

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMY ATADERO, ACCUSED-APPELLANT.

G.R. No. 183455. October 20, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the January 24, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00106, affirming the November 28, 2002 Decision[2] of the Regional Trial Court Branch 37, Dumaguete City (RTC), in Criminal Case Nos. 14247, 14248, and 14249, which convicted accused Romy Atadero of the crime of rape in Criminal Case No. 14249 but acquitted him in Criminal Case Nos. 14247 and 14248.

In Criminal Case No. 14249, the Information dated October 6, 1999, reads:

That on or about June 27, 1999 at about, 7:00 o'clock in the morning in Sitio Balastro, Barangay Casala-an, Siaton, Negros Oriental, Philippines, within the jurisdiction of this Honorable Court, the said accused entered the house of XXX[3] who was then and there alone, and by means of force and intimidation, willfully, unlawfully, and feloniously did lie, and succeeded in having carnal knowledge of said XXX.

CONTRARY TO LAW.[4]

During the trial, the prosecution presented two witnesses, private complainant XXX and her husband YYY. As set forth in the Appellee's Brief, the thrust of the prosecution's evidence is as follows:

Sometime in September of 1998, accused-appellant Romy Atadero, from Barangay Kakha, Sta. Catalina, Negros Oriental, visited the home of private complainant XXX and her husband YYY in Sitio Balastro, Casala-an, Siaton, Negros Oriental, to get acquainted with XXX's husband and to look for land to work on. After the initial visit, appellant went to his cousin Nory Atadero's house in the same sitio where he stayed for two (2) weeks.

After two (2) weeks, he went back to XXX's house and asked permission from her husband if he could stay with them. Sympathetic of appellant, XXX's husband allowed him to stay with them. Appellant indeed sojourned in their house from September 1998 to February 1999 until he moved to the house of Carmelita Lago in the same sitio where he organized a farming association. He still visited and even fetched XXX's husband to plow his farm.

On June 27, 1999, at 7:00 in the morning, XXX was caring for her one and a half (1½) year old child in her house when appellant arrived. Appellant immediately went up the house as he looked for XXX's husband. In reply, XXX told appellant that her husband went to Siaton Public Market in Siaton, Negros Oriental to sell eggplants. Upon learning that her husband was not around, he lay down on the floor of the room. XXX, for her part, went inside the room and rocked the cradle of her child.

Meanwhile, appellant closed the main door. When XXX opened the door that appellant closed, he got up, held her shoulders, and told her that he was going to kiss her. She resisted by pushing him away, but he pointed a gun at her head. As he held his gun with his left hand, he used his right hand to unzip his pants, held her left

shoulder and pushed her to the floor.

In an instant, appellant removed XXX's shorts and panty, went on top of her and forcefully forced his penis into her vagina, even as she resisted by moving her body left and right. For five (5) minutes, he satisfied himself on the helpless XXX until he ejaculated seminal fluid inside her. Thereafter, he put the gun on his waist and sat down on the stairs. XXX could not do anything but cried. He stayed on for five (5) minutes, then threatened her not to tell anyone.

That same day, at 4:00 o'clock in the afternoon, XXX's husband arrived. XXX, however, was mum. She was just too afraid to disclose her defilement. Appellant's gun and the threat to her life appeared so real and imminent. Besides, appellant also made XXX believe that he was an NPA Commander and that his brothers were NPA members.

XXX also narrated two (2) other instances of sexual assault, one - on June 29, 1999 and the other - on July 4, 1999. As appellant was acquitted on these two (2) charges, the facts relating thereto become irrelevant in this appeal.

At any rate, XXX eventually told her husband of the incident of July 4, 1999. It appears that at 2:00 o'clock in the afternoon of said date, XXX's husband came home and saw her crying. It was then that she gathered enough courage to disclose the humiliation and ordeal she had undergone, that she was mauled and raped by appellant early that morning and several times days before.[5]

The defense presented as witnesses in this case, accused Romy Atadero, Bienvenido Valiente (Valiente) and Ronnie Climaco (Climaco).

The accused interposed the defense of alibi and advanced the theory that the XXX and YYY imputed such a crime on him because he was the president of a rival farmer's association.

