PEOPLE OF THE PHILIPPINES, APPELLANT-APPELLEE, VS. JULIO MANALILI, ACCUSED-APPELANT.

G.R. No. 184598. June 23, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals dated 13 November 2007, which affirmed with modification the Decision[2] of the Regional Trial Court (RTC) of Palayan City Nueva Ecija, Brnach 40, finding accused-appellant Julio Manalili (Julio) guilty on four counts of Rape, in relation to Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, as amended."

On 19 June 2003, Julio was charged before the RTC with four (4) counts of Rape, in relation to Republic Act No. 7610, committed on four separate occasions within the span of five years. The four separate Amended Informations read:

> Criminal Case No. 1425-P
>
> That on or about February 27, 1997, at Barangay XXX, XXX City, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle and a relative by consanguinity within the third civil degree of one AAA, did then and there, willfully, unlawfully and feloniously have carnal knowledge of said AAA[3], his 6[4]-year old niece, through force, threat and intimidation, to her damage and prejudice.
>
> Criminal Case No. 1426-P
>
> That on or about July 24, 2000, at Barangay XXX,XXX City, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle and a relative by consanguinity within the third civil degree of one AAA, did the and there, willfully, unlawfully and feloniously have carnal knowledge of said AAA, his 9-year old niece, through force, threat and intimidation, to her damage and prejudice.
>
> Criminal Case No. 1427-P
>
> That on or about September 21, 2001, at Barangay XXX, XXX City, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle and a relative by consanguinity within the third civil degree of one AAA, did then and there, willfully, unlawfully and feloniously have carnal knowledge of said AAA, his 10-year old niece, through force, threat and intimidation, to her great damage and prejudice.
>
> Criminal Case No. 1428-P
>
> That on or about December 28, 2002, at Barangay XXX, XXX City, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle and a relative by

> consanguinity within the third civil degree of one AAA, did then and there, willfully, unlawfully and feloniously have carnal knowledge of said AAA, his 11-year old niece, through force, threat and intimidation, to her damage and prejudice.[5]

When arraigned in these four cases on 11 November 2004, Julio pleaded not guilty[6] to each of the damages. Thereafter, joint trial on the merits ensued.[7]

At the trial, the prosecution presented two witnesses: the victim herself, AAA, who testified on matters that occurred prior, during and after she was allegedly sexually abused by Julio on or about 23 February 1997, 24 July 2000, 21 September 2001 and 28 December 2002 and Dr. Cynthia Daniel (Dr. Daniel), the physician in charge of the Child Protection Unit, Paulino J. Garcia Memorial Medical Center, who interviewed and examined the victim.

The evidence of the prosecution shows that AAA was born on 8 May 1991, per AAA's Baptismal Certificate issued on 14 March 2003.[8] On the night of 23 February 1997, AAA was sleeping at the house of her grandmother in Barangay XXX, XXX City, Nueva Ecija. Although AAA's house was adjacent to her grandmother's, AAA slept there since it was the wedding day of her aunt. Without warning, Julio, the younger brother of AAA's mother, entered the room, started taking off AAA's short pants, and threated her not to tell the incident to her mother or else he would kill both of them.[9] After removing her short pants, Julio removed her panties and spread her thighs. Julio inserted his penis into AAA's organ. Although Julio's organ penetrated AAA's vagina only for a little while, such was enough for he latter to feel the pain of the incursion.[10] When AAA put on her panties, the blood from her bleeding vagina stained her intimate apparel.

The second act of rape was committed at midnight of 24 July 2000. While AAA and her two brothers were sleeping at her grandmother's house in Baranggay XXX, XXX City, Julio carried her to a barn located beside the house.[11] Julio put her down to her knees. He the ordered AAA to spread her legs. Julio inserted half of the length of his penis into hers. Julio warned AAA not to shout or else he would kill her.[12]

At about noontime of 21 September 2001, Julio sexually abused AAA for the third time. Again, Julio, who was wearing short pants and a t-shirt, forcible dragged AAA to the same barn and once inside, he stripped off AAA's clothing including her underwear. As soon as AAA was naked, Julio maneuvered his penis until it touched AAA's vagina.[13] After Julio had left, AAA hurriedly put her clothes on and ran to her mother's house.

