

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ENRIQUE RAMIREZ Y ANTONIO, ACCUSED-APPELLANT.

G.R. No. 97920. January 20, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Rape is a savage and bestial attack that violates a woman's person in the most grievous and odious way imaginable. This abomination revolts this Court no end. Perpetrators of this outrage are a depraved and evil who must be brought to the crucible of justice. In the present appeal, the offender repeatedly ravished and violated his own helpless stepdaughter of tender years. He deserves the severest penalty provided under the laws at the time of its commission.

This is an appeal from the Decision[1] dated December 20 1989 of the Regional Trial Court of xxx, Branch xxx,[2] in Criminal Case No. 89-7180-2-SCC, finding appellant guilty of rape.

The Complainant[3] against appellant reads as follows:

"That on or about the second week of March, 1989, in the City of xxx, Philippines, the said accused did then and there wilfully (sic), unlawfully and feloniously, by means of force, violence and intimidation, to wit: by poking a bladed weapon at her, ordering her to undress and at the same time threatening to kill her and her family should she resist or report the matter, and thereafter have sexual intercourse with the undersigned complainant, a girl 13 years of age, against her will.

CONTRARY TO LAW."

The Complainant was treated as the Information after the City Prosecutor affixed imprimatur thereto. When arraigned, appellant pleaded not guilty to the charge.[4] After trial, the court a quo found appellant guilty of rape beyond unreasonable doubt. The dispositive portion of the Decision[5] reads as follows:

"WHEREFORE, judgment is hereby rendered finding the Accused ENRIQUE RAMIREZ guilty, beyond reasonable doubt, as principal, for the crime of "Rape" defined in and penalized by Article 335 of the Revised Penal Code and hereby imposes on the said Accused the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law, and hereby condemns him to pay to AAA the amount of P30,000.00 as and by way of moral and exemplary damages and to pay the costs of suit.

The period during which the Accused was detained during the pendency of this case shall be credited to him provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail of xxx.

SO ORDERED.

The Facts

According to the Prosecution

The version of the prosecution is as follows:

"AAA, a 13 year old lass, naive and unschooled, is the eldest daughter of BBB and CCC. Since July 1975, BBB and CCC lived together as man and wife, without the benefit of marriage, at xxx. Aside from AAA, they had other children: DDD, 10 years old and EEE, the youngest (TSN, September 11, 1989, pp. 10 & 13; pp. 18-19),

As fate would have it, AAA did not grow up under the constant care and guidance of her mother BBB. Since the tender age of 2 years, she has been staying with her paternal grandmother, FFF, at xxx. Ostensibly, AAA's mother gave her up to her mother-in-law, FFF, because the latter kept bothering her and her husband, CCC (Ibid., pp. 7-8).

As the life story of AAA unfolds, the four-year relationship of her father and mother was turning sour and was growing worse and worse everyday. It was the usual case of a daughter-in-law and a mother-in-law fighting for the attention of a husband and son. This animosity was heightened by the fact that prior to his death, CCC was abandoned by BBB sometime in 1979 to live with another man, herein appellant Enrique Ramirez. Her reason was simple: CCC was a 'Mama's Boy'. She claimed that he did not want to separate from his mother and usually gave his earnings to his mother, FFF (Ibid., pp. 13-14).

The sudden death of CCC on April 22, 1982 however did not improve the relationship between his wife BBB and his mother, FFF. As a matter of fact, the demise of CCC, exacerbated the ongoing feud between his mother and his wife.

In any event, BBB cohabited with appellant Enrique Ramirez, a casual laborer and a member of the notorious Sigue-Sigue Commando Gang (Ibid., pp. 6 & 12). At that time, appellant Ramirez was already separated from his lawful wife, Christine Somera, by whom he had a child (TSN, September 21, 1989, pp. 33-35).

Since 1979, appellant Ramirez and BBB stayed and lived in a one-room shanty, a place one can hardly call a house, in a squatter's area in xxx. As described by AAA, the one-storey room has two windows: one facing the street across which was the house of Ate Laki, and the other window facing the river (TSN, July 12, 1994, p. 6; see also TSN, August 2, 1994, pp. 27 & 43).

