

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARSENIO CABANILLA, ACCUSED-APPELLANT.

G.R. No. 185839. November 17, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the October 11, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 01430, which affirmed with modification[2] the August 17, 2000 Decision[3] of the Regional Trial Court of Narvacan, Ilocos Sur, Branch 72 (RTC), in Criminal Case No. 463-N, finding the accused guilty beyond reasonable doubt of the crime of Rape committed against AAA.[4]

Accused Arsenio Cabanilla (Cabanilla) was charged with the crime of Rape in an Information[5] dated June 20, 1979 which alleges as follows:

That on or about the 6[th] day of March, 1979, in the Municipality of Narvacan, province of Ilocos Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Arsenio Cabanilla, did then and there willfully, unlawfully and feloniously have carnal knowledge of one, AAA, by means of force and violence and against the latter's will and consent.

Contrary to law.

Version of the Prosecution

The prosecution presented private complainant AAA,[6] Dr. Virgilio Bañez (Dr. Bañez),[7] Barangay Captain Florentino Sagun (BC Sagun),[8] Patrolman Rolando Callejo (Pat. Callejo),[9] and BBB, the victim's husband.[10]

As culled from their testimonies, it appears that on March 6, 1979, AAA went to Manueva, Santa, Ilocos Sur, to talk to her father, to dig camote fruits and to see the remains of a dead cousin. She arrived in Santa at 2:00 o'clock in the afternoon. Three hours later, she left and proceeded to go home. She reached Barangay San Jose, Narvacan, at 7:00 o'clock in the evening and saw Cabanilla standing between Cool Center and Jessie's Refreshment Parlor. She asked him if they could go home together as she felt safe with him being the nephew of her husband. Cabanilla agreed. They headed east and stopped near a store hoping to get a tricycle. As they could not get a ride after waiting for a long time, Cabanilla proposed that they walk and she agreed.

While they were walking through the rice fields, Cabanilla suddenly placed his arm around AAA's shoulder. She shook his arm away and said, "Why son, what is happening to you?" He then embraced her. Afraid that she was about to be molested, she told him, "Why my son, what are you doing to me[?] [Y]ou should be ashamed, I am even your mother[.]" But he replied, "Do not talk." He persisted but she resisted his advances. To overcome her resistance, he punched her left jaw twice. The blows were so hard that one of her earrings flew away. When he loosened his grip on her, she managed to free herself from his grasp and ran away only to stumble and fall. When

he caught up with her, he squeezed her neck and told her, "If you don't like, I will kill you." She continued to struggle but he just forced himself to be on top of her.

Eventually, AAA lost her strength in fighting him. Cabanilla then removed her panties and forced open her legs. He thrust his penis inside her vagina and made push-and-pull movements. After satisfying his lust, he stood up, pulled up his briefs and pants and then told her to stand up so they could go home together. He threatened to shoot her and her husband and burn their house if she would tell anyone. AAA assured him that she would not report the incident because she was afraid of him. She believed that he could make good his threats because she knew that he owned a gun.

When she was about forty meters away from her house, they separated ways. She then ran towards her house and called her husband, BBB, who was then unloading Virginia tobacco leaves. BBB met her and asked her why she was crying. She answered, "That nephew of yours is an animal." Then they went to their yard and she called the parents of Cabanilla. When his parents arrived, she told them about her ordeal in the hands of their son. Thereafter, she and her husband went to the house of Barangay Councilman Esteban Calderon (Calderon) to report the incident. Her husband then proceeded to the house of BC Sagun and reported to him what Cabanilla did to his wife.

BBB, his nephew, Calderon, and BC Sagun accompanied AAA to the Jacob-Laya Hospital for her medical examination. Dr. Bañez examined her vagina and found moving sperm in her vaginal canal. He also noted a contusion on her left jaw and superficial scratches on the outer portion of her neck. He gave her medications for the contusion and abrasions and administered tranquilizer because she appeared to be agitated.

