

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFONSO PINEDA Y ESMINO, ACCUSED-APPELLANT.***G.R. Nos. 118312-13. July 28, 1999*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-118312-13/>**PER CURIAM:**

This is an automatic review of the joint decision of the Regional Trial Court of Cabanatuan City, Branch 27,[1] in Criminal Case Nos. 6001 and 6021 convicting accused-appellant of two counts of qualified rape, imposing upon him two death sentences, and ordering him to pay private complainant the amount of P50,000.00 as moral and exemplary damages for each count of rape.

Accused-appellant Alfonso Pineda y Esmino is the common-law spouse of private complainant's mother.[2] He is also the natural father of private complainant Milagros V. Pineda,[3] a thirteen year-old first year high school student[4] at the time of the incident. While the mother worked in Singapore for the past three years,[5] appellant, private complainant, and her seven-year old brother lived together in a rented room at 725 Mabini Extension, Cabanatuan City.[6]

The facts, as summarized by the Solicitor General[7] and which we find to be duly supported by the records, are as follows:

"...[B]etween eleven o'clock and twelve o'clock midnight on July 12, 1994, as she was sleeping in their house, her father arrived. He came from a drinking spree with his friends. She was awakened when her father began to touch her private parts. When he went on top of her, she tried to push him away but he was stronger than her. While her father was pointing a knife at her neck, he started to undress and kiss her. He then succeeded in having carnal knowledge with her. On account of her father's threat to kill her and her 7-year old brother, private complainant did not report what he did to her that night. (TSN, October 11, 1994, pp. 4-6, 8).

On September 2, 1994, the sexual abuse was repeated in their house. At around two o'clock in the morning, her father poked a knife at her while he undressed her. He then forcibly lowered her underwear down to her knees and had sexual intercourse with her. (Ibid., pp. 6-8)

While her father was sleeping, she immediately dressed up and reported the sexual abuses committed upon her to Manuela Gutierrez, her guidance counsellor (sic) at the Wesleyan University High School (Ibid., pp. 12-13). Gutierrez advised her to report the rape incidents to her father's relatives and to subsequently file a case against her father (TSN, October 12, 1994, p. 5). However, private complainant did not inform her grandmother on her father's side about the rape incidents because when Fe, her elder sister, was raped by her father, her grandmother did not do anything (TSN, October 11, 1994, p. 15). Instead, she reported the rape incidents to Marcelina Balin, her grandmother on her mother's side (Ibid., p. 8). She likewise stopped writing to her mother, who had been working in Singapore for three (3) years, because she thought that her mother believed her father more than her (Ibid., p. 14).

Upon being informed of the rape incidents, Balin, together with private complainant, reported the same to the Barangay Chairman. Thereafter, private complainant reported the sexual abuses to the police authorities. She likewise executed a sworn statement attesting to the fact that she was raped by her father (Ibid., pp. 9-10).

Subsequently, she was examined by Dr. Antonio Boado at the Paulino J. Garcia Memorial Research and Medical Center (Ibid., p. 11; TSN, October 20, 1994, pp. 2-3). Dr. Boado testified that private complainant sustained a "positive hymenal laceration at 9 and 6 o'clock position and the vaginal opening was not co-apdated" (Ibid., p. 3)."

On September 5, 1994, private complainant charged appellant with two counts of rape under the following Criminal Complaints:[8]

Criminal Case No. 6001:

"That on or about the 2nd day of September, 1994, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of the Honorable Court, the above-named accused, motivated by lewd design and by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, who is thirteen (13) years old and natural daughter of the accused, against the latter's will and consent and to her damage and prejudice.

CONTRARY TO LAW.

Cabanatuan City, September 5, 1994.

(Sgd.) MILAGROS V. PINEDA

Criminal Case No. 6021:

"That on or about the 12th day of July, 1994, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lewd design and by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, who is thirteen (13) years old and natural daughter of the accused, against the latter's will and consent and to her damage and prejudice.

CONTRARY TO LAW.

Cabanatuan City, September 15, 1994.

