

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO MOLERO, DEFENDANT-APPELLANT.

G.R. No. 67842. September 24, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Appellant Pablo Molero was charged with the crime of rape by his own daughter Pacita Molero in a complaint filed in the Court of First Instance of Negros Oriental. The criminal complaint dated March 30, 1978 alleged:

"That on or about the 5th day of February, 1976, on the banks of the river Siaton at Sitio Balogo, Barangay Tamlang, Municipality of Santa Catalina, Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with grave abuse of confidence being the father of the herein complainant, with force and intimidation by brandishing a bolo in threatening the undersigned that if the latter would not submit to his carnal desires he would kill the undersigned and all the members of the family, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant against the will of the latter."

The facts established by the prosecution and accepted by the trial court as basis for the judgment of conviction are summarized by the court as follows:

"It appears from the evidence particularly in the testimony of complainant Pacita Molero that on February 5, 1976 at about 9:00 o'clock in the morning, her father, Pablo Molero, told her to go with him to the Siaton River at Tamlang, Sta. Catalina, Negros Oriental, about a kilometer away from their house ostensibly to catch shrimps and perhaps fish presumably for viand for the family that day. Pacita was the third among the seven children of Pablo. On February 5, 1976, she was barely 17 years young having been born on November 11, 1958. Obeying the command of her father, she went with him to the Siaton River which evidently was a secluded area in the mountain barrio of Tamlang. As they reached the river and while walking along its bank, with Pacita ahead and followed by her father, all so suddenly Pacita was hugged from behind by her father, and she staggered and fell to the ground face up. He fell too as he was holding her left hand placing it on her back while he knelt on her right arm. She tried to struggle but he unsheathed his sharp bolo (locally known as PINUTI) and placed it along her side. He then proceeded to pull up her dress and remove her short pants and panty. She cried saying 'why are you doing this to me' and he only answered 'you shut up'. (Tsn-Gertrudes Tangon, Dec. 7, 1978, page 12 of her transcript and page 247 of record). Then he unbuttoned his pants, let out his penis and lay on top of her and did the push and pull movement in sexual intercourse. She tried to kick him but he again held the unsheathed bolo which was placed on her side. Afraid that he might do her harm with the bolo if she continued to put up resistance, and obviously because of his moral ascendancy over her, the accused succeeded in having sexual intercourse with his daughter and the latter again cried.

"After he satisfied his carnal lust, he stood up and the complainant likewise stood up and put on her panties and pants and proceeded home. Before she walked home, the accused warned her not to tell her mother of what happened otherwise he would kill all of them. As she walked home, she noticed that her father followed her and did not proceed anymore in catching fish or shrimps. She surmised that he followed her, so she would not have the opportunity to tell her mother of what happened that morning. Pacita in fact did not tell her mother of

what happened until three days later or on February 8, 1976. Among others, Pacita Molero said:
"I just decided to report the matter to my mother whether he will kill all of us because I could no longer endure what he had been doing to me". (Tsn-Gertrudes Tangon, page 14 of transcript and page 249 of record)

Upon being informed of the incident her mother told her to just keep quiet for the moment as they would report the matter to the police authorities soon. They were secretive about their plan to report to the police because the mother and the daughter and the whole family knew that the accused was quite a fierce man, a cruel husband and a merciless father.

"On February 11, 1976, Pacita Molero and her mother went to the office of the Station Commander of Pamplona, Negros Oriental, to report the incident. The accused was also called to the office and the accused and his daughter had a confrontation before the Station Commander. The accused asked 'what is this all about, Pacita' and she answered saying 'this could not have happened if you did not abuse me'. (Tsn-Nena S. Saad, Dec. 5, 1978, page 15 of her transcript, page 219 of record). It would seem that the case was too serious for the Station Commander of Pamplona to handle, so the complainants were advised to report to the PC Headquarters at barrio Palanas.