In December 1988, when AAA turned 13 years of age, her mother BBB fetched AAA from the house of her mother-in-law, FFF, AAA's paternal grand- mother. BBB took AAA to spend vacation in her house in xxx where BBB resides with her live-in partner, Enrique Ramirez, appellant herein. After the Christmas season, AAA went back to her paternal grandmother's house in xxx (TSN, September 11, 1989, pp. 15-23).

xxx xxx xxx

By then, appellant Ramirez and BBB already had four (4) children namely: GGG, 8 years old; HHH, 6 years old, III, 4 years old and JJJ, about 2 to 3 years old. Appellant was then working as a casual laborer for his brother, Rudy Ramirez, in the latter's construction work along xxx, only about 3 alleys away from the house of appellant Ramirez at xxx (ibid., p. 43-B). Because of the proximity of the house from his place of work, appellant was allowed by his brother to eat his lunch at home and to have some days-off. On the other hand, BBB who finished Grade 6 only, earned a living by selling pails, pans and basins, traveling as far as Marikina and Montalban, from 8 o'clock in the morning up to 5 o'clock in the afternoon.[6]

The offended party was violated several times by appellant during that holiday season as follows:

"One day, shortly before Christmas, in 1988, at about 1:30 o'clock in the afternoon, the Accused arrived home. BBB was not in their house at the time. AAA and the Accused, and the latter's four (4) children were inside the house at the time. The Accused ordered his children to leave the house and, once the children were out of the house, the Accused closed the door and the windows of the house, took out his '29 balisong' and poked the same to AAA. The Accused, thereupon, ordered AAA to undress. Afraid of her life, AAA did as ordered. The Accused also ordered AAA to lie down on the floor, she did. The Accused, thereupon, went on top of AAA,

kissed her on her cheeks and lips and mashed her breast to boot. The Accused warned AAA not to tell the police authorities and her mother about the incident otherwise he will kill all of them. The Accused, thereafter, inserted his private organ into her privates (sic) parts and had sexual intercourse with AAA. After the Accused was through he then dressed up. The Accused warned AAA anew not to reveal the incident to the police authorities and her mother. Since then, almost everyday the Accused had sexual intercourse with AAA (Exhibits 'E' and 'E-1'). After New Year, FFF took AAA to her house where AAA stayed until March 15, 1989, when BBB took AAA anew because she wanted AAA to study. AAA did not divulge to her grandmother what the Accused did to her."^[7]

Subsequently, the appellant again took advantage of and raped the offended party as follows:

"In the second week of March 1989, at about 3:45 p.m., AAA was in appellant's house in xxx together with CCC, her 10 year old brother and her stepbrothers, stepsister and her stepfather, appellant Ramirez. At that time, her mother BBB, was out selling her wares (TSN, July 12, 1989, pp. 3 and 5; see also TSN, August 8, 1989, p. 27).

Appellant then ordered the children to look for GGG, his eldest son, saying in the vernacular: 'Labas kayo, hanapin si GGG.' (TSN, July 12, 1989, p. 10) Upon hearing appellant telling the other children to look for GGG, AAA volunteered to help look for the latter. However, appellant told her to stay put, so it was only AAA's younger stepsister III and her stepbrother HHH who searched for GGG, who was reportedly watching TV in the house of another relative somewhere within the vicinity (TSN, August 2, 1989, pp. 29- 32).

AAA, who was wearing a white T-shirt and a maong shorts, was then seated on the floor near the window while appellant in brown-colored shorts was lying on the floor (TSN, July 12, 1989, p. 9). As soon- as the children left the shanty, appellant Ramirez closed the door and locked it. He also closed the window facing outside house (TSN, August 2, 1989, p. 39 & pp. 42-43). A few minutes later, AAA saw appellant already naked. With a fan knife ('veinte nueve' balisong) in his right hand poked at the right chest of AAA, appellant ordered her to undress. Appellant Ramirez then started kissing AAA and afterwards got on top of her and ravished her on the floor of the shanty (TSN, August 2, 1989, pp. 2-8). It was at this point when AAA saw her brother pretending to be asleep (Ibid., p. 29; see also TSN, July 12, 1989, p. 7 and TSN, September 21, 1989, p. 61).

