in toto the Joint Decision[2] dated 28 January 2005 of the Regional Trial Court (RTC) of Valenzuela City, Branch 172, in Criminal Case Nos. 348-V-02, 544-V-02, 545-V-02, 549-V-02, 552-V-02 and 553-V-02, finding herein appellant Adriano Leonardo y Dantes guilty beyond reasonable doubt of six counts of rape, and in Criminal Case Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 for five counts of sexual abuse as defined and penalized under Section 5(b), Article III of Republic Act No. 7610,[3] committed against AAA.[4] The appellant was sentenced to suffer the penalty of reclusion perpetua for each count of rape and the indeterminate penalty of 8 years and 1 day of prision mayor as minimum to 15 years, 6 months and 20 days of reclusion temporal as maximum for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. The appellant was further ordered to pay the victim the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape and the amount of P25,000.00 as civil indemnity and P25,000.00 as moral damages for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610.

In Criminal Case Nos. 550-V-02 and 551-V-02, however, the appellant was acquitted of the charges of rape for failure of the prosecution to prove his guilt beyond reasonable doubt.

Appellant Adriano Leonardo y Dantes was charged in 13 separate Informations[5] with the crime of rape, in relation to Republic Act No. 7610, committed against AAA, the accusatory portion of which state:

In Criminal Case No. 348-V-02:

That on or about [11 May 2002] in XXX City and within the jurisdiction of this Honorable Court, the above-named [appellant], with lewd design, by means of force and intimidation employed upon AAA, 12 years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of said AAA, thereby subjecting the said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.[6]

In Criminal Case No. 544-V-02:

That on or about [10 May 2002] in XXX City and within the jurisdiction of this Honorable Court, the above-named [appellant], being then the uncle-in-law of AAA, with lewd design, by means of force and intimidation employed upon AAA, 12 years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of said AAA, thereby subjecting the said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.[7]

The Informations in Criminal Case Nos. 545-V-02, 546-V-02, 547-V-02, 548-V-02, 549-V-02, 550-V-02,

551-V-02, 552-V-02, 553-V-02, 554-V-02 and 555-V-02 contained similar averments except for the different dates of commission on the first week of April 2002, second week of April 2002, 1 May 2002, 2 May 2002, 3 May 2002, 4 May 2002, 5 May 2002, 6 May 2002, 7 May 2002, 8 May 2002 and 9 May 2002, respectively.

Upon arraignment, the appellant, assisted by counsel de parte, pleaded NOT GUILTY[8] to all the charges against him. At the pre-trial conference, the prosecution and the defense stipulated[9] that AAA is a minor having been born on 28 July 1989 as evidenced by her Certificate of Live Birth.[10] After the pre-trial was terminated, trial on the merits ensued.

The prosecution presented the following witnesses, namely: AAA, the private complainant; BBB, the biological mother of AAA; Police Senior Inspector Pierre Paul F. Carpio (P/Sr. Insp. Carpio), Medico-Legal Officer of the Philippine National Police (PNP) Crime Laboratory, Camp Crame, Quezon City, who examined AAA; and CCC, the aunt of AAA who allegedly had an illicit relationship with the appellant, as rebuttal witness. The prosecution also submitted pieces of documentary evidence marked as Exhibits "A" to "H,"[11] inclusive of submarkings.

The evidence for the prosecution, culled from the testimonies of the aforesaid witnesses, established that:

AAA was 12 years old when the appellant desecrated her. She was then living with her aunt, DDD, and the latter's husband, who became her foster parents from the time her biological mother, BBB, left her under their care when she was only six months old, in order to work and earn a living. Now, AAA is already under the care of her biological mother.[12]

The harrowing experience of AAA in the hands of the appellant, who is the brother-in-law of her foster mother, DDD, and the brother of her foster father, EEE,[13] began in the afternoon of the first week of April 2002. On the said date, the appellant saw AAA while he was gathering vegetables in the garden near his house. He immediately instructed AAA to buy him cigarettes and to bring the same inside the warehouse located at the back of his house. Following the instruction of the appellant, AAA brought the cigarettes inside the warehouse. Once inside, the appellant did not allow her to go out anymore; instead, he showed her a knife and he then closed the door of the warehouse. Subsequently, the appellant told AAA to undress and to lie down on a piece of lumber located in the warehouse to which she acceded because the appellant was holding a knife. While AAA was lying down, the appellant removed his shorts and showed his sex organ to AAA while still wearing his brief. Later, the appellant went on top of AAA, inserted his sex organ into AAA's vagina, touched AAA's breasts and made push and pull movements. AAA felt pain in her private part but she did not bleed. The appellant stopped what he was doing to AAA when he heard his daughter calling him. He then ordered AAA to dress up. AAA did not report to anyone the said incident because she was afraid of the appellant.[14]

Then, in the second week of April 2002 at around 4:30 in the afternoon, while AAA was alone in their house because her foster mother was working as a laundrywoman and her foster father was in a drinking spree with his friends, the appellant suddenly came in drunk and immediately closed the door of their house. The appellant then began touching AAA's breasts, however, the latter's foster mother arrived. At once, the appellant went out of the house through the back door.[15]

Again, on 1 May 2002 at around 8:30 in the morning, while AAA was left alone inside their house, the appellant surprisingly arrived thereat. Upon knowing that AAA had no other companion, he began touching AAA's breasts and vagina. Afterwards, CCC, the aunt of AAA, arrived and this prompted the appellant to leave the house.[16]

The following day, or on 2 May 2002 at around 8:00 o'clock in the morning, while AAA was cleaning their house, the appellant arrived. He then inquired if there were other persons inside the house. As he found no other person thereat, except AAA, he commanded AAA to close the windows and the door located at the back of the house. He

then opened the television set, increased its volume and closed the main door of the house. Thereafter, he touched the private parts of AAA and told her to remove her clothes. After removing her clothes, the appellant held her breasts and touched her vagina. However, upon hearing his daughter's voice calling and looking for him, he instantly went out of the house.[17]

On 3 May 2002 at around 2:00 o'clock in the afternoon, AAA was sleeping alone inside their house. Since the door was unlocked, the appellant entered the house, woke up AAA and asked her if there were other persons inside. He himself inspected the room of the house, finding none, he asked AAA to get him a glass of water and to buy him cigarettes. When AAA returned, the appellant requested her to turn on the television set. Then, he began touching AAA's private parts and he even instructed AAA to undress. Thereafter, the appellant told AAA to lie down on the bed inside the room to which she acceded because the appellant was holding a knife that he got from his waist. The appellant followed AAA inside the room where he removed his shorts and underwear. He then inserted his penis into AAA's vagina and made push and pull movements. After satisfying his lust, he told AAA to dress up and he went out of the house.[18]