The accused testified that in the early morning of June 27, 1999 when the rape was allegedly committed, he was having breakfast in the house of Leopoldo Lago in Sitio Balastro, Casala-an, Siaton. After eating, he waited for the other members of Casala-an Independent Small Farmers Association (CISFA) for a scheduled weeding/plowing activity in the Balastro area. They started working at around 7:30 o'clock in the morning and finished at about 4:00 o'clock in the afternoon. As the CISFA president, he led the activity and stayed with the group from the start up to the very end. Thus, he claimed that he had neither the time nor opportunity to go to the house of XXX and YYY that morning to rape the private complainant.

His alibi was corroborated by Valiente, a farmer residing in Apoloy, Siation and a fellow-officer of CISFA. On June 24, 1999, he went to Sitio Balastro and stayed there for three (3) days to participate in the weeding/plowing activity. He shared a room and bed with the accused in the house of Leopoldo Lago. At 6:00 o'clock in the morning of June 27, 1999, Valiente woke up and helped the accused and Leopoldo Lago prepare their breakfast. They ate at about 7:00 o'clock and thirty (30) minutes later, they sat at the porch talking and waiting for the other members of their association. When about thirty (30) members had gathered, they proceeded to the tract of land that they would weed/plow, which was about a kilometer away. Valiente testified that he was with the accused the entire time that they were working on the land. He was convinced that the accused could not have committed the rape because they were together cooking, eating, and working at the time the rape allegedly took place.

Another member of CISFA, Climaco, reinforced the testimonies of the accused and Valiente. He claimed that from 7:00 to 11:00 o'clock in the morning of June 27, 1999, he was with the accused and the other members of CISFA, weeding and plowing the land. Those who participated were made to sign an attendance list. The first person to sign was the accused, while Climaco was eighteenth (18th) on the list. He brought to the court a photocopy of the said attendance list saying that the original document was misplaced by the secretary.

On November 28, 2002, the RTC handed down the subject decision, the dispositive portion of which reads:

WHEREFORE, accused ROMY ATADERO is hereby declared GUILTY of one (1) felony of rape in Criminal Case No. 14249 and sentenced to suffer the penalty of reclusion perpetua and to indemnify XXX the sum of Fifty Thousand (-P-50,000.00) Pesos as moral damages, and another Fifty Thousand (-P-50,000.00) Pesos as civil indemnity. He shall, however, be credited with the full time of his preventive imprisonment in accordance with Article 29 of the Revised Penal Code, as amended by Republic Act No. 6127, if the conditions therein prescribed have been complied with.

With respect to Criminal Case Nos. 14247 and 14248, the accused is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

SO ORDERED.[6]

In reaching said determination, the RTC gave credence to the lone testimony of XXX finding it to be candid and straightforward, and rejected the defense of alibi of the accused.

On appeal, the CA affirmed in toto the RTC conviction in a Decision dated January 24, 2008, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered DISMISSING the appeal. The decision dated November 28, 2002, of the Regional Trial Court of Dumaguete City, Branch 37, finding the accused-appellant Romy Atadero guilty of the crime of rape and sentencing him to reclusion perpetua in Criminal Case No. 14249 is hereby AFFIRMED.

SO ORDERED.[7]

Dissatisfied, the accused interposes this appeal praying for the reversal of the subject decision and adopts his Appellant's Brief filed with the CA as his Supplemental Brief, with the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The accused contends that the RTC failed to apply the principle that in rape cases, the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the defense, as the testimony of the private complainant was not truthful, and her story smacked of improbabilities and incredibilities. These contentions must fail.

The Court is mindful of the guiding principles it has laid down in reviewing the evidence of rape cases, namely: (1) an accusation for rape can be made with facility; while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[8]

Complementing such principles is the rule that the credibility of the victim is always the single most important

issue in a prosecution for rape.[9]

The elements of rape, relevant to this case, are defined under Article 266-A of the Revised Penal Code as follows:

(1)

That the offender had carnal knowledge of a woman; and

(2)

That such act was accomplished through force, threat or intimidation.

The private complainant's testimony proved the elements of carnal knowledge accomplished through force, threat or intimidation, to wit:

ATTY. ZERNA:

Q:

After opening that door what did Romy Atadero do? I withdraw that. Then what happened next when you opened the door?

A:

After I opened the door he suddenly stood up and held me.

COURT:

Q:

Where did he hold you?

A:

On my shoulder.

Q:

What did you do when he held you on your shoulder?

A:

He said: "Let me kiss you."

ATTY. ZERNA:

Q:

Then what did you do?

A:

I pushed him.

Q:

After pushing him what did he do?

A:

He pointed a gun at me.

Q:

At what part of your body did he point the gun?

A:

At my head.

Q:

Then after that what did he do?