(Sgd.) MILAGROS V. PINEDA

Complainant"

During preliminary investigation, Prosecutor I Amelia C. Tiu made this observation in her Resolution dated September 15, 1994[9]-

"When asked to comment on these accusations against him, respondent, not showing a bit of remorse on what he did, simply retorted that he is not conscious of the incidents because he was drunk and therefore, not aware of what he was doing.

To think that he raped the complainant four (4) times, the defense raised by the respondent is simply obnoxious. Adding to this, is the fact, that another daughter also filed against this respondent two (2) counts of rape. xxx"

Hence, the investigating prosecutor strongly recommended the filing of two counts of rape against appellant. Consequently, the two criminal cases were filed in the Regional Trial Court, and joint trial ensued.

On October 4, 1994, appellant, assisted by counsel de officio Atty. Napoleon M. Reyes, entered pleas of not guilty to both complaints.[10] However, on October 11, 1994, appellant, assisted by the same counsel de officio, requested for leave of court to change his pleas of not guilty to guilty. The criminal complaints were again read, explained and interpreted in Tagalog, a dialect known to the accused. Despite the admonitions of his counsel de

oficio, appellant entered his new pleas of guilty to both criminal complaints.[11] After the trial court conducted a searching inquiry into the voluntariness and full comprehension of the consequences of appellant's plea of guilty,[12] it ordered the prosecution to present its evidence.

The prosecution presented three witnesses, namely (1) Milagros V. Pineda, the private complainant; (2) Mrs. Manuela P. Gutierrez, the guidance counselor of Wesleyan University High School, where private complainant was studying; and (3) Dr. Antonio Boado, the physician who conducted the medical examination on private complainant, who testified that he found "positive hymenal lacerations at 9 and 6 o'clock position"[13] and opined that the hymen was ruptured because of sexual contact.[14]

The prosecution likewise marked and offered as documentary evidence the Affidavit of Milagros V. Pineda dated September 5, 1994 and her signature therein,[15] the two criminal complaints dated September 5, 1994 for the rapes committed on July 12, 1994 and September 2, 1994, the signatures of private complainant therein,[16] and the medical certificate executed by Dr. Antonio Boado. The defense made no objections to the offer of evidence which were duly admitted by the trial court. Further, the defense presented no evidence on its behalf, but merely manifested that the trial court should appreciate the plea of guilty as a mitigating circumstance.[17] the case was deemed submitted for decision.

On November 2, 1994, the trial court rendered a joint decision[18] finding appellant guilty as charged. The dispositive portion of the decision reads:

"IN VIEW OF THE FOREGOING, this Court finds the accused Alfonso Pineda Y Esmino guilty beyond reasonable doubt of the crime of rape as charged in the complaints and hereby sentences him to suffer the penalty of :

"1. Death in Criminal Case No. 6001 and indemnify the offended party in the amount of P50,000.00 as moral and exemplary damages;

"2. Death in Criminal Case No. 6021 and indemnify the offended party another amount of P50,000.00 also as moral and exemplary damages (People v. Perez, 175 SCRA 203, ) and

"3. To pay the costs.

"SO ORDERED."

The consolidated cases are before us for automatic review.

In his brief,[19] appellant assigns the following errors:

"I. THE LOWER COURT ERRED IN NOT APPRECIATING THE VOLUNTARY PLEA OF GUILT OF THE ACCUSED-APPELLANT AS MITIGATING CIRCUMSTANCE SO AS TO MITIGATE THE CRIMINAL LIABILITY OF THE ACCUSED-APPELLANT.

"II. THE LOWER COURT ERRED IN NOT IMPOSING THE LESSER PENALTY THAN DEATH PENALTY, WHICH SHOULD BE RECLUSION PERPETUA FOR EACH CRIMINAL COMPLAINT."

The Solicitor General contends that the plea of guilty, though timely made, cannot be appreciated as a mitigating circumstance since death is a single indivisible penalty.

Although appellant submits that the sole issue is the appreciation of his plea of guilty as a mitigating circumstance, we have conducted a thorough review of the entire case considering the gravity and finality of the sentence imposed upon appellant. An appellate proceeding in a criminal case, whether at the instance of the accused or by mandatory provision of law, throws the whole case open for review.[20]

Appellant was convicted of two counts of rape in its qualified form under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, otherwise known as the death penalty law, which provides:

"Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

x x x

`The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

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; ..."

