

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN CASTILLO, ACCUSED-APPELLANT.

G.R. No. 186533. August 09, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

This is an appeal from the Decision[1] dated 7 November 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 00030-MIN which affirmed with modification the Decision[2] dated 14 April 2004 of the Regional Trial Court (RTC) of Gingoog City, 10th Judicial Region, Branch 43, in Criminal Case No. 2000-211 finding herein appellant Efren Castillo guilty beyond reasonable doubt of the crime of rape under Article 266-A, par. 1(b) of the Revised Penal Code, committed against AAA,[3] thereby imposing upon him the penalty of reclusion perpetua. The appellate court further ordered the appellant to pay AAA P50,000.00 as moral damages, in addition to the P50,000.00 civil indemnity awarded by the trial court.

In a Complaint[4] dated 10 July 2000, appellant was charged by AAA, assisted by her mother, BBB, with the crime of rape committed as follows:

That sometime in March 2000, in XXX, XXX City, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant], did then and there wilfully (sic), unlawfully and feloniously force and intimidate AAA, known by the [appellant] to be mentally retarded, and then forcibly committed sexual intercourse with the said AAA, against her will.

Contrary to and in violation of Article 266-A, paragraph 1, of the Revised Penal Code, as amended by [Republic Act No.] 8353.[5]

When arraigned[6] on 23 August 2000, appellant, assisted by counsel de oficio, pleaded NOT GUILTY to the crime charged.

At the pre-trial conference, both the prosecution and the defense failed to make any stipulation of facts.[7] The pre-trial conference was then terminated and trial on the merits ensued.

The prosecution presented the following witnesses: AAA, the private offended party; Dr. Thessa Marie Antillon-Malimas (Dr. Antillon-Malimas),[8] the doctor in Gingoog District Hospital who examined AAA; BBB, the mother of AAA, who was also presented as rebuttal witness; and Myrna delos Reyes-Villanueva, the Guidance Psychologist at the Northern Mindanao Medical Center who conducted psychological tests on AAA to determine her mental capacity.

On the basis of the testimonies of the aforesaid witnesses, the prosecution established that AAA was 18 years old[9] when she was raped by the appellant. She is the eldest of the four children of BBB and CCC, the deceased father of AAA. She began attending school when she was already eight years old. AAA, however, was not able to finish her Grade I level primarily because of her epileptic seizures which started when she was nine years old. Since then she suffered epileptic seizures at least once a month. During attacks, AAA trembles and becomes stiff.

AAA also had difficulty understanding her lessons in school, she cannot write well and she had poor memory. Compared to her younger siblings, AAA had difficulty following instructions given to her at home and in school.[10]

AAA's ordeal began sometime in March 2000 when she approached the appellant in order to collect his debt for the rice cake he bought from her mother. Instead of settling his account, the appellant cuddled AAA until they reached the house of a certain Atok located in Barangay Agay-ayan, Gingoog City. Once inside, the appellant made her lie down on the bed and removed her short pants and panty. The appellant subsequently removed his pants and underwear. When both of them were already naked, the appellant mounted AAA and successfully inserted his penis into AAA's vagina. AAA felt pain. After satisfying his bestial desire, the appellant instructed AAA to go home.[11]

Days thereafter, such awful experience of AAA was repeated when she was on her way to visit her aunt's house. The appellant, who was then standing by the mango grove, approached AAA, walked along with her and led her to a nearby chapel also in Agay-ayan, Gingoog City. While outside the chapel, the appellant undressed AAA by removing her short pants and panty. The appellant likewise removed his pants and underwear. In a standing position, the appellant, once again, inserted his penis into AAA's vagina and successfully had sexual intercourse with her.[12] Thereafter, AAA told her mother, BBB, what the appellant did to her.