In the afternoon of 4 May 2002, when AAA was hanging their washed clothes in the clothesline located at the back of the house of the appellant, which was only adjacent to their house, the appellant called her and asked her to buy cigarettes. After buying cigarettes, she brought the same to the appellant who was already inside the warehouse at the back of his house. While they were inside the warehouse, the appellant touched her breasts and vagina. This same incident of appellant's touching AAA's breasts and vagina was repeated the following day, 5 May 2002.[19]

Then again, on 6 May 2002 at around 3:30 o'clock in the afternoon, AAA saw the appellant circumcising children. Afterwards, the appellant went to the house of AAA who was watching television at that time. Once inside, the appellant closed the main door of the house, instructed AAA to go inside the room and to remove her clothes. The appellant then told AAA to lie down on the bed. Subsequently, the appellant went on top of AAA, inserted his penis into her vagina and made push and pull movements. After doing such bestial act, the appellant went out of the house.[20]

The next day, or on 7 May 2002, at around 7:00 o'clock in the evening while AAA's foster parents were not yet home and AAA had just finished washing the dishes, the appellant entered their house through the main door and asked AAA to buy him cigarettes as he would always do. When AAA came back, she handed the cigarettes to the appellant. The latter then ordered AAA to turn on the television and to lock the door. The appellant also told AAA to sit beside him on the sofa and he then began touching AAA's private parts. The appellant, thereafter, instructed AAA to go inside the room, to remove her shorts and panty and to lie down on the bed, to which she complied because the appellant was holding a knife. The appellant then placed the knife beside the bed, removed his shorts and undergarment, lay on top of AAA, inserted his penis into AAA's vagina and made push and pull movements. After satisfying his hideous desire, the appellant asked AAA to put on her clothes. He then proceeded to the sala and watched a television program. When AAA's foster mother arrived at around 9:00 o'clock in the evening, the appellant was no longer there.[21]

On 8 May 2002 at around 8:30 o'clock in the morning, AAA was once again left alone in their house because her foster parents and their children went to work. The appellant then went inside the house and asked AAA to buy him cigarettes. When AAA came back, she gave the cigarettes to the appellant who was then watching a television program. AAA proceeded to the kitchen to clean the table and to put the dishes outside of their house. While the appellant was still watching a television program at the sala, AAA went upstairs but the appellant called her and told her to go inside the room where the appellant began touching her vagina. The appellant likewise told AAA to undress and thereafter, he started fondling her breasts. Suddenly, the appellant heard AAA's cousin

calling her from the outside. The appellant promptly told AAA to dress up and to go out of the room.[22]

On 9 May 2002 at around 3:30 o'clock in the afternoon, AAA was at the back of their house playing with her sister. The appellant called her and asked her if her foster mother and the latter's children were in their house to which AAA replied in the negative. The appellant again asked AAA to buy him cigarettes. AAA then brought the cigarettes at the back of their house believing that the appellant was still there. Unknowingly, the appellant was already inside their house. When AAA saw the appellant inside their house, she gave him the cigarettes and the appellant asked her to switch on the television. When AAA was about to get out of the house, the appellant prevented her, instead, he ordered AAA to go inside the room, but AAA insisted to go out as she wanted to continue playing with her sister. The appellant then showed AAA his knife and told her to remove all her clothing. Afraid, AAA could not do anything but to submit to the vicious desire of the appellant. The latter then touched AAA's breasts and vagina. Thereafter, the appellant ordered AAA to put on her clothes and left.[23]

On 10 May 2002, at around 6:30 o'clock in the afternoon, while AAA was playing in front of their house, the appellant saw her and commanded her to buy him cigarettes. He also told AAA to bring the same to the warehouse. Upon giving the cigarettes to the appellant, the latter instructed AAA to go inside the warehouse but she refused as she was still playing outside. The appellant, however, did not allow her to go out anymore and he, once again, showed his knife to AAA. Out of fear, AAA stayed inside the warehouse. Later, the appellant told AAA to undress and he proceeded to touch her breasts. He also inserted his finger into the vagina of AAA. Thereafter, he removed his finger into AAA's vagina and made her lie down on the floor. He then removed his shorts, mounted AAA, inserted his penis into AAA's vagina and made push and pull movements. AAA felt pain in her private organ. After being satisfied, the appellant instructed AAA to dress up and to go home.[24]

The last sexual advances of the appellant to AAA happened on 11 May 2002 at around 7:00 o'clock in the evening near the well located at the back of the house of the appellant. During that time AAA was removing their washed clothes from the clothesline at the back of the house of the appellant. The appellant, who was then taking a bath at the well near their house, saw her, called her and requested her to buy him one stick of cigarette. After she bought cigarette, she gave it to the appellant who was still taking a bath at the well. When AAA was about to go home, the appellant prevented her and showed her his knife tucked on his waist. The appellant instructed AAA to undress to which the latter obeyed because the appellant was holding a knife. When AAA was totally naked, the appellant touched her private parts and told her to lie down on the grassy ground. She felt itchy as she was lying on the grassy ground. While in that position, the appellant went on top of AAA, inserted his penis into her vagina and made push and pull movements. AAA felt pain. When the appellant heard his wife calling him, he stopped what he was doing to AAA and told the latter to put on her clothes. AAA went home. At the time this incident happened, the appellant was drunk as he just came from a birthday party.[25]

When AAA went home, her aunt, CCC, who was there cooking, asked her why she was pale and uneasy. Her aunt also wondered why she was scratching her back. AAA did not immediately tell CCC what truly happened. However, when CCC became so persistent to know what really happened to her, AAA began to cry. She then disclosed to CCC what happened to her on that day, as well as all her harrowing experiences in the hands of the appellant.[26] CCC instantly called up AAA's biological mother, BBB, whose house was only three meters away from CCC and informed her of AAA's ordeal. Thereafter, BBB came to accompany AAA in going to the police station to report what the appellant did to her. At the police station, AAA gave her written statements against the appellant.[27]

The following day, AAA was subjected to a medical examination by P/Sr. Insp. Carpio, a medico-legal officer of the PNP Crime Laboratory in Camp Crame, Quezon City, which examination yielded the following results:[28]

EXTERNAL AND EXTRAGENITAL

PHYSICAL BUILT: Light built.