A:

He zipped down the zipper of his pants.

Q:

Then after unzipping his pants what did he do?

A:

He undressed me.

Q:

Did you resist? You said he undressed you, did you resist?

A:

Yes.

Q:

How did you resist?

A:

While I resisted I pushed him.

Q:

A while ago, you said you pushed him then now you said you again pushed him, may you make it clear whether this is the first or second time that you pushed him?

A:

Yes.

Q:

You said you resisted then were you successful in resisting Romy Atadero?

A:

No.

Q:

Why?

A:

Because I was afraid that he pointed a gun at me.

Q:

Was there any word from him when he pointed a gun at you?

A:

Yes, there was.

Q:

What was his words?

A:

He said to me not to tell.

Q:

You said that he tried... he undressed you, was he successful in undressing you?

A:

Yes.

Q:

What was your attire then?

A:

Gartered shorts.

Q:

And in the upper portion of your body what was your dress then?

A:

T-shirt.

Q:

Did you have underwear then?

A:

Yes.

Q:

The brassiere?

A:

None.

Q:

You said that he undressed you, was he able to make you undressed everything?

A:

No.

Q:

What were the clothes that he was able to take off from you?

A:

Only shorts and panty.

Q:

You said that he was able to take off your shorts and panty a while ago and a while ago you said that there was this struggle, how did this happen that he was able to take off your panty and shorts when in fact you have struggled?

A:

Because he held me.

Q:

Where?

A:

On my shoulder.

Q:

With what hand?

A:

Right.

Q:

With what hand did he hold his gun?

A:

Left.

Q:

When you undressed or when he took off your panty and shorts what was your position then, standing, sitting, lying or whatever?

A:

I was lying down.

Q:

How did it happen that you lie down?

A:

Because he pushed me.

Q:

How did he push you?

A:

Like this. (Witness demonstrating by pushing her hand down using her right hand).

Q:

Will you please demonstrate here in court how did he do it? This is you and you are Romy Atadero, how did Romy Atadero push her down?

FISCAL ROCAMORA:

For the record, the interpreter is the victim supposedly and the witness is the supposed accused.

COURT INTERPRETER:

The witness demonstrated by holding the left shoulder of the victim down hard and pushed forward using her right hand with full force.

ATTY. ZERNA:

Q:

So after taking off your panty and your shorts what did he do?

A:

He held his penis and inserted it into my vagina.

Q:

When he do that did you make any... was there any resistance from you?

A:

Yes, I resisted.

Q:

How did you resist?

FISCAL ROCAMORA:

May we request, your Honor, that the word "kisi-kisi" be included in the record.

x x x

ATTY. ZERNA:

Q:

When you say "kisi-kisi" what were the... will you demonstrate the movements you made?

A:

Moving from side to side.

Q:

What part of your body did you move from side to side?

A:

The whole part of my body.

Q:

You said a while ago that he held his sex organ and inserted, was he successful in inserting that in your sex organ despite the fact that you moved side by side?

A:

Yes, he was successful.

Q:

After inserting his organ on your vagina were you... did you continue your movement or your struggle?

A:

Yes.

Q:

At this point in time when he inserted his organ on yours where was the gun?

A:

I did not notice anymore where he placed it.

x x x

Q:

You said that you were already lying down because he pushed you and then he inserted his organ on yours, where was he in relation to you at this very moment?

A:

On top of me.

Q:

How long does it take... how long was he there staying on top of you?

A:

Five (5) minutes.

Q:

What was he doing on top of you?

A:

He raped me.[10]

The oft-repeated principle is that the assessment of the credibility of witnesses and their testimonies is best

undertaken by a trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under examination.[11] Its findings on such matters are binding and conclusive on appellate courts unless some facts or circumstances of weight and substance have been overlooked, misapprehended, misinterpreted, or the court gravely abused its discretion.[12] None of these exceptions are present in this case.