"At the PC Headquarters the complaint was investigated by Patrolman Arturo Adriatico Sr. who took down the statement of Pacita Molero and her mother. The accused was likewise investigated by Adriatico on February 25, 1976, but the accused did not want the investigation to be continued because according to him this was just their 'own problem'. Asked to elaborate what he meant by 'own problem' the accused said 'kaugalingon ra nakong sala sa akong pagpuyo' which in English means 'it is my own fault in my family life.' Asked to elaborate further on his last statement, the accused said:

"Nga akong nahapanglapasan ang salingsing sa sacramento sa among pagpuyo nga ang akong anak babaye akong gibuongan sa iyang dungog'

which in English means:

"I have committed a wrong against my own daughter wherein I destroyed her virtue as a woman."

These statements above quoted are found in the sworn statement of the accused (Exhibit "B") which was testified to by Pat. Arturo Adriatico, Sr.

"In connection with the investigation of the complaint of Pacita Molero, Dr. Enofreda Abordo-Sebul testified that she conducted an internal and external examination of Pacita Molero and she found that her vaginal opening admitted two fingers freely and easily and there were old lacerations of the hymen at two o'clock, three o'clock, five o'clock, six o'clock, seven o'clock, nine o'clock, ten o'clock and twelve o'clock, thus showing that Pacita Molero had several previous sexual intercourses, although the cervical smear showed no signs of spermatozoa."

The appellant denied the charge. According to him, he could not have committed the crime because on February 5, 1976, he was already confined in the provincial jail and that he had been in jail since December 7, 1975.

The appellant also denied any knowledge of the sworn statement he made "because I am an illiterate" (TSN, March 8, 1982, p. 11). He, however, admitted that he was investigated by PC soldiers before he was placed in the stockade.

During the investigation, he denied the rape charge filed against him by his own daughter "because as a man, I have been earning my living for I have masters to serve like my stomach and my children. So, I have to work in my own humble way." (TSN, March 8, 1982, p. 12) Moreover, he stated that before the investigation started he was not informed of his constitutional rights to remain silent and to counsel; that he was not assisted by counsel during the investigation and that the first time he had a lawyer was at the trial of the instant case.

The appellant's defense of alibi was readily refuted by Benjamin Alcorcon, Supervising Prison Guard of the Negros Oriental Provincial Jail who informed the court that according to the records of the Provincial Jail, the appellant was committed to the Jail only on December 2, 1976 and that definitely on February 5, 1976, he was not yet confined there.

The trial court found the appellant guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Art. 335 of the Revised Penal Code. He was sentenced to suffer the penalty of Reclusion Perpetua and to indemnify Pacita Molero the sum of P10,000.00 and to pay the costs of this action.

The appellant submits that the issues involved in the instant case are as follows:

- a. Whether or not, under the facts obtaining in the case at bar, accused-appellant, Pablo Molero was placed under double jeopardy; and
- b. Whether or not the accused-appellant committed the crime of rape.

The double jeopardy issue stems from the following antecedent facts:

The original complaint of Pacita Molero, dated March 22, 1977, charged her father with the crime of rape allegedly committed "on or about the 13th day of February, 1976." Except for the date which is "on or about the 5th day of February, 1976" in the March 30, 1978 complaint, the facts alleged in the two complaints were exactly the same.

The appellant was originally arraigned under the March 22, 1977 criminal complaint. He pleaded "Not Guilty."

During the trial, Pacita Molero, the complaining witness testified that she was raped by her father on February 5, 1976.

In view of Pacita's testimony, the assistant provincial fiscal filed a motion for leave to amend the complaint.

The motion was granted. However, upon a motion for reconsideration filed by the appellant, the trial court issued an Order the dispositive portion of which reads:

"WHEREFORE, the motion for reconsideration filed by the accused dated February 22, 1978 in relation to the Reply to Opposition to Motion for Reconsideration dated March 6, 1978 is hereby granted and the Order of this Court dated February 17, 1978 admitting the amended criminal complaint dated February 2, 1978 is hereby set aside, and the said amended criminal complaint is hereby denied admission. Accordingly, this case is hereby dismissed with costs de oficio, but the accused shall not be discharged as there appears a good cause to detain him in custody to answer for the proper offense pursuant to Sec. 12, Rule 119 of the Rules of Court. The Provincial Fiscal and/or the prosecuting fiscal is hereby ordered to cause the filing of a new complaint and/or information charging the accused of the proper offense of rape committed on or before February 5, 1976 within thirty (30) days from receipt of this Order. (People v. de la Cruz, 59 Phil. 529, cited by Padilla, Criminal Procedure, 1971 ed., p. 763.)"