We have scrutinized the two criminal complaints as to the sufficiency of the allegations with respect to the qualifying circumstances of relationship of appellant and private complainant, they being father and natural daughter, and minority of private complainant, who is below 18. We are satisfied that qualifying circumstances were properly pleaded in criminal complaint which are sufficient in form and substance as required by Section 6 of Rule 110 of the Rules of Court.

The prosecution presented private complainant who bravely recounted her ordeal in the hands of her father in a clear, straightforward manner. She testified as to the rape committed on July 12, 1994 as follows:[21]

PUBLIC PROSECUTOR FRANCISCO U.MACARAIG :

Q: And will you please tell the Honorable Court what was that unusual incident that happened to you on July 12, 1994?

PRIVATE COMPLAINANT:

A:

On July 12 while my father was drinking with his friends (sic) and while my father is not yet around since he was drinking with his friends, and later he arrived but I do not know what time he arrived.

Q: What happened when your father arrived?

A: I do not know the time when he arrived but I came only to know that he arrived when he was touching my private parts.

Q: Will you tell us specifically what private parts of yours were your father touching?

A: My breast and my private part (puke), sir.

Q: And then what did you do?

A: I pushed him away, sir, but because he was stronger than me (sic) and furthermore he pointed a knife on (sic) me.

Q: What did you feel on that particular moment when he was holding a knife and pointed at you?

A: I was frightened, sir.

Q: And what happened afterwards?

A: What he would like to happen really happened, sir.

Q: Incidentally, where was the knife pointed in relation to your body?

A: Here, sir. (witness pointing to her left neck)

Q: You mentioned that his purpose was attained. Will you please specifically clarify this matter. What happened to you, tell us in detail.

A: He undressed me and kissed my private parts, sir.

COURT: Session suspended for 5 minutes upon request of the City Prosecutor. (After 5 minutes the session was resumed)

PUBLIC PROSECUTOR: Miss Pineda, please tell exactly in detail what happened. What was that act committed to you by your father?

A: After he had kissed me on the different part of my body he then mounted me and placed his private part on

my private organ.

Q: During this time that your father was committing this act, did you have the occasion to try to push him away of fight him?

A: Yes, sir.

Q: And despite this did he still successfully commit the act of rape?

A: Yes, sir.

COURT:

Q: Why did you not shout?

A: He covered my mouth, sir.

Q: Why did you not kick him?

A: Because he was stronger than me, sir.

COURT: Continue Fiscal.

Fiscal: How long was that act performed against your person?

COURT:

Q: How many minutes or seconds in your opinion did it last?

WITNESS:

A: Around 20 minutes, sir.

Q: Was that the first time that a private part of a man was inserted on your private part?

A: Yes, sir. (underlining supplied)

COURT: Continue Fiscal.

FISCAL: Are you referring to the incident of July 12, 1994?

A:

Yes, sir.

Q: After your father had committed that dastardly act against your person, did he utter anything to you?

A: Yes, sir, he threatened to kill me, sir.

COURT: Why?

A: He threatened to kill me, sir, If I will tell anybody what he did to me.

FISCAL: What your response upon being threatened or to be killed if you tell it to anybody?

A: I just cried, sir."

Private complainant also testified that barely a month later, appellant raped her again while threatening her with a knife. Thus, private complainant continued her testimony:[22]

FISCAL: On September 2, 1994, did he also poke the same knife which he used on July 12, 1994?

PRIVATE COMPLAINANT: Yes, sir.

Q: What happened?

A: The same, sir.

COURT:

Q: What same thing?

A:

He laid on top of me, sir.

Q: What else happened?

A: He inserted his pennis (sic) on my private organ, sir, and threatened to kill me. (unerlining supplied)

Q: Were you already undressed?

A: No, sir.

Q: Who removed your clothes?

A: My father, sir.

Q: Why did you not fight him back?

A: I tried to kick him, sir, but I could not do it because my panty was already on my knees.