Private complainant's narration was simple and unambiguous, natural, and consistent with human nature, and the normal course of things. The Court agrees with both the RTC and CA in finding the testimony of the private complainant to be straightforward, candid, categorical, spontaneous, consistent, and never contradictory despite the rigorous and grueling cross-examination, thereby bearing the earmarks of truthfulness. The RTC also noted that the private complainant was crying during her direct examination. Such, further bolsters the credibility of her testimony as the crying of a victim during her testimony is evidence of the credibility of the rape charge with the verity born out of human nature and experience. [13]

The accused calls the attention of the court that, at one point, the private complainant no longer noticed where the gun was. He, therefore, argues that there was no more threat to speak of at that moment. The Court is not persuaded. It is not necessary that the force or intimidation employed in the commission of the rape be so great as could not be resisted because all that is required is that it be sufficient to consummate the purpose which the accused had in mind.[14] What is important is that because of force and intimidation, the victim was made to submit to the will of the accused.[15] The test of sufficiency of force or intimidation in the crime of rape is whether it produces a reasonable fear in the victim in that if she resists or does not yield to the demands of the accused, his threat would be carried out.[16]

As clearly established by her testimony, it was the use of a gun that created a reasonable fear in private complainant. At the moment when private complainant could no longer notice where the gun was, the fear caused by the accused had already overcome her, thereby facilitating the commission of the rape. In rape, it is not required that the victim resists the accused's sexual advances. A review of Article 266-A of the Revised Penal Code will reveal that the law does not impose upon a rape victim the burden of proving resistance.[17] All that is necessary is that force and intimidation were employed by the accused against her, which enabled him to commit the crime.[18]

Accused further contends that private complainant's behavior after the alleged rape belies her credibility and is inconsistent with human nature. He pointed out that things went smoothly as if no rape had occurred as evidenced by her admission that two days after the alleged rape, she simply dozed off with her child; that the door of her house remained unlocked; she allowed herself to be left alone with her child; and that she did not immediately tell her husband about the rape. Although the conduct of the victim immediately following the alleged sexual assault is of utmost importance as tending to establish the truth or falsity of the charge of rape,[19] it is not accurate to say that there is a typical reaction or norm of behavior among rape victims, as not every victim can be expected to act conformably with the usual expectation of mankind and there is no standard behavioral response when one is confronted with a strange or startling experience, each situation being different and dependent on the various circumstances prevailing in each case.[20]

In this case, private complainant's delay in reporting the rape was due to the fear brought about by the threat to her life, as can be gleaned from her testimony, to wit:

ATTY. ZERNA

Q:

Now, when your husband arrived did you tell him about the incident?

A:

No.

Q:

Why?

A:

Because I was afraid.

Q:

Afraid of what?

A:

Of what he told me that if I am going to tell anyone it would be a waste of my life to die because I am still young.

Q:

Why did you believe him, I mean why did you believe in the warning of Romy Atadero?

A:

Because he has a gun.

Q:

Did you actually believe that he would use that gun against you?

A:

Yes, I believed.[21]

A rape victim's actions are oftentimes overwhelmed by fear rather than by reason, and it is this fear with which the perpetrator hopes to build a climate of extreme psychological terror, with which he hopes to numb his victim into silence and submissiveness.[22] Hence, long silence and delay in reporting the crime of rape has not always been construed as an indication of a false accusation[23] and, therefore, cannot undermine or impair the victim's credibility, especially when there is a threat to her life.[24]

The threat was made even more menacing considering that the private complainant was of the belief that the accused was a member of the NPA. Hence, as correctly found by the RTC, "the threats satisfactorily explain the victim's delay in confiding her ordeal to her husband, as well as their initial hesitation in reporting the same to the police authorities. The inclement weather, moreover, prevented them from traveling the rough roads from their upland barangay to the town proper"[25] to report the rape. Thus, the delay in reporting the rape cannot impair her credibility.

As to accused's theory that the private complainant imputed such a crime on him because he is the president of a rival farmer's association, we agree with the RTC in finding such too specious to be believed.[26] No woman, especially one who is married and was two months pregnant at the time, would concoct a tale that would tarnish her reputation, bring humiliation and disgrace to herself and her family, and submit herself to the rigors, shame, and stigma attendant to the prosecution of rape, unless she is motivated by her quest to seek justice for the crime committed against her.[27] The identification of the accused by the private complainant, is thus, entitled to full

faith and credit as there appears no evidence to show that she was moved by improper motive to falsely testify against him.[28]

In rebuttal of the charges, the accused interposes the defense of denial and alibi, relying on the testimonies of Valiente and Climaco to corroborate his claim that he was elsewhere at the time of the incident. A review of the said testimonies, however, reveals that they are of insufficient evidentiary value. For alibi to be accorded any weight, the accused must prove two things, (i) that he was somewhere else when the crime was committed, and (ii) that he was so far away that it was physically impossible for him to be present at the scene of the crime, or its immediate vicinity, at the time of its commission.[29] Physical impossibility refers not only to the geographical distance between the place where the accused was and the place where the crime was committed when the crime transpired; but more importantly, the facility of access between the two places.[30] The following portions of their testimonies are telling:

Testimony of Bienvenido Valiente

FISCAL ROCAMORA:

Q:

Now, you mentioned that this distance of four (4) kilometers from the house of Leopoldo Lago to the house of XXX has a road that one can use?