MENTAL STATUS: Coherent female child.

BREAST: Conical with light brown areola and nipples from which no secretions could be pressed out.

ABDOMEN: Flat.

PHYSICAL INJURIES: No external signs of application of any form of trauma.

GENITAL

PUBIC HAIR: Absent growth.

LABIA MAJORA: Full, convex and coaptated.

LABIA MINORA: light brown; non-hypertrophied.

HYMEN: deep healed laceration at 8 o'clock position.

POSTERIOIR FOURCHETTE: sharp.

EXTERNAL VAGINAL ORIFICE: Offers strong resistance of the examining index finger.

VAGINAL CANAL: Narrow.

CERVIX:

PERIURETHRAL AND VAGINAL SMEARS: Negative for spermatozoa.

CONCLUSION:

Subject is in non-virgin state physically. There are no external signs of application of any form of trauma.

[Emphasis supplied].[29]

Thereafter, 13 separate Informations for rape, in relation to Republic Act No. 7610, were filed against the appellant.

For its part, the defense presented the following witnesses, to wit: the appellant, who interposed the defense of denial and alibi; Candida Urbina (Candida), neighbor and cousin of the appellant; Lea Mae Leonardo (Lea Mae), niece of the appellant; and Ma. Victoria Leonardo (Ma. Victoria), wife of the appellant. The defense likewise submitted pieces of documentary evidence marked as Exhibits "1" to "6,"[30] inclusive of submarkings.

When the appellant took the witness stand, he admitted that he knows AAA because she was his neighbor and her foster father who reared her since childhood is his brother, which is the reason why AAA called him Mama Adring, although he was not related to her by blood in any manner. The appellant even described AAA as "gala" as she used to roam around, and there were times that her foster father would ask him as to the whereabouts of AAA.[31]

The appellant, however, denied all the rape charges against him and claimed that they were all lies and that he was just framed up. He argued that these cases were only filed against him by AAA upon the initiative of her aunt, CCC, with whom he had an illicit affair.[32] The appellant even professed that in April 2002, AAA's aunt, CCC, made a proposal to him to leave their respective spouses and children so that the two of them can begin to live together as husband and wife in Pampanga. The appellant claimed that CCC even offered to buy him a tricycle. When the appellant did not agree with CCC's proposal, the latter threatened him that she would file a case against him.[33]

The appellant also maintained that it was impossible for him to rape AAA on 1 May 2002 because on the said date at around 7:00 o'clock in the morning, he was in Angat, Bulacan, with his children as they had an excursion with the members of AMATODA, an association of tricycle owners and drivers in their place. It was already 10:00 o'clock in the evening when they got home.[34]

Similarly, the appellant denied having raped AAA on 2 May 2002 until 4 May 2002. The appellant stated that on

4 May 2002, he was again in an excursion in Angat, Bulacan, this time, with CCC and her mother. While in the said place, he and CCC had an intimate moment with one another.[35] On the succeeding dates beginning 5 May 2002 up to 10 May 2002, the appellant also denied having raped AAA without giving any explanations therefor.[36]

The appellant also denied having raped AAA on 11 May 2002. He avowed that as early as 9:00 o'clock in the morning of the said date, he was already at the house of his cousin, Candida, located at 103 NY Street, Bisalao, Bagbaguin, Valenzuela City, where he assisted in the cooking of the food for the birthday celebration of Candida's nephew. In the evening thereof, the appellant engaged in a drinking session with his cousins and friends who attended the said birthday party. He stayed there until 10:00 o'clock in the evening and then he went home. At around 11:00 o'clock in the evening, he was arrested by the police authorities because AAA had filed a complaint against him charging him with 13 counts of rape.[37]

To buttress the theory of the defense, Candida testified affirming that on 11 May 2002, the appellant was at their house as early as 9:00 o'clock in the morning as she had invited him as a cook for the birthday celebration of her nephew. She stated that the appellant stayed at their house the whole day because after the preparation of the food they had a drinking session which started at around 5:00 o'clock in the afternoon and lasted until 10:00 o'clock in the evening. To prove the same, the defense even presented pictures depicting that the appellant was among those having a drinking spree at the house of Candida. The latter admitted, however, that there was an instance on that date when the appellant left her house when she requested him to get the big casserole from the house of his sister living nearby. After less than an hour, the appellant returned. Candida also disclosed that her house was just a 15 minute-walk away from the house of the appellant.[38]

To establish that AAA is a girl of ill repute, the defense presented Lea Mae, the niece of the appellant, who testified that she knows AAA as she is her neighbor and friend. Lea Mae declared in open court that AAA has two boyfriends, one whose name is "alias Pogi" and the other is known to her only as "Frankie." She knew that they were AAA's boyfriends because AAA herself told her so. Lea Mae further testified that on one occasion AAA requested her to deliver a letter to "Frankie" but she was not able to do so as her mother might get angry. Having failed to deliver the said letter, Lea Mae, instead of giving it back to AAA, just kept the same. Later, Lea Mae gave the said letter to her aunt, the wife of the appellant, after the filing of the rape cases against the latter. Her only reason for doing so is because she trusted her aunt. Lea Mae divulged, however, that she did not see AAA writing the said letter.[39]

The defense also presented the wife of the appellant who testified that prior to the filing of the rape cases against the appellant, she and CCC had a quarrel regarding the rumor that the latter and the appellant were having an illicit affair.

On rebuttal, the prosecution presented CCC who denied having an illicit affair with the appellant. She maintained that before the rape cases against the appellant commenced, their family are in good terms as neighbors. She used to sell food and the appellant's wife used to buy from her. However, from the time the appellant was arrested and incarcerated in connection with the rape cases filed against him by her niece, AAA, both the appellant and his wife did not talk to her anymore.[40]

After trial, a Joint Decision was rendered by the court a quo on 28 January 2005 giving credence to the testimonies of the prosecution witnesses particularly of AAA and rejecting the defense of denial and alibi proffered by the appellant. The trial court thus decreed:

WHEREFORE, judgment is hereby rendered as follows:

1. In Crim. Cases Nos. 550-V-02 and 551-V-02, the Court finds the guilt of [appellant] ADRIANO

LEONARDO not to have been proven beyond reasonable doubt and acquits him of the charges therein for insufficiency of evidence, with costs de officio;

