

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGARDO OGARTE Y OCOB, ACCUSED-APPELLANT.

G.R. No. 182690. May 30, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Accused-appellant Edgardo Ogarte y Ocob (Ogarte) is now before Us on review after the Court of Appeals, in its Decision[1] dated November 20, 2007, in CA-G.R. CR.-H.C. No. 00100, affirmed with modification the March 9, 2000 Decision[2] of the Regional Trial Court (RTC), 9[th] Judicial Region, Branch 28, Liloy, Zamboanga del Norte, in Criminal Case Nos. L-0043 and L-0044, wherein Ogarte was found guilty beyond reasonable doubt of two counts of Rape, qualified by relationship and age, as defined and penalized under Article 335 of the Revised Penal Code and was sentenced to suffer the penalty of death and the payment of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, and Fifty Thousand Pesos (P50,000.00) as moral damages, for each count of rape.

On May 2, 1997, two separate Informations were filed before the RTC, charging Ogarte with two separate counts of Rape. The accusatory portions of the respective Informations read:

Criminal Case No. L-0043[3]:

That, in the evening, on or about the 1[st] day of November, 1996, in the municipality of xxx, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one [AAA],[4] his 16[-]year[-]old daughter, against her will and without her consent.[5]

Criminal Case No. L-0044[6]:

That, in the morning, on or about the 3[rd] day of November, 1996, in the municipality of xxx, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one [AAA], his 16[-]year[-]old daughter, against her will and without her consent.[7]

On October 15, 1997, Ogarte was arraigned and he pleaded not guilty to the two charges.[8] Joint trial on the merits ensued after the termination of the pre-trial conference.[9]

The prosecution's first witness was the private complainant herself, AAA. She confirmed that it was she who had filed the two complaints for rape against her own father Ogarte, whom she identified in open court. According to AAA, the first instance of rape happened at around ten o'clock in the evening of November 1, 1996, in their home in xxx. AAA claimed that while she was sleeping beside her four younger sisters, Ogarte woke her up, held her hands, grabbed her head, and brought her to the kitchen wherein she was forced to lie down on the floor. AAA said that her struggles were no match for Ogarte's strength[10] who proceeded to take off her pants and underwear, climb on top of her, and insert his penis into her vagina. AAA averred that she cried in pain and

pleaded with her father "not to do it"[11] but Ogarte told her "to be silent because he will do it slowly"[12] and "not to worry because nothing will happen to [her]."[13] AAA said that after Ogarte ejaculated - which she knew because of the white fluid she saw on his penis after he removed it from her vagina - he threatened to kill her if she told her mother, who was at that time in Guinabucan, Zamboanga del Sur,[14] or anybody else of what had happened. For fear that Ogarte is capable of carrying out his threats, AAA kept her silence even when her mother arrived the following day.[15]

At around nine o'clock in the morning of November 3, 1996, AAA alleged that she was again raped by Ogarte. This occurred when, upon her mother's order, she reluctantly obeyed to help Ogarte gather some firewood in the wooded area near their house. AAA narrated that upon carrying some of the wood pieces Ogarte had cut, Ogarte, still carrying the bolo he used to cut the wood, pulled her shoulders and told her not to make any noise as he missed her very much. AAA recounted how Ogarte then went on to remove her undergarments, and ignoring her cries, once again placed himself on top of her and with a "push and pull motion,"[16] consummated his sexual desires. After Ogarte was done, he again warned and threatened AAA against breaking her silence.[17]

AAA described how in the following days and weeks she was able to foil Ogarte's attempts, by avoiding him and by pinching and waking up her sleeping sisters whenever Ogarte tried to make advances. She had managed to keep the incidents to herself up until December 5, 1996, when her mother again asked her to help her father Ogarte gather some wood. AAA, believing that she would again be violated by Ogarte in the woods, mustered the courage to reveal to her mother the events that transpired on November 1 and 3, 1996. Upon learning about this, Ogarte, in his anger, pulled AAA and was about to stab her when he was stopped by AAA's mother who arrived just in time. Thereafter, AAA's mother told her to keep quiet about what her father did to her.[18]