On 11 May 2000, BBB accompanied AAA at Gingoog District Hospital where she was examined by Dr. Antillon-Malimas. Upon examination, Dr. Antillon-Malimas found that AAA had a 7x6 cm. contusion hematoma lateral aspect of the right buttocks which could have been caused by a blunt force or violence applied on the area. Based on the appearance of the contusion, it could have been sustained two days prior to AAA's examination and it would exist for a period of four to five days. Dr. Antillon-Malimas' findings on AAA's genitalia, particularly the vulva, revealed no swelling, no tenderness and no contusion. Her findings on AAA's hymen showed healed lacerations at 3 o'clock and 9 o'clock positions which could have been caused by a blunt object or by violence or by reason of sexual intercourse. An examination of AAA's vaginal canal yielded negative result for spermatozoa but another contusion was found therein.[13] The result of AAA's physical examination was reduced into writing as evidenced by Medico-Legal Certificate[14] dated 11 May 2000.

Subsequently, AAA executed her sworn statement[15] before Senior Police Officer 4 Myrna Z. Palad (SPO4 Palad), the investigator at Gingoog City Police Station.

AAA was also subjected to psychological tests to determine her mental capacity. The psychological tests administered by Myrna Delos Reyes-Villanueva on AAA consist of the Draw-A-Person Test and the Bender Visual Motor Test. The aforesaid psychological tests showed that AAA has poor visual motor coordination and low level mental functioning not within her chronological age, i.e., 21 years old at the time of her examination. In view of that result, Myrna Delos Reyes-Villanueva concluded that AAA is suffering from mild to moderate mental retardation with a mental age of 8 to 12 years old and can be educated up to Grade VI level. She also noted that AAA lacked personal hygiene and has a vague concept of big numbers and time, like days of the week. She further declared that AAA's instinct to resist any sexual assault is always there; however, with her low level mental functioning she could easily be deceived or persuaded by a man to engage into sexual intercourse.[16] The result of AAA's psychological tests was also reduced into writing as evidenced by a Psychological Report[17] dated 2 September 2003.

For its part, the defense presented Rolando Castillo (Rolando), appellant's father, and the appellant himself whose testimony consists mainly of bare denial and alibi.

The appellant denied having raped AAA. He stated that it was impossible for him to rape AAA in March 2000

because for the entire period of the said month he was harvesting coconuts from the land of a certain Elizabeth Camus from 7:00 a.m. until 5:00 p.m. or 6:00 p.m. every day. Similarly, the house of Atok, where the first rape incident allegedly happened, was already demolished as early as 1998 and he was one of those who dismantled the said house.[18]

On 9 May 2000, the appellant admits that he went to the house of his uncle in Buenavista, Agusan del Norte. He stayed there until he received a letter from his father sometime in June 2000 informing him that a rape case was filed against him by AAA and advising him to go home. The appellant then decided to go home in Agay-ayan, Gingoog City. Upon arrival, his father immediately inquired if the rape charged against him was true to which he replied in the negative.[19]

On 15 August 2000, two months after his arrival in Agay-ayan, Gingoog City, the appellant, his father, and a certain Eddie Camus went to AAA's place to ask her mother to have the case settled. The appellant asked AAA's mother, BBB, why her family filed a case against him when he did not do anything to her daughter, AAA, to which BBB allegedly responded, "Just forgive me because the case was already filed in court." They went home thereafter.[20]

The appellant also insisted that he was not arrested; instead, he surrendered voluntarily to the Barangay Captain of Agay-ayan, Gingoog City, upon the advice of his father. It was the Barangay Captain of Agay-ayan, Gingoog City, who accompanied him to the police station.[21]

Likewise, the appellant claimed that he does not know of any reason why AAA would impute such a grave offense against him. The only thing he could remember was AAA's mother, BBB, who got angry at him when he told her to get married since she is now a widow. Since then BBB did not talk to him anymore. The appellant believed this could be the reason why AAA's family charged him with rape.[22]