2. In Crim. Cases Nos. 348-V-02, 544-V-02, 545-V-02, 549-V-02, 552-V-02 and 553-V-02, the Court finds [appellant] ADRIANO LEONARDO guilty beyond reasonable doubt and as principal of six (6) counts of rape without any mitigating or aggravating circumstance and hereby sentences him to suffer the penalty of reclusion perpetua in each case with all the accessory penalties provided for by law. Further, the [appellant] is sentenced to pay [private] complainant AAA the amount of P50,000.00 as indemnity, and the amount of P50,000.00 as moral damages in each case, without subsidiary imprisonment in case of insolvency. Finally, the [appellant] is sentenced to pay the costs of suit; and

3. In Crim. Cases Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 the Court finds [appellant] ADRIANO LEONARDO guilty beyond reasonable doubt and as principal of the crime of sexual abuse as defined in and penalized under Section 5(b) of Article III of Republic Act No. 7610 without any attending mitigating or aggravating circumstance and hereby sentences him to suffer the penalty of EIGHT (8) YEARS and ONE (1) DAY of prision mayor as minimum to FIFTEEN (15) YEARS, SIX (6) MONTHS and TWENTY (20) DAYS of reclusion temporal as maximum in each case with all the accessory penalties provided for by law. Further, the [appellant] is sentenced to pay [private] complainant AAA the amount of P25,000.00 as indemnity and the amount of P25,000.00 as moral damages in each case without subsidiary imprisonment in case of insolvency. Finally, the [appellant] is sentenced to pay the costs of suit.

The [appellant] being a detention prisoner, he shall be credited the preventive imprisonment he has undergone in the service of his sentence.[41] [Emphasis supplied].

The appellant appealed his convictions to the Court of Appeals. In his brief, the appellant assigned the following errors:

- THE TRIAL COURT SERIOUSLY ERRED IN FINDING THAT [APPELLANT] IS GUILTY BEYOND REASONABLE DOUBT IN CRIMINAL CASES NOS. 348-V-02, 544-V-02, 545-V-02, 549-V-02, 552-V-02 AND 553-V-02 WITHOUT GIVING WEIGHT AND CREDENCE TO THE EVIDENCE PRESENTED BY THE [APPELLANT].

- THE TRIAL COURT SERIOUSLY ERRED IN FINDING THAT [APPELLANT] IS GUILTY BEYOND REASONABLE DOUBT IN CRIMINAL CASES NOS. 546-V-02, 547-V-02, 548-V-02, 554-V-02 AND 555-V-02 WITHOUT GIVING WEIGHT AND CREDENCE TO THE EVIDENCE PRESENTED BY THE [APPELLANT].

- THE TRIAL COURT SERIOUSLY ERRED IN CONCLUDING THAT THE PROSECUTION SUFFICIENTLY PROVED THE ESSENTIAL ELEMENTS OF THE CRIME AS CHARGED. THE PROSECUTION'S EVIDENCE FELL SHORT OF THE DEGREE OF PROOF THAT IS PROOF BEYOND REASONABLE DOUBT REQUIRED BY LAW TO BE ESTABLISHED IN ORDER TO OVERCOME THE CONSTITUTIONALLY ENSHRINED PRESUMPTION OF INNOCENCE IN FAVOR OF [APPELLANT].[42]

On 28 May 2007, the Court of Appeals rendered a Decision affirming in toto the 28 January 2005 Joint Decision of the trial court. The appellate court ratiocinated as follows:

Based on the records and transcript of stenographic notes taken during the proceedings of the cases, appellant has nothing to offer but denial and alibi for his defense. He now faults the trial court for his conviction as it allegedly relied solely on AAA's declarations in court.

x x x x

In finding appellant guilty, it is not as if the trial court relied only on AAA's testimony, without any critical

assessment at all, as appellant would like it to appear. It should be noted that the testimony of AAA was corroborated by the findings of [P/Sr. Insp. Carpio] that she was indeed violated. Where a rape victim's testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place.[43] The proceedings before the trial court indicated that the trial court gave credence to her testimony only after it has satisfied itself that the same was competent and credible as shown by the manner in which she testified and her demeanor on the witness stand.

x x x x

Anent the third assigned error, appellant insists that the prosecution failed to sufficiently establish his guilt beyond reasonable doubt of the crimes charged. It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.[44] All the prosecution needs to prove, which it did, was carnal knowledge of the victim by the [appellant] against her will and without her consent and that she was sexually abused and molested through appellant's lascivious conduct.[45] [Emphasis supplied].

The appellant appealed to this Court contending that his convictions for the crimes charged were based mainly on the bare allegations of AAA as there were no evidences presented to corroborate her allegations that he truly raped her. The appellant also harps on the possibility that the laceration found on AAA's vagina may be due to her having sex with her boyfriends because the prosecution did not submit or present even a single evidence or witness who actually saw that he raped AAA. Moreover, the appellant asserts that AAA's testimony contains inconsistencies that would readily show that she is not telling the truth. Also, the long delay on the part of AAA in reporting the rape incidents created doubts that she was raped by the appellant. Thus, the self-serving allegations of AAA that she was raped many times by the appellant deserved scant consideration.

The appellant further argues that the court a quo failed to consider that AAA was merely forced by her aunt, CCC, who has moral ascendancy and authority over her to file the rape cases against him as a form of revenge for his refusal to live with her in Pampanga.

Finally, the appellant posits that the essential elements of the crimes charged were not sufficiently proven by the prosecution and that the pieces of evidence presented by the prosecution fell short of the degree of proof required by law to convict him of the crimes charged. Therefore, the appellant strongly calls for his acquittal.

The appellant's contentions are bereft of merit.

This Court will concurrently discuss the aforesaid arguments raised by the appellant.

The appellant attempts to convince this Court of his innocence by averring that the prosecution failed to sufficiently prove the elements of the crimes of which he was convicted and that the pieces of evidence presented fell short of the degree of proof required to establish his guilt thereof.

This Court holds otherwise.

Article 266-A of the Revised Penal Code provides:

ART. 266-A. Rape; When and How Committed. - Rape is committed:

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

a) Through force, threat or intimidation;

x x x x [Emphasis supplied].