Q: Why did you not fight him?

A: Because he was strong, sir."

Private complainant's candid and straightforward narration of how she was raped twice by her father bears the earmarks of a truthful witness.[23] The long standing rule is that when an alleged victim of rape says 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, the accused may be convicted on the basis thereof.[24] A teenage unmarried lass would not ordinarily file a rape charge against anybody, much less her own father, if it were not true.[25] For it is unnatural for a young and innocent girl to concoct a story of defloration, allow an examination of her private parts, and thereafter subject herself to a public trial if she has not, in fact, been a victim of rape and

deeply motivated by a sincere desire to have the culprit apprehended and punished.[26] In her own words, private complainant testified that after the incidents, her respect for her father was already gone,[27] and despite the fact that the penalty for the crimes which she accused her father was quite heavy, she persisted in filing the present cases against him.[28] She also said that she would not feel sorry for him if he was hanged.[29]

The prosecution witnesses gave their impressions on the emotion, behavior, condition and appearance of private complainant after the rape.[30] Dr. Boado testified that during his examination, private complainant was initially uncooperative, appeared nervous with blank stare.[31] Mrs. Manuela P. Gutierrez, the guidance counselor, testified that private complainant was "crying then shivering, in short, hysterical" when she was recalling the rapes committed by her father.[32]

After a careful examination of the evidence, we find that the prosecution duly discharged its burden in establishing the guilt of the appellant beyond reasonable doubt.

We shall now discuss whether or not appellant's timely plea of guilty should be considered a mitigating circumstance which would lower the death penalty to reclusion perpetua.

In an attempt to escape his death sentence, appellant implores this Court to consider his plea of guilty as an act of repentance and respect for the law indicating a moral disposition favorable to his reform. Appellant likewise claims his plea of guilty should be deemed a clear manifestation of his lesser perversity which would merit the lowering of the penalty of death to reclusion perpetua.

Appellant's reliance on his plea of guilty to escape his doom, however, is misplaced. Under no circumstance would any admission of guilt affect or reduce the death sentence.[33] The crime of qualified rape, like the rape by a father of his 13-year old natural daughter as in this case, is punishable by death. Death is a single indivisible penalty and pursuant to Article 63 of the Revised Penal Code, in all cases in which a single indivisible penalty is prescribed, the penalty shall be applied by the courts regardless of any mitigating or aggravating circumstance that may have attended the commission of the crime.[34] Hence, the presence of ordinary mitigating or aggravating circumstances would be of no moment since the death penalty shall be imposed without regard to any of them.[35] The only possible basis for a reduction of such penalty under the rules for graduating penalties under the Code is the presence of a privileged mitigating circumstance,[36] none of which is present in this case.

More importantly, the plea of guilty which the accused knowingly and voluntarily made under the careful inquiry of the court in this case must be deemed a very strong indication of guilt. There is no higher evidence of guilt than the accused's own confession and unless it is vitiated by evidence of duress, a voluntary plea of guilty is admissible as evidence of guilt of high quality.[37]

Hence, we affirm the judgment of conviction of the trial court and the imposition of the two death sentences upon appellant.

In line with prevailing jurisprudence, however, the amount of damages awarded by the trial court must be modified. Pursuant to *People v. Victor*, 292 SCRA 186 (1998), the amount of P50,000.00 should be increased to P75,000.00 as civil indemnity for each count of rape, since the offense is qualified by circumstances under which the death penalty is now authorized to be imposed by law. In addition, as held in *People v. Prades*, G.R. No. 127569, July 30, 1998, the amount of P50,000.00 as moral damages must also be awarded to the victim for each count of rape without the need for pleading or proof of the basis thereof. However, for lack of sufficient basis, no exemplary damages could be awarded.

Four (4) Members of the Court, although maintaining their adherence to the separate opinions expressed in *People v. Echegaray*, 267 SCRA 682, that the death penalty is unconstitutional, and the dissenting opinions in *Echegaray*

v. Secretary of Justice, et. al., G.R. No. 132601, October 12, 1998, that lethal injection as a method of carrying out the death penalty is thereby also unconstitutional, nevertheless submit to the ruling of the majority that R.A. No. 7659[38] and R.A. No. 8177[39] are not unconstitutional and that the death penalty should accordingly be imposed.

