

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FERNANDO WATIMAR, ACCUSED-APPELLANT.

G.R. Nos. 121651-52. August 16, 2000

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-121651-52/>

YNARES-SANTIAGO, J.:

Incestuous rape, such as that committed by a father against his own daughter, is a dastardly and repulsive crime[1] that has no place in our society. Time and again the Court has condemned in no unequivocal terms the bestial acts of rape perpetrated by fathers against their daughters. The case before us now is no different.

On the basis of two (2) sworn criminal complaints executed by the offended party, accused Fernando Watimar was charged with the crime of Rape in two (2) Informations. The Information in Criminal Case No. 5513-AF[2] alleges –

That on or about the 26th day of March 1990, in Sitio Tingga, Brgy. Macapsing, Municipality of Rizal, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused father of the victim, with lewd design and at the point of a knife and threat to kill, did then and there, wilfully, unlawfully and feloniously have carnal knowledge of her (sic) daughter MYRA WATIMAR.

CONTRARY TO LAW.

The other Information in Criminal Case No. 5514-AF is a virtual reproduction of the above–quoted information, the only difference being that the rape was committed on November 28, 1992.[3]

Upon arraignment, accused pleaded not guilty to the charges.[4] Trial thereafter ensued, after which the Regional Trial Court of Cabanatuan City, Branch 25, rendered judgment[5] against accused, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows, viz:

1. In Crim. Case No. 5513-AF, the Court finding the accused Fernando Watimar guilty beyond reasonable doubt of the crime of RAPE, hereby sentences him to suffer the penalty of RECLUSION PERPETUA, with the accessory penalty of the law, to pay the complaining witness Myra Watimar P50,000.00 as moral damages, and P20,000.00, as exemplary damages, without, however, subsidiary imprisonment in case of insolvency, and to pay the costs; and
2. In Crim. Case No. 5514-AF, the Court finding the accused Fernando Watimar guilty beyond reasonable doubt of the crime of RAPE, hereby sentences him to suffer the penalty of RECLUSION PERPETUA, with the accessory penalty of the law, to pay the complaining witness Myra Watimar P50,000.00, as moral damages, without, however, subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED.

Accused-appellant interposed this appeal alleging that –

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESS MYRA WATIMAR WHICH IS NOT SUPPORTED BY ANY MEDICAL FINDINGS WHICH WOULD BE MATERIALLY AND ESSENTIALLY RELEVANT TO THE CRIME CHARGED.

II

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING ANY CREDENCE WHATSOEVER TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The facts as found by the trial court are:

Myra Watimar, 20 years old when she took the witness stand, single, farm helper and a resident of Macapsing, Rizal, Nueva Ecija, testified that she is the complainant in the two (2) criminal cases; that she stated that ‘in the evening of March 26, 1990, she slept together with her brothers and sisters, namely: Bernardo, Marilou, Leonardo, Ariel and Lea, without her mother who went to the hospital as her aunt was about to give birth; that her father slept with them in the same room; that at about 2:00 in the early dawn of March 26, 1990, she felt that somebody was on top of her and [was] kissing her neck; that she recognized him to be her father Fernando Watimar, but when she recognized him, her father talked and a knife was pointed at her neck with an instruction that she should not resist, otherwise, she will be killed; that despite the threat of her father, she resisted and told her father not to molest her, because she is his daughter (the witness was crying); that despite the resistance and plea of the daughter, her father went on top of her, removed her panty and placed himself on top of the complaining witness; that he was able to do the bestial act despite the resistance made by kicking him; that after the father succeeded in sexually molesting her on March 26, 1990, she just kept crying in the corner of their house.

That on November 28, 1992, at 10:00 o’clock in the evening while the complaining witness was cooking alone, she was surprised when somebody was at her back who happened to be Fernando Watimar, her father, who suddenly kissed her and pulled her bringing her to the place where they used to sleep; that she resisted and wanted to extricate herself from her father by kicking him, but the accused is stronger than she is; she pleaded to her father not to molest her again but the father did not heed her plea and he again succeeded in having his sexual desire, on this point, the testimony of the victim is as follows:

Q- How can he succeed with his desire to sexually abuse you?

A- He forcibly opened my thigh[s] and I was appealing to him that I am his daughter, yet he did not heed my plea, sir.

