

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX CONDES Y GUANZON, ACCUSED-APPELLANT.

G.R. No. 187077. February 23, 2011

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the July 31, 2008 Decision[1] of the Court of Appeals (CA), in CA-G.R. CR-H.C. No. 00926, which affirmed the July 21, 2003 Decision[2] of the Regional Trial Court, Branch 34, Calamba City (RTC), in Criminal Case No. 7383-2000-C, finding the accused guilty beyond reasonable doubt of the crime of rape committed against AAA.[3]

Accused Alex Condes y Guanzon (accused) was charged with the crime of rape in an information[4] dated February 23, 2000, the accusatory portion of which reads:

That on or about February 14, 1999 at Brgy. Bitin, Municipality of Bay, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused while conveniently armed with a bolo through force, violence and intimidation and with lewd design, did then and there willfully, unlawfully and feloniously have carnal relation with one AAA, a fourteen (14) year old minor, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.

Version of the Prosecution

The thrust of the prosecution's evidence has been summarized by the Office of the Solicitor General (OSG) in its Brief[5] as follows:

On the eve[ning] of February 14, 1999, the 14-year old victim, AAA, was left alone with her stepfather, appellant Alex Condes, at their house in Brgy. Bitin, Laguna. She was cleaning the upstairs area of the house, when appellant entered the room, pointed a bolo at her neck, and warned her not to shout. He pulled her down to the floor, removed her clothes, and when she tried to push him away - subdued her with a threat of a cut from his bolo. Appellant removed his own garments, positioned himself on top of his stepdaughter, and succeeded in inserting his penis into the victim. He made push and pull movement for about ten minutes. The pain the victim felt in her sex organ was excruciating.

After satisfying himself, appellant wiped his sex organ. Threatening to kill her brothers and sister, he made AAA promise not to tell anyone about the incident. She kept the unpalatable promise until December 30, 1999, when appellant tried to rape her again. Determined to obtain justice, the victim called her aunt in San Pablo City and disclosed the revolting incident. On January 4, 2000, accompanied by her aunt, AAA was taken to the PNP Regional Crime Laboratory Office, Camp Vicente Lim, Canlubang Calamba, Laguna, where she was examined by Dr. Joselito Rodrigo whose findings revealed the following:

"...scanty growth of pubic hair. Labia majora are full, convex and coapted with pinkish brown labia minora presenting in between. On separating the same is disclosed an elastic fleshy type hymen with deep-healed

laceration at 6 o'clock position. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is soft.... Findings are compatible with 9 to 10 weeks pregnant already..."

Version of the Defense

In his Brief,[6] the accused denied the charges against him and presented his own version of the circumstances before and during the alleged incident. Thus:

Rose Catalan is a lady guard of the Guzent Incorporated in Tiwi, Albay, where the accused used to work since 1991. She is in-charge of the time records of all the employees in the said establishment.

On February 13, 1999, the accused reported for work, which was indicated in their logbook. The accused left the company at 11:10 in the morning but proceeded to Tiwi Hot Spring.

Alex Condes vehemently denied the accusation hurled against him. He recalled that in the morning of February 14, 1999, he returned the service vehicle to his office at No. 1237 EDSA, Quezon City. He went home soon thereafter to take a short nap in his house in Quezon City. At 5:00 o'clock in the morning, he decided to go to his house in Brgy. Bitin, Bay, Laguna. Upon reaching home, he went to sleep again until his brother-in-law and a companion arrived. They had a drinking spree. The complainant asked permission to attend a fiesta at her friend's house.

At 7:00 o'clock in the evening, he asked his mother-in-law and the complainant to prepare his things as he would return to Manila the following day. He left his house on February 15, 1999 at 3:30 in the morning.

Alberto Navarette, barangay captain of Bitin, in Bay, Laguna, averred that he saw the accused inside the latter's house in the morning of February 14, 1999. He also saw the complainant washing dishes in their kitchen. Then, in the afternoon, he passed by the house of the accused and saw him carrying a child while the complainant was in front of their house. He did not notice anything unusual.