WHEREFORE, the joint decision of the Regional Trial Court of Cabanatuan City, Branch 27, in Criminal Case Nos. 6001 and 6021 finding accused-appellant ALFONSO PINEDA y ESMINO guilty beyond reasonable doubt of the crime of two counts of rape is hereby AFFIRMED with the MODIFICATION that accused-appellant should be ordered to pay private complainant P75,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape.

In accordance with Section 25 of Republic Act No. 7659, amending Article 83 of the Revised Penal Code, upon the finality of this decision, let the records of this case be forwarded forthwith to the Office of the President for the possible exercise of his constitutional prerogative. No pronouncement as to costs.

**SO ORDERED.**

Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.  
Davide, Jr., C.J., on official leave.

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[1] J. Feliciano V. Buenaventura, presiding.

[2] TSN, October 11, 1994, p. 3.

[3] Ibid.

[4] Id. At 16.

[5] Id. At 3.

[6] Id. At 14.

[7] Rollo, p. 74.

[8] Records, Criminal Case No. 6001, pp. 1-2; Records, Criminal Case No. 6021, pp. 1-2.

[9] Records, Criminal Case No. 6021, pp. 3-4

[10] Order dated October 4, 1994, Records, Criminal Case No. 6001, p. 11.

[11] TSN, October 11, 1994, pp. 1-2.

[12] Records, Criminal Case No. 6001, p. 26.

[13] Id. at 4.

[14] TSN, October 20, 1994, p. 3.

[15] Records, p. 3.

[16] Records, Criminal Case No. 6001, p. 1, Records, Criminal Case No. 6021, p. 1.

[17] Supra, note 14 at p. 7.

[18] Records, pp. 25-33.

[19] Rollo, p. 40.

[20] *People v. Tabugoca*, 285 SCRA 312, 335 (1998).

[21] TSN, October 11, 1994, pp. 4-6.

[22] *Id.* at 7-8.

[23] *People v. Calayca*, G.R. No. 121212, January 20, 1999, p. 11.

[24] *People v. Ambray*, G.R. No. 127177, February 25, 1999, p. 8, citing *People v. Ramirez*, 266 SCRA 335; *People v. Abad*, 268 SCRA 246; *People v. Butron*, 272 SCRA 352; *People v. Rabosa*, 273 SCRA 142.

[25] *Supra*, note 23, p. 12, citing *People v. Lao*, 249 SCRA 137 (1995).

[26] *Ibid.*, citing *People v. Dado*, 244 SCRA 655 (1995); *People v. Vitor*, 245 SCRA 392 (1995).

[27] See note 21 at p. 13.

[28] *Id.* at 14.

[29] *Id.* at 15.

[30] Section 50, Rule 130, Rules of Court.

[31] *Supra*, note 14 at 4.

[32] TSN, October 12, 1994, p. 5.

[33] *People v. Sevileno*, G.R. No. 129058, March 29, 1999, p. 11.

[34] *Ibid.*

[35] *Supra*, note 20 at 334; The rule in Article 64 (5) of the Code, which provides for the reduction of the penalty when there are two or more mitigating and no aggravating circumstances, is applicable only when divisible penalties are involved.

[36] *Ibid.* See Articles 68 and 69, Revised Penal Code. A special or privileged mitigating circumstance reduces the penalty by one or two degrees than that prescribed by law and cannot be offset by aggravating circumstances (*Lacanilao v. Court of Appeals*, 162 SCRA 563, 565 [1988]).

[37] *People v. Robles*, G.R. No. 124300, March 25, 1999, p. 10, citing *People v. Zea*, 130 SCRA 77; *People v. Lungbos*, 162 SCRA 383.

[38] An Act to Impose the Death Penalty on Certain Heinous Crimes.

[39] An Act Designating Death by Lethal Injection as the Method of Carrying Out Capital Punishment, Amending for the purpose Article 81 of the Revised Penal Code, as amended by Section 24 of Republic Act No. 7659.39

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