Q- Did you offer any resistance when he was trying to separate your thigh[s]?

A- Yes, sir.

Q- How did you resist your father when he was trying to separate your thigh[s]?

Court Interpreter:

The witness is demonstrating that she is placing her two (2) legs together, yet, the father started to hurt her.

Pros. R. Beltran:

Q- How did he hurt you at that time?

A- He pushed my thigh[s], sir.

Q- Did he push your thigh[s] hardly (sic)?

A- Once, only, sir.

Q- After that what happened?

A- That was the time he succeeded with his lust, sir.[6]

On the other hand, the defense's version of what transpired can be gleaned from the testimony of accused-appellant as summarized thus in his brief, to wit:

Fernando Watimar testified that he is 50 years old, married, a thresher by profession, and a resident of Sitio Tingga, Macapsing, Rizal, Nueva Ecija xxx.

On direct examination, he testified that during the month of March 1990, he was working as a thresher operator. He testified that he arrived at 1:00 o'clock a.m. on March 27, 1990 and found his family sleeping. His wife woke up and gave him something to eat. Later that same day, his wife was no longer at home when he woke up but his daughter Myra Watimar, the herein complainant was still asleep. Nothing unusual happened from the time he arrived home until the time he woke up and readied himself to report for work. He reported for work to Valentin Santiago at the latter's residence in Vega, Bongabon, Nueva Ecija, which was about 1 kilometer away from his house. When he inquired from his children as to the whereabouts of his wife, he was told that the latter had brought the wife of his brother-in-law to the hospital to give birth. His wife did not leave any messages for him nor did she ask his permission before leaving the house. Upon his arrival at the house of Valentin Santiago, the latter instructed him to thresh the palay of a certain person whose name, due to lapse of time, he could no longer recall. That morning, he prepared breakfast for himself and did not order his daughter Myra to serve him because she was a lazy person and did not even wash clothes when told to do so.

In November 1992, particularly on the date when she allegedly raped his daughter again, he testified that he was working as a truck helper for Valentin Santiago in Angeles City. On that date, the truck was in Angeles City before proceeding to Ilocos. There were three of them on that truck, the accused-appellant, the truck driver and the merchant or biyahero. In Angeles City, they went to the Tibagan Market to load the truck with watermelons which would be brought to Manila. They arrived in Angeles City around 11:00 o'clock in the morning after departing from Bongabon, Nueva Ecija at around 7:00 o'clock in the evening on Nov. 28, 1992. He left Angeles City at around 7:00 o'clock in the evening and proceeded to Ilocos where they again loaded the truck with watermelons. According to him, he was unable to go home for a period of one month due to his work as truck helper.

He also testified that he could think of no reason why his daughter would charge him falsely but he knew that the false accusations had been instigated by his father-in-law who had told him that it was "better that the family name Watimar will sink rather than the family name Benolias". According to the accused-appellant, this was because the one who caused the pregnancy of his daughter was his brother-in-law Celestino Benolias, Jr., the youngest brother of his wife. He learned all this when he asked his daughter at one time why she no longer went to her grandmother's house and she had answered that she would not do so "as long as that man is there", supposedly referring to Celestino Benolias, Jr. He was never in good terms with his brother-in-law to the extent

that the latter had threatened him at gun point and even mentioned “salvaging” him and throwing him in the river. He also characterized his brother-in-law as a drug user who, when he was under the influence, had twice poked a gun at him. Accused-appellant could not remember when he brought his daughter to the hospital but remembered that he was one of those who had brought her to the hospital. He no longer stayed at the hospital because he still had work to do. He also said that he gave a total of P3,000.00 for his daughter’s hospitalization but that, as he had already been apprehended, he no longer knew what happened to the money. He only learned about his daughter’s giving birth the following afternoon. The knowledge of his daughter’s condition affected him so much that, had he known for certain who caused her pregnancy, he would have killed that person. He said he did not notice his daughter’s pregnancy. He asked his daughter who the father of her child was but the latter did not reply. When he asked his wife, the latter merely insisted that his surname should be given to the child, a fact he disagreed with. It was out of his hands, however, as his sister-in-law affixed the name Watimar on the birth certificate. He is convinced now that the father of the child is none other than his brother-in-law Celestino Benolias, Jr.