In this case, the records reveal that the prosecution was able to prove appellant's carnal knowledge of AAA through threat or intimidation. The records support his conviction of six counts of rape. During her testimony before the trial court, AAA clearly, candidly, straightforwardly and explicitly narrated before the trial court how the appellant took advantage of her on the 1st week of April 2002, 3 May 2002, 6 May 2002, 7 May 2002, 10 May 2002 and 11 May 2002. AAA repeatedly pointed out the horrendous part of her ordeal when the appellant would command her to undress, would place himself on top of her, would insert his penis into her vagina and would make push and pull movements. She was cowed into submission to the appellant's beastly desires because the latter always had a knife tucked to his waist and whenever she would resist his sexual advances, the appellant would draw the knife from his waist and wield it on her. Considering that AAA was barely out of childhood at the time when her person was criminally violated, the mere sight of the deadly weapon in the hands of the appellant intimidated her; and easily so because appellant was a 49 year-old man of superior strength to the child. On top of these, the appellant is not just AAA's neighbor - he is also the brother of AAA's foster father. These concurring circumstances provided the occasion for the infliction of appellant's bestiality upon AAA's hapless helplessness.

It is a well-entrenched law that intimidation in rape includes the moral kind of intimidation or coercion. Intimidation is a relative term, depending on the age, size and strength of the parties, and their relationship with each other. It can be addressed to the mind as well. For rape to exist it is not necessary that the force or intimidation employed be so great or of such character as could not be resisted. It is only necessary that the force or intimidation be sufficient to consummate the purpose which the accused had in mind. Intimidation must be viewed in the light of the victim's perception and judgment at the time of the rape and not by any hard and fast rule. It is therefore enough that it produces fear -- fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at the moment or thereafter, as when she is threatened with death if she reports the incident. Intimidation would also explain why there are no traces of struggle which would indicate that the victim fought off her attacker.[46]

With the aforesaid, the prosecution, indeed, has proven beyond reasonable doubt the existence of carnal knowledge through threat or intimidation, which is enough to establish the crime of rape.

The prosecution likewise proved the essential elements of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. It thus provides:

SEC. 5. Child Prostitution and Other Sexual Abuse. - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; x x x.

The elements of sexual abuse under the above provision are as follows: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected

to other sexual abuse; and (3) the child, whether male or female, is below 18 years of age.[47]

AAA testified that on the 2[nd] week of April 2002, 1 May 2002, 2 May 2002, 8 May 2002 and 9 May 2002, the appellant touched her breasts and vagina. The said incidents happened inside the house of AAA's parents whenever AAA was left alone. In all instances, there was no penetration, or even an attempt to insert appellant's penis into AAA's vagina.

The aforesaid acts of the appellant are covered by the definitions of "sexual abuse" and "lascivious conduct" under Section 2(g) and (h) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases promulgated to implement the provisions of Republic Act No. 7610:

(g) "Sexual abuse" includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children;

(h) "Lascivious conduct" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person.[48]

The second element is also present. Section 5 of Republic Act No. 7610 does not merely cover a situation of a child being abused for profit, but also one in which a child is coerced to engage in lascivious conduct.[49] To repeat, intimidation need not necessarily be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. This is especially true in the case of young, innocent and immature girls who could not be expected to act with equanimity of disposition and with nerves of steel. Young girls cannot be expected to act like adults under the same circumstances or to have the courage and intelligence to disregard the threat.[50]

The circumstances of the rapes are the same as that which occasioned the sexual abuses. AAA was a 12 year-old girl who was the object of the criminal carnality of a male adult. Access to the girl was easy for the predator is one of the folks being a neighbor and a brother of AAA's foster father. Moreover, to repeat the statement of AAA on cross-examination, she was afraid of the appellant because he was always carrying a knife and he showed it to her whenever she failed to follow his wishes. Appellant virtually enslaved AAA.

As regards the third element, it is undisputed that AAA was below 18 years of age when she was sexually abused by the appellant.

Thus, all the elements of sexual abuse under Section 5(b), Article III of Republic Act No. 7610 were also proven by the prosecution.

No significance can be given to the claim of the appellant that his convictions for the crimes charged were based mainly on the bare allegations of AAA, as there was no evidence presented to corroborate her allegations that he truly raped her.

It is a fundamental rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect and binding upon this Court, particularly when affirmed by the Court of Appeals.[51] This Court has repeatedly recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation,

flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath.[52] These are significant factors in evaluating the sincerity of witnesses, in the process of unearthing the truth.[53] The appellate courts will generally not disturb such findings unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[54] In this case, none of these circumstances are present.

Credible witness and credible testimony are the two essential elements for the determination of the weight of a particular testimony. This principle could not ring any truer where the prosecution relies mainly on the testimony of the complainant, corroborated by the medico-legal findings of a physician. Be that as it may, the accused may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is clear, convincing and otherwise consistent with human nature.[55]

Needless to say, this is a matter best assigned to the trial court which had the first-hand opportunity to hear the testimonies of the witnesses and observe their demeanor, conduct, and attitude during cross-examination. Such matters cannot be gathered from a mere reading of the transcripts of stenographic notes. Hence, the trial court's findings carry great weight and substance.[56]

As aptly stated by the Court of Appeals in its Decision, the trial court did not unthinkingly rely on the testimony of AAA in finding the appellant guilty of the crimes charged. There was a critical assessment of her testimony and the manner it was given. The first hand observation was that AAA's testimony was spontaneous, positive, straightforward and candid. Without flourish and innuendo, AAA recounted in detail how the appellant took advantage of her from the first week of April 2002 until 11 May 2002. The trial court noted that AAA was crying while testifying. The crying was a natural display of emotion indicating the pain that the victim feels when asked to recount her traumatic experience.[57] The tears indicate truth and sincerity.

Moreover, AAA's testimony that she was repeatedly raped and sexually abused by the appellant was corroborated by the medico-legal findings of the examining physician, P/Sr. Insp. Carpio. Settled is the rule that where a rape victim's testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place.[58]

While it is true that aside from AAA herself, the prosecution did not present any other witness who actually saw that the appellant raped and sexually abused AAA, such fact was not fatal to the prosecution's cause. There is no claim that other witnesses saw or could have seen the crime but were not presented in court. Indeed, credibility does not go with numbers. The testimony of a single witness, if categorical and candid, suffices. It is of judicial notice that the crime of rape is usually committed in a private place where only the aggressor and the rape victim are present.[59] Further, AAA has positively identified the appellant as the person who raped and sexually abused her and this negates the theory proffered by the appellant that the laceration found on AAA's vagina could have been caused by AAA's sexual intercourse with either of her two boyfriends.