On March 20, 1997,[19] AAA told her grandmother BBB her ordeal in the hands of her own father.[20] On April 2, 1997, AAA and BBB went to the National Bureau of Investigation (NBI) in Dipolog City where they executed the sworn affidavits[21] that were used as bases for the charges against Ogarte.[22]

BBB, AAA's grandmother, was presented next. BBB identified Ogarte in open court and said she knew Ogarte because he is her son-in-law, being the husband of her daughter, AAA's mother. BBB confirmed that AAA was her granddaughter, that she was only 16 years old when the rapes happened, and that AAA told her about the rapes on March 20, 1997, when AAA went to see her in Zamboanga del Sur.[23]

Before resting their case, the prosecution also submitted the following Medico-Legal Findings made on April 2, 1997 by Dr. Milagros M. Cavan, whose testimony was deemed no longer necessary by the RTC, in view of the fact that the medical certificate she submitted was admitted by the defense, subject to rebuttal.[24]

DIAGNOSIS/FINDINGS:

- Examined conscious, coherent, ambulatory:

Weight: 49.6 kgs. Height: 162 C.M.

Pertinent PE Findings:

Breast: Conical in shape; areola pinkish

Chest and Lungs: Clear breath sounds

CVS - Regular rate and rhythm

Abdomen - Flat, soft, no masses, no normoactive bowel sounds

Genitalia:

Introitus: Admits two examining fingers with ease.

Hymen - With old healed lacerations, at 5 o'clock and 7 o'clock positions[25]

Ogarte, addressing the first charge against him, vehemently denied that he had raped his own daughter on the

night of November 1, 1996. He said that although it was true that he was at their residence that evening, his wife, AAA's mother, was also there that night, contrary to AAA's allegations. Ogarte described the layout of their house and argued that because AAA slept at the other end of the room, beside the wall, thus, at the farthest side to the kitchen where the rape allegedly took place, it would have been impossible to pull her and bring her to the kitchen without stepping on or awakening his other children who were sleeping right beside AAA.[26]

Ogarte likewise claimed innocence on the second charge of rape and averred that he was not in the wooded area with AAA on November 3, 1996 as he was plowing his farm that day. Ogarte contended that AAA filed these charges against him as an act of revenge because he and his wife slapped her sometime in February 1997[27] when she adamantly denied having sexual intercourse with three men at her school, as reported by Ogarte's cousin who worked as a teacher in AAA's school.[28]

Ogarte, invoking his love for AAA, his eldest child,[29] whom he admitted to being 16 years old at the time the alleged incidents happened,[30] asserted that for the very reason that AAA is his child, he could not commit these crimes as charged.[31]

Ogarte's close friend Modesto Capalac, who was also their Barangay Captain at that time, attested to Ogarte's well-being and good moral character. He said that he knew Ogarte because they have been neighbors for a long time, even before they became neighbors in San Roque. He said that Ogarte had no criminal record in their Barangay and that since Ogarte was a cooperative man, nobody had ever filed a complaint against him.[32]

On March 9, 2000, the RTC found Ogarte guilty as charged in both criminal cases and imposed on him the supreme penalty of death for each count of rape:

WHEREFORE, finding the accused Edgaro Ogarte Y Ocob guilty beyond reasonable doubt of two counts of the crime of Rape as defined and penalized under Art. 335 of the Revised Penal Code, as charged, aggravated by relationship and age, in relation to Art. 47 of the same Code, this Court hereby sentences him to suffer the penalty of DEATH for each count and orders him to pay the private offended party the sums of P75,000.00 as indemnity for each count and P50,000.00 as moral damages for each count, or a total of P250,000.00.[33]

The RTC said that the constitutional presumption of innocence that Ogarte originally enjoyed was sufficiently overcome by AAA's clear, straightforward, credible, and truthful declaration that on two separate occasions, he succeeded in having sexual intercourse with her, without her consent and against her will, in violation of Article 335 of the Revised Penal Code. The RTC also debunked Ogarte's imputation of ill motive on AAA, stating that while the supposed "whipping and slapping" happened only in February 1997, AAA had exposed Ogarte's appalling acts as early as December 5, 1996. Citing *People v. Victor*,[34] the RTC held that denial and alibi are inherently weak defenses that cannot prevail over the positive and credible testimony of the prosecution witnesses that the accused committed the crime.[35] Moreover, Ogarte, in interposing the defense of denial and alibi, "failed to demonstrate and show that he was somewhere else at the time of the commission of the crime and that is why it is physically impossible for him to have been at the scene of the crime at the time of its commission and commit the crime." [36] The RTC also held that AAA's delay in filing a case against Ogarte is not uncommon and is justified in light of the threats made against her life if she told anyone about the rapes, on top of the fact that her own mother told her to keep quiet about it.[37]