The defense likewise presented appellant's father, Rolando, who categorically admitted that AAA is mentally retarded.[23] Rolando also disclosed that he accompanied the appellant to AAA's place to talk to her mother and ask forgiveness in case the charge against him was true so that the matter will no longer reach the court. The appellant then asked forgiveness from AAA's mother by saying, "Ya, forgive me because the charge against me is not true." Then BBB allegedly replied, "We cannot withdraw the case `Fren because it was already filed in court." Rolando also divulged that immediately after they went to AAA's house, there were already police officers who were about to arrest the appellant but the latter ran away. When the appellant went home, he told him to surrender, which the appellant obeyed.[24]

On rebuttal, BBB disclosed that even prior to the filing of the instant case the appellant already admitted that he truly molested AAA. The appellant, indeed, went to their house in August 2000 asking forgiveness from her but she told him that the case was already in court. BBB also clarified that the house of Atok where the first rape incident happened was not yet demolished in 1998. The house demolition happened only in 2000. She was certain about this because during the demolition she was there gathering firewood.[25]

The trial court, convinced on the merits of the prosecution's case, rendered a Decision on 14 April 2004, finding the appellant guilty beyond reasonable doubt of the crime of rape and sentenced him to an imprisonment term of reclusion perpetua and ordered him to indemnify AAA in the amount of P50,000.00 as civil indemnity.

The records were originally transmitted to this Court on appeal. In view, however, of this Court's ruling in *People v. Mateo*,[26] the case was transferred to the Court of Appeals for intermediate review.

In his brief, the appellant assigned the following errors:

THE COURT A QUO GRAVELY ERRED IN FINDING THAT [AAA] IS A MENTAL RETARDATE

DESPITE THE FAILURE OF THE PROSECUTION TO PROVE SUCH MENTAL RETARDATION.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE [APPELLANT] OF THE CRIME OF RAPE UNDER ARTICLE 266-A, par. 1(B), AS AMENDED BY R.A. 8353, DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[27]

The Court of Appeals, taking into consideration the aforesaid assignment of errors and after a thorough study of the records of the case, rendered the assailed Decision dated 7 November 2008, affirming appellant's conviction for rape with the modification for an additional award of P50,000.00 as moral damages. The records were then forwarded to this Court for further review.

This Court affirms appellant's conviction.

Appellant contends that the records are bereft of any evidence that would conclusively show that AAA was suffering from mental retardation. BBB's declaration that AAA is a slow thinker does not sufficiently establish AAA's mental retardation. Further, the "expert witness qualification" of the prosecution's supposed expert witness is highly questionable because she had not acquired any doctorate degree in the field of psychology or psychiatry. More so, the psychological tests administered by her on AAA were inadequate to establish AAA's mental capacity.

Appellant anchors his argument for acquittal on the alleged failure of the prosecution to establish AAA's mental retardation to make him guilty of rape under Article 266-A, par. 1(b), of the Revised Penal Code. Appellant concludes that his guilt has not been proven beyond reasonable doubt.

We reject appellant's position.

In rape cases, the gravamen of the offense is sexual intercourse with a woman against her will or without her consent.[28] Article 266-A, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353, states:

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

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

a) Through force, threat or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. [Emphasis supplied].

It can be deduced from the aforequoted provision that for the charge of rape to prosper, the prosecution must prove that; (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under 12 years of age or is demented.[29] The term "woman deprived of reason" includes one suffering from mental retardation.[30] Clearly, carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law. Proof of force or intimidation is not necessary as a mental retardate is not capable of giving consent to a sexual act. What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.[31]

In *People v. Dalandas*,[32] citing *People v. Dumanon*,[33] this Court held that mental retardation can be proven

by evidence other than medical/clinical evidence, such as the testimony of witnesses and even the observation by the trial court.[34]

Section 50, Rule 130 of the Revised Rules on Evidence explicitly provides:

SEC. 50. Opinion of ordinary witnesses. - The opinion of a witness for which proper basis is given, may be received in evidence regarding-

(a) x x x

(b) x x x

(c) The mental sanity of a person with whom he is sufficiently acquainted.

The witness may also testify on his impressions of the emotion, behavior, condition or appearance of a person. [Emphasis supplied].