He warned AAA not to complain to the police because he would kill her and her family. After consummating his lustful desires on AAA and reiterating his threat, appellant stepped out of the shanty. Likewise, AAA went out of the house to fetch water and afterwards cooked rice for dinner (TSN, AUGUST 2, 1989, pp. 8-10).

When AAA got out of the shanty, she was approached by a female neighbor, Ate Laki. Ate Laki whispered to AAA that through a hole on the wall of the shanty, she (Ate Laki) saw the appellant on top of AAA. This notwithstanding, AAA just kept her mouth shut (TSN, August 9, 1989, pp. 7-9).

The following morning, AAA approached her mother, BBB, to report the dastardly act of appellant Ramirez. She was with CCC who told their mother, thus: 'Nanay, akala mo sina Ate nakita ko nagpapatungan ' Instead of getting mad at her common-law-husband, BBB surprisingly slapped AAA and defended appellant (TSN, September 21, 1989, pp. 50 & 61).

Angered by their mother's reaction, AAA and her younger brother CCC decided to go to the police station, with the help of a man and a woman, both unidentified. however, they got lost along the way.

Subsequently thereafter, AAA finally found her way to the police station, this time with her paternal grandmother, FFF (TSN, August 9, 1989, pp. 9-10). In the Police Station, she narrated her sexual ordeal with her stepfather, appellant Ramirez, to police investigator Pat. Rodolfo Estrebel. After a lengthy investigation, she was asked to sign her sworn statement (Exh. 'E') assisted by her grandmother, FFF. Afterwards, she was also asked to sign the Complaint with Criminal Case No. 89-71802 for Rape (Exh. 'F') against Enrique

Ramirez y Antonio.

On March 15, 1989 AAA was examined at the NBI by Dr. Valentin Bernales, Medico-Legal Officer. Dr. Bernales thereafter summarized his findings in his Report Living Case No. MG-89-185 (Exh. 'A') [8]

On March 21, 1989, police from the xxx Police Department went to the house of the appellant to invite the latter for questioning. They were met instead by BBB who fetched her common-law husband, appellant Ramirez, from the construction site where he was working. As soon as the appellant arrived, the policemen then asked him to go with them to the police station for investigation. At the police station, he was properly identified by AAA as the person who sexually abused her. On Basis of a 'Booking . Sheet and Arrest Report' (Exh. 'B') which, together with an endorsement letter (Exh. 'D') of Capt. Cresencio Cabasal, was forwarded to the City Prosecutor for further proceedings."

The findings of Dr. Valentin Bernales as stated in his report[9] are as follows:

"GENERAL PHYSICAL EXAMINATION:

Height: 138 0 cms. Weight: 36.8 kgs.

Normally developed, fairly developed, conscious, coherent, cooperative ambulatory subject.

Breasts, developing, conical, firm. Areolae, light brown, 2.5 cm. in diameter. Nipples, light brown, slightly protruding, 0.3 cm. in diameter.

No extragenital physical injury noted.

GENITAL EXAMINATION:

Pubic hairs, fully grown, scanty. Labia Majora, gaping. Labia minora, coaptated. Fourchette, lax. Vestibule, pinkish. Hymen, originally annular, tall, thick, with an old-healed complete laceration at 2:00 o'clock position corresponding to the face of a watch, edges of which are rounded, non-coaptable, base, retracted. Hymenal orifice, admits a tube, 2.8 cm. in diameter. Vaginal walls, moderately tight. Rugosities, moderately prominent.

CONCLUSIONS:

1. No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
2. old-healed Hymenal laceration present."

Version of the Defense

In the main, the defense is one of denial and alibi. The defense's version is as follows:

"Evidence for the defense shows that during the month of March 1989, accused-appellant was employed as a construction worker at xxx. During the said month he left home before 8:00 o'clock A.M. daily and returned home at past 5:00 o'clock in the afternoon. At that time, BBB, AAA's mother, was always at home as it was her schedule when accused-appellant was working. She went out to sell her wares only when appellant stayed home. Under this set-up, it was quite impossible for the alleged rape upon AAA to have ever taken place.