A little over a year had passed, on 28 December 2002, Julio, for the fourth time, molested the victim. AAA was in her grandmother's house and was about to leave when Julio beckoned the former on the pretext that he would send her on an errand. Instead of doing so, however, Julio pulled AAA down to her grandmother's bed. AAA resisted and ran to her mother's house. Julio was able to follow AAA and there took off her short pants and panties, mashed her breast and kissed her. Thereafter, Julio drove his penis into AAA's sexual organ.[14] Once Julio was done, he threatened to kill her, her mother and grandmother if she would tell them what had just happened.[15]

Having reached the point where she could no longer tolerate what had befallen her, AAA finally disclosed the bestial acts of Julio to a close relative, Tita BBB. Tita BBB in turn made known the incidents to AAA's mother who thought of seeing a lawyer. IN order to keep Julio from molesting her again, AAA left her home and related the incidents to another relative, Tita CCC, who reported the matter to the barangay officials and the local police.[16]

On 13 March 2003, Tita CCC, together with the barangay captain, accompanied AAA to Dr. Daniel's clinic.[17] Dr. Daniel examined the child and issued a medical report showing that AAA sustained hymenal attenuation (absence of hymen) indication that the victim had been raped.[18] In her medical report the following were the findings:

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> Injuries ...
>
> Hymen Attenuated absent hymenal tissues at interior portion 5 o'clock position
>
> Impressions
>
> Medical evaluation which includes the medical history (History of disclosure, medical examination and laboratory examination), shows suggestive of abuse or sexual contact.[19]

The defense, on the other hand, interposed the defense of denial and alibi.

The defense presented three witnesses, namely: (1) Julio, who denied that he raped the victim and that he was somewhere else when the victim was raped during the four different occasions; (2) Michael Odchigue, Julio's high school classmate, who said that he was with Julio on 23 February 1997; (3) Evelyn Manalili, wife of Julio, who corroborated Julio's testimony that he was working in Ceslyn, Cabanatuan City on 24 July 2000. She also said that she saw AAA and Julio talking, but she did not notice any strange behavior on the part of AAA; (4) Ricardo Malamig, Julio's neighbor, who corroborated Julio's declaration that he was painting in another neighbor's house on 28 December 2002.

The defense's version is that on 23 February 1997, Julio was in his house (house of AAA's grandmother) together with his highschool classmates, Michael Odchique and Ranilo Salvador, from 8:00 o'clock in the morning until night.

On 24 July 2000, Julio was at Ceslyn Restaurant in Cabanatuan City where he worked. All throughout the day he never went hoe to Manacnac, Palayan City.

On 21 September 2001, Julio was in Barangay XXX,XXX City. From 7:00 a.m. to 11:00 a.m., he was in the farm. He took his lunch break at his house where his wife and his 3-month=old baby stayed. He resumed his work in the farm and remained there up to 6:00 p.m. Thereafter, he went home and took care of his 3-month-old child. Later, he took a rest and slept.

On 28 December 2002, Julio was in Barangay XXX, XXX City, painting the house of a neighbor with Ricardo Malamig from 8:00 a.m. to 5:00 p.m. After finishing his work for the day, he went home to his wife and his baby.

