PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MIGUELITO MALANA Y LARDISABAY, ACCUSED-APPELLANT.

G.R. No. 185716. September 29, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

MIGUELITO MALANA y LARDISABAY, accused-appellant, was charged with two (2) counts of qualified rape, penalized under Article 266-B of the Revised Penal Code, before the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 13. Accused of raping his own 12-year-old daughter on separate instances, accused-appellant was instead convicted of simple rape by the trial court in both criminal cases, sentencing him with the penalty of reclusion perpetua. On automatic review, the RTC Decision[1] was affirmed, with modification, by the Court of Appeals.[2] The case is now before Us on appeal.

Factual antecedents

On 2 February 2001, the Assistant Provincial Prosecutor filed two separate Criminal Informations against accused-appellant Miguel Malana y Lardisabay before the RTC of Malolos, Bulacan, Branch 13, for two counts of qualified rape. The cases, docketed as Criminal Case No. 452-M-01 and Criminal Case No. 453-M-01, imputed the following acts against him:

> Criminal Case No. 452-M-01
>
> That on or about June 2000, in the Municipality of Baliuag, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of threats, force and intimidation and with lewd designs, have carnal knowledge of his daughter, AAA,[3] a girl 12 years of age against her will and consent.[4]
>
> Criminal Case No. 453-M-01
>
> That on or about the 10[th] day of December 2000, in the Municipality of Baliuag, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of threats, force and intimidation and with lewd designs, have carnal knowledge of his daughter, AAA,[5] a girl 12 years of age against her will and consent.[6]

Upon arraignment, accused-appellant, with the assistance of counsel, pleaded NOT GUILTY to all the charges.[7] Considering that the parties were the same in both cases, joint trial on the merits was conducted by the trial court.

In the ensuing trial on the merits, the prosecution, through the Office of the Solicitor General, presented two witnesses: private complainant AAA and the physician who did the Medico-Legal examination on her.

A close scrutiny of the narration of facts and evidence presented in the two criminal cases as testified by private complainant AAA reveal incriminating details.

From her testimony, it was elicited that she was 12 years old, having been born on 24 July 1989, and was a Grade

V student. Identifying herein accused as her father, private complainant had two other brothers and four sisters. At the time the alleged incidents took place in June 2000 and 10 December 2000, private complainant's family were all living in a 6 x 6 meter rented room which served as their place of residence and sleeping quarters. There were no divisions in the 6 x 6 meter room.

Asked to circumstantiate her accusations, private complainant testified that the first rape incident happened at around 6:00 o'clock in the morning sometime in June 2000 in their living cum sleeping room. Private complainant, who was sleeping, was awakened by the act of her father who was then undressing her and who went on top of her, mashed her breast, and inserted his penis inside her vagina. It was disclosed that she was wearing her blouse, shorts, bra and underwear at that time. Accused-appellant, who was only wearing shorts, removed his shorts when he inserted his penis inside her vagina. For two months, AAA complained of pain because her father's penis had penetrated her vagina. The bestial act was committed by her father while her mother was not around. Accused-appellant had threatened her not to report the matter to her mother.

The second incident happened on 10 December 2000 at around 6:00 o'clock in the morning. At the time, private complainant's mother was at the market to buy fish ball supplies. Except for the date, the first and second incidents were perpetrated in the same manner. On said date and time, private complainant was sleeping with her 6-year-old sister, when she was awakened when she felt something heavy on top of her. Upon awaking, she saw her father was already on top of her. He removed her clothes, kissed her breast and inserted his penis inside her vagina. She cried because her father threatened her while holding held her neck, and warned her not to report the matter to anybody.

Because of the harrowing incidents, she was ashamed to attend classes because her playmates had seen her father being arrested by the police.

Upon medico-legal examination conducted by Dr. Ivan Richard Viray on 14 December 2000, it was found that subject is in non-virgin state physically but with no external signs of application of any form of trauma. He testified that based on the examination he conducted, the deep healed laceration could have been sustained more than seven days. According to him, a deep healed laceration may be considered permanent. Once the hymen is lacerated, it is permanently lacerated. When asked what could have caused such a laceration on the hymen, he explained that the probable cause of a laceration is the insertion of a hard object, such as a penis.