From the hospital, the group went to the Integrated National Police of Narvacan to report the rape incident. Since AAA could not narrate the incident clearly and in an orderly manner because of her then state of mind, she was advised to give her statement the following day. The group returned the next day and her statements and that of BC Sagun were taken. The report on the rape incident was reflected in the police blotter as Entry No. 145, page 43, dated March 6, 1979.

Eventually, AAA was confined at the Lorma Hospital Medical Center in San Fernando, La Union for almost a month, beginning March 8, 1979 due to the wound inside her mouth which was inflicted when Cabanilla hit her left jaw. She paid P3,215.65 for hospital expenses.

Version of the Defense

Cabanilla claimed that the sexual intercourse between him and AAA on March 6, 1979 was consensual as they were, in fact, lovers. He denied having forced himself on her, the wife of his father's cousin, and bared that they became lovers two weeks before the filing of the complaint against him. Being neighbors, they often visited each other's house and their familiarity explained the mutual attraction that developed between them. She seduced him for several months until she became her girlfriend in January 1979. Their relationship progressed to a more intimate level when one afternoon, he went to her house while her husband was away. After some intimate moments, they made love to each other.

Accused further related that he knew AAA would be coming from Santa, Ilocos Sur on March 6, 1979 because they had previously agreed to meet at Jessie's Refreshment Parlor that night so they could go home together. As agreed upon, she arrived and they headed home to Barangay Rivadavia. While they were walking together, she placed her arm around his waist and he put his around her shoulder. They passed by the South Central School and several houses, including that of Gregorio Bilag, who saw them with their arms around each other. They stopped walking when they passed by a stack of hay. He pushed her down and they affectionately excited each other.

After being aroused, he removed her red panties and they had carnal knowledge of each other. On their way home, she pleaded with him not to tell anybody what happened, or else her husband would maltreat her.

AAA broke away from him when they were only a few meters from her house. She proceeded to their house while he hid behind tobacco plants. From there, he saw BBB punch and kick her until she fell on the ground.

BBB repeatedly hit her jaw. The beating lasted for ten minutes. He was about 12 meters away from them. He became frightened when he heard AAA shout that he had raped her.

His father, Maximiano Cabanilla, arrived after she called for him, but his father kept his distance from the couple when he learned that she was being beaten by her husband. Cabanilla immediately left upon hearing that a complaint would be filed against him the next day. The following morning, policemen came to his house looking for him. He hid himself for two nights. He surrendered to the Chief of Police of Narvacan, Ilocos Sur, when a formal complaint was filed against him.

Accused Cabanilla insisted that their sexual congress on March 6, 1979 was voluntary. He denied punching and threatening her into submitting to his carnal desires. He claimed that they had already six or seven sexual encounters prior to March 6, 1979, but admitted that there were no tokens of love or love letters from her to prove their relationship.[11] The case of rape was filed against him only because BBB pressured her to file it.

To corroborate the sweetheart theory espoused by the accused, the defense placed on the witness stand Gregorio Bilag (Bilag), Gerry Velasco (Velasco) and Herminia Cabebe (Herminia).

Bilag narrated that on March 6, 1979, between 6:00 o'clock and 7:00 o'clock in the evening, he was in his house in San Jose, Narvacan, Ilocos Sur, with his wife, Concepcion Cabanilla, and their children, when accused Cabanilla and AAA passed by. The two appeared to be happy as they were touching each other. He then tailed the two to find out their secret so he would know what to tell their respective families. He saw

the two stop in the middle of the fields and copulated with each other. Thereafter, they went on their way walking side by side and laughing. It was actually the second time that he witnessed them making love to each other although he could no longer remember the date of the first time. He did not tell her husband or Cabanilla's relatives of what he knew about them.