On 8 December 2005, the RTC rendered a decision totally ignoring Julio's denials and alibis. The supreme penalty of death on each of the four counts of rape was meted out of Julio. In convicting Julio of the four charges, the RTC gave full credence to the testimony of the minor victim which was corroborated by the medical report. The decretal portion of the RTC decision reads:

> WHEREFORE, accused JULIO MANALILI is found GUILTY beyond reasonable doubt of four (4) counts of consummated RAPE in relation to Republic Act 7610 and is hereby sentenced to suffer Death Penalty on all four (4) count; to pay AAA amount of P75,000.00 each case as civil indemnity, P50,000.00 each case as moral damages and P30,000.00 each as exemplary damages.[20]

ON automatic review, the conviction of Julio on four counts of rape was affirmed by the Court of Appeals but the penalty of death on four counts was modified to reclusion perpetua on the ground that the imposition of the death penalty was prohibited by law. The dispositive part of the 13 November 2007 Decision of the Court of Appeals provide:

> WHEREFORE, from all the foregoing, We hold that the judgment of conviction rendered by the trial court must be as it is hereby AFFIRMED with the modification that penalty of Death imposed by the trial court is modified to Reclusion Perpetua for each count of rape, without eligibility for people, as death penalty us statutorily proscribed.[21]

Hence, the instant recourse.

Julio expresses a strong objection over the victim's silence which was not indicative of a sexually abused person. The victim's unexplained delay in reporting the incidents (6 years had lapsed before AAA reported the first alleged rape), to Julio's mind, compromised her credibility as a witness.

Julio adds that AAA's justification for not reporting the rape incidents is not sound enough. Julio insists that AAA's reason for not reporting the incidents, namely, the threat that he would kill the victim and her mother if the victim would tell the same to anybody, cannot be taken into belief since the victim did not shout for help or try to escape when she was abused. This and AAA's inexplicable the findings of his guilt beyond reasonable doubt.

In determining the guilt or innocence of the accused in cases of rape, the courts have been traditionally guided by three settled principles, namely: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense[22]

Since the crime of rape is essentially one committed in relative isolation or even secrecy, hence it is usually only the victim who can testify with regard to the fact of the forced coitus.[23] In the prosecution of rape, therefore, the credibility of the victim is almost always the single and most important issue to deal with.[24] If her testimony meets the test of credibility, the accused can justifiably be convicted on the basis thereof; otherwise, he should be acquitted of the crime.[25]

In this case, upon evaluating the victim's testimony, the RTC found her credible, thus:

The categorical, straightforward and spontaneous testimonies of AAA concerning the bestiality committed upon her by her very own uncle is full of credence.[26]

This Court itself has assiduously scrutinized the transcripts of stenographic notes of this case and, like the RTC, finds the victim's testimony on the incidents forthright and straightforward, indicative of an honest and realistic account of the tragedy that befell her. She narrated the first incident in this manner:

> Q:
>
> On that day, February 23, 1997, do you remember anything out of ordinary that happened?
>
> A:
>
> There is, sir.
>
> Q:
>
> What was that?
>
> A:
>
> When I was raped by my uncle sir.
>
> Q:
>
> And what is the name of your uncle?
>
> A:
>
> Julio Manalili, sir.

x x x x

Q:

Would you tell us how the rape was committed by your uncle Julio Manalili.

A:

x x x Tito Julio went to the room where I was sleeping, sir.

Q:

What happened after your uncle Julio Manalili went to the room where you were then sleeping?

A:

He took off my short and told me that I should not tell the matter to my mother for he will kill us, sir.

Q:

After he took off your short what happened next?

A:

He also took off my panty and then inserted his organ, sir.

Q:

How did he manage to insert his organ inside yours?

A:

He spread my legs and then he inserted his organ, sir.

x x x x

Q:

How did you know that it was really inserted?

A:

Because I notice some blood in my panty, Your Honor.

Q:

How about any pain?

A:

There is, your Honor.[27]

The victim recounted the second and third bestial encounters with the insensate marauder in this fashion:

Fiscal:

After that what happened next?

A:

After that, on July 24 at midnight when I already was sleeping my uncle carried me t the barn ("kamalig"), sir.

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Q:

Where were you then sleeping, Madam Witness?

A:

In the house of my grand-mother together with my two (2) brothers, sir.

Q:

Any way Madam Witness, let us make this clear, who brought you to the barn?

A:

Julio Manalili, sir.

Q:

Your uncle?

A:

Yes, sir.

Q:

Please tell us where is this barn located?

A:

Beside the house of my grand-mother, sir.