On intermediate appellate review,[38] the Court of Appeals "synthesized for coherence"[39] the errors assigned by Ogarte as follows: "(1) credibility of the victim-witness, (2) appellant's defense of denial, and (3) aggravating circumstance of minority." [40] Ogarte argued AAA's testimony was replete with inconsistencies, her minority was never duly established, and his credible alibi should have been believed in view of the weakness of the prosecution's evidence.[41]

The Court of Appeals gave full weight to the RTC's determination that AAA's testimony was "credible, worthy of full faith and credit," since there was nothing in the records, which showed that the RTC misappreciated the facts or was arbitrary in giving probative value on AAA's testimony. The Court of Appeals also held that the "allegation of inconsistency does not detract AAA's credibility"[42] as sworn statements, not being conclusive proofs, cannot prevail over AAA's testimonies given in open court. On the issue of delay in filing this case, the Court of Appeals said it was justified "considering the intimidation, threat, and force employed"[43] by Ogarte against AAA. The Court of Appeals also agreed with the RTC that Ogarte's defense of denial, being an inherently weak and unreliable defense, could not prevail over AAA's positive and categorical statements. The Court of Appeals affirmed the RTC's appreciation of the aggravating circumstances of minority and relationship, as they were alleged in the information and duly proven during the trial.[44]

On November 20, 2007, the Court of Appeals rendered its decision, modifying the RTC's decision in so far as the current law and jurisprudence are concerned, to wit:

WHEREFORE, the assailed Decision is AFFIRMED with MODIFICATION. Appellant is found guilty, beyond reasonable doubt, of the crime of rape in Crim. Case No. L-0043 and Crim. Case No. L-0044 and shall suffer the penalty of reclusion perpetua for each count of rape. Appellant shall indemnify AAA in the amount of P75,000.00 as civil indemnity ex delicto, P75,000.00 as moral damages, and P25,000.00 as exemplary damages, also for each count of rape.[45]

Ogarte is now before this Court with the same assignment of errors he posed before the Court of Appeals, viz:

I

THE COURT A QUO ERRED IN IMPOSING THE DEATH PENALTY ON THE ACCUSED-APPELLANT DESPITE THE FACT THAT THE MINORITY OF THE PRIVATE COMPLAINANT WAS NEVER DULY ESTABLISHED IN ACCORDANCE WITH THE RULING IN PEOPLE VS. MANUEL LIBAN, G.R. NO. 136247 & 138330, NOVEMBER 22, 2000.

II

THE COURT A QUO ERRED IN ACCORDING WEIGHT AND CREDENCE TO THE UNCORROBORATED TESTIMONY OF THE PRIVATE COMPLAINANT DESPITE THE FACT THAT IT IS REplete WITH MATERIAL INCONSISTENCIES AND THERE WAS CONSIDERABLE DELAY BEFORE SHE INSTITUTED THE INSTANT CASE, WHICH SHE ONLY DID SO ON ACCOUNT OF ILL-MOTIVE ON HER PART.

III

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE AND NOT FINDING CREDIBLE THE ALIBI INTERPOSED BY THE DEFENSE IN VIEW OF THE PATENT WEAKNESS OF THE PROSECUTION'S EVIDENCE.[46]

In reviewing rape cases, this Court is guided by three settled principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[47]

Rape is a serious transgression with severe consequences for both the accused and the complainant. Using the above guiding principles in the review of rape cases, this Court is thus obligated to conduct a comprehensive and

extensive assessment of a judgment of conviction for rape.[48]

This Court has thoroughly scrutinized the entire records of the case, and has found no reason to reverse the courts below.

Ogarte was charged in the information under Article 335 of the Revised Penal Code. The pertinent portions of this Article are emphasized as follows:

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

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

Whenever 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 reclusion perpetua to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.
- When the victim is under the custody of the police or military authorities.
- When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
- When the victim is a religious or a child below seven (7) years old.
- When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
- When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
- When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.[49] (Emphases supplied.)