Bilag further recalled that he gave a written statement before a police investigator of Narvacan during the investigation of the incident. He explained that he did not mention in his sworn statement that he saw Cabanilla and AAA make love on March 6, 1979 because he did not understand English. He claimed that he did not know the contents of his written statement when he affixed his signature thereon as they were not translated to him in the Ilocano dialect. Initially, he was included in the list of prosecution witnesses because AAA and BBB requested him to testify, but he told them that he would only tell the truth. Patrolman Balallo and AAA went to his house and asked him to give a statement that she was then with Cabanilla. He was surprised after being informed by the two that Cabanilla had sexually abused her because he knew what really happened between them on March 6, 1979.[12]

Velasco testified that at around 4:00 o'clock in the afternoon of March 6, 1979, he, Kennedy Cabotaje and Cabanilla, a classmate, were at Jessie's Refreshment Parlor. After a while, AAA arrived. She and Cabanilla had a friendly chat for about a minute and then they left. They proceeded towards the east, walking side by side.[13]

Herminia, sister of Arsenio Cabanilla, informed the trial court that on March 6, 1979 between 6:00 o'clock and 7:00 o'clock in the evening, she

saw AAA arrive at her house in Barangay Rivadavia. Then, she overheard BBB confront her, "Why did you arrive only now, prostitute? You must be going somewhere and doing something, prostitute, and you are having sex with

others." AAA answered, "Okinnam, loko." At that very moment, BBB slapped her on the cheeks several times until she fell to the ground. Even before that day, Herminia would see the couple quarreling and shouting at each other because he was jealous of somebody. She already suspected that Cabanilla and AAA were having an affair. She saw the two walking together in the fields, with her arms around his waist and his around her shoulder. Once she spotted Cabanilla kissing her.[14]

On August 17, 2000, the RTC rendered a decision[15] declaring that the prosecution was able to establish with certainty that Cabanilla indeed sexually assaulted AAA on March 6, 1979. It rejected his sweetheart theory stating that it "was not clearly established." [16] The trial court was of the view that AAA's testimony met the test of credibility and that she had no motive to testify falsely against Cabanilla. The decretal portion of the RTC decision reads:

WHEREFORE, PREMISES CONSIDERED, the Court finds the accused GUILTY BEYOND REASONABLE DOUBT and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

The accused is also ordered to pay AAA P3,215.00 spent for hospitalization.

The accused shall also pay the costs.

SO ORDERED.[17]

The records of the case were originally transmitted to this Court on appeal. On September 27, 2004, a Resolution, pursuant to *People v. Efren Mateo*, [18] was issued transferring this case to the CA for appropriate action and disposition.

On October 11, 2007, the CA sustained the findings of the RTC that the sexual intercourse between Cabanilla and AAA was not consensual. The appellate court, however, modified the RTC decision with respect to the award of damages. Thus, the dispositive portion of the CA decision reads:

WHEREFORE, the DECISION DATED AUGUST 17, 2000 is AFFIRMED, subject to the MODIFICATION that the accused is ordered to pay AAA the amount of P50,000.00 as indemnity ex delicto and P50,000.00 as moral damages.

Costs of suit to be paid by the accused.

SO ORDERED.[19]

Undaunted, Cabanilla filed a Notice of Appeal[20] dated November 5, 2007 which was given due course by the appellate court in its June 13, 2008 Minute Resolution.[21]

On February 18, 2009, the Court issued a resolution requiring the parties to submit their respective supplemental briefs. Both the Office of the Solicitor General (OSG) and the accused manifested that they would just adopt their respective briefs filed before the CA as their supplemental briefs.

The Issue

The issues boil down to whether or not the sweetheart defense is credible so as to overcome the prosecution's evidence that the intercourse was not consensual.

Accused Cabanilla faults the trial court for relying heavily on the testimony of AAA that she was forced to have sexual intercourse with him, and for its refusal to give credence to his sweetheart theory. He admits having carnal knowledge with her, but he vehemently insists that the sexual congress on the night of March 6, 1979 was, though illicit, consensual as they were sweethearts. He asserts that his defense was amply corroborated by Bilag whose

testimony clearly militates against her complaint that she was sexually abused by him. Even assuming that his defense is weak, he argues that said fact alone cannot sustain a verdict of conviction. The prosecution must rest on the strength of its own evidence and is not relieved of the onus of proving his guilt beyond reasonable doubt.