Accordingly, it is competent for the ordinary witness to give his opinion as to the sanity or mental condition of a person, provided the witness has had sufficient opportunity to observe the speech, manner, habits, and conduct of the person in question. Commonly, it is required that the witness details the factors and reasons upon which he bases his opinion before he can testify as to what it is. As the Supreme Court of Vermont said: "A non-expert witness may give his opinion as to the sanity or insanity of another, when based upon conversations or dealings which he has had with such person, or upon his appearance, or upon any fact bearing upon his mental condition, with the witness' own knowledge and observation, he having first testified to such conversations, dealings, appearance or other observed facts, as the basis for his opinion." [35]

The mother of an offended party in a rape case, though not a psychiatrist, if she knows the physical and mental condition of the party, how she was born, what she is suffering from, and what her attainments are, is competent to testify on the matter.[36] Thus, even though the Guidance Psychologist who examined AAA may not qualify as an expert witness, though the psychological tests conducted by her on AAA may not be accurate to determine AAA's mental capacity, such circumstance is not fatal to the prosecution's cause.

In the case at bench, BBB testified that AAA has been suffering from epilepsy since she was nine years old, which is one of the reasons why AAA was not able to finish her Grade I level. AAA also had to stop schooling because she had difficulties understanding her lessons in school, she cannot write well, she had poor memory and she had difficulty answering even the simplest question asked of her. BBB further stated that AAA is the eldest of her four children; however, compared to her younger siblings, AAA had a hard time comprehending the instructions given to her at home and in school.

In the same way, though the Guidance Psychologist who examined AAA may not be qualified as an expert witness, her observations, however, as regards the appearance, manner, habits and behavior of AAA, is also admissible in evidence as an ordinary witness' testimony. Even before the Guidance Psychologist administered the psychological tests on AAA, she already noticed that AAA lacked personal hygiene. While conversing with AAA, she observed that AAA has low level mental functioning as she has difficulty understanding simple things, has a vague concept of big numbers and time "like days of the week, and has regressed behavior that is not congruent to her age, i.e., 21 years old at the time of her examination. She also stated that she was not able to administer the Purdue Non-Language Test, which is an Intelligence Quotient Test, on AAA due to the latter's inability to identify the items therein.

This Court, in *People v. Dalandas*, clarified that a mental retardate, in general, exhibits a slow rate of maturation, physical and/or psychological, as well as impaired learning capacity. Further, the mental retardation of persons

and the degrees thereof may be manifested by their overt acts, appearance, attitude and behavior. The dentition, manner of walking, ability to feed oneself or attend to personal hygiene, capacity to develop resistance or immunity to infection, dependency on others for protection and care and inability to achieve intelligible speech may be indicative of the degree of mental retardation of a person. All these may be testified on by ordinary witnesses who come in contact with an alleged mental retardate.[37]

It bears stressing that the deprivation of reason contemplated by law need not be complete; mental abnormality or deficiency is sufficient.[38] Thus, it is clear from the foregoing that AAA's impaired learning capacity, lack of personal hygiene and difficulty in answering simple questions, as testified to by her mother and the Guidance Psychologist who had an opportunity to observe her appearance, manner, habits and behavior, are indicative that she is truly suffering from some degree of mental retardation.

More telling is the trial court's own observation on AAA's manner of testifying that confirms the fact that AAA is a mental retardate, to wit:

Court: Alright, Order.

The prosecution presented their first witness in the person of the victim herself, AAA, who seemed to be a retardate.

The witness finds it hard to answer simple questions and it has to be repeated to ask questions in a simple way as possible in order for her to understand.

In the course of her direct testimony it developed and appeared that she was already tired and she could not concentrate well probably because of her predicament she being also an epileptic and it is for this reason that the prosecution and the defense agreed that the cross examination of the witness be continued later in order to give her a chance to rest x x x.[39] [Emphases supplied.]

For purposes of determining the mental capacity of a person, this Court held that the personal observation of the trial judge suffices even in the absence of an expert opinion.[40] Hence, the aforesaid findings of the trial court are entitled to great weight and respect being in the best position as it had the opportunity to hear and observe the demeanor, conduct and attitude of AAA while testifying.