Ogarte was convicted of two counts of rape by using force and intimidation, qualified by the concurrent circumstances of AAA's minority and Ogarte's relationship with AAA. In an effort to escape the penalty of death, as imposed by Article 335 of the Revised Penal Code when the crime of simple rape is qualified, Ogarte claims that the courts below erred in appreciating AAA's minority as a qualifying circumstance, because it was never duly proven by the prosecution.

We disagree.

While we are aware of the divergent rulings on the proof required to establish the age of the victim in rape cases, this has already been addressed by this Court in *People v. Pruna*,^[50] wherein we established certain guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance. We have reiterated these guidelines in the more recent case of *People v. Flores*,^[51] as follows:

- The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
- In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
- If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:
 - If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
 - If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
 - If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.
- In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.
- It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.^[52]

The qualifying circumstances of age and relationship were not only properly alleged in the information but were also duly established by the prosecution during the trial of the cases against Ogarte. Records show that AAA submitted a certification from the Office of the Local Civil Registrar of Labason, Zamboanga del Norte that her birth records appear in its Register of Births and that her date of birth is listed as "June 24, 1980."^[53] Under the above guidelines in establishing the victim's age, this certification qualifies as an authentic document. Moreover, Ogarte himself admitted, not only on cross examination, but also to his own counsel during his direct examination, that AAA is his eldest child and was 16 years old on November 1, 1996:

On direct examination:

Q:

How old was [AAA] on November 1, 1996?

A:

Sixteen.

x x x x

Q:

[AAA] according to you was sixteen years old at that time?

A:

Yes, sir.

Q:

Was she the eldest child sleeping with you on November 1, 1996?

A:

Yes, sir.

Q:

So the other five children of yours were younger than [AAA]?

A:

Yes, sir.[54]

And again on cross-examination:

Q:

What was the age of your daughter?

A:

[AAA] is sixteen.

x x x x

Q:

How many children do you have?

A:

Eight.

Q:

How young is your eldest?

A:

Sixteen.

Q:

Who is your eldest?

A:

[AAA].[55]

Ogarte insists that both the RTC and the Court of Appeals erred in giving full weight and credence to AAA's testimony considering that it was uncorroborated and was replete with inconsistencies. However, he only gave a general statement and failed to specifically identify the alleged inconsistencies in AAA's testimony. Nevertheless, this Court has declared that inconsistencies in a victim's testimony will not weaken her credibility because we

cannot expect a rape victim to remember every ugly detail of her appalling experience.[56] In *People v. Del Rosario*,[57] we said:

Etched in our jurisprudence is the doctrine that a victim of a savage crime cannot be expected to mechanically retain and then give an accurate account of every lurid detail of a frightening experience - a verity born out of human nature and experience. This is especially true with a rape victim who is required to utilize every fiber of her body and mind to repel an attack from a stronger aggressor. x x x.[58]

Again, this Court is compelled to repeat the well-entrenched rule that the trial court's evaluation of the credibility of the witnesses is entitled to the highest respect absent a showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the result of the case.[59] This is because the trial court is deemed to be in a better position to decide the question of credibility, since it had the opportunity to observe the witnesses' manner of testifying, their furtive glances, calmness, sighs and the scant or full realization of their oath.[60]

The RTC was "convinced, without reservation"[61] in AAA's credibility especially since her testimony was "clear, straightforward, credible and truthful." [62] We also agree with the RTC's assessment that the ill motive Ogarte imputed on his daughter is baseless and concocted only to escape liability, to wit:

Although this Court noted that the accused, in an attempt to exculpate himself from any liability brought about by the couple of charges leveled against him, imputed ill-motive on the part of the private complainant in indicting him of the crimes as charged, the same deserves scant consideration in view of the fact that the accused had whipped or slapped the herein private complainant only sometime in February 1997 as testified to by the accused (p-10, TSN, April 22, 1999) which incident was considered by the defense as the source of the ill-motive of the prosecution witness [AAA], while the private complainant had reported the rapes to her mother on December 5 yet (p-10, TSN, March 3, 1998).[63] (Emphasis ours.)