In support of the testimonies of the prosecution witnesses, the following documentary evidence, among others, were offered in court: (a) sworn statement of private complainant; and (b) Medico Legal Report No. MR-219-2000.

On the other hand, the defense presented accused-appellant Miguelito Malana y Lardisabay as its sole witness.

Accused-appellant admitted that private complainant is his daughter but denied ever raping her. At the time the incident was supposed to have occurred in June 2000, he was busy selling fish ball, kikiam, cigarettes, and beverages along the Baliuag bus terminal. He would start selling the same before 8:00 o'clock in the morning everyday and would arrive home at about 8:00 o'clock in the evening. Accused-appellant was a good father in that he treated his daughter well. He admitted, however, to physically hurting his children on several instances while he was drunk, allegedly because of their wrongdoings. Accused-appellant said private complainant is not a hard-headed child. When asked if he knows how his daughter AAA lost her virginity, accused-appellant replied in the negative. Neither did his wife say anything to him about it. Private complainant only filed the case against him due to her personal grudge against him, as he hurt his family whenever he was under the influence of alcohol.

On 4 September 2006, the trial court finally rendered its Decision.[8] Weighing the evidence adduced by both

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sides, the trial court accorded more credence to the evidence proffered by the prosecution, thus convicting accused-appellant of two counts of simple rape only, and not qualified rape, viz.:

> XXX
>
> WHEREFORE, premises considered, the Court finds the accused:
>
> (a)
>
> In Criminal Case No. 452-M-2001, guilty beyond reasonable doubt of the crime of rape punished under the provisions of Article 266-B of the Revised Penal Code, and hereby sentences him to suffer the penalty of reclusion perpetua ; and
>
> (b)
>
> In Criminal Case No. 453-M-2001, guilty beyond reasonable doubt of the crime of rape punished under the provisions of Article 266-B of the Revised Penal Code, and hereby sentences him to suffer the penalty of reclusion perpetua.
>
> The accused is likewise directed to indemnify the private complainant in the amount of P75,000.00 for each count (total amount P150,000.00).
>
> XXX

The penalty imposed in the two criminal cases being reclusion perpetua, the case was immediately brought to the Court of Appeals on automatic review, in view of this Court's ruling in People v. Mateo.[9]

Insisting on his innocence, accused-appellant questioned the RTC decision before the Court of Appeals on the ground of reasonable doubt, with the apparent inconsistencies in private complainant's testimony as well as the impossibility of committing the rape in their small quarters where the rest of the family members were.

However, upon review and seeing no sufficient basis to overturn the findings of the lower court, the Court of Appeals rendered its Decision[10] which affirmed the findings and conclusions of the trial court with modification pertaining to the award of moral damages in the amount of P75,000.00, which was not initially granted by the trial court.

Adopting the factual findings of the RTC, the Court of Appeals resolved the case in this wise:

> WHEREFORE, premises considered, the assailed September 4, 2006 Decision of the Regional Trial Court of Malolos, Bulacan, Branch 13, in Crim. Case Nos. 452-M-2001 and 453-M-2001, is hereby MODIFIED in that moral damages in the amount of P75,000.00 is hereby awarded, but the rest of the decision is hereby AFFIRMED. Pursuant to Section 13 (c), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, this judgment of the Court of Appeals may be appealed to the Supreme Court by notice of appeal and filed with the Clerk of Court of the Court of Appeals.[11]

Undaunted, accused-appellant filed his Notice of Appeal[12] with this Court within the reglementary period. The prosecution and defense were ordered to file their respective supplemental briefs, if they so desired, within thirty (30) days from notice.[13] The prosecution opted to adopt its brief submitted before the Court of Appeals, whereas the defense proceeded with the filing of its supplemental brief.[14]

Raising the same assignment of errors submitted in issue before the Court of Appeals, accused-appellant points out a lone assignment of error:

> THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE ACCUSED-APPELLANT'S GUILT

WAS PROVEN BEYOND REASONABLE DOUBT.