It is time once more to stress 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 a 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 unless she is motivated by a patent desire to seek justice for the wrong committed against her.[60] When her testimony passes the test of credibility, the accused can be convicted on the basis thereof. This is because from the nature of the crime, the only evidence that can be offered to establish the guilt of the accused is the complainant's testimony.[61]

We cannot sustain appellant's contention that AAA's testimony contains inconsistencies that put her credibility in doubt. The supposed inconsistencies or contradictions refer to alleged variance in the dates and times that the

appellant committed the crimes. Particularly alluded to was AAA's testimony that the two sons of her foster parents reported for work on 1 May 2002 despite the fact that it was a regular holiday. AAA testified that she was sexually assaulted by the appellant on 1 May 2002 at 8:30 o'clock in the morning, however, on the said date the appellant claimed that he left their house at 7:00 o'clock in the morning to attend an excursion and he returned home only at 10:00 o'clock in the evening. Also, AAA stated that on 11 May 2002, the appellant raped her at 7:00 o'clock in the evening but the appellant avowed that on the said date he was at the house of her cousin, Candida, from 7:00 o'clock in the morning until 10:00 o'clock in the evening. Further, AAA initially said that on 1 May 2002 the two sons of her foster parents reported for work, however, she changed her statement that they did not report for work on that date, then again, she claimed that she was not sure whether they reported for work or not but she was certain that they left the house.

The appellate court satisfactorily explained the aforesaid inconsistencies in this wise:[62]

The perceived inconsistencies or contradictions referred to by the appellant pertain only to the date and time differences on the commission of the act which are minor and insignificant details which, even if considered, would not alter the fact that indeed appellant raped and sexually abused AAA. x x x Besides both the prosecution and the defense merely gave estimates of time as to when the act complained of happened and where the appellant was, at that particular time. x x x Moreover, the date and time are not an essential element of the crime.[63] It is not even necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.[64]

Indeed, it is clear that the inconsistencies regarding the date and time of commission pointed out by the appellant are not really inconsistencies in the statement of AAA, but more of contradictions between the testimonies offered by him and by AAA. Naturally, the appellant would contradict the statements of AAA as a matter of defense to exonerate himself of the crimes charged. Further, the inconsistent statements of AAA as to whether or not the two sons of her foster parents reported for work on 1 May 2002 is too trivial and inconsequential and would not alter the fact that the appellant had raped and sexually abused AAA. Time-honored is the doctrine that discrepancies referring to minor details and collateral matters do not affect the veracity of the witnesses' declarations. In fact, they strengthen, rather than impair, the witnesses' credibility, for they erase any suspicion of rehearsed testimony.[65]

Similarly, the delay on the part of AAA in reporting the rape incidents cannot cast doubt on her credibility. It must be emphasized that people may react differently to the same set of circumstances. There is no standard reaction of a victim in a rape incident. Not every victim of rape can be expected to act with reason or in conformity with the usual expectations of everyone. The workings of a human mind placed under emotional stress are unpredictable; people react differently. Some may shout, some may faint, while others may be shocked into insensibility.[66] The delay on the part of AAA in disclosing the sexual defilement to her aunt, CCC, and to her mother is understandable. As adequately elucidated by the appellate court, AAA's complete obedience to appellant, her lack of struggle and silence about her ordeal were all brought about by a genuine fear posed upon her by the appellant who always had a knife tucked to his waist whenever he wanted to see AAA to satisfy his lust.[67] The appellant is the brother of AAA's foster father and their houses are adjacent to each other. Well-entrenched is the rule that delay in reporting an incident of rape is not an indication of a fabricated charge, nor does it cast doubt on the credibility of a complainant.[68] More significantly, a one-month delay cannot be regarded as unreasonable. We have had cases where the delay in reporting the crime lasted for months, yet the testimonies of the victims therein were found to be plausible and credible.[69]

As regards appellant's assertions that the rape charges against him were fabricated and initiated only by the aunt of AAA in revenge for his refusal to live with her in Pampanga, the same remains unsubstantiated, thus, stands on

hollow ground. Here we quote the trial court's pronouncement on this matter:

The [appellant] would want this Court to believe that the charges against him were trumped up, borne by the desire of CCC, the sister of the [biological] mother of AAA to exact revenge upon him. The [appellant] would have it that CCC was his lover, having had carnal knowledge of her once in a local motel but became furious of him and threatened to bring the fury of hell to him when he denied her request to live with her as husband and wife in Pampanga. Such a defense burdens the imagination. It is utterly preposterous and unthinkable. Both the [appellant] and CCC are presently married to and living with their respective spouses. The Court failed to see anything so appealing on the part of the [appellant] as to drive CCC, who was already 41 years of age x x x and with six (6) children with her husband, out of her mind to make such proposal to the [appellant]. As a laundrywoman and a food vendor on the side, CCC would not be financially in a position to offer to buy for the [appellant] a passenger tricycle as their means of livelihood in Pampanga. In any event, the [appellant] failed to substantiate his said claim by document or other evidence of relationship like mementos, love letters, notes, pictures and the like.

Even in the remote possibility that CCC was indeed so obsessed to have the [appellant] as her live-in partner, it does not follow that she can impose her will on AAA and her mother for them to concoct a story of not just one but multiple rape alleged to have been committed against AAA. The [biological] mother of AAA would particularly not allow her daughter to be used by her sister as an engine of malice, specially (sic) since to do so would expose her daughter to embarrassment and public trial.[70]

As has been repeatedly stated by this Court in a number of cases, it is unnatural for a parent to use her offspring as an engine of malice if it will subject her to embarrassment and even stigma. No mother would stoop so low as to subject her daughter to the hardships and shame concomitant to a rape prosecution just to assuage her own hurt feelings, more so, of her sister. It is unthinkable that a mother would sacrifice her daughter's honor to satisfy her grudge or even her sister's grudge, knowing fully well that such an experience would certainly damage her daughter's psyche and mar her entire life. A mother would not subject her daughter to a public trial with its accompanying stigma on her as the victim of rape, if said charges were not true.[71]

In contrast, the evidence presented by the defense consisted mainly of bare denials and alibi. As the Court has oft pronounced, both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.[72] For the defense of alibi to prosper, it is not sufficient that appellant prove that he was somewhere else when the crime was committed, he must also show that it was physically impossible for him to be at the locus criminis or its immediate vicinity when the crime was perpetrated.[73] Further, the defense of alibi may not prosper if it is established mainly by the accused themselves and their relatives like in this case and not by credible persons.[74]

In the case at bench, the appellant vehemently averred that at the time of the incidents on 1 May 2002 and on 11 May 2002 he was in Angat, Bulacan, and in Bagbaguin, Valenzuela City, respectively. On 1 May 2002, the appellant insisted that it was impossible for him to sexually abuse AAA at 8:30 in the morning because as early as 7:00 o'clock in the morning he already went out of his house to join the excursion of his co-drivers in Angat, Bulacan, and returned home only at 10:00 o'clock in the evening. Also, on 11 May 2002, at around 7:00 o'clock in the evening, the appellant claimed that it was not possible for him to rape AAA because as early as 9:00 o'clock in the morning he was already at the house of his cousin in Bagbaguin, Valenzuela City, to assist in the cooking of food for the birthday celebration of his cousin's nephew and he went home only at around 10:00 o'clock in the evening. However, these assertions of time and hour are bare and bereft of support. Neither is there any evidence to prove that it was physically impossible for him to be present at the place where the crimes were committed at the time they happened.