AAA's delay in reporting the incident to the proper authorities is also insignificant and does not negate the veracity of her charges.[64] It should be remembered that Ogarte threatened to kill her if she revealed the rapes to anyone. Moreover, her own mother told her to keep her silence when AAA told her about the rapes a month after their occurrence. This Court reiterates that:

The failure of complainant to disclose her defilement without loss of time to persons close to her or to report the matter to the authorities does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Delay in prosecuting the offense is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the rapists. They prefer to bear the ignominy and pain, rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims." [65]

Since there are usually only two witnesses in rape cases, it is also a settled rule that rape may be proven by the lone uncorroborated testimony of the offended victim, as long as her testimony is clear, positive, and probable.[66]

As we have established that AAA was a credible witness, her clear, positive, and probable, uncorroborated testimony is enough to convict Ogarte of the crime of rape. As the Court held in *People v. Tayaban*[67]:

[I]t is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed.[68]

Ogarte is trying to persuade this Court to believe that he could not have committed the crimes on the bases of his denial and alibi.

The RTC and the Court of Appeals were correct in disregarding Ogarte's defenses. This Court has uniformly held, time and again, that both "denial and alibi are among the weakest, if not the weakest, defenses in criminal prosecution." [69] It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law. [70]

In *People v. Palomar*, [71] we explained why alibi is a weak and unreliable defense:

Alibi is one of the weakest defenses not only because it is inherently frail and unreliable, but also because it is easy to fabricate and difficult to check or rebut. It cannot prevail over the positive identification of the accused by eyewitnesses who had no improper motive to testify falsely. x x x. [72]

We have also declared that in case of alibi, the accused must show that he had strictly complied with the requirements of time and place:

In the case of alibi, it is elementary case law that the requirements of time and place be strictly complied with by the defense, meaning that the accused must not only show that he was somewhere else but that it was also physically impossible for him to have been at the scene of the crime at the time it was committed. x x x. [73]

This Ogarte utterly failed to do. While he merely denied the rape on November 1, 1996, his alibi for the November 3, 1996 rape failed to show that it was impossible for him to have committed the crime. Ogarte testified that he was at his farm, plowing the field instead of at the wooded area with AAA on November 3, 1996. He further stated that his farm was just a kilometer away from their house and would not even take half an hour to traverse. [74] Clearly, the proximity of the farm to the wooded area and to their house refutes the defense of alibi. [75]

Aside from his testimony, Ogarte never presented any other evidence to prove that he could not have committed the rapes. He did not present any other witness, let alone his wife, whom he claimed was with him on November 1, 1996 and whom AAA claimed to have ordered her to go with Ogarte to gather wood on November 3, 1996. This Court cannot over-emphasize the repeatedly quoted doctrine that positive identification prevails over denial and alibi. [76]

The RTC was correct in imposing upon Ogarte the penalty of death as it found Ogarte guilty beyond reasonable doubt of two counts of qualified rape, AAA being Ogarte's 16-year-old daughter when the rapes were committed. However, although under the Death Penalty Law, [77] the crime of qualified rape is punishable by death, Republic Act No. 9346, [78] which took effect on June 24, 2006, prohibits the imposition of the death penalty. Under this Act, the proper penalty to be imposed upon Ogarte in lieu of the death penalty is reclusion perpetua, [79] without eligibility for parole. [80]

Civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape. Moral damages are automatically awarded without need of further proof, because it is assumed that a rape victim has actually suffered moral injuries entitling the victim to such award. [81]

WHEREFORE, premises considered, the decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 00100, is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Edgardo Ogarte y Ocob is found **GUILTY** beyond reasonable doubt of the crime of **QUALIFIED RAPE** in Criminal Case No. L-0043 and Criminal Case No. L-0044 and sentenced to reclusion perpetua, in lieu of death, without eligibility for parole, for each count of rape. He is ordered to pay the victim AAA Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages, for each count of rape, **ALL** with interest at the rate of 6% per annum from the date of finality of this judgment. No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Peralta,[*] and Perez, JJ., concur.

[*] Per Special Order No. 994 dated May 27, 2011.

[1] Rollo, pp. 3-26; penned by Associate Mario V. Lopez with Associate Justices Romulo V. Borja and Elihu A. Ybañez, concurring.