Q:

The same house of your grand-mother at Manacnac?

A:

Yes, sir.

Q:

And after Julio Manalili carried you to the barn what happened next?

A:

He lay (sic) me down on the flooring of the barn and then he pull (sic) my skirt up and pull (sic) down my panty up to my knee and he ordered me to spread my legs sir, that was the time that he was able to insert half of the length of his organ, sir.

Q:

And after he inserted half of his organ, what happened next?

A:

He threatened to kill me if I will shout and tell it to anybody, sir.

Q:

After that incident what happened?

A:

He left me and then my grand-mother asked me why I was there in the barn, sir.

Q:

What did you tell you grand-mother?

A:

None, I just told her that I slept there, sir.

Q:

After you told your grand-mother that you just slept in the barn what happened next?

A:

On the third on September 31, 2001 at noon he pulled me and forced me to go to the barn, sir.

Q:

After he pulled you to the barn what happened, Madam Witness?

A:

T-shirt and short, sir.

Q:

What about your uncle what was he wearing, Madam Witness?

A:

Short and t-shirt, sir.

Q:

And after he removed your clothing what happened?

A:

He made his organ touched my organ, sir.

Q:

What particular portion of your organ was touched by his organ?

A:

Vagina, sir.

x x x x

FISCAL: What specific part of your vagina was touched by is organ?

x x x x

A:

The front portion, sir.

Q:

When you said front portion which specific part?

The lower of upper part?

A:

The upper part, sir.

Q:

For how long did your uncle do that?

A:

Just a short time, sir.

Q:

And after that what happened?

A:

He left, sir.

x x x x

FISCAL:

And after he left what did you do?

A:

I wear (sic) my cloths and then ran towards our house, sir.

Q:

You mean the house owned by your mother?

A:

Yes, sir.[28]

As to the fourth rape, the victim testified:

Q:

And after that incident anything else that happened, Madam Witness?

A:

Yes the fourth, sir.

Q:

What do you mean the fourth?

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A:

He again raped me and that was on December 28, 2002, sir.

Q:

How was the rape committed?

A:

That was after the celebration of Christmas, I was about to go home my uncle called me, sir.

Q:

And after your uncle called you what happened?

A:

He told me that he will just sen me for an errand but he pulled me and put me into bed, sir

Q:

Where is that bed located?

A:

The bed of my grand-mother, sir.

Q:

You mean in your grand-mother's house?

A:

Yes, sir.

Q:

And after he pulled yo to the bed what happened?

A:

When he lay (sic) me down to the bed, I ran towards my mother's house and it was there when the fourth incident happened, sir.

Q:

When you said the incident happened in your mother's house, what specific incident do you referred to, Madam Witness?

A:

When he again raped me, sir.

Q:

And how did he rape you?

A:

He took off my short and panty and then mashed my breast and then kissed me and he inserted his organ,

sir.[29]

From the foregoing, the prosecution adequately established in graphic details the travails AAA experienced at eh hand of her uncle. The 23 February 1997 molestation happened when AAA was soundly asleep. Suddenly Julio, like a predator ready to devour its prey, jumped upon the victim and satisfied his brutish lust on a very feeble child. Emboldened by hi unpunished evil deed, Julio again ravished his niece on three different dates, i.e, at midnight of 24 July 2000, at noon 21 of September 2001 and on 28 December 2002. In all these deflorations, the victim experienced overpowering fear brought about y the threats given by Julio. Medical findings revealed that the victim's hymen tissues at the 5 o'clock position are absent, consistent with her claim that she was molested.

In contrast to damning evidence adduced by the prosecution, Julio gave nothing but alibi and denial. Unfortunately for Julio, his defense is much too flaccid to stay firm against the weighty evidence for the prosecution. Julio gave only self-serving testimonies, coroborated only by the testimonies of his wife and friends. As we have held, "[a]libi becomes less plausible when it is corroborated by relatives and friends who may then not be impartial witnesses."[30] IN the same vein, denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence, which deserves no weight in law and cannot be given greater evidentiary value over the testimonies of credible witnesses who testify on affirmative matters.[31] Alibi and denial are an inherently weak defense and must be rejected when the accused's identity is satisfactorily and a categorically established by the eyewitnesses to the offense, especially when such eyewitnesses have no ill motive to testify falsely.[32] In the case at bar, the defense failed to show that AAA was motivated by ill will.