On the other hand, the OSG insists on the correctness of his conviction on the basis of the totality of the prosecution's evidence centered on the credible testimony of AAA. Not a scintilla of credible evidence was adduced by Cabanilla to prove his sweetheart defense.

THE COURT'S RULING

After an assiduous assessment of the records, the Court holds that Cabanilla indeed committed rape against AAA. There is no cogent reason to reverse the findings and conclusion of the RTC, as affirmed by the CA.

A rape charge is a serious matter with pernicious consequences both for the accused and the complainant, so that utmost care must be taken in the review of a decision involving conviction of rape.[22] Thus, the Court has consistently adhered to the following guiding principles, to wit: (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, albeit 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 care; and (3) the evidence for the prosecution must succeed or fail on its own merits, and cannot be allowed to derive strength from the weakness of the evidence for the defense.[23] Corollary to the above principle is the rule that the credibility of the victim is always the single most important issue in the prosecution of a rape case.[24]

The issue of credibility of the witnesses has, time and again, been settled by this Court as a question best addressed to the province of the trial court because of its unique position of having observed the witnesses' deportment on the stand while testifying. The reviewing court is generally bound by the trial court's findings and conclusions, particularly when no significant facts and circumstances were shown to have been overlooked or disregarded which when considered would have affected the outcome of the case.[25] The rule finds an even more stringent application where said findings are sustained by the CA.[26]

The Court agrees with the RTC that Cabanilla had employed force and intimidation in order to consummate his libidinous desire. Excerpts from her testimony are reproduced below:

Atty. Porfirio Rapanut

(On Direct Examination)

Q:

While you were on your way home with Arsenio Cabanilla, what happened then after that?

A:

While we were on the ricefield of San Jose, Narvacan, Ilocos Sur, Arsenio Cabanilla placed his arms around my shoulder.

Q:

And what did you do when Arsenio Cabanilla placed his arm on your shoulder?

Court (Interrupting):

Q:

Where is the accused?

Atty. Casabar

A:

He is there, your Honor.

Witness

A:

I shook away his arm and said, "Why, son, what is happening to you?"

Q:

And after you said to him those words, what did he do or say if any?

A:

He immediately embraced me, sir.

Q:

And what did you do when he embraced you?

A:

Because I did not want something to be done against me I begged him that he will not do anything bad against me.

Q:

What did you say when, will you kindly quote the exact words which you said to him at that time?

A:

"Why my son, what are you doing to me, you should be ashamed, I am even your mother."

Q:

And what did he do after you have said those words to him?

A:

He said, "Do not talk."

Q:

Then what transpired after that?

A:

He did not heed to my begging that he will not do anything bad against me and since I did not want something to be done against me I struggled against him.

Q:

And what happened while you were struggling?

A:

During our struggle, he boxed me twice on my left jaw.

Q:

Will you kindly indicate on your person what part of your jaw did he box?

A:

Here, sir (the witness pointing to her left jaw), and that even my earring was lost when he was boxing my jaw.

Q:

After Arsenio Cabanilla had boxed twice on your left jaw as you have just indicated, what happened to you?

A:

During our struggle, sir, when he loosened his hold on my, I shook him away and took the chance to run.

Q:

Were you able to run away?

A:

Yes, sir. I was able to run but after a short while I stumbled.

Q:

And when you stumbled, what happened?

A:

At that time when I stumbled, he was able to immediately squeeze my neck.

Q:

While he was squeezing your neck, what did he do?

A:

He said, "If you don't like, I will kill you."

Q:

What did you do when he said those words to you?

A:

I continued struggling against him since I did not want that something bad be done to me.

Q:

And were you able to get away from him while struggling?

A:

No sir, because he went on top of me.

Q:

What was your position when you said when Arsenio Cabanilla was on top of you?

A:

I was lying down, sir.

Q:

And what happened while you were lying down?

A:

Since I did not want something bad to be done against me, I continued struggling but then I lost my strength he forced open my legs.