Surprisingly, though the appellant vehemently contends that the prosecution was not able to establish AAA's mental retardation, he failed to notice that his own father, Rolando, during his testimony before the court a quo, categorically admitted and confirmed that, indeed, AAA is mentally retarded and feeble-minded. Here we quote appellant's father's testimony:

Q: Will you agree with me that this AAA is somewhat mentally retardate?

A: Yes, Sir. That is really true.

x x x x

Q: But you knew for a fact that this AAA is a feeble-minded?

A: Yes, Your Honor.[41]

Such testimony puts beyond doubt that AAA is truly a mental retardate. Her condition was so apparent to people who have had an opportunity to interact and deal with her that even appellant's own father, who happens to be AAA's neighbor, could not deny her mental state. The prosecution evidence settled this issue.

As well and as much established is the fact of sexual congress between the appellant and AAA.

AAA was able to recall and narrate in detail before the court a quo how she was ravished by the appellant on two occasions; first, at the house of a certain Atok and second, outside the chapel. On the first rape incident, AAA vividly described how the appellant cuddled her until they reached the house of a certain Atok. Once inside, the appellant made her lie down on the bed and removed her short pants and panty. The appellant subsequently undressed himself and inserted his penis into her vagina. On the second rape, AAA similarly recalled how the appellant led her to a nearby chapel. While they were outside the chapel, the appellant undressed her and likewise removed his shorts and underwear and had sexual intercourse with her in a standing position. Such testimony of AAA can be characterized as categorical and straightforward. Also, as noted by the trial court, although AAA could not easily grasp the questions asked, her answers were nonetheless marked with candidness even as they were given simplistically.

It bears emphasis that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it is shown that they can communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant's accusations, it even lends greater credence to her testimony, that, someone as feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused.[42] Moreover, it is settled that when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.[43]

It is also worth stressing that during AAA's testimony, she positively identified the appellant as the person who had raped her.[44] Thus, the straightforward narration of AAA of what transpired, accompanied by her categorical identification of appellant as the malefactor, sealed the case for the prosecution.[45]

The fact of sexual congress between AAA and the appellant was also supported by the medical findings of healed hymenal lacerations at 3 o'clock and 9 o'clock positions which, according to Dr. Antillon-Malimas, could have resulted from sexual intercourse. When the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge. Laceration, whether healed or fresh, is the best physical evidence of forcible defloration.[46] Thus, the said medical findings, together with the straightforward testimony of AAA, even strengthens her claim of sexual violation by appellant.

The records also failed to show that AAA was prompted by ill motive in imputing such a grave offense against the appellant. The absence of evidence of improper motive on the part of the prosecution witnesses to testify against the appellant strongly tends to sustain the conclusion that no such improper motive exists and that their testimonies are worthy of full faith and credit.[47] The claim of the appellant that his remark on AAA's mother, that since she was already a widow she should already get married, could possibly trigger the filing of this case against him is highly implausible. As the trial court had stated, it is quite unbelievable that BBB's anger could have been triggered by such an innocuous joke to the extent of allowing the examination of AAA's private parts and subjecting AAA to the humiliation of declaring in open court the sexual molestation she underwent in the hands of the appellant. Besides, no mother in her right mind would possibly stoop so low as to subject her daughter to the hardships and shame concomitant to a rape prosecution just to assuage her own hurt feelings. It is unnatural for a parent to use her offspring as an engine of malice, especially if it will subject her daughter to embarrassment and even stigma. It is hard to believe that a mother would sacrifice her own daughter and present her to be the subject of a public trial if she, in fact, has not been motivated by an honest desire to have the culprit punished.[48]

It is also worthy to note the testimony of the appellant that he, together with his father, and a certain Eddie Camus, went to the house of AAA to have the case settled, which testimony was corroborated by his own father.