On July 21, 2003, the RTC rendered its judgment convicting the accused guilty beyond reasonable doubt of simple rape. It rejected the defenses of denial and alibi proffered by the accused stating that said defenses fell flat in the face of the testimony of AAA on her harrowing ordeal in the hands of the accused. It found her testimony to be credible, natural, convincing, consistent with human nature, and in the normal course of events.[7] The lower court, however, ruled that the accused can only be convicted of simple rape and not in its qualified form. It reasoned out that while the prosecution was able to establish the aggravating/qualifying circumstances of minority and relationship which would warrant the imposition of death penalty under Article 266-B of the Revised Penal Code, the circumstance of stepfather-daughter relationship was not alleged in the information. Thus, the dispositive portion of the RTC Decision reads:

WHEREFORE, for the foregoing reasons, the herein accused ALEX CONDES Y GUANZON is found GUILTY beyond reasonable doubt as principal by direct participation of the crime of rape. There being no modifying circumstances properly alleged in the Information to be appreciated, the accused is hereby sentenced to suffer the indivisible penalty of RECLUSION PERPETUA. The accused is hereby ordered to indemnify the victim AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.[8]

The records of the case were originally transmitted to this Court on appeal. Pursuant to *People v. Efren Mateo*,[9] the Court issued a resolution[10] dated January 19, 2005 transferring this case to the CA for appropriate action and disposition.

The CA eventually affirmed[11] the guilty verdict on the basis of AAA's testimony which it found credible and sufficient to sustain a conviction. It debunked the defense of alibi of the accused holding that it was not satisfactorily established and not at all persuasive when pitted against the positive and convincing identification by the victim.

On August 29, 2008, the accused filed the Notice of Appeal,[12] which was given due course by the CA in its Minute Resolution[13] dated September 8, 2008.

On June 1, 2009, the Court issued the Resolution[14] requiring the parties to submit their respective supplemental briefs. On July 7, 2009, the OSG manifested[15] that it would forego the filing of a supplemental brief if appellant should opt not to file one. On October 12, 2009, the Court dispensed[16] with the filing by the Public Attorney's Office of a supplemental brief for appellant when it did not file one during the prescribed period.

From the Appellant's Brief of the accused filed with the CA, he prayed for the reversal and setting aside of the guilty verdict anchored on the following:

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN FAILING TO CONSIDER THE MOTIVE BEHIND THE FILING OF THE INSTANT CASE AGAINST THE ACCUSED-APPELLANT.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED ALTHOUGH HIS ACTUAL PARTICIPATION IN THE ALLEGED ACT WAS NOT PROVEN WITH CERTAINTY.

In essence, the accused claims that AAA merely concocted the accusation of rape out of hatred because she resented the hard discipline imposed by him and she feared that he would punish her once he would learn that she had a boyfriend and pregnant at that. He tags AAA's story of defloration as both preposterous and ridiculous conjured by an overly imaginative individual anchored on ill motives.

Professing innocence, he insists that he could not have possibly committed the offense charged as he was pre-occupied and even left the house on the day of the alleged commission of the sexual assault. He discredits AAA's testimony stressing that it would be difficult for him to commit the crime considering that her siblings and grandmother were staying in the same house. Thus, he concludes that the evidence for the prosecution failed to meet that quantum of proof necessary to warrant his conviction.

The OSG, on the other hand, counters that AAA's testimony was credible and sufficient to convict and that the culpability of the accused for the crime of rape was proven beyond reasonable doubt.

The Court's Ruling

The appeal must fail.

In the disposition and review of rape cases, the Court is guided by three settled principles: First, an accusation for rape can be made with facility and it is difficult to prove but more difficult for the accused, though innocent, to disprove; Second, 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 Third, 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.[17] Corollary to the above principles is the rule that the credibility of the victim is

always the single most important issue in the prosecution of a rape case.[18] Conviction or acquittal in a rape case more often than not depends almost entirely on the credibility of the complainant's testimony because, by the very nature of this crime, it is usually the victim alone who can testify as to its occurrence.