Enrique Ramirez denied having anything to do with the raping of AAA, whom he treated as his very own daughter. There was ill motive on the part of FFF and AAA in filing the rape charge. FFF nurtured a long standing grudge against BBB and the accused-appellant as BBB left CCC and preferred to live-in with Enrique Ramirez, AAA likewise harbored ill-feelings towards appellant and filed the rape case in retaliation for appellant's having hit her on the head when she failed to return home when she was sent on an errand. AAA's defloration should rather be attributed to the well known fact that she is a flirt as per the admission of her close relatives and she usually spent her idle time outside the house and at a beer garden in the neighborhood." [10]

The Error Assigned

Appellant posits the sole error that allegedly:

"The court a quo gravely erred in convicting the accused-appellant of the crime charged despite the absence of evidence required to prove his guilt beyond reasonable doubt." [11]

As the Court sees it, the crux of this case is the credibility of AAA's testimony and the weight and sufficiency of the prosecution's total evidence.

The appellant based his assigned error on the following arguments: 1. "x x x. (t)he prosecution's failure to present DDD and Ate Laki as witnesses during the trial, when both allegedly were eyewitnesses to the supposed sexual assault committed upon AAA. by herein appellant, gives raise to the presumption that the testimonies of these two persons were evidently suppressed as these would be damaging to the complainant's case. x x x" [12] (2.) the "(e)xistence of ill-motive on the part of complainant's paternal grandmother, FFF was amply shown by defense evidence which remains unrebutted. FFF merely utilized her grandchild AAA, who likewise resented the appellant, in order to exact vengeance from the appellant and BBB." [13] and (3.) "x x x (i)n the instant case, as the evidence of the prosecution is not sufficient to establish the guilt of the appellant of the crime charged beyond reasonable doubt, he must therefore be acquitted." [14]

The Court's Ruling

Credibility of the Witness

In deciding this appeal, the Court notes certain guiding principles in reviewing rape cases, to wit:

"(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge;

(b) considering that, in the nature of things, only two (2) persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and

(c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense." [15]

The general rule in assessing credibility of witnesses is well-settled: "the trial court's evaluation as to the credibility of witnesses is viewed as correct and entitled to the highest respect because it is more competent to so conclude, having had the opportunity to observe the witnesses' demeanor and deportment on the stand, and the manner in which they gave their testimonies. The trial judge therefore can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies. Therefore, unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment on credibility must be respected." [16]

After a thorough scrutiny of this case, the Court finds no error in the ruling of the court a quo giving full credence to the testimony of AAA and convicting accused-appellant Enrique Ramirez of rape. We reiterate that, "when an alleged victim of rape says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the test of credibility accused may be convicted on the basis thereof." [17]

In this case, AAA was unequivocal and unswerving in charging the accused-appellant with rape. Her account of the rape was straightforward, detailed, consistent on all material points and convincing both in her sworn statement and testimony. The relevant portion of her sworn statement [18] is as follows:

"07 T: Bakit ka naman naririto sa aming opisina at nagbibigay ng salaysay:

S: Irereklamo ko po iyong step father ko dahil ni-rape po niya ako.

08 T Kailan ka ni-rape ng step father mo kung natatandaan mo, anong oras at saang lugar?

S: Marami na pong beses niya akong ni-rape, pero ang natatandaan ko, and. huli niyang ginawa sa akin ay nuong nakaraan pong linggo, Huwebes po, .Ito lang pong Marso 1989, duon niya ako ni-rape sa bahay namin 'sa xxx sa squatters area, sa xxx, kadalasan kung gahasain po ako ng step father ko ay tanghali at gabi kung wala po ang nanay ko sa amin at nanonood po ng T.V. sa kapitbahay.