Accordingly, the corrected criminal complaint dated March 30, 1978 was filed.

The appellant filed a motion to quash the criminal complaint on the ground that the appellant had been previously in jeopardy of being convicted of the offense charged citing Section 1(h), Rule 112 of the Revised Rules of Court.

The motion was denied. Arraignment followed. The appellant pleaded "Not Guilty". Thereafter, hearings were conducted resulting in the conviction of the appellant.

The appellant now contends that he was placed in double jeopardy when the instant case was filed and he was brought to trial to answer for the crime of rape allegedly committed on February 5, 1976. He argues that the

dismissal of Criminal Case No. 2148 on ground of variance between allegation and proof amounted to his acquittal, citing *People v. Opemia* (98 Phil. 698). He points to the fact that the criminal complaint alleged that he committed the crime of rape on February 13, 1976 and yet the prosecution's evidence shows that the alleged crime was committed on February 5, 1976.

Section 22, Article IV of the 1973 Constitution states that "no person shall be put twice in jeopardy of punishment for the same offense." Section 9, Rule 117 of the Revised Rules of Court, now substantially reproduced as Section 7, Rule 117 in the 1985 Rules on Criminal Procedure, lays down the necessary requisites in order that the defense of double jeopardy may prosper, to wit:

"Former conviction or acquittal; double jeopardy. -- When defendant shall have been convicted or acquitted, or the case against him dismissed or otherwise terminated without the express consent of the defendant by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the defendant had pleaded to the charge, the conviction or acquittal of the defendant or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information."

Dismissal of the first case contemplated by this rule presupposes a definite or unconditional dismissal which terminates the case. (*Jaca v. Blanco*, 86 Phil. 452; *People v. Manlapas*, 5 SCRA 883; *Republic v. Agoncillo*, 40 SCRA 579; *People v. Hon. Surtida*, 43 SCRA 29; *People v. Mogol*, 131 SCRA 296). And "for dismissal to be a bar under the jeopardy clause of the Constitution, it must have the effect of acquittal." (*People v. Agoncillo*, *supra*).

It is quite clear that the order of the trial court dismissing the Criminal Case No. 2148 was without prejudice to the filing of a new complaint and/or information charging the appellant with the proper offense. The case was not terminated because the dispositive portion of the order expressly directed the Provincial Fiscal and/or the prosecuting fiscal file a new complaint and/or information charging the accused with the proper offense of rape committed on or before February 5, 1976. The case was dismissed for no other reason except to correct the date of the crime from "on or about the 13th day of February" to "on or about the 5th day of February." Hence, the provisional dismissal of Criminal Case No. 2148 could not have barred the prosecution of the case against the appellant.

Contrary to the claim of the appellant, the dismissal of Criminal Case No. 2148 did not amount to his acquittal.

There was no need for the trial court to have used such a cumbersome procedure. What the trial court should have done was simply to deny the motion for reconsideration of the order granting the prosecution's motion for leave to amend the complaint as to the date of the commission of the crime from February 13, 1976 to February 5, 1976. There was no need to dismiss the case without prejudice to the filing of a new complaint. Section 12, Rule 119, Revised Rules of Court applies when there is a mistake in charging the proper offense but not when an honest error of a few days is sought to be corrected and the change does not affect the rights of the accused. The prosecution in Criminal Case No. 2148 had already moved for the amendment of the date of the commission of the crime. The dismissal of the case pursuant to Section 12, Rule 119 of the Revised Rules of Court was made only for that precise purpose.

After arraignment and where the appellant has pleaded "not guilty", is it still proper to amend the date of the commission of the crime? The applicable rules are Sections 10 and 13, Rule 110 of the Revised Rules of Court. These rules provide:

"Time of the commission of the offense. - It is not necessary to state in the complaint or information the

precise time at which the offense was committed except when time is a material ingredient of the offense, but the act may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit."

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"Amendment. - The information or complaint may be amended, in substance or form, without leave of court, at any time before the defendant pleads; and thereafter and during the trial as to all matters of form, by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the defendant."