Q:

After the accused had forced open your legs, what happened next?

A:

After he had placed his body on top of me and then and I then lost my strength, he brought down my panty.

Q:

Was the accused able to bring down your panty?

A:

Yes, sir, he was able to bring down my panty.

Q:

After that what happened?

A:

He inserted his penis inside my vagina.

Q:

Was he able to insert his penis to your vagina?

A:

Yes, sir.

Q:

What did he do then after that?

A:

When Arsenio Cabanilla had inserted his penis inside my vagina, he then made a push and pull motion successively.

X x x x.

The transcripts reveal that AAA's testimony bears the hallmarks of truth. She described in detail the hideous experience she had suffered at the hands of Cabanilla on that fateful night of March 6, 1979, in a spontaneous and credible manner, devoid of any hint of falsity or fabrication. She candidly recounted how Cabanilla punched her left jaw twice, squeezed her neck and threatened to kill her when she continued to

resist his advances, pulled down her panties, and forcibly inserted his penis into her vagina only after fatigue had weakened her tenacity to resist the sexual assault. She remained steadfast throughout her testimony despite being subjected to intense and grueling cross-examination. She was not shown to possess the shrewdness and callousness to concoct a story of rape. Her straightforward narration of what transpired coupled with her unwavering and categorical identification of Cabanilla as her defiler, sealed the case for the prosecution.

AAA's testimony is buttressed by the medico-legal findings of Dr. Bañez, who examined her on March 6, 1979 at 8:45 o'clock in the evening or about more than an hour after the incident. The presence of motile sperm cells in her violated organ indicated recent sexual intercourse. Her contusion on the left mandible and abrasions on her neck were ample manifestations of her struggle that clearly fortified her charge of rape more than words and anger could prove. The shock and horror she experienced caused her to be nervous that Dr. Bañez had to give her a tranquilizer to calm her down.

The gravamen of the crime of rape is carnal knowledge of a woman against her will or without her consent.[27] Both carnal knowledge and the use of force and intimidation, indicating absence of consent, were convincingly established in this case. The fact that Cabanilla hit her left jaw when she resisted sufficiently indicated force. Intimidation was exerted on her when he squeezed her neck while threatening her with death should she refuse to submit herself to his beastly desires. By intimidation, a man keeps a woman in a state of fear and humiliation.

Cabanilla insists on his sweetheart defense arguing that the sexual intercourse on the night of March 6, 1979 could not have amounted to rape because she agreed to it. This sweetheart defense deserves consideration if only to expose its falsity.

The sweetheart defense is a much-abused defense that rashly derides the intelligence of the Court. Being an affirmative defense, the invocation of a love affair must be supported by convincing proof.[28] In this case, apart from his self-serving assertions, Cabanilla offered no sufficient and convincing evidence to substantiate his claim that they were lovers.[29]

To prop up his defense of an illicit affair, Cabanilla relied on the testimonies of Velasco, Bilag and Herminia.

The Court finds the story of his witnesses not worthy of credence.

First, the fact alone that two people were seen conversing and walking side by side cannot give rise to the inference that they were lovers. Intimacies such as loving caresses, cuddling, tender smiles, sweet murmurs or any other affectionate gesture that one bestows upon his or her lover would have indicated the existence of a relationship. Cabanilla's witness, Velasco, however, did not even testify on any intimacy but only on the normal acts of two people "talking nicely"[30] and walking together.

Second, no romantic relationship can be deduced from the fact that the two opted to walk from Barangay San Jose to Barangay Rivadavia, where both resided. As explained by AAA, they couldn't get a ride home and so she agreed to walk home with him.[31] Neither was there anything unusual, much less romantic, when she asked him to accompany her as they knew each other, Cabanilla being a nephew of her husband and their neighbor.[32] The Court finds it easier to believe that they walked home together because she trusted Cabanilla as a relative who would protect her from the dangers of the road at nighttime and not for any intimate reason.