Accused-appellant impugns the findings of the court below and those of the trial court, for according more weight and credence to the testimony of private complainant, instead of giving credence to the defense version invoking his innocence. Countering the rape charges, accused-appellant denied committing the crime and argued that he was somewhere else at the time the incident was supposed to have occurred. According to him, private complainant and her mother harbored a grudge toward him resulting in the trumped-up rape charges. Attacking the credibility of the prosecution witnesses, the defense posits that private complainant's testimony hardly deserves consideration for being incredulous and full of inconsistencies. In challenging the findings of the court a quo, accused-appellant raises the impossibility of committing rape within the confines of a small enclosed 6 x 6 meters room, where private complainant was sleeping with the rest of the family members.

After a thorough review and evaluation of the records of this case, We find no cogent reason to reverse the assailed judgment of the trial court and the Court of Appeals convicting accused-appellant of Simple Rape in Criminal Case Nos. 452-M-2001 and 453-M-2001.

At the time of commission of the crime, Republic Act No. 8353 or the Anti-Rape Law of 1997, amending Article 335 of the Revised Penal Code and classifying rape as a crime against persons, was already in effect. Thus, the Informations charged accused-appellant with two counts of qualified rape. Article 266-A of the Revised Penal Code, which defines and penalizes rape, enumerates the circumstances under which rape is deemed committed:

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

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

(a) Through force, threat or intimidation; x x x

The prosecution must establish the following essential elements under Article 266-A(1)(a) of the Revised Penal Code, as amended, namely: (a) that the offender had carnal knowledge of a woman; and (b) that the same was committed by using force and intimidation.

Contrary to accused-appellant's contentions, this Court finds no cogent reason to doubt the veracity of private complainant's testimony.

In reviewing rape cases we are guided by the following well-entrenched principles: (1) an accusation for rape can be made with facility: it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, 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.[15]

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction.[16] As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial.[17] The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case.[18] None of these circumstances are present in the case at bar to warrant its exception from the coverage of this rule.

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It is well-established that when a woman says that she has been raped, she says, in effect, all that is necessary to show that she has indeed been raped.[19] A victim of rape would not come out in the open if her motive were anything other than to obtain justice. Her testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused,[20] as in this case where the accusations were raised by private complainant against her own father.

Testifying before the trial court, private complainant narrated in detail the harrowing events which transpired that night:

Q.

Miss witness, on June 2000 at about 6:00 o'clock in the morning, do you recall of any unusual incident which has connection with your father and has connection with this case?

A.

Yes, sir.

Q.

What was that unusual incident that happened?

A.

I was sleeping when all of a sudden, I found him already on top of me, sir.

Q.

After that, what happened?

A.

After that, he undressed me, sir.

Q.

At that time, where were the rest of the family?

A.

My mother at that time was not around while my 2 brothers were still sleeping, sir.

Q.

You said the accused undressed you. What happened after that?

A.

After that, he inserted his penis inside my vagina, sir.

Q.

Miss witness, may we know your apparel at that time?

A.

I was wearing blouse and short, sir.

Q.

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Do you have underwear at that time?

A.

Yes, sir.

Q.

How about bra?

A.

Yes, sir.

Q.

How about the accused. What was he wearing at that time?

A.

He was wearing short while nothing on his body, sir.

Q.

Miss witness, you said your father undressed you. How about him. What did he do with his clothes?

A.

He also removed his short, sir.

Q.

You said your father inserted his penis to (sic) your vagina. May we know what was your position at that time when your father inserted his penis to (sic) your vagina?

A.

I was lying on my back, sir.

Q.

When you were lying on your back, how about the accused. What was his position?

A.

He was on top of me, sir.

Q.

While he was on top of you, exactly, what did he do to you?

A.

He mashed my breast, sir.

Q.

You said the accused inserted his penis to (sic) your vagina. How did the accused insert his penis to (sic) your vagina?

A.

`Nakahiga po ako tapos noong nagising po ako, nakita ko na lang siya na nakapatong sa ibabaw ko, sir.'

Q.

Miss witness, you said that you were then sleeping. Why did you say that your father was on top of you?

A.

Because I felt that as if something was on top of me which is heavy, sir.

Q.

When you felt that something was on top of you, what happened after that?

A.

I was surprised, sir. When I was about to shout, my father held my neck, sir.

Q.

You said you were held by your neck, what happened after that?

A.

After that, he already raped me, sir.

Q.

Miss witness, could you still recall for how long your father was on top of you?