Additionally, it is worthy to note the findings of the trial court, which was affirmed by the appellate court, that

from the time the appellant left his house on 1 May 2002 at 7:00 o'clock in the morning up to the time the incident of sexual abuse happened at 8:30 in the morning of the same day, there is only a time difference of one and one-half hour, thus, it was entirely possible that before leaving his house he had already committed the act complained of against AAA. Besides, the appellant can easily give a different time to make it appear that at the time of the incident he was no longer at the place where it happened. In the same breath, though the appellant was at the house of his cousin at the time the crime of rape was committed on 11 May 2002, it was not physically impossible for him to be present at the crime scene at the time it happened because the records clearly show that his cousin's house is only a 15-minute-walk away from the house of AAA.

The testimonies of the appellant's wife, cousin and niece designed to strengthen his defense of denial and alibi cannot be given any value for their testimonies are suspect because of their relationship to appellant. This Court has held that relatives would freely perjure themselves for the sake of their loved ones.[75] Notably, the cousin of the appellant even admitted that on 11 May 2002 there was an instance when the appellant left her house for about an hour and then returned to continue with the drinking session. This indicates the possibility that it was during that hour that appellant raped AAA.

For failure of the appellant to support by clear and convincing evidence his defense of denial and alibi, and in light of the positive declaration of AAA, who in a simple and straightforward manner convincingly identified the appellant as her ravisher, the defense offered by the appellant must necessarily fail.

Given the foregoing, this Court affirms appellant's convictions in Criminal Case Nos. 545-V-02, 549-V-02, 552-V-02, 553-V-02, 544-V-02 and 348-V-02 for six counts of rape and in Criminal Case Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 for five counts of sexual abuse under Section 5(b), Article III of Republic Act No. 7610.

This Court holds that the lower courts properly convicted the appellant in Criminal Case Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 for five counts of sexual abuse under Section 5(b), Article III of Republic Act No. 7610 even though the charges against him in the aforesaid criminal cases were for rape in relation to Republic Act No. 7610. The lower courts' ruling is in conformity with the variance doctrine embodied in Section 4, in relation to Section 5, Rule 120 of the Revised Rules of Criminal Procedure, which specifically provides:

SEC. 4. Judgment in case of variance between allegation and proof. - When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

SEC. 5. When an offense includes or is included in another. - An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

With the aforesaid provisions, the appellant can be held guilty of a lesser crime of acts of lasciviousness performed on a child, i.e., sexual abuse under Section 5(b), Article III of Republic Act No. 7610, which was the offense proved because it is included in rape, the offense charged.

As to penalty. This Court similarly affirms the penalty of reclusion perpetua[76] imposed by the lower courts against the appellant for each count of rape in Criminal Case Nos. 545-V-02, 549-V-02, 552-V-02, 553-V-02, 544-V-02 and 348-V-02.

This Court, however, modifies the penalty imposed by the lower courts against the appellant in Criminal Case

Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 for sexual abuse under Section 5(b), Article III of Republic Act No. 7610.

For acts of lasciviousness performed on a child under Section 5(b), Article III of Republic Act No. 7610, the penalty prescribed is reclusion temporal in its medium period to reclusion perpetua. Notwithstanding that Republic Act No. 7610 is a special law, the appellant may enjoy the benefits of the Indeterminate Sentence Law.[77]

Applying the Indeterminate Sentence Law, the appellant shall be entitled to a minimum term to be taken within the range of the penalty next lower to that prescribed by Republic Act No. 7610. The penalty next lower in degree is prision mayor medium to reclusion temporal minimum, the range of which is from 8 years and 1 day to 14 years and 8 months. On the other hand, the maximum term of the penalty should be taken from the penalty prescribed under Section 5(b), Article III of Republic Act No. 7610, which is reclusion temporal in its medium period to reclusion perpetua, the range of which is from 14 years, 8 months and 1 day to reclusion perpetua. The minimum, medium and maximum term of the same is as follows: minimum - 14 years, 8 months and 1 day to 17 years and 4 months; medium - 17 years, 4 months and 1 day to 20 years; and maximum - reclusion perpetua.

In this case, the trial court imposed on the appellant an indeterminate sentence of 8 years and 1 day of prision mayor as minimum to 15 years, 6 months and 20 days of reclusion temporal as maximum for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. The minimum term imposed is correct because it is within the range of prision mayor medium to reclusion temporal minimum, the penalty next lower in degree to that imposed by Republic Act No. 7610. But the maximum term thereof is wrong. The maximum term of the indeterminate sentence should be anywhere from 14 years, 8 months and one day to reclusion perpetua. We, thus, impose on the appellant the indeterminate sentence of 8 years and 1 day of prision mayor as minimum to 17 years, 4 months and 1 day of reclusion temporal as maximum for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610 in Criminal Case Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02.

As to damages. This Court affirms the awards of P50,000.00 as civil indemnity and P50,000.00 as moral damages given by the lower courts to AAA for each count of rape. Civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[78] Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma of 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.[79]

In line with this Court's ruling in *Abenojar v. People*,[80] this Court deems it proper to reduce the award of civil indemnity from P25,000.00 to P20,000.00, as well as the award of moral damages from P25,000.00 to P15,000.00 for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. In the same breath, in line with this Court's ruling in *People v. Sumingwa*,[81] this Court impose a fine of P15,000.00 on the appellant for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01092 dated 28 May 2007 finding herein appellant guilty beyond reasonable doubt in Criminal Case Nos. 545-V-02, 549-V-02, 552-V-02, 553-V-02, 544-V-02 and 348-V-02 of six counts of rape and in Criminal Case Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 of five counts of sexual abuse under Section 5(b), Article III of Republic Act No. 7610 is hereby **AFFIRMED** with the following **MODIFICATIONS**: (1) the maximum term of the indeterminate sentence to be imposed upon the appellant for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610 should be 17 years, 4 months and 1 day of reclusion temporal; (2) the awards of civil indemnity and moral damages for each count of sexual abuse under Section 5(b),

Article III of Republic Act No. 7610 are reduced from P25,000.00 to P20,000.00 and from P25,000.00 to P15,000.00, respectively; and (3) a fine of P15,000.00 is imposed on the appellant also for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. Costs against appellant.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Del Castillo, 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. 2-23.