09 T Isalaysay mo nga sa akin kung papaano ka nire-rape ng iyong step father?

S Ano po iyon, nuong isang taon po iyon nuong, hindi ko na matandaan and petsa pero magpapasko po nuon ng una niya akong nirape, dumating po.ang step father ko bandang ala-una ng tanghali, tapos pinalabas po niya yung mga bata sa loob ng bahay namin at sinarado niya yung pintuan ng bahay namin at bintana ng bahay namin, tapos po ay inilabas niya iyong beinte nueve niya (balisong at tinutukan niya ako, at sabi niya ay huwag daw po akong magsusumbong sa nanay ko at sa pulis, kundi ay papatayin niya kaming lahat. Tapos po ay pinaghubad niya po ako ng damit ko at panty at naghubad din po siya at pinahiga niya ako sa sahig at pinatungan niya ako. x x x (graphical description of act of rape omitted) at pinagbihis na niya ako ng damit at pinagbantaan niya akong muli na papatayin daw niya kaming lahat pag nagsumbong ako sa Nanay ko at sa mga Pulis. At simula nuon ay halos araw araw ay nire-rape niya ako, at ang huli nga po ay nuong nakaraang linggo po nitong Marso 1989, at dahil hindi ko na po matiis and ginagawa 'niya sa akin ay tumakas po ako sa amin at nagsumbong na po ako sa Pulis, tapos po ay pumunta po ako sa Lola ko at ipinagtapat ko ang ginagawa sa akin ng step-father.

ko."

10 T: Iligid mo nga ang iyong mga paningin .sa loob' ng opisinaang ito, narinto ba ang taong iyong sinasabing nang-rape sa iyo ng maraming beses?

S: Nandito po siya, ayan po ang step-father ko. (Declarant pointing to the person of ENRIQUE RAMIREZ y ANTONIO, 34 years old, laborer x x x)"

The salient portion of her testimony is as follows:

"FISCAL FORMOSO: Where were you on the second week of March, 1989?

WITNESS: I was in the house, sir. [19]

xxx xxx xxx

FISCAL FORMOSO: While there on that time and date, was there any usual incident that took place.

WITNESS: Yes, sir.

FISCAL FORMOSO: And what was that?

WITNESS: Ni raped po ako.

FISCAL FORMOSO: Who raped you?

WITNESS: That person there, sir.

INTERPRETER: The witness pointed to a person, when asked of his name he stated Enrique Ramirez.

xxx xxx xxx

FISCAL FORMOSO: How was the accused able to do this rape against you?

WITNESS: He kissed me and then he laid on top of me, sir. [20]

xxx xxx xxx

FISCAL FORMOSO: Before the accused laid on top of your (sic), did he ever utter any word?

WITNESS: Yes, sir.

FISCAL FORMOSO: What were those?.

WITNESS: He told me not to complain to the police because if I will do so, he will kill me and all of us, sir.

FISCAL FORMOSO: When he uttered those words, was he holding anything?

WITNESS: Yes, sir.

FISCAL FORMOSO: What was that?

WITNESS: He was holding a viente nueve, sir.

FISCAL FORMOSO: How big is that knife?

WITNESS: About four inches in length, sir.[21]

xxx xxx xxx

FISCAL FORMOSO: And what did you do after you were asked to remove your clothing and while the knife was being poked in your neck?

WITNESS: He lay on top of me, sir. 'Pinatungan niya ako.'

FISCAL FORMOSO: You stated that you were asked by the accused to remove your clothes. What did you do? Were you able to remove your clothes?

WITNESS: Yes, sir.

FISCAL FORMOSO: What else did you remove after removing your clothes?

WITNESS: My panty, sir.

FISCAL FORMOSO: After removing your panty, what did you do after that?

WITNESS: He lay on top of me, sir

FISCAL FORMOSO: What exactly in the place did he lie on top of you? Was it on ,the bed, on the floor or what?

WITNESS: It was on the floor, sir.

FISCAL FORMOSO: When the accused lay on top of you, what did he do after that?

WITNESS: 'Pinasok niya ang ari', sir. He inserted his organ. and after that he made a movement, sir.

INTERPRETER: Witness is demonstrating by moving her buttocks forward, backward.

FISCAL FORMOSO: You stated that the accused there inserted his sex organ Where did he insert that?

WITNESS: He inserted that sex organ in my private part, sir.x x x.

xxx xxx xxx

FISCAL FORMOSO: And what did you (feel) while the accused here inserted his sex organ in your sex organ at the same time swinging his body forward and backward?