Furthermore, Julio's defense of alibi and denial cannot be believed, as he himself admitted his proximity to the scenes of the crime when the offense occurred. For the defense of alibi to prosper, the following must be established: (a) the presence of the accused-appellant in another place at the time of the commission of the offense; and (b) physical impossibility for him to be at the scene of the crime.[33] Julio testified that, at the time of the first rape incident, he was in the house were AAA was abused. During the second rape, Julio was in Cabanatuan City, a city near where the occurrence took place. In the third and fourth rape incidents, Julio was just in the place where the crime happened. These requisites were not fulfilled in this case. Thus, his defense of alibi cannot prosper.

Besides, Julio conceded that AAA had no motive to testify falsely against him. Thus, in accusing Julio, AAA was purely impelled by her legitimate desire to see that justice would be done for what she suffered. The absence of evidence as to improper motives actuating the principal witness for the prosecution strongly tends to sustain the conclusion that no such improper motives existed, and that her testimony of full faith and credit.

Appellant tries to discredit the victim's credibility, citing her failure to escape or shout during the rape incidents. Its should be borne n mind, in this connection, that the victim was extremely young when she was defiled by Julio. As a child, she considered her uncle Julio as a family member and protector. Being abused by a family member must been a startling occurrence for her. Behavioral psychology teaches that people react to similar situations dis similarly.[34] Their reactions to harrowing incidents may not be uniform.[35] The constant threats of the offender to the victim and the physical proximity of the two could render the victim's attempts to escape or efforts to shout a dubious, if not a futile, proposition. She was too disturbed and too young to totally comprehend the consequences of the dastardly acts inflicted on her by Julio. Rape victims, especially child victims, should not be expected to act the way mature individuals would when placed in such a situation.[36] It is not proper to judge the actions of children who have undergone traumatic experience by the norms of behavior expected from adults under similar circumstances.[37] The range of emotions shown by rape victims is yet to be captured even by calculus.[38] It is, thus, unrealistic to expect uniform reactions from rape victims. Certainly, the Court has not laid down any rule on how a rape victim should behave and may be dealt with in any way by the victim depending on

the circumstances, but her credibility should not be tainted with any modicum of doubt. Indeed, different people react differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.[40] It would be insensitive o expect the victim to act with equanimity and to have the courage and the intelligence to disregard the threats made by Julio. When a rape victim is paralyzed with fear, she cannot be expected to think and act coherently. This is especially true in this case, since AAA was repeatedly threatened by Julio if ever she would tell anybody about the rape incidents. The threat instilled enormous fear in her such that she failed to take advantage of any opportunity to escape from the appellant. Also, getting away from Julio was a task extremely difficult for a young child since it would mean she had to leave her family, without any relative to turn to in an hour of need, penniless and uninformed in the ways of the world. AAA could not have survived a week if she left her home just to be far from her predator.

As regards the initial delay of the victim in reporting the rape incidents, suffice it to that the delay in revealing the commission of rape is not an indication of fabricated charge.[41] It is not uncommon for a young girl to conceal for some time the assault on her virtue.[42] Her hesitation may be due to her youth, the moral ascendancy of the ravisher, and the latte's threats against her. IN the case at bar, the victim's fear of her uncle, who had moral ascendancy over her, was explicit. Such reaction was typical of a 5-year-old girl and only strengthened her credibility. Thu, her reluctance that caused the delay should not be taken against her. Neither can it be used to diminish her credibility or undermine the charge of rape.[43]