In his Brief, the accused put in issue the credibility of AAA's testimony contending that she merely fabricated the accusation to place him behind bars and rid him out of her life forever. This contention deserves scant consideration.

Time and again, the Court has held that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality. The trial judge has the advantage of observing the witness' deportment and manner of testifying. Her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath"[19] are all useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying.[20] The rule finds an even more stringent application where said findings are sustained by the CA.[21]

In the case at bench, the Court finds no cogent reason to depart from the trial court's findings and its calibration of private complainant's credibility.

A meticulous review of the transcript of stenographic notes would show that AAA narrated in the painstaking and degrading public trial her unfortunate and painful ordeal in the hands of the accused in a logical, straightforward, spontaneous, and frank manner. There were no perceptible artificialities or pretensions that tarnished the veracity of her testimony. She recounted the tragic experience, unflawed by inconsistencies or contradictions in its material points and unshaken by the tedious and grueling cross-examination. Her declaration revealed each and every detail of the incident and gave no impression whatsoever that her testimony was a mere fabrication. Had her story been contrived, she would not have been so consistent throughout her testimony in the face of intense and lengthy interrogation.

When offended parties are young and immature girls from 12 to 16 years of age, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the public humiliation to which they would be exposed by a court trial, if their accusation were not true.[22] Youth and immaturity are generally badges of truth and sincerity.[23] It bears stressing that not an iota of evidence was presented by the defense showing that AAA's account of her defilement was not true.

Without hesitation, AAA pointed an accusing finger against the accused, her stepfather no less, as the person who sexually assaulted her on that fateful night of February 14, 1999. She vividly recalled that he poked a bolo at her neck and told her not to shout or else he would kill her. Bent on satisfying his lust, he embraced and pulled her down on the floor. He took off her pajamas, undressed himself and placed himself on top of her. She resisted by pushing him away but he again pointed the bolo and ordered her not to move or shout. He then succeeded in penetrating her organ with his own causing her excruciating pain. Thereafter, he warned her that he would kill her and her siblings if she would tell anyone about what happened. The following excerpts from the Transcript of Stenographic Notes are revealing:

Fiscal Loreto M. Masa

(On Direct Examination)

Q:

On February 14, 1999, tell us where you were?

A:

In the house, sir.

Q:

When you said "in the house," are you referring to the house in Bitin?

A:

Yes, sir.

Q:

Do you recall of any unusual incident that happened to you on February 14, 1999?

A:

Yes, sir.

Q:

Tell us what was that unusual incident you said you experienced?

A:

Alex Condes raped me, sir.

Q:

Where were you raped by Alex Condes?

A:

In our house in the evening in Bitin.

Q:

And how did he rape you?

A:

Because at that time, my grandmother and my brothers and sisters, except my youngest sister, were not in the house and I was alone upstairs and was cleaning the house when he pointed a bolo at me.

Q:

In what portion of your body this bolo was pointed at you?

A:

In my neck, sir.

Q:

Where were you? What portion of the house were you at that time he pointed a bolo in your neck?

A:

Upstairs sir, he was also there.

Q:

What did the accused tell you when he pointed a bolo at your neck?

A:

He told me not to shout or else he will kill me.

Q:

What did you do when he told you not to shout or else he would kill you?

A:

I just asked him "Papa, bakit po?" and because he was pointing a bolo at me I was frightened.

Q:

And when you ask her [sic] "Papa, bakit po?" what did he do?

A:

Nothing, sir, he continued.

Q:

When you said he continued, what do you mean? What did he do to you?

A:

Because I was then at the door and was then about to go to the other room when he pulled me and embraced me.

Q:

When you said he pulled you where were you pulled by the accused?

A:

To the bed, sir.

Q:

At the time you were being pulled and being embraced, what did you do?

A:

I was resisting, sir.

Q:

What happened after you said the accused was pulling you and embracing you and you were resisting? What happened next?

A:

Nothing, sir. I was not able to do anything because he embraced me.

Q:

You said you were not able to evade him when he was embracing you, what did he do next to you?

A:

He removed my clothes.

Q:

What did you do when the accused removed your clothes?