A.

Maybe around two (2) minutes, sir.

Q.

After that 2 minutes, what happened?

A.

After that 2 minutes, he put on his apparel and he also instructed me to put on my dress also, sir.

Q.

Miss witness, you said your father inserted his penis to (sic) your vagina. What did you feel when your father inserted his penis to (sic) your vagina?

A.

I was hurt, sir.

Q.

You said you were hurt by the insertion of the penis of your father to (sic) your vagina. What did you do when you felt that pain?

A.

I tried to remove but I cannot because his body was so heavy, sir.

Q.

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You said your father put on his clothes and you, he told you to put on also your clothes. What happened, after that?

A.

After that, my mother arrived but I was not able to report the same because I was afraid to (sic) my father, sir.

Q.

May we know why you were afraid to (sic) your father?

A.

Because my father warned me not to report the matter, sir.

Q.

When did your father warned (sic) you?

A.

After the incident, sir.[21]

Private complainant testified that she was again raped by accused-appellant under the following circumstances:

Q.

AAA, on December 10, 2000, do you recall of any unusual incident that happened?

A.

Yes, sir.

Q.

Can you tell the Honorable Court what that unusual incident that happened (was)?

A.

I was raped by my father, sir.

Q.

Who is that father of yours?

A.

Miguelito Malana, sir.

Q.

If he is present today kindly point (to) him?

A.

Me, sir. (Witness pointed to a man inside the chambers who, when asked, gave his name as Miguelito Malana)

Q.

Miss Witness, what time of the day did it happen, evening or morning?

A.

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It was daytime, about 6:00, sir.

Q.

On that date, was there any person present in your house?

A.

Yes, sir.

Q.

Who were those persons present?

A.

My other siblings, sir.

Q.

How many?

A.

Three (3), sir.

Q.

How old is the eldest present at that time?

A.

Seventeen (17) years old, sir.

Q.

You said that those persons present in that house were your brothers and sisters. How was your father able to rape you if there were other persons present in that house?

A.

We were all asleep at that time, sir.

Q.

Who was with you at the time you were sleeping?

A.

My sister, sir.

Q.

How old is she?

A.

Six (6) years old, sir.

Q.

Did you mean to say that you and your small sister were then sleeping separately from your other brothers?

A.

Yes, sir.

Q.

How about your mother?

A.

My mother used to sleep beside us but at that time she was not around, sir.

Q.

Where was she at that time?

A.

She went to the market to buy fish ball, sir.

Q.

Am I right to say that your mother was engaged in the selling of fish balls?

A.

It was only my mother who did the marketing but the fish balls were being sold by my father, sir.

Q.

How did your father rape you at that time?

A.

I was then sleeping when I woke up because of his weight over me, sir. I woke up when he was already on top of me.

Q.

After that what happened?

A.

After that he undressed me and also removed his clothes, sir.

Q.

After that what happened?

A.

It was then that he started raping me, sir.

Q.

How did he start raping you?

A.

He kissed my breast, sir.

Q.

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After kissing your breast what happened?

A.

After that he inserted his penis into my vagina, sir.

Q.

After inserting his penis in your vagina, what happened?

A.

He started kissing my lips, sir.

Q.

May we know your relative positions at the time your father inserted his penis into your vagina?

A.

I was lying down on my back, sir.

Q.

Am I right to say that your father was on top of you?

A.

Yes, sir.

Q.

While he was on top of you what was he doing?

A.

His body was moving, sir.

Q.

After that what happened?

A.

I was then crying and I screamed because he held me by my neck, sir.

Q.

What did you feel when your father held your neck?

A.

It was painful, sir.

Q.

After that what happened?

A.

After that he warned me not to report to anybody what happened, sir.

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Q.

After telling you not to report to anybody, what happened?

A.