WITNESS: I felt pain, sir. 'Masakit po'.

xxx xxx xxx

FISCAL FORMOSO: Did you notice anything in your sex. organ or on your thighs?

xxx xxx xxx

WITNESS: A white substance, sir, I just do not know what was that."[22]

We deem it highly unlikely that AAA "x x x with all her childhood naiveté and innocence would make up stories against appellant x x x"[23] And "considering that the victim was of tender years and not exposed to the ways of the world, it is most improbable that she would impute a crime as serious as rape to any man if it were not true." [24] It is a truism that "no woman especially one who is of tender age would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished." [25]

Furthermore; even appellant's own testimony shows that AAA was just an innocent child who could not have been capable of weaving such an intricate web of deceit as the one the appellant would have this Court believe she did:

"WITNESS: "My wife and I, Your Honor, we have been talking about AAA and my wife told me also to extend patience to this AAA because this AAA has a thinking of the child 'isip bata' x x x "[26]

Weight and Sufficiency of Evidence

In fine, this Court finds that AAA's testimony is replete with spontaneity and directness so overwhelming as to be impervious to a mere denial by the accused. "It is a well settled, rule that an affirmative testimony is far stronger than, a negative testimony, especially so when it comes from the, mouth of a credible witness x x x "[27]

Accused-appellant argues that the non-presentation of DDD and Ate Laki signifies a willful suppression of their testimonies as the same would have been adverse presented in court. We are not persuaded. Their additional testimonies are not needed because "(t)ruth is established not by the number of witnesses but by the quality of their testimonies" [28] and "the lone testimony of the victim in the crime of rape if credible is sufficient to sustain a conviction." [29] It is axiomatic that "witnesses are to be weighed, not numbered." [30] For "after all, there is no law which requires that the testimony of a single witness needs corroboration except when the law so expressly requires." [31] The pronouncement of this Court in *People vs. Martinez* through Mr. Chief Justice Andres Narvasa aptly elucidates on this point:

"Over the years, certain principles have been laid down in decisions involving the analysis and assessment of evidence in cases of rape; and, having been so often invoked and applied, have become so familiar and prosaic as to seem platitudinous. Such propositions as that rape is not normally perpetrated in the presence of third persons; hence, in prosecutions therefor, the only evidence, against the accused is usually the testimony of the offended woman herself, her sole testimony being sufficient for conviction if it rings true and is otherwise credible x x x "[32]

No False Accusation of Rape

The allegation of appellant Ramirez that the complaint against him was false and made only because complainant AAA was instigated and used by her paternal grandmother FFF as an instrument of revenge against Ramirez is bereft of merit. The Court observes that AAA was raised and cared for by her grandmother FFF from infancy to her early teens and was therefore a "grandma's girl." Naturally, it is only to be expected that FFF would have for her grandchild AAA all the love and protectiveness of a true parent. Hence, it would be very unlikely for FFF to subject AAA to the indignities of executing her sworn statement at the police station before a male police officer,

examination of her private parts by a male doctor at the National Bureau of Investigation and the embarrassment of having to answer very personal and embarrassing questions at a public trial, all just to spite Ramirez. Thus, this allegation of the appellant is disregarded by the Court. We have held that "(i)t is unnatural for a parent to use her off spring as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma. No mother would stoop so low as to subject her daughter the physical hardship and shame concomitant to a rape prosecution just to assuage her own hurt feelings." [33]

Based on the foregoing discussion, our conscience rests easy upon the moral certainty that accused-appellant Enrique Ramirez is indeed guilty of rape.

Moral and Exemplary Damages

The trial court correctly awarded moral and exemplary damages to the victim. An award of moral damages for rape is mandated by Art. 2219 in relation to Art. 2217 both of the Civil Code. We appreciate the presence of alternative or aggravating circumstance of relationship in this case, as "the relationship of stepfather or stepmother and stepson or stepdaughter is included by analogy as similar to that of ascendant and descendant." [34] Thus, the award of exemplary damages is likewise proper.[35] Moreover, the amount of P50,000.00 as indemnity, apart from moral and exemplary damages, should have been awarded by the trial court.[36]

One last point. The evidence points to several counts of rape committed by the accused against his stepdaughter. However, we could not impose multiple penalties because the Complaint charged, only one count. In the future, prosecutors and the police are enjoined to file as many complaints/information as the evidence in their hands may warrant so that as many separate penalties could be imposed by courts.