Third, the improbability of Bilag's testimony betrayed the contrived nature of his story. He claimed that the reason why he did not divulge to the police investigator that he saw the two making love to each other was that he could not understand the English language.[33] The explanation is flimsy. His lack of knowledge of English is not an excuse for he could have easily relayed such important piece of information in Ilocano. Further, the Court notes that in his statement given on March 9, 1979 before Sgt. Bartolome B. Agatep, there is a declaration stating that:

"QUESTIONS AND ANSWERS WERE PROPOUNDED IN ILOCANO DIALECT BOTH DECLARANT AND INVESTIGATOR COULD FULLY UNDERSTAND EACH OTHER AND TRANSLATED BY THE SAME INVESTIGATOR IN ENGLISH LANGUAGE."[34] There was also no showing that he was prevented by anybody from disclosing the alleged consensual act to said police investigator.

The Court considers it strange that Bilag maintained his silence and did not tell anyone for many years about what he claimed to have known all along. A timely revelation could have cleared the doubt for all persons concerned. Instead, he waited until he was called to the witness stand on May 11, 1982 and July 6, 1982 to reveal this fact rendering his testimony highly suspect.

In the light of the foregoing observations, the Court is inclined to believe that Bilag's knowledge of the incident is but limited to what he had

declared in his statement dated March 9, 1979, to wit: that he was inside his house in Brgy. San Jose on March 6, 1979 at about 7:00 o'clock in the evening when AAA and her companion passed by; that he did not notice whether her companion was a man or a woman; that he was merely informed by AAA that she was with Cabanilla; and that Patrolman Balalio and AAA told him that Cabanilla had sexually abused her and that they asked him to testify that she was with him on the date and time in question.

Fourth, the corroborative testimony of his sister, Herminia, that he and AAA were sweethearts cannot be given any credence precisely because they are siblings. It is well settled that testimonies of close relatives and friends are necessarily suspect and cannot prevail over the unequivocal declaration of a complaining witness.[35] Herminia suspected that her brother and her aunt, AAA, were having an affair because she saw the two walking in the fields with their arms around each other and, at one instance, he kissed her. That Herminia merely ignored what she saw and did not stop the two from continuing with their immoral and illicit affair is simply inconsistent with human nature. Her choice to keep quiet and not to confront either of them about her suspicions only rendered her testimony unreliable.

Fifth, if his defense were true - that AAA willingly submitted to his embraces and voluntarily copulated with him - the Court finds it difficult to understand why she, without much ado, rushed to her husband telling him as well as Cabanilla's parents of the disgusting treatment she received from Cabanilla; reported the ugly incident to the barangay officials and the local police; submitted herself to physical examination at the hospital and endured the humiliation of having someone examine her private parts; immediately filed a complaint for rape against Cabanilla; and then allowed herself to be

subjected to the rigors, trouble, inconvenience, ridicule, and scandal of a public trial. Such conduct is diametrically inconsistent with the sweetheart defense of Cabanilla. The most natural reaction of a woman, much more a married one, who voluntarily submitted herself to an intimate relationship with a man, would have been to conceal it as this would bring disgrace, dishonor and shame to her family. Her swift revelation of the outrage committed against her person bares her firm resolve to immediately vindicate her lost honor and pride and to have the sex molester punished.

Sixth, Cabanilla failed to ascribe, much less prove, any ill motive on the part of AAA that could have compelled her to falsely accuse him of committing the crime. Where there is no evidence to show any dubious reason or improper motive why a prosecution witness would falsely testify against an accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.[36] Such failure strengthens her credibility and the validity of the charge.

Seventh, granting that they were lovers, this fact alone could not have ruled out rape as it did not necessarily mean there was consent. A love affair does not justify rape[37] for a man does not have an unbridled license to subject

his beloved to his carnal desires against her will.[38]

Cabanilla's sweetheart defense indeed suffers from lack of convincing and credible corroboration and fails to destroy the truthfulness and credibility of AAA's testimony. Such theory is a worn out defense. It is akin to a wolf dressed in sheep's clothing but when shorn of its accoutrements reveals nothing but plain lust. Taken in this light, such defense is merely a desperate attempt to extricate himself from the bind brought about by his insatiable desires.