This Court has held that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself be being subjected to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.[44] It is highly improbable for an innocent girl, who is very naive to the ways of this world, to fabricate a charge so humiliating not only to herself but to her family. Moreover, it is doctrinally settled that testimonies of rape victims who are of tender age are credible.[45] The revelation of a innocent child whose chastity was abused deserves full credit, as the willingness of the complainant to face police investigation and to undergo the trouble and humiliation of a public trial is eloquent testimony of the truth of her complaint.[46]

In sum, the Courts finds that the RTC, as well as the Court of Appeals, committed no error in giving credence to the evidence of the prosecution and finding appellant guilty of the charges. The Court has long adhered to the rule that findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless it overlooked substantial facts and circumstances, which if considered, would materially affect the result of the case.[47] In rape cases, the evaluation of the credibility of witnesses is addressed to t he sound discretion of the trial judge whose conclusion thereon deserves much weight and respect, because the judge has the direct opportunity to observe them on the stand and ascertain whether they are telling the truth or not.[48] This deference to the trial court's appreciation of the facts and of the credibility of witnesses is consistent with the principle that when the testimony of a witness meets the test of credibility, that alone is sufficient to convict the accused.[49] This is especially true when the factual findings of the trial court are affirmed byt the appellant court.[50]

The RTC imposed upon Julio the supreme penalty of death on each of the four counts of rape since the crimes were attended by the qualifying circumstances of age and relationship. The Court of Appeals, however, agreed with the RTC that the crimes were qualified, but reduced the penalty to reclusion perpetua for each count on the ground that the death penalty has been repealed by virtue of Republic Act No. 9346, entitled An Act Prohibiting the Imposing of Death Penalty in the Philippines, which took effect on 30 June 2006.

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Both the RTC and the Court of Appeals erred in appreciating the qualifying circumstances of minority.

The applicable law on the first rape committed on 23 February 1997 in Criminal Case 1425-P is Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, which took effect on 31 December 1993. On the other hand, the remaining three rape charges are governed by Articles 266-A and 266-B of the Revised Penal COde, as amended by Republic Act No. 8353, which took effect on 22 October 1997.

Republic Act No. 7659 and Republic Act No. 8353 are similar in the sense that both laws impose the death penalty when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

As a special qualifying circumstances raising the penalty for rape to death, the minority of the victim and her relationship to the offender must be alleged in the criminal complaint or information and proved conclusively and indubitably as the crime itself.[51] These two circumstances must concur. Although the four informations alleged the presence of the victim's minority, the jurisprudentially required evidence to prove such circumstances is utterly lacking.

To prove victim's minority, the prosecution must adduce in evidence her birth certificate, for it is the best evidence to prove her age at the time of the commission of the crime.[52] Substitutionary evidence, absent proof of loss or destruction of the original birth certificate or the unavailability thereof without fault of the prosecution, will not suffice.[53] Although there is a rule[54] stating that the death penalty can still be imposed if the circumstances of the victim's minority and her relationship to the perpetrator were alleged in the Information and their existence duly admitted by the defense on stipulation of facts during re-trial, this precept finds no application here.

Except for the bare testimonies of the prosecution witnesses and the Baptismal Certificate, no birth certificate exists in the records to prove that the victim was five years old at the time of her first molestation and was twelve (12) years old during her last defilement. The prosecution did not present any proof that her birth certificate was lost or destroyed or was unavailable without the prosecution's fault. Thus, substitutionary evidence- the Baptismal Certificate- was inadmissible. Besides, Julio objected to the admissibility of the Baptismal Certificate on the ground that the prosecution failed to prove that the Birth Certificate was lost or destroyed.[55] Hence, the prosecution simply failed to prove the special circumstances of minority.

While the relationship of the victim to the accused-appellant was alleged in the four informations and was admitted by the defense, such would not merit the imposition of the supreme penalty of death, since minority was not established. Minority and relationship must both be attendant.