Appellant's father went further in saying that they went to AAA's house to ask for forgiveness. AAA's mother, BBB, confirmed appellant's importunity. This Court has ruled that an act of asking for forgiveness is undeniably indicative of guilt.[49] If the appellant so believed that he did not commit any wrongdoing against AAA, he would not bother to go to AAA's house to have the case settled and to ask for forgiveness.

The array of the prosecution evidence stresses the weakness of appellant's defense of denial and alibi.

Denial and alibi are inherently weak defenses and, unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim, who in a simple and straightforward manner, convincingly identified the appellant who sexually molested her.[50] For alibi to prosper, the accused must show that it was impossible for him to have been at the scene of the commission of the crime at the time of its commission.[51]

In the instant case, the appellant claimed that he cannot rape AAA in March 2000 because for the entire period of the said month he was harvesting coconuts from the land of a certain Elizabeth Camus from 7:00 a.m. until 5:00 p.m. or 6:00 p.m. every day. Similarly, the house of Atok, where the first rape incident allegedly happened, was already demolished as early as 1998 and he was one of those who dismantled the said house. However, these assertions of the appellant remained uncorroborated. He also failed to show the physical impossibility of his presence at the scene of the crime at the time of its commission. As can be inferred from his testimony, he left Agay-ayan, Gingoog City, only in May 2000, so at the time the rape incidents happened sometime in March 2000, he was still in the place where the crime was committed.

In sum, AAA's straightforward testimony, as well as her unwavering and positive identification of the appellant as her defiler and tormentor, corroborated by the medical findings conducted by Dr. Antillon-Malimas, was sufficient to convict the appellant. The flimsy and self-serving defenses of denial and alibi of the appellant failed to destroy the truthfulness and the credibility of AAA's testimony.[52]

Although the complaint specifically alleged the circumstance of appellant's knowledge of the victim's mental retardation at the time of the commission of the crime of rape, which qualifies the crime and makes it punishable by death under Article 266-B, paragraph 10[53] of the Revised Penal Code, as amended, the prosecution did not adduce any evidence to prove the same during trial. This Court, therefore, is fully convinced that the trial court and the appellate court correctly convicted the appellant for the crime of simple rape[54] under Article 266-A, par. 1(b) of the Revised Penal Code, which is punishable by reclusion perpetua.[55]

Anent the award of damages, civil indemnity *ex delicto* is mandatory upon finding of the fact of rape while moral damages is awarded upon such finding without need of further proof because it is assumed that a rape victim had actually suffered moral injuries entitling the victim to such award.[56] Exemplary damages, on the other hand, are awarded under Article 2230[57] of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying.[58] Thus, this Court similarly affirms the P50,000.00 civil indemnity and P50,000.00 moral damages awarded by the lower courts to AAA. However, there being no aggravating circumstance that can be considered, no exemplary damages can be awarded to AAA.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00030-MIN dated 7 November 2008 finding herein appellant guilty beyond reasonable doubt of the crime of rape is hereby **AFFIRMED**.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin,[*] and Del Castillo, JJ., concur.

[*] Per Special Order No. 876, Associate Justice Lucas P. Bersamin is designated as additional member in place of Associate Justice Presbitero J. Velasco, Jr. who is on official leave under the Court's Wellness Program.

[1] Penned by Associate Justice Romulo V. Borja with Associate Justices Mario V. Lopez and Elihu A. Ybañez, concurring. Rollo, pp. 4-33.

[2] Penned by Presiding Judge Editho E. Lucagbo, CA rollo, pp. 43-53.

[3] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* [G.R. No. 167693, 19 September 2006, 502 SCRA 419], wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rules on Violence Against Women and Their Children effective 15 November 2004.

[4] Records, pp. 2-3.

[5] *Id.*

[6] Order dated 23 August 2000. *Id.* at 14.

[7] Pre-Trial Order dated 21 September 2000. *Id.* at 19-20.

[8] From 2001 up to the present, she is already at the Northern Mindanao Medical Center.