A:

There is a road going to Mantiquil.

Q:

And that road is pave? I will withdraw that question. What vehicles would be able to traverse this road to use the road?

A:

"Habal-habal."

Q:

You are talking about the single motorcycle for transportation?

A:

It is a single motorcycle.

Q:

When you were asked whether there was a vehicle parked at the place of Leopoldo Lago, you said there was none because it was still early, are you trying to say that normally there are parked vehicles in that area?

A:

There was.[31]

Testimony Ronnie Climaco

ATTY. ZERNA:

Q:

So, on that particular day, June 27, 1999 A.M., in what particular portion of Balastro were you staying?

A:

Still part of Balastro.

Q:

Near your house?

A:

A distance.

Q:

About how many meters?

A:

More or less one (1) kilometer.

Q:

And then in that place [where] you were staying and waiting for your companions for work, how far is it from the house of YYY and XXX?

A:

A distance of about one (1) kilometer.[32]

The defense of alibi, as a rule, is considered with suspicion and is always received with caution, not only because it is inherently weak and unreliable, but also because it can be easily fabricated. It cannot prevail over the positive identification of the accused by a credible eyewitness who has no ill motive to testify falsely. For such defense to prosper, it must be convincing enough to preclude any doubt on the physical impossibility of the presence of the accused at the locus criminis at the time of the incident.[33] Evidence tending to prove that it was physically impossible for the accused to be at the scene or vicinity of the crime is indispensable.[34]

In this regard, the accused failed. As the RTC correctly ruled, "a distance of four (4) or five (5) kilometers, where there is ready access to motorized transportation, is no deterrent to one who is determined to commit the crime of rape. The short distance between her house and the place where the accused claims he was at, taken in conjunction with the availability and easy access of motorized transport, renders his alibi incredible and belies his claim that it was physically impossible for him to be at the scene of the crime." [35]

Given all of the foregoing, there is no reason why the testimony of the private complainant cannot be given full faith and credit. The lone testimony of the private complainant is sufficient and may be the sole basis for conviction even in the absence of corroborative testimony of other witnesses.[36] The accused's denial cannot prevail over the positive testimony of the private complainant. Denial and alibi are self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters.[37] Thus, although the defense's evidence was found to be weak, the prosecution's evidence clearly stood on its own merit and did not rely on the weakness of the defense. Therefore, the RTC was correct in finding that the prosecution indeed proved the accused's guilt beyond reasonable doubt.

In addition, although the accused used a gun to facilitate the rape, the RTC was correct in ruling that the accused is only guilty of simple rape under Article 266-A of the Revised Penal Code. Where it is not specifically alleged

in the Information that a deadly weapon was used in the commission of rape, the accused can only be convicted of simple rape under Article 266-A of the Revised Penal Code.[38] As can be gleaned from the Information, such was not alleged and, thus, cannot be appreciated as a qualifying circumstance of the rape.

Lastly, the Court affirms the RTC's award of P50,000.00 for civil indemnity and P50,000.00 for moral damages to private complainant, being in accordance with law and jurisprudence. An award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape,[39] and moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering.[40]

Additionally, exemplary damages should likewise be awarded pursuant to Article 2230 of the Civil Code since the special aggravating circumstance of the use of a deadly weapon attended the commission of the rape. When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P30,000.00 as exemplary damages is justified in accordance with the case of *People v. Macapanas*.[41] These damages are intended to serve as deterrent to serious wrongdoings, as a vindication of undue sufferings and wanton invasion of the rights of an injured, or as punishment for those guilty of outrageous conduct.[42] Although the aggravating circumstance of use of a deadly weapon was not alleged in the Information, such was proven during the trial, and, thus, exemplary damages are still due in accordance with the ruling in *People v. Guillermo*[43], to wit:

While the use of a deadly weapon is not one of the generic aggravating circumstances in Article 14 of the RPC, under Article 266-B thereof, the presence of such circumstance in the commission of rape increases the penalty, provided that it has been alleged in the Information and proved during trial. This manifests the legislative intent to treat the accused who resorts to this particular circumstance as one with greater perversity and, concomitantly, to address it by imposing a greater degree of liability. Thus, even if the use of a deadly weapon is not alleged in the Information but is proven during the trial, it may be appreciated to justify the award of civil liability, particularly exemplary damages. (Emphasis ours)