Applying the rules, the amendment sought by the prosecution should have been granted.

The precise time of the commission of the crime is not an essential element of the offense of rape. The amendment of the complaint changing the date of the commission of the crime of rape from February 13, 1976 to February 5, 1976, a difference of eight (8) days was only a matter of form under the facts of this case and did not prejudice the rights of the appellant. This Court has ruled:

"In the case of *People v. Rivera* (1970, 33 SCRA 746), We ruled that the amendment of the information as to the date of the commission of the offense from March 2, 1964 to March 2, 1965, a difference of one (1) year or twelve (12) months, was merely a matter of form and does not prejudice the rights of the accused, reiterating the ruling in the case of *U.S. v. Ramos* (1912, 23 Phil. 300) where the Fiscal was permitted to amend the date of the commission of the offense from June 16, 1910 to June, 1911.

"The phrase 'on or about' employed in the information does not require the prosecution 'to prove any precise date but may prove any date which is not so remote as to surprise and prejudice the defendant. In case of surprise, the Court may allow an amendment of the information as to time and an adjournment to the accused, if necessary, to meet the amendment' (*U.S. v. Dichao*, 27 Phil. 420, 423 [1914]).

"In the case of *People v. Reyes*, (supra) on which the respondent judge relies, the change sought was from 1964 to 1969, a difference of five (5) years, which gap of five years 'is so great as to defy approximation in the commission of one and the same offense.'

"This is not so in the case at bar where the difference is only, as aforesaid, two months and five days, which disparity allows approximation as to the date of the commission of the offense of grave coercion." (*People v. Borromeo*, 123 SCRA 253).

The appellant's reliance on the case of *People v. Opemia*, supra, is not well-taken. The amendment proposed in that case was the changing of the date of the commission of the crime from June 18, 1952 to July, 1947, or a difference of five years. We disallowed the amendment and adopted the lower court's ruling that "the amendment that would change the date of the commission of the offense from 1947 to 1952 is certainly not a matter of form. x x x. It is apparent that the proposed amendment concerns with material facts constituting the offense, and consequently, it would be prejudicial to the constitutional rights of the defendants."

The dismissal of Criminal Case No. 2148 did not amount to the appellant's acquittal. In effect, the order of dismissal does not constitute a proper basis for a claim of double jeopardy: (See *People v. Bocar*, 138 SCRA 166)

"The constitutional mandate against putting a person twice in jeopardy of punishment for the same offense is to protect the accused from going through a trial a second time. But, since the first proceedings has not yet been terminated, there is no second proceeding to speak of, and, therefore, no double jeopardy." (*Flores, Jr. v. Enrile*, 115 SCRA 236).

Under the second issue, the appellant insists that the evidence failed to establish the presence of force and intimidation in the commission of the sexual act. He mentions Pacita's testimony that she had a series of sexual

intercourses with the appellant since she was thirteen years old and yet did not report the incident to her mother. He argues that if a crime was committed by him at all, it was one of qualified seduction.

The appellant's arguments deserve no merit. Pacita's narration of the incident clearly shows that the appellant employed force and intimidation against her, to wit:

"FISCAL:

"Q

Now, on what part of the river did this incident happen?

"A

At Balogo while we were walking on the edge of the river.

"Q

You mean, you were following the river?

"A

Yes, I was ahead.

"Q

Now, while you were ahead, there was that incident that happened. What was that incident?

"A

Because he made me go ahead and suddenly he wrestled me.

"COURT:

"Q

Is that the correct translation?

"FISCAL:

No, Your Honor. She was hugged from behind.

"COURT:

'I was ahead and suddenly he hugged me from behind.' That is the correct translation.

"FISCAL:

Now, when you were hugged by your father suddenly from behind, what happened?

"A

I fell down.

"Q

On the very place where you were then hugged by your father?

"A

Yes.

"Q

When you fell to the ground, what was your position?

"A

My left hand was placed in my back because he held my left hand.

"Q

When did your father hold your left hand placing it at your back?

"COURT:

After you fell or before you fell?

"A

I had already my hand at my back when I fell down because he immediately embraced me but then I tried to free myself. After which, I fell down.