A:

I was pushing him.

Q:

What happened when you were pushing him?

A:

He again pointed the bolo and told me not to move or to shout.

Q:

What did he do after he again threatened you?

A:

Because I was very frightened, he forced me to do what he wanted me to do.

Q:

Was the accused able to remove your clothes?

A:

Yes, sir.

Q:

What clothes?

A:

Pajamas, sir.

Q:

How about the accused?

A:

His sando and shorts, sir

Q:

What was your position at the time you said the accused was able to do it from you?

A:

I was lying down, sir.

Q:

Where were you lying down, on the bed or on the floor?

A:

On the floor, sir.

Q:

How did the accused rape you after removing your clothes?

A:

He was forcing "yung ano nya sa ari ko."

Q:

Was he able to insert his penis to your private organ?

A:

Yes, sir.

Q:

What did you feel when your stepfather was able to insert his private organ to yours?

A:

It was painful, sir.

Q:

For how long was he on top of you?

A:

Five to ten minutes, sir.

Q:

What were you doing at the time your stepfather was doing it to you when he was inserting his private organ against your will?

A:

I was pushing him.

Q:

What happened after you said you were pushing him?

A:

Nothing, sir.

Q:

And you said he was able to rape you and inserted his private organ to you, what did he do next after he was able to insert your private organ to your vagina?

A:

He was pumping me.

Q:

When you said "pump", will you explain?

A:

He was "kinakadyot ako."

Q:

That was while he was on top of you?

A:

Yes, sir.

Q:

After pumping you, what did he do next?

A:

He was kissing me, sir.

Q:

When he was kissing you, what were you doing?

A:

I was pushing his face, sir.

Q:

What happened next?

A:

Because I cannot do anything he was able to finish.

Q:

Why were you able to say that he was able to finish?

A:

Because when he removed his private organ from my private part, he wiped it.

Q:

After he removed his private organ from your organ what did he do next?

A:

He told me not to complain or else he would kill us.

Q:

What did you feel by his threatening against you and your brothers and sisters that you would be killed?

A:

I was frightened, sir.

Q:

After threatening you that you and your brothers and sisters would be killed, what did he do next?

A:

So he told me to go down.

Q:

How about the accused, where was he?

A:

He stayed inside.

Q:

Where was your mother at that time?

A:

She was in Dubai, sir.

Q:

How about your grandmother, where was she?

A:

She was in the market, sir.

Q:

You said your brothers and sisters were not in your house, where were they?

A:

They were outside the house. I do not know what were they doing outside the house.

Q:

You said you went down, what did you do when you went down?

A:

Because "diring-diri ako" I went inside the bathroom, sir.

Q:

What did you do there?

A:

I took a bath, sir.[24]

The Court is convinced that the accused did employ threat and intimidation to subjugate AAA's will and break her resistance. She categorically stated that he poked a bolo at her neck and threatened to kill her if she would make a noise and resist his advances. Undoubtedly, fear and helplessness gripped her. To an innocent girl who was only 14 years old, his menacing acts engendered in her a well-grounded fear that if she would resist or not yield to his bestial demands, he would make good his threats. She was obviously cowed into submission by the real and present threat of physical harm on her person. Obviously, she was silenced to do his bidding. Her submission was re-enforced by the fact that the accused was her stepfather who exercised moral ascendancy and influence over her. When a victim is threatened with bodily injury, as when the rapist is armed with a deadly weapon, such as a knife or bolo, such constitutes intimidation sufficient to bring the victim to submission to the lustful desires of the rapist.[25]

In the present case, it appears that AAA chose to suffer the February 14, 1999 rape in silence had it not been for the second attempt to defile her on December 30, 1999. After he mauled her when she resisted, she was compelled to seek her aunt's assistance. This was apparent from her testimony when she declared:

Fiscal Masa to Witness:

(Redirect Examination)

Q:

You said that you were not able to report to anybody that you were raped by your stepfather because of that threat[s] that your brothers and sister will be killed, why did you report or give statement to the police on January 1, 2000?

The Fiscal: May I manifest for the record, your Honor that the witness is crying.