[2] CA rollo, pp. 18-32; penned by Judge Mariano S. Macias.

[3] Formerly Criminal Case No. S-2867.

[4] Under Republic Act No. 9262 also known as "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

[5] Records, Vol. I, p. 12.

[6] Formerly Criminal Case No. S-2868.

[7] Records, Vol. II, p. 1.

[8] Id., Vol. I, p. 28.

[9] Id. at 52.

[10] TSN, March 17, 1998, p. 7.

[11] TSN, March 3, 1998, p. 6.

[12] Id.

[13] Id.

[14] TSN, March 17, 1998, p. 2.

[15] TSN, March 3, 1998, pp. 3-7.

[16] Id. at 9.

[17] Id. at 7-9.

[18] Id. at 9-11.

[19] Records, Vol. II, p. 13.

[20] TSN, March 3, 1998, p. 11.

[21] Records, Vol. II, pp. 9-13.

[22] TSN, March 3, 1998, p. 11.

[23] TSN, June 16, 1998, pp. 2-6.

[24] Records, Vol. I, p. 79.

[25] Id., Vol. II, p. 15.

[26] TSN, April 22, 1999, pp. 2-5.

[27] Id. at 10-11.

[28] Id. at 5-8.

[29] Id. at 12.

[30] Id. at 5, 12.

[31] Id. at 8.

[32] TSN, September 22, 1999, pp. 2-3.

[33] CA rollo, p. 32.

[34] 354 Phil. 195 (1998).

[35] Id. at 207.

[36] CA rollo, pp. 28-29.

[37] Id. at 24-30.

[38] This case, docketed as G.R. Nos. 143000-01, has reached this Court by way of automatic review on August 25, 2000. However, conformably with the decision promulgated on July 7, 2004 in G.R. Nos. 147678-87, entitled *People v. Mateo*, which allowed for intermediate review by the Court of Appeals, this Court resolved to transfer this case to the Court of Appeals for appropriate action and disposition. (CA records, p. 192.)

[39] Rollo, p. 12.

[40] Id.

[41] Id. at 8.

[42] Id. at 20.

[43] Id. at 21.

[44] Id. at 12-23.

[45] Id. at 25.

[46] CA rollo, pp. 54-55.

[47] *People v. Antivola*, 466 Phil. 394, 408 (2004).

[48] *People v. Celocelo*, G.R. No. 173798, December 15, 2010.

[49] As amended by Sec. 11, Republic Act No. 7659.

[50] *People v. Pruna*, 439 Phil. 440, 470-471 (2002).

[51] G.R. No. 177355, December 15, 2010.

[52] Id.

[53] Records, Vol. II, p. 14.

- [54] TSN, April 22, 1999, p. 5.
- [55] Id. at 12.
- [56] *People v. Ruiz*, 368 Phil. 805, 827 (1999).
- [57] 398 Phil. 292 (2000).
- [58] Id. at 301.
- [59] *People v. Ibay*, 371 Phil. 81 (1999).
- [60] *People v. Fernandez*, 426 Phil. 169, 173 (2002).
- [61] CA rollo, p. 26.
- [62] Id. at 24.
- [63] Id. at 27.
- [64] *People v. Julian*, 337 Phil. 411, 425 (1997).
- [65] *People v. Gecomio*, 324 Phil. 297, 314-315 (1996).
- [66] *People v. Buenviaje*, 408 Phil. 342, 354 (2001).
- [67] 357 Phil. 494 (1998).
- [68] Id. at 508.
- [69] *People v. Espinosa*, 476 Phil. 42, 62 (2004).
- [70] Id. at 62.
- [71] 343 Phil. 628 (1997).
- [72] Id. at 663-664.
- [73] *People v. Pili*, 351 Phil. 1046, 1068-1069 (1998).
- [74] TSN, April 22, 1999, p. 9.
- [75] *People v. Pili*, supra note 73.
- [76] *People v. Espinosa*, supra note 69.
- [77] Republic Act No. 7659.
- [78] An Act Prohibiting the Imposition of the Death Penalty, June 24, 2006.
- [79] Republic Act No. 9346, Section 2.
- [80] Id., Section 3.
- [81] *People v. Flores*, supra note 51.

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