"FISCAL:

When your father was hugging you and you told this Court that you struggled to free yourself and you also told the Court that you fell to the ground, when you fell to the ground, did you fall to the ground together with your father or you were the only one who fell to the ground?

"A

He also fell down following me because he was holding my hand.

"Q

And your father at that time was holding which of your hand or arm?

"A

Left.

"Q

And when you were already on the ground, will you please tell the Court what was your position?

"A

I was lying on my back.

"Q

And how about your left arm, which you said was being held by your father while you were already lying flat on the ground?

"A

He pulled up my dress and put off my panties."

(TNS, November 20, 1978, pp. 8-10)

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"FISCAL:

According to you, you fell to the ground followed by your father and your father was still holding your left arm which was placed at your back. While you were already flat on the ground, was your father still holding your left arm at the back?

"A

He was still holding my left arm and then when we fell down he knelt on my other arm.

"Q

And you are referring to your right hand?

"A

Yes.

"Q

When your father, the accused therein, was doing that, where was he in relation to you?

"COURT:

What was the position of your father when he was kneeling on your right arm and holding your left arm on the back?

"A

He was on a kneeling but bending position.

"FISCAL:

Was he directly on top of you or he was on either side of your body?

"A

On my side.

"Q

Which side of your body was your father when he was kneeling or bending?

"A

My right.

"Q

Then, while your father was doing that, what did he do to you?

"A

He was removing his buttons and he took off my panties.

"Q

All right, now, how about your dress, what kind of dress were you wearing at that time?

"A

I was wearing a thick clothing because I was sure that I will be wet and I was also wearing a short pant.

"COURT:

What is this thick clothes you were wearing? You mean, dress, pants or blouse?

"A

What I mean is that, the dress I was wearing was not like this one I am wearing now but it was for a daily use.

"Q

It is a one-piece dress?

"A

Yes.

"Q

And you were wearing also short pants, according to you?

"A

Yes.

"Q

And you were wearing panties under the short pants?

"A

Yes.

"ATTY. REYES:

Your Honor please, may we add for the records that she refers to a dress made of cotton or silk but relatively of light material.

"COURT:

Make that of record.

"COURT:

Go ahead, Fiscal.

"FISCAL:

All right, now, according to you, your father, the accused therein, removed your panty. Now, which was removed first, your panty or the short pant you were wearing because according to you, you were wearing short pant?

"COURT:

How can you remove the panty first when you are wearing the short pant? Well, witness may answer the question.

"A

Both were removed at the same time.

"FISCAL:

And which took first, the simultaneous removal of your shorts and panty or the unbuttoning of the pants of your father?

"A

He took off my panty and shorts first.

"COURT:

How was he able to remove your panty and shorts, were you not struggling to free yourself?

"A

I was not able to struggle because he unsheathed a bolo.

"Q

What did he do with the bolo?

"A

That if I continue to struggle, he would kill me.

"Q

When he was holding that bolo, with what hand was he holding that?

"A

Right.

"Q

How about his left hand, what was it doing at that time?

"A

His left hand was also holding my other hand and so when he unsheathe his bolo, I did not continue to struggle because I know he would kill me.

"FISCAL:

And which took place first, the simultaneous removal of your shorts and panty or the unsheathing of the bolo by your father?

"A

The simultaneous taking of the panty and short pant took place first because I kept on struggling so he unsheathe his bolo.

"COURT:

Actually, the Court gets if from you that he was able to remove your panty and short pant before he unsheathe his bolo?

"A

Yes, after he took off my panty and short pant, that was the time he threatened me.

"Q

He was able to remove your panty and short pant completely out before he threatened you with the use of a bolo?

"A

Yes.

"COURT:

Go ahead.

"FISCAL:

Now, after your panty and short pant were already removed and according to you, your father unsheathe his bolo and threatened you. When did your father remove or unbutton his pants, while he was still holding that bolo?

"A

He put down the bolo on his side and after which, he unbuttoned his pants.

"Q

At that time, what was the kind of pants your father was wearing?

"A

He was only wearing an improvised short pant and with buttons in front.

"Q

Was your father actually able to unbutton his improvised short pants?

"A

Yes.