A:

Because on December 30, he was again about to rape me but I resisted so he mauled me and poked a bolo at me and told me that he will kill my aunt so the following day I went to San Pablo to my aunt, who is near to me, and told her what happened and what he has done to me that he mauled me and will kill my aunt.

Q:

And what did your aunt in San Pablo do after you confided to her what the accused did to you?

A:

She immediately reported the incident to Sgt. Manaog.

Q:

Do you know what Sgt. Manaog did after your aunt confided to him what happened to you?

A:

He was arrested, sir.

X x x

Atty. Ingente:

Recross, your Honor.

Q:

When you told the incident to your aunt you were also thinking of your brothers and sisters?

A:

Yes, sir.

Q:

And in fact perhaps at that time you were afraid that your aunt will report the incident to the police?

A:

No, sir because at that time I was also prepared to report the incident.

Q:

But you know that the accused made threats that he will kill your brothers and sister?

A:

Yes, sir but I was then ready because I was thinking then that may be he was threatening me because he want to rape me so I decided to file a complaint. And I was also thinking that how would he kill his own children?[26]

AAA's failure to immediately report to anyone what she had suffered in the hands of her stepfather does not vitiate the integrity of her claim. Apparently, the accused succeeded in instilling fear upon her young mind when he threatened to kill her and her siblings should she say a word about the incident. Thus, paralyzed by the fear that he would make good his threats, she remained silent and only broke it when he tried to repeat the sexual assault. The subsequent attack brought her silence to the breaking point and forced her to come out in the open to prevent and avoid further assaults. Delay in reporting an incident of rape is not an indication of a fabricated charge. Neither does it necessarily cast doubt on the credibility of the complainant.[27]

Any insinuation of ill motive on the part of AAA in the filing of the rape case against her stepfather does not merit any consideration. It is highly improbable that she would concoct a sordid tale of sexual abuse against the accused, whom she called "Papa," simply because she was reprovved or censured for her irresponsible ways and was afraid that he would punish her for getting pregnant by her boyfriend. Parental punishment is not enough reason for a young girl to falsely accuse her stepfather of a crime so grave as rape. Reverence and respect for the elders are two values deeply ingrained in Filipino children.[28]

Granting AAA indeed resented his stepfather, the Court does not necessarily cast doubt on AAA's credibility as witness. Motives, such as those arising from family feuds, resentment, or revenge, have not prevented the Court from giving, if proper, full credence to the testimony of minor complainants[29]who remained steadfast throughout their direct and cross-examination.[30] After all, ill motive is never an essential element of a crime. It becomes irrelevant and of no significance where there are affirmative, nay, categorical declarations towards the culpability of the accused for the felony. Well-entrenched is the doctrine which is founded on reason and experience that when the victim testifies that she has been raped, and her testimony is credible, such testimony may be the sole basis of conviction.[31] In this case, there could not have been a more powerful testament to the truth than her public outpouring of her unspoken grief.

In an attempt at exculpation, the accused claims that it is difficult to commit the crime of rape inasmuch as AAA's siblings and grandmother were staying in the same house at Barangay Bitin, Municipality of Bay, Laguna.

The argument fails.

According to AAA, her siblings were all outside the house while her grandmother was doing an errand in the market when the accused molested her. Granting *arguendo* that there were other people in the house when the rape was committed, rapists are not deterred from committing their odious act by the presence of people nearby or the members of the family.[32] Lust, being a very powerful human urge, is, to borrow from *People v. Virgilio Bernabe*,[33] "no respecter of time and place." Rape can be committed in even the unlikeliest places and circumstances and by the most unlikely persons.[34] The beast in a man bears no respect for time and place, driving him to commit rape anywhere - even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many would appear unlikely and high risk venues for its commission. Besides, there is no rule that rape can be committed only in seclusion.[35]

In stark contrast to AAA's firm declaration, the defenses of denial and alibi invoked by the accused rest on shaky grounds. The accused insists that "the accusation is a lie"[36] and claims that "I did not do that." [37] He avers that he could not have committed the offense because he was preoccupied and was not in their house at Barangay Bitin, Bay, Laguna on the date and time the alleged rape was perpetrated.