No more, sir. I put on my clothes, sir.[22]

While a medico-legal finding is not a requisite of rape, its evidentiary weight cannot be disregarded. As testified to by P/Sr. Insp. and Medico-Legal Officer Ivan Richard A. Viray, the Medico-Legal Report on private complainant contained the following findings:

MEDICO-LEGAL REPORT NO. MR-219-2000

HYMEN:

Elastic fleshy type with the presence of shallow healed lacerations at 2, 6 o'clock positions & deep healed lacerations at 3 & 9 o'clock

CONCLUSION:

Subject is in non-virgin state physically
There are no external signs of application of any form of trauma.[23]

Denial and alibi are viewed by this Court with disfavor,[24] considering these are inherently weak defenses,[25] especially in light of private complainant's positive and straightforward declarations identifying accused-appellant[26] as the one who committed the bastardly act against her, as well as her straightforward and convincing testimony detailing the circumstances and events leading to the rape.[27]

The Court is not persuaded by the defense claim that the series of rape incidents could not have happened without the other members of the family being made aware of it. In a long line of cases, this Court has ruled that a small living quarter has not been considered to be a safe refuge from a sexual assault.[28] Rape can be committed in the same room with the rapist's spouse or where other members of the family are also sleeping,[29] in a house where there are other occupants or even in places which to many might appear unlikely and high-risk venues for its commission.[30] Lust, it has been said before, is apparently no respecter of time and place.[31] Neither is it necessary for the rape to be committed in an isolated place, for rapists bear no respect for locale and time in carrying out their evil deed.[32]

Private complainant did not immediately inform her mother about the incident. However, it is not unusual for a victim immediately following the sexual assault to conceal at least momentarily the incident, for it is not uncommon for a victim of rape to be intimidated into silence and conceal for sometime the violation of her honor, even by the mildest threat on her life.[33] To recall, accused-appellant had threatened her not to tell anybody about the incident.

Accused-appellant's defense that private complainant and her mother were harboring a personal grudge against him, fails in light of the positive and straightforward testimony of private complainant identifying accused-appellant as the one who had raped and ravished her. This is bolstered by the fact that it is unnatural for a parent to use his offspring as an engine of malice.[34] Verily, the testimony of the rape victim against her father, in this particular case, is entitled to greater weight, since reverence and respect for elders is too deeply ingrained in Filipino children and is even recognized by law.[35] Finally, a daughter would not accuse her own father of a serious offense like rape had she not really been aggrieved.[36]

Simple rape is punished under Article 266-A of the Revised Penal Code by the single indivisible penalty of

reclusion perpetua. Article 266-B of the Revised Penal Code mandates that the death penalty shall be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

> (1) 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;

The Court of Appeals and RTC correctly disregarded the circumstances of minority and relationship. This Court has consistently ruled that the twin circumstances of minority and relationship are in the nature of qualifying circumstances which must be alleged in the information and proved during trial beyond reasonable doubt, otherwise, the accused should only be held liable for the crime of simple rape.[37] These qualifying circumstances cannot be considered in fixing the penalty because minority, though alleged in the information was not proved. As regards relationship, the same was alleged and proved. Pursuant, to Section 266-B of the Revised Penal Code, in order to fall within subparagraph 1 of said provision, both circumstances of minority and relationship must be alleged in the information and proved during trial.

The twin circumstances of minority of the victim and her relationship to the offender must concur to qualify the crime of rape. In the instant case, only relationship was duly alleged and proved.

Sections 8 and 9, Rule 110 of the Revised Rules on Criminal Procedure now provide that aggravating as well as qualifying circumstances must be alleged in the information and proven during trial, otherwise they cannot be considered against the accused. Thus, the same cannot be used to impose the higher penalty of capital punishment on accused-appellant.

Thus, accused-appellant should be convicted of simple rape only and sentenced accordingly to reclusion perpetua in each case.[38]

Jurisprudence dictates that, upon a finding of the fact of rape, the award of civil indemnity ex delicto is mandatory. The Court of Appeals erroneously awarded civil indemnity in the amount of P75,000.00, which amount is given in qualified rape cases. This being a case of simple rape only, the award of P50,000.00 as civil indemnity is proper. [39] In addition, moral damages in the amount of P50,000.00 is automatically granted in addition to civil indemnity without need of further proof inasmuch as it is assumed that a victim of rape has actually suffered moral injuries that entitles her to such an award. From the foregoing, private complainant is entitled to the amount of P50,000.00 as moral damages, without need of proof, and another P30,000.00 as exemplary damages for each count of rape, to set an example for the public good.[40]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 02496 dated 21 December 2007 finding herein accused-appellant MIGUELITO MALANA y LARDISABAY guilty beyond reasonable doubt of SIMPLE RAPE, violating Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, and sentencing him to suffer the penalty of reclusion perpetua in Criminal Case Nos. 452-M-01 and 453-M-01 is hereby AFFIRMED, with MODIFICATION as to the award of damages.