Finally, in addition to the damages awarded, the accused should also pay interest at the legal rate of 6% from this date until fully paid.[44]

WHEREFORE, the January 24, 2008 Decision of the Court of Appeals, in CA-G.R. CR-H.C. NO. 00106, is **AFFIRMED WITH MODIFICATION**. In addition to the award of P50,000.00 as indemnity *ex-delicto* and P50,000.00 as moral damages, the accused is hereby ordered to pay the amount of P30,000.00 as exemplary damages, and interest on all damages awarded at the legal rate of 6% from this date until fully paid.

SO ORDERED.

Carpio, (Chairperson), Nachura, Leonardo-De Castro,[*] and Peralta, JJ., concur.

[*] Designated as an additional member in lieu of Justice Roberto A. Abad, per Special Order No. 905 dated October 5, 2010.

[1] Rollo, pp. 5-33. Penned by Associate Justice Stephen C. Cruz. with Associate Justice Antonio L. Villamor and Associate Justice Amy C. Lazaro-Javier, concurring.

[2] Records, pp. 109-131. Penned by Judge Jenny Lind R. Aldecoa-Delorino.

[3] Pursuant to the ruling of this Court in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 421-423, fictitious initials shall be used to respect the dignity and protect the privacy of the rape victim and that of her family.

[4] Records, p. 1.

- [5] CA rollo, Counterstatement of Facts, Appellee's Brief, pp. 134-137.
- [6] Records, RTC Decision, p. 131.
- [7] Rollo, CA Decision, p. 32.
- [8] *People v. De Guzman*, G.R. No. 188352, September 1, 2010, citing *People v. Ayade*, G.R. No. 188561, January 15, 2010, 610 SCRA 246.
- [9] *Id.*
- [10] TSN, April 12, 2000, pp. 17-24.
- [11] *People v. Palma*, G.R. No. 189279, March 9, 2010.
- [12] *People v. Alcazar*, G.R. No. 186494, September 15, 2010.
- [13] *People v. Mariano*, G.R. No. 168693, June 19, 2009, 590 SCRA 74, 88.
- [14] *People v. Leonardo*, G.R. No. 181036, July 6, 2010.
- [15] *People v. Valdez*, 466 Phil. 116, 130 (2004).
- [16] *People v. De Guzman*, G.R. No. 188352, September 1, 2010, citing *People v. Dreu*, 389 Phil. 429 (2000).
- [17] *Id.*
- [18] *People v. Torres*, 464 Phil. 971, 977 (2004).
- [19] *People v. Jampas*, G.R. No. 177766, July 17, 2009, 593 SCRA 241.
- [20] *Supra* note 13 at 90.
- [21] TSN, April 12, 2000, p. 29.
- [22] *People v. Santos*, 390 Phil. 150, 162 (2000).
- [23] *People v. Ortoa*, G.R. No. 174484, February 23, 2009, 580 SCRA 80, 94.
- [24] *People v. De los Reyes*, 383 Phil. 801, 813 (2000).
- [25] CA rollo, p. 33.
- [26] *Id.* at 35.
- [27] *People v. Leonardo*, *supra* note 14.
- [28] *People v. Castillo*, G.R. No. 186533, August 9, 2010.
- [29] *People v. Lasanas*, G.R. No. 183829, September 6, 2010.
- [30] *People v. Republo*, G.R. No. 172962, July 8, 2010, citing *People v. Ignas*, 458 Phil. 965, 993 (2003).
- [31] TSN, January 30, 2001, p. 20.
- [32] TSN, March 26, 2002, p. 12
- [33] *Supra* note 8.
- [34] *People v. Arizobal*, 401 Phil. 290 (2000).

[35] CA rollo, p. 34.

[36] Supra note 18.

[37] People v. Ayade, G.R. No. 188561, January 15, 2010, 610 SCRA 246, 252-253.

[38] People v. Siao, 383 Phil. 988, 1025 (2000).

[39] People v. Omar, 383 Phil. 979, 987 (2000).

[40] Supra note 38 at 1025-1026.

[41] G.R. No. 187049, May 4, 2010.

[42] Id.

[43] G.R. No. 177138, January 26, 2010, 611 SCRA 169, 177.

[44] People v. Bodoso, G.R. No. 188129, July 5, 2010.

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