[2] Penned by Judge Floro P. Alejo. CA rollo, pp. 35-50.

[3] Otherwise known as "The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

[4] 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.

[5] CA rollo, pp. 7-19.

[6] CA rollo, p. 7.

[7] *Id.* at 8.

[8] As evidenced by Order dated 31 May 2002, Records, p. 10.

[9] As evidenced by a Pre-trial Order dated 14 August 2002. *Id.* at 19.

[10] Records (Indexes of Exhibits), p. 1.

[11] Exhibit "A" - Certificate of Live Birth of AAA; Exhibit "B" - Baptismal Certificate of AAA; Exhibit "C" - Sworn Statement of AAA; Exhibit "D" - String; Exhibits "E" to "G" - Photographs; and Exhibit "H" - Medico-Legal Report No. M-1477-02, Records (Indexes of Exhibits) pp. 1-6.

[12] Testimony of BBB, TSN, 14 August 2002, pp. 8-12.

[13] *Id.* at 8.

[14] Testimony of AAA, TSN, 14 August 2002, pp. 53-56.

[15] *Id.* at 56-58.

- [16] Id. at 58-59.
- [17] Id. at 59-61.
- [18] Id. at 61-64.
- [19] Id. at 64-65.
- [20] Id. at 65-66.
- [21] Id. at 66-69.
- [22] Testimony of AAA, TSN, 2 September 2002, pp. 2-6.
- [23] Id. at 6-9.
- [24] Id. at 10-11.
- [25] Testimony of AAA, TSN, 14 August 2002, pp. 22-43.
- [26] Id. at 43-45.
- [27] Id. at 46-47. Testimony of BBB, TSN, 2 September 2002, pp. 12-13.
- [28] Testimony of AAA, TSN, 14 August 2002, pp. 48-49; Testimony of AAA, TSN, 2 September 2002, pp. 12-13.
- [29] Medico-Legal Report No. M-1477-02 dated 13 May 2002, Records (Indexes of Exhibits), p. 6.
- [30] Exhibits "1" to "5" - colored photographs of the appellant while attending a birthday party in a nearby house; and Exhibit "6" - the alleged letter of AAA addressed to a certain Frankie. Records (Indexes of Exhibits), pp. 7-10.
- [31] Testimony of the appellant, TSN, 1 March 2004, pp. 4, 9-11.
- [32] Id.
- [33] Id. at 13-14; TSN, 31 March 2004, pp. 3-5.
- [34] Testimony of the appellant, TSN, 1 March 2004, pp. 6-7.
- [35] Id. at 7 and 12.
- [36] Id. at 8.
- [37] Id. at 4-6 and 8.
- [38] Testimony of Candida, TSN, 8 October 2003, pp. 3-16.
- [39] Testimony of Lea Mae, TSN, 23 July 2003, pp. 2-5.
- [40] Testimony of CCC, TSN, 3 September 2004, pp. 3-5.
- [41] CA rollo, pp. 49-50.
- [42] Id. at 74.
- [43] *People v. Valdez*, 446 Phil. 116, 137 (2004).
- [44] *People v. Guihama*, 452 Phil. 824, 843 (2003).

- [45] Rollo, pp. 15-16 and 22.
- [46] *People v. Ardon*, 407 Phil. 104, 121-122 (2001).
- [47] *Amployo v. People*, G.R. No. 157718, 26 April 2005, 457 SCRA 282, 295.
- [48] *People v. Sumingwa*, G.R. No. 183619, 13 October 2009.
- [49] *Amployo v. People*, supra note 47 at 295-296.
- [50] *Id.*
- [51] *People v. Mahinay*, G.R. No. 179190, 20 January 2009, 576 SCRA 777, 782.
- [52] *People v. Dy*, 425 Phil. 608, 645-646 (2002).
- [53] *People v. Benito*, 363 Phil. 90, 98 (1999).
- [54] *People v. De Guia*, G.R. No. 123172, 2 October 1997, 280 SCRA 141, 150.
- [55] *People v. Dy*, supra note 52 at 645.
- [56] *Id.*
- [57] *People v. Ancheta*, 464 Phil. 360, 371 (2004).
- [58] *People v. Suarez*, G.R. Nos. 153573-76, 15 April 2005, 456 SCRA 333, 350.
- [59] *People v. Dela Cruz*, G.R. No. 118458, 24 July 1997, 276 SCRA 191, 197-198.
- [60] *People v. Bontuan*, 437 Phil. 233, 241 (2002).
- [61] *People v. Dy*, supra note 52 at 645-646.
- [62] Rollo, pp. 16-17.
- [63] *People v. Valindo*, 429 Phil. 114, 120 (2002).
- [64] Section 11, Rule 110, Revised Rules of Criminal Procedure.
- [65] *People v. Ugang*, 431 Phil. 552, 566 (2002).
- [66] *People v. Suarez*, supra note 58 at 345-346.
- [67] Rollo, p. 17.
- [68] *People v. Catoltol, Sr.*, G.R. No. 122359, 28 November 1996, 265 SCRA 109, 118-119.
- [69] *People v. Suarez*, supra note 58 at 346.
- [70] CA rollo, p. 48.
- [71] *People v. Monfero*, 367 Phil. 675, 690-691 (1999).
- [72] *People v. Veloso*, 386 Phil. 815, 825 (2000).
- [73] *People v. Pedroso*, 391 Phil. 43, 55 (2000).
- [74] *People v. Gopio*, 400 Phil. 217, 239 (2000).
- [75] *Id.*

[76] ART. 266-B. Penalties. â”€ Rape under paragraph 1 of the next preceeding article shall be punished by reclusion perpetua. (Revised Penal Code).

[77] People v. Bon, 444 Phil. 571, 585-586 (2003).

[78] People v. Callos, 424 Phil. 506, 516 (2002).

[79] People v. Docena, 379 Phil. 903, 917-918 (2000).

[80] G.R. No. 186441, 3 March 2010.

[81] People v. Sumingwa, supra note 48.

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