Accused-appellant is ordered to pay the offended party, private complainant AAA, the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages pursuant to prevailing jurisprudence, corresponding to each count of simple rape. Costs de oficio.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo De Castro, and Del Castillo, JJ., concur.

[1] Penned by Presiding Judge Andres B. Soriano; CA rollo, pp. 9-14.

[2] Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Josefina Guevara Salonga and Ramon R. Garcia concurring; Rollo, pp. 2-11.

[3] Private complainant is referred to as AAA. In view of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Section 29 of Republic Act No. 7610, otherwise known as the Anti-violence Against Women and Their Children Act of 2004.

[4] Records, p. 1.

[5] Supra note 3.

[6] Supra note 4.

[7] Records, p. 11.

[8] Supra note 1.

[9] G.R. No. 147678-87, 7 July 2004, 433 SCRA 640.

[10] Rollo, pp. 2-11.

[11] Rollo, pp. 10-11.

[12] Id. at 12.

[13] Id. at 16.

[14] Id. at 26-30.

[15] People v. Nicolas, G.R. No. 167955, 30 September 2009, 601 SCRA 385, 399; People v. Ramos, G.R. No. 179030, 12 June 2008, 554 SCRA 423, 430.

[16] People v. Peralta, G.R. No. 187531, 16 October 2009, 604 SCRA 285, 289.

[17] Remiendo v. People,G.R. No. 184874, 9 October 2009, 603 SCRA 274, 287.

[18] People v. Panganiban, 412 Phil. 98, 107 (2001).

[19] People v. Paculba, G.R. No. 183453, 9 March 2010.

[20] People v. Ugos, G.R. No. 181633, 12 September 2008, 565 SCRA 207, 216; People v. Miñon, G.R. No. 148397-400, 7 July 2004, 433 SCRA 671, 681.

[21] TSN, 20 September 2001, pp. 9-14.

[22] TSN, 17 January 2002, pp. 3-7.

[23] Records, p. 87.

[24] People v. Peralta, G.R. No. 187531, 16 October 2009, 604 SCRA 285, 290.

[25] People v. Estrada, G.R. No. 178318, 15 January 2010, 610 SCRA 222, 233.

[26] People v. Paculba, supra note 19; People v. Achas, G.R. No. 185712, 4 August 2009, 595 SCRA 341, 353.

[27] Id.

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[28] People v. Guntang, 406 Phil. 487, 524 (2001).

[29] People v. Domingo, G.R. No. 177136, 30 June 2008, 556 SCRA 788, 804; People v. Orande, 461 Phil. 403, 415 (2003).

[30] People v. Montesa, G.R. No. 181899, 27 November 2008, 572 SCRA 317, 337.

[31] People v. Evina, 453 Phil. 25, 41 (2003).

[32] People v. Cañada, G.R. No. 175317, 2 October 2009, 602 SCRA 378, 394 citing People v. Watimar, G.R. No. 121651-52, 16 August 2000, 338 SCRA 173; People v. Alkhoda, G.R. No. 178067, 11 August 2008, 561 SCRA 696.

[33] People v. Abella, 373 Phil. 650, 658 (1999).

[34] People v. Capareda, 473 Phil. 301, 332 (2004).

[35] People v. Calderon, 441 Phil. 634, 642 (2002) citing People vs. Docena, G.R. No. 131894-98, 20 January 2000, 322 SCRA 820, 830.

[36] People v. Calderon, id. at 644; People v. Docena, id. at 831.

[37] People v. Biong, 450 Phil. 432, 445 (2003).

[38] Rape, defined and penalized under paragraph 1(a) of Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353, is punishable by reclusion perpetua, viz.:

> ARTICLE 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

[39] People v. Biong, supra note 37 at 448; People v. Zamoraga, G.R. No. 178066, 6 February 2008, 544 SCRA 143, 154.

[40] People v. Ofemiano, G.R. No. 187155, 1 February 2010, 611 SCRA 250, 260.

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