Accordingly, the Court sustains the CA in awarding the amount of P50,000.00 as civil indemnity to the victim. Civil indemnity, which is in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[39] Likewise, the Court finds the award of moral damages in the amount of P50,000.00 proper. Moral damages in rape cases should be awarded without need of showing that the victim sustained mental, physical, and psychological trauma. These are too obvious. To still require their recital at the trial would only prolong their agony.

WHEREFORE, the October 11, 2007 Decision of the Court of Appeals in CA-G.R. CR No. 01430 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Abad, JJ., concur.

[1] CA rollo, p. 209. Penned by Associate Justice Lucas P. Bersamin (now Associate Member of this Court) with Associate Justices Portia Aliño Hormachuelos and Estela M. Perlas-Bernabe, concurring.

[2] The Court of Appeals ordered accused to also pay the victim indemnity ex delicto of P50,000.00 and moral damages of P50,000.00.

[3] Penned by Judge Arturo B. Buenavista; records, pp. 360-386.

[4] Per this Court's resolution dated September 19, 2006 in A.M. No. 04-11-09-SC, as well as our ruling in *People v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), pursuant to Republic Act No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victims and their immediate family members other than the accused are to be withheld and fictitious initials are to be used instead. Likewise, the exact addresses of the victims are to be deleted.

[5] Records, p. 41.

[6] TSN, August 3, 1979, pp. 1-11; TSN, October 17, 1979, pp. 1-41; and TSN, October 9, 1980, pp. 1-2.

[7] TSN, October 9, 1980, pp. 2-7.

[8] TSN, December 3, 1980, pp. 3-12.

[9] TSN, January 20, 1981, pp. 2-7.

[10] TSN, May 12, 1981, pp. 2-17; and TSN, July 29, 1981, pp. 6-13.

[11] TSN, February 18, 1986, pp. 2-29; TSN, June 10, 1996, pp. 7-17; and TSN, August 8, 1996, pp. 2-26.

[12] TSN, May 11, 1982, pp. 2-14; and TSN, July 6, 1982, pp. 2-16.

[13] TSN, August 14, 1996, pp. 3-10.

- [14] TSN, March 13, 1997, pp. 2-22.
- [15] Supra note 3.
- [16] Records, p. 384.
- [17] Id. at 386.
- [18] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [19] CA rollo, pp. 226-227.
- [20] Rollo, p. 236.
- [21] Records, p. 240.
- [22] People v. Armando San Antonio, Jr., G.R. No. 176633, September 5, 2007, 532 SCRA 411, 424.
- [23] People v. Bidoc, G.R. No. 169430, October 21, 2006, 506 SCRA 481.
- [24] People v. Ceballos, Jr., G.R.No.169642, September 14, 2007, 533 SCRA 493.
- [25] People v. Glabo, 423 Phil. 45, 49-50 (2001).
- [26] People v. Cabugatan, G.R. No. 172019, February 12, 2007, 515 SCRA 537, 547.
- [27] People v. Docena, 379 Phil. 903, 913, (2000).
- [28] People v. Ramon Arivan y Formillo, G.R. No. 176065, April 22, 2008, 552 SCRA 448, 466.
- [29] People v. Alex Manallo, 448 Phil. 149, 165 (2003) .
- [30] TSN, August 14, 1996, p. 8.
- [31] TSN, August 3, 1979, pp. 9-10.
- [32] Id. at 8.
- [33] TSN, July 6, 1982, p. 3.
- [34] Records, p. 3.
- [35] People v. Opeliña, 458 Phil. 1001, 1014 (2003).
- [36] People vs. Ferrer, 356 Phil. 497, 508 (1998).
- [37] People vs. Jimenez, 362 Phil. 222, 234 (1999).
- [38] People vs. Lozano, 357 Phil. 397, 407 (1998).
- [39] People v. Callos, 424 Phil. 506, 516 (2002).

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