[9] In the direct testimony of AAA conducted on 26 February 2003, the prosecution stated that she was 16 years old; however, AAA's mother stated during her testimony on 25 June 2003 that AAA was born on 12 April 1982, thus, AAA was already 18 years old when she was allegedly raped by the appellant.

[10] TSN, 25 June 2003, pp. 29-37; TSN, 26 February 2003, pp. 3-5.

[11] TSN, 26 February 2003, pp. 6-14.

[12] *Id.* at 15-17.

[13] TSN, 25 June 2003, pp. 5-12.

[14] Records (Folder of Exhibits), p. 1.

[15] *Id.* at 2.

[16] TSN, 1 December 2003, pp. 7-36.

- [17] Records (Folder of Exhibits), pp. 11-12.
- [18] TSN, 10 February 2004, pp. 9-10 and 18.
- [19] Id. at 4-5 and 29.
- [20] Id. at 6 and 25-30.
- [21] Id. at 7.
- [22] Id. at 8-9.
- [23] TSN, 11 February 2004, p. 14.
- [24] Id. at 9-11.
- [25] TSN, 12 February 2004, pp. 5-8; TSN, 8 March 2004, p. 4.
- [26] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [27] CA rollo, p. 29.
- [28] *People v. Ybañez*, 404 Phil. 423, 429 (2001).
- [29] *People v. Dela Paz*, G.R. No. 177294, 19 February 2008, 546 SCRA 363, 376.
- [30] *People v. Bacaling*, 447 Phil. 197, 203 (2003).
- [31] *People v. Dela Paz*, *supra* note 29 at 376.
- [32] 442 Phil. 688 (2002).
- [33] 401 Phil. 658 (2000).
- [34] *People v. Dalandas*, *supra* note 32 at 697.
- [35] *People v. Duranan*, 402 Phil. 205, 215-216 (2001) citing V. J. Francisco, *The Revised Rules of Court of the Philippines*, pp. 735-736 (1997).
- [36] *People v. Duranan*, *id.* at 215.
- [37] *People v. Dalandas*, *supra* note 32 at 696-697.
- [38] *People v. Atuel*, G.R. No. 106962, 3 September 1996, 261 SCRA 339, 355.
- [39] TSN, 26 February 2003, pp. 22-23.
- [40] *People v. Bacaling*, *supra* note 30 at 204.
- [41] TSN, 11 February 2004, pp. 14-15.
- [42] *People v. Dela Paz*, *supra* note 29 at 381-382.
- [43] *People v. Agunos*, 375 Phil. 315, 323-324 (1999).
- [44] TSN, 26 February 2003, p. 5.
- [45] *People v. Macapal, Jr.*, G.R. No. 155335, 14 July 2005, 463 SCRA 387, 400.
- [46] *People v. Malones*, 469 Phil. 301, 325-326 (2004).

[47] People v. Garin, 476 Phil. 455, 472 (2004).

[48] People v. Jose, 367 Phil. 68, 78 (1999).

[49] People v. Erardo, G.R. No. 119368, 18 August 1997, 277 SCRA 643, 657.

[50] People v. Agravante, 392 Phil. 543, 551 (2000).

[51] People v. Kimura, 471 Phil. 895, 919-920 (2004).

[52] People v. Nieto, G.R. No. 177756, 3 March 2008, 547 SCRA 511, 527-528.

[53] ART. 266-B. Penalties. x x x.

x x x x

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

x x x x

10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

[54] ART. 266-A. Rape: When and How Committed.-Rape is committed:

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

a) x x x;

b) When the offended party is deprived of reason or otherwise unconscious;

x x x. (Revised Penal Code).

[55] ART. 266-B. Penalties.-Rape under paragraph 1 of the next preceeding article shall be punished by reclusion perpetua. (Revised Penal Code).

[56] People v. Calongui, G.R. No. 170566, 3 March 2006, 484 SCRA 76, 88.

[57] Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[58] People v. Gragasin, G.R. No. 186496, 25 August 2009, 597 SCRA 214, 232-233.

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