"Q

After he was able to unbutton his improvised short pants, what did he do?

"A

He lay down on top of me.

"Q

And how about your legs at that time, was it already spread out?

"A

I tried to hold my both thighs together but then he opened them.

"Q

And your father, according to you, placed himself on top of you while your legs were already spread out?

"A

When he was able to lie on top of me, I tried to close both legs but then he held them open and he lay on top of me.

"Q

So that when your father was lying on top of you, your both legs were already spread?

"A

yes.

"Q

How about your dress at that time your father was on top of you, what was the position of your dress?

"A

He raised it up to my stomach.

"Q

Now, what happened while he was already on top of you?

"A

He was doing the push and pull movement of his buttocks.

"Q

And at that time, did you not struggle to free yourself?

"A

When he was doing that act, I kicked him but then he again got hold of the bolo placed on his side.

"Q

Then, what did you do after he got hold of the bolo?

"A

I cried because he made sexual intercourse with me."

(TSN, November 20, 1978, pp. 12-16)

Moreover, there is no doubt that the appellant had a moral ascendancy and influence over Pacita such that he could easily intimidate and force her to submit to his lustful desires considering that the appellant was her father and she was only seventeen (17) years old at that time. The complainant is obviously illiterate and unschooled. Her complaint is signed with a thumbmark. These, plus the fact that the appellant at the time of the commission of the crime threatened her with a bolo had practically rendered complainant helpless against the lustful demands of the appellant. (See *People v. Alcid*, 135 SCRA 280). The records also show that the appellant was a fierce man, a cruel husband, and a merciless father such that mother and daughter had to cower in secretive fear before reporting the rape to the authorities.

The fact that Pacita did not report the previous incidents involving her and the appellant to her mother has no bearing on the prosecution of the instant case. This case refers to the commission of the crime of rape on February

5, 1976 by the appellant against Pacita which is a distinct and separate crime from whatever crimes the appellant might have committed when he had sexual intercourse with his own daughter Pacita ever since she was thirteen years old. An intimidated person cowed into submitting to a series of repulsive acts may acquire some courage as she grows older and finally state that enough is enough, the depraved malefactor must be punished. The tragedy in this case is that the criminal happens to be her own father.

Indeed, we find no reason to depart from the trial court's finding that the appellant is guilty beyond reasonable doubt of the crime of rape against his own daughter. We agree with the findings of the trial court that:

"As against the vivid and clear testimony of Pacita Molero, the accused had nothing to offer except his short testimony denying having committed in any way the crime of Rape against his very own daughter. He denied having brought his daughter to the Siaton River on February 5, 1976 because he insisted that he was already confined in the PC Stockade on February 13, 1975, and that he was already incarcerated in the Provincial Jail since December 5, 1975. However, defense witness Benjamin Alcorcon, Supervising Prison Guard of the Negros Oriental Provincial Jail, clearly told the Court that the record of the Provincial Jail shows that the accused was committed to the Provincial Jail only on December 2, 1976 and definitely on February 5, 1976 he was not yet confined in the Provincial Jail. x x x Pressed by the Court if he could have any satisfactory explanation why his daughter would file such a serious charge against him if in truth he had not committed the act, the accused just matter-of-factly said that 'my daughter Pacita and her mother agreed to file this case.' (Tsn-Liberata Balasbas, March 10, 1982, page 11 of transcript, page 434 of record).

"The defense placed Pacita Molero as its own witness and her testimony as witness for the defense, that her father had sexual intercourse with her on February 5, 1976 when he brought her to the Siaton River, has only served to reinforce her testimony on this aspect of the case, when she testified as a witness for the prosecution. Undoubtedly, the accused is bound by the testimony of his own witness.

"All told, the Court finds that the guilt of the accused was established beyond reasonable doubt by the clear and convincing testimony of the complainant, Pacita Molero. Although at times during her testimony she got confused as to dates, this is understandable considering that she is illiterate and this did not in any way affect the vivid portrayal of the heinous act committed on her by her father."

WHEREFORE, except for the MODIFICATION that the indemnity of P10,000.00 is increased to TWENTY THOUSAND PESOS (P20,000.00), the decision appealed from is AFFIRMED in all respects.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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