Judicial experience has taught this Court that denial and alibi are the common defenses in rape cases. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.[38] It is a negative self-serving assertion that deserves no weight in law if unsubstantiated by clear and convincing evidence. The barefaced denial of the charge by the accused cannot prevail over the positive and forthright identification of him as the perpetrator of the dastardly act.

Alibi, on the other hand, is the weakest of all defenses for it can be easily contrived. For alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed; he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission.[39] In this case, not a shred of evidence was adduced by the accused to substantiate his alibi.

A perusal of his own testimony discloses that he arrived at their house at Barangay Bitin, Bay, Laguna at past 9:00 o'clock in the morning; that he had visitors who came to attend their town fiesta and they had a drinking spree; that after his visitors and AAA left at past 12:00 o'clock noon, he took a slumber; that he woke up at around 7:00 o'clock in the evening and asked AAA and her grandmother to prepare his things as he would return to Manila; and that he left for Manila at 3:30 o'clock in the morning of February 15, 1999.[40] From the foregoing, it is clear that he was at home in the evening of February 14, 1999. Alibi necessarily fails when there is positive evidence of the physical presence of the accused at the crime scene.[41] Taken in this light, the plausible and emphatic testimony of AAA must prevail.

Finally, the Court sustains the two courts below in imposing the penalty of reclusion perpetua on the accused. The applicable provisions of the Revised Penal Code, as amended by Republic Act No. 8353 (effective October 22, 1997), covering the crime of Rape are Articles 266-A and 266-B which provide:

Article 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;

xxx

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

perpetua.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

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The death penalty shall also 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, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.

The Information in Criminal Case No. 7383-2000-C specifically alleged that AAA was 14 years old at the time of the commission of the rape. In proving her minority, the prosecution presented a birth certificate^[42] issued by the Office of City Civil Registrar of San Pablo City showing that she was born on January 2, 1985. Hence, she was 14 years old when she was raped by the accused on February 14, 1999. However, the courts below correctly noted that the qualifying circumstance of her relationship with the accused as his stepdaughter was not alleged in the Information, although proven during the trial and not even contested by the accused.^[43] This omission prevents the transformation of the crime in its qualified form.

The twin requisites of minority of the victim and her relationship with the offender being special qualifying circumstances, which increase the penalty as opposed to a generic aggravating circumstance which only affects the period of the penalty, should be alleged in the information because of the right of the accused to be informed of the nature and cause of the accusation against him.^[44] The Revised Rules on Criminal Procedure which took effect on December 1, 2000, explicitly mandates that the information must state in ordinary and concise language the qualifying and aggravating circumstances attending an offense. Although the crime of rape in this case was committed before the effectivity of the new rules, it should be applied retroactively, as the same is favorable to an accused.^[45]

The Court notes, however, that the Information also alleged that the accused committed the rape "while conveniently armed with a bolo through force, violence and intimidation." The prosecution was able to prove during trial his use of a deadly weapon and threatening words which caused the victim to submit to his will for fear for her life and personal safety.

When the accused commits rape with the use of a deadly weapon, the penalty is the range of two indivisible penalties of reclusion perpetua to death. In this connection, Article 63 of the Revised Penal Code provides that when the law prescribes a penalty composed of two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

The Court also sustains the monetary awards granted by the RTC and the CA in favor of AAA, except for the exemplary damages which is increased from P25,000.00 to P30,000.00 in line with our ruling in *People v. Gilbert Castro*^[46] and earlier cases.

Civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.^[47] Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma, with mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require their recital by the victim at the trial.^[48]

The award of exemplary damages is likewise called for because the rape was committed with the use of a deadly

weapon. In *People v. Silverio Montemayor*,^[49] the Court has stated that "exemplary damages are justified under Article 2230 of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying. Since the qualifying circumstance of the use of a deadly weapon was present in the commission of the rapes subject of these cases, exemplary damages x x x may be awarded to the offended party in each case."