Consequently, due to the failure of the prosecution to prove the existence of the qualifying circumstances of minority, Julio can only be held liable for simple rape and meted the penalty of reclusion perpetua. For this reason also, the award of P50,000.00 only as civil indemnity for each count of simple rape is warranted. The award of P50,000.00 as moral anguish or moral suffering. However, the award of exemplary damages is in order, considering the presence of one ordinary aggravating circumstance of relationship. When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P30,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code.[56] This kind of damage is intended to serve as a deterrent to serious wrongdoings, and as a vindication of undue sufferings and wanton invasion of the rights of the injured or a punishment for those guilty of outrageous conduct.[57]

WHEREFORE, the Court finds Julio Manlili GUILTY beyond reasonable doubt of four (4) counts of simple rape

and sentences him to suffer the penalty of RECLUSION PERPETUA for each count. Julio Manalili is ordered to pay the victim P50,000.00 for each count as civil indemnity, P50,000.00 for each count as moral damages, and P30,000.00 for each count as exemplary damages.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

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[1] Penned by Associate Justice S. Dizon with Associate Justices Amelia G. Tolentino and Lucenito N. Tagle, concurring; rollo, pp. 2-16.

[2] Penned by Judge Erlinda Pestano BUted. Records, pp.212-232.

[3]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 used to protect the victim's privacy.

[4] AAA must have been 5 years old since she was born on 8 May 1991 per her Baptismal Certificate.

[5]Rollo, pp. 4-6.

[6] Id. at 36.

[7] Id.

[8] Exhibit "B," the Baptismal Certificate of the victim; id. at 14.

[9] TSN, 25 May 2005, p. 4.

[10] Id. at 6.

[11] Id.

[12] Id. at 7.

[13] Id. at 8.

[14] Id. at 10.

[15] Id. at 11.

[16] Id. at 12.

[17] TSN, 13 April 2005, p. 13.
[18] Id. at 12.

[19] Exhibit "A." Records, p. 13.

[20] Id. at 232.

[21] Rollo, p. 16.

[22] People v. Orquina, 439 Phil. 359, 365-366 (2002).

[23] People v. Baylen, 431 Phil. 106, 118 (2002).

[24] People v. Quijada, 378 Phil. 1040, 1074 (1999)

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[25] People v. Babera, 388 Phil. 44, 53-54 (2000)

[26] CA Rollo, p. 62.

[27] TSN, 25 May 2005, pp. 3-6.

[28] Id. at 6-9.

[29] Id. at 8-10.

[30] Araneta v. People, G.R. No. 174205, 27 June 2008, 556 SCRA 323, 334.

[31] People v. Morales, 311 Phil. 279, 288-289 (1995).

[32] People v. Baccay, 348 Phil. 322, 327-328 (1998)

[33]People v. Penillos, G.R. No. 65673, 30 January 1992, 205 SCRA 546, 560.

[34] People v. Buenviaje, 408 Phil. 342, 352 (2001).

[35] Id.

[36] People v. Remoto, 314 Phil. 432, 450 (1995).

[37] Id.

[38] Id.

[39] People v. Malones, 469 Phil. 301, 326-327 (2004).

[40] Id.

[41] People v. Balmoria, 398 Phil. 669, 675 (2002).

[42] Id.

[43] People v. Arsayo, G.R. No. 166546, 26 September 2006, 503 SCRA 275, 289.

[44] People v. Palaña, 429 Phil. 293, 303 (2002).

[45] People v. Hinto, 405 Phil. 683, 693-694 (2001).

[46] Id.

[47] People v. Dagpin, 400 Phil. 728, 739 (2000); People v. Velasquez, 399 Phil. 506, 515 (2000).

[48] People v. Digma, 398 Phil. 1008, 1023-1024 (2000).

[49] People v. Cula, 385 Phil. 742, 752 (2000).

[50] People v. Gallego, 453 Phil. 825, 849 (2003).

[51] People v. Balbarona, G.R. No. 146854, 28 April 2004. 428 SCRA 127, 144.

[52] Id.

[53] Id.

[54] People v. Alarcon, G.R. No. 174199, 7 March 2007, 517 SCRA 778, 790.

[55] Records, p. 101.

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[56] People v. Bohol, G.R. No. 178198, 10 December 2008.

[57] Id.

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