WHEREFORE, the appeal is DISMISSED and the Decision of the trial court finding appellant Enriquez Ramirez y Antonio guilty beyond reasonable doubt of the crime of rape committed against his own stepdaughter AAA and imposing on him the penalty of reclusion perpetua is hereby AFFIRMED subject to the modification that he shall indemnify the victim in the amount of eighty thousand pesos (P80,000.00) broken down as follows: fifty thousand pesos (P50,000.00) by way of indemnity; plus thirty thousand pesos (P30,000.00) as moral and exemplary damages.

SO ORDERED.

Narvasa, C.J., Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 15-46.

[2] Presided by Judge xxx.

[3] Rollo, p. 4.

[4] Record, p. 4.

[5] Decision, pp. 21-32; Rollo, pp. 45 46.

[6] Appellee's brief, pp. 48; Rollo, p. 226.

[7] Decision, pp. 3-4; Rollo, pp. 17-18.

[8] Appellee's brief pp. 9-14; Rollo, p. 226.

[9] Record, p. 35.

[10] Appellant's brief, pp. 4-5; Rollo, pp. 187-188.

[11] Ibid, p. 5; Rollo, p. 188.

[12] pp. 5-6; Rollo, pp. 188-189.

[13] Ibid., p. 6; Rollo, p. 189.

[14] Ibid.

[15] People vs. Guamos, 241 SCRA 528, 531, February 21, 1995; citing People vs. Casinillo, 213 SCRA 777, September 11, 1992; People vs Pizarro 211 SCRA 325, July 6, 1992, and People vs. Dela Cruz, 207 SCRA 449, March 23, 1992.

[16] People vs. Gabris, G.R. No. 116221, pp. 8-9, July 11, 1996; citing People vs. Vallena, 244 SCRA 685, June 1, 1995.

[17] People vs Sanchez, 250 SCRA 14, 21, November 16, 1995; citing United States vs. Ramos, 1 Phil. 81,(1901); Anciro vs. People, 228 SCRA 629, December 17, 1993, and People vs. Repollo, 237 SCRA 436, October 7, 1994.

[18] pp. 1-2, March 21, 1989, Exhibit E; Record, pp. 40-41

[19] TSN,; p. 3, July 12 1989.

[20] Ibid., pp. 6-7

[21] Ibid., pp. 8-9

[22] TSN, pp. 4-8, August 2, 1989.

[23] People vs Digno, Jr., 250 SCRA 237, 244, November 23, 1995

[24] People vs Dela Cruz, 251 SCRA 77, 84, December 8, 1995.

[25] People vs. Sanchez,: supra, p. 23, November 16, 1995; citing People vs. Magallanes, 218 SCRA 109, January 29, 1993.

[26] TSN, p. 31, September 21, 1989.

[27] People vs. Digno, Jr., supra, p. 144, November 23, 1995.

[28] People vs. Ferrer, G.R No. 102062, p. 15, March 14, 1996;citing People vs. Manalo, 229 SCRA 479 January 24 1994.

[29] People vs. Apilo, G.R. No 101213-14, p. 19, October 28, 1996.

[30] People vs. Amaguin, 229 SCRA 166,-174, January 10, 1994.

[31] Ibid.

[32] 219 SCRA 502, 509, March 4, 1993.

[33] People vs. Sanchez, 250 SCRA 14, 27, November 16, 1995; citing People vs Ching, 240 SCRA 267, January 19, 1995; People vs Rejano, 237 SCRA 627, October 18, 1994; and People vs Cura, 240 SCRA 234, January 18, 1995.

[34] Reyes, Criminal Law Vol. I, p. 468, 1993, citing People vs. Bersabal, 48 Phil. 439, 441, (1925); and People vs Paterno CA., 38 O.G 467.

[35] *People vs. Alimon*, G.R. No. 87758, pp. 25-26, June 28, 1996; citing *People vs. Escoto*, 229 SCRA 430, 438, January 21, 1994; citing *People vs. Dio y Botabera*, 226 SCRA 176, September 8, 1993 and *People vs. Alegado*, 201 SCRA 37, August 21, 1991. See also Article 2230 of the Civil Code which states that: In criminal offenses, exemplary damages as 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."

[36] *People vs. De Guzman*, G.R. No. 117217, December 2, 1996, pp. 10-11.

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