WHEREFORE, the July 31, 2008 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00926 is hereby AFFIRMED except as to the exemplary damages which is hereby increased from P25,000.00 to P30,000.00.

SO ORDERED.

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

[1] CA rollo, pp. 92-103. Penned by Associate Justice Ricardo R. Rosario with Rebecca De Guia-Salvador and Associate Justice Vicente S.E. Veloso, concurring.

[2] Records, pp. 313-320. Penned by Judge Jesus A. Santiago.

[3] Per this Court's Resolution dated 19 September 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.

[4] Records, p. 61.

[5] CA rollo, pp. 73-85.

[6] Id. at 75-87.

[7] Records, p. 318.

[8] Id. at 320.

[9] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[10] CA rollo, p. 28.

[11] Id. at 102-103.

[12] Id. at 104-105.

[13] Id. at 107.

[14] Rollo, p. 19.

[15] Id. at 21-22.

[16] Id. at 35.

[17] *People v. Herminigildo Salle Sobusa*, G.R. No. 181083, January 21, 2010, 610 SCRA 538, 551.

[18] *People v. Enrique Ceballos, Jr.*, G.R.No.169642, September 14, 2007, 533 SCRA 493, 508.

[19] *People v. Grande*, G.R. No. 170476, December 23, 2009, 609 SCRA 93.

[20] *People v. Wenceslao Espino, Jr.*, G.R. No. 176742, June 17, 2008, 554 SCRA 682, 696-697.

- [21] *People v. Boisan Cabugatan*, G.R. No. 172019, February 12, 2007, 515 SCRA 537, 547.
- [22] *People v. Jaime Antonio*, G.R. No. 157269, June 3, 2004, 430 SCRA 619, 627.
- [23] *People v. Domingo Araojo*, G.R. No. 185203, September 17, 2009, 600 SCRA 295, 307.
- [24] TSN dated June 14, 2000, pp. 4-8.
- [25] *People v. Capt. Marcial Llanto*, 443 Phil. 580, 597 (2003).
- [26] TSN dated June 15, 2000, pp. 21-22.
- [27] *People v. Adriano Leonardo*, G.R. No. 181036, July 6, 2010.
- [28] *People v. Castro Geraban*, 410 Phil. 450, 461 (2001).
- [29] *People v. Martin Alejo*, 458 Phil. 461, 476 (2003).
- [30] *People v. Eduardo Rata*, 463 Phil. 619, 631 (2003).
- [31] *People v. Melanio Bolatete*, 363 Phil. 336, 357-358 (1999).
- [32] *People v. Jerry Cantuba*, 440 Phil. 557, 565 (2002).
- [33] 421 Phil. 805, 812 (2001).
- [34] *People v. Adelado Anguac*, G.R. No. 176744, June 5, 2009, 588 SCRA 716, 724.
- [35] *People v. Cristino Cañada*, G.R. No. 175317, October 2, 2009, 602 SCRA 378, 393-394.
- [36] TSN dated August 31, 2001, p. 8.
- [37] TSN dated August 31, 2001, p. 17.
- [38] *People v. Alvin Abulon*, G.R. No. 174473, August 17, 2007, 530 SCRA 675, 696.
- [39] *People v. Jesus Paragas Cruz*, G.R. No. 186129, August 4, 2009, 595 SCRA 411, 421.
- [40] TSN dated August 31, 2001, pp. 5-8.
- [41] *People v. Catalino Mingming*, G.R. No. 174195, December 10, 2008, 573 SCRA 509, 531.
- [42] Records, p. 87.
- [43] TSN dated August 31, 2001, p. 11.
- [44] *People v. Benjamin Lim*, 371 Phil. 468, 489 (1999).
- [45] *People v. Levi Sumarago*, 466 Phil. 956, 980 (2004).
- [46] G.R. No. 188901, December 15, 2010.
- [47] *People v. Salustiano Callos*, 424 Phil. 506, 516 (2002).
- [48] *People v. Medardo Crespo*, G.R. No. 180500, September 11, 2008, 564 SCRA 613, 643.
- [49] 444 Phil. 169, 190 (2003).

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