In reviewing rape cases, the Court is guided by the following principles: 1.] to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; 2.] considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and 3.] the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense.[7] Corollary to the foregoing legal yardsticks is the dictum that when a victim of rape says that she has been defiled, 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.[8]

The Court has said time and again that in reviewing rape cases, it will be guided by the settled realities that an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime. In view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must always be scrutinized with great caution.[9] Thus, in a prosecution for rape, the complainant’s credibility becomes the single most important issue.[10]

Guided by these principles, the Court has meticulously scrutinized the testimony of complaining witness Myra Watimar and ultimately reached the conclusion that the acts charged did in fact occur. Myra’s testimony on the acts of rape perpetrated against her by her father is clear and could have only been narrated by a victim subjected to those sexual assaults. Nowhere is accused-appellant’s bestiality graphically detailed than in the following narration of the victim:

Q. At about 2:00 in the early morning of that date, was there anything unusual that happened to you?

A. Yes, sir.

Q. What is that?

A. On that night, sir, I was sleeping and there was somebody on top of me and kissing my neck.

Q. Were you able to recognize that somebody who was kissing your neck?

A.

Yes, sir.

Q. Who was he?

A. Fernando Watimar, sir.

Q. How did you recognize him?

A. I recognized him, sir, because he talked and a knife was pointed at my neck, and he instructed me not to

resist because, otherwise he will kill me, sir.

Q. What did you do when he pointed that knife on your neck and threatened you?

A. I resisted him, sir, and told him not to do it to me because I am his daughter.

PROSECUTOR R. BELTRAN:

At this point, Your Honor, may I place on record that the witness is crying.

COURT:

Place that on record.

PROSECUTOR R. BELTRAN:

Q. What happened to your plea to your father not to molest you because you are his daughter?

A. He continued his lust to me, sir.

Q. After that what happened?

A. I was appealing to him, sir, but because of his superior strength he continued with his lust. I pleaded to him but he continued by removing my panty, sir.

Q. Did he succeed in removing your panty?

A. Yes, sir.

Q. What happened when your panty was removed?

A. He placed his body on top of me, sir.

Q. After placing his body on top of you, what happened next?

A. I continued pleading to him, sir, but he successfully inserted his penis.

Q. How did he succeed in inserting his penis inside your private organ?

A. He forcibly opened my thigh, sir.

Q. When he forcibly opened your thigh, did you not make any resistance or whatsoever?

A. I resisted, sir, I pulled him, sir, I was kicking but because he is stronger than me he succeeded.

COURT

Proceed.

PROSECUTOR R. BELTRAN

Q. How many times did you kick him?

A. Many times, sir, I cannot remember anymore how many.

Q. Nobody was awakened in your house at that time?

A. Nobody, sir, because they were sleeping then.

x x x x x x x x

Q. Was that the only occasion when you were sexually abused by your own father?

A. It was repeated for several times, sir.

Q. Can you remember the dates when you were sexually abused by your father?

A. What I remember, sir, is November 28, 1992 when I gave birth, sir.

Q. Where were you on November 28, 1992 at around 10:00 o'clock in the evening?

A. I was at home, sir.

Q. What were you doing on that date and time?

A. I was then cooking, sir.

x x x x x x x x

Q. While you were cooking at around 10:00 o'clock in the evening on November 28, 1992, was there anything unusual that transpired?

A. Yes, sir.

Q. What was that unusual thing that happened to you?

A. I was surprised, sir, when somebody was at my back.

Q. Who was that somebody that was at your back?

A. Fernando Watimar, sir.

Q. You are referring to the accused in this case?

A. Yes, sir.

Q. What happened when all of a sudden the accused Fernando Watimar appeared at your back?

A. He suddenly kissed me, sir, and he pulled me.

Q. Where did he pull you?

A. He pulled me and brought me to the place where we used to sleep, sir.

Q. Did you offer any resistance when your father pulled you at that place where you used to sleep?

A. Yes, sir.

Q. How did you resist him?

A. I resisted, sir, I wanted to extricate myself, sir.

Q. How did you try to extricate yourself from the hold of your father?

A. I was kicking him, sir, but he is stronger than me, sir.

Q. So, what happened after that?

A. He was able to let me down to the place where we used to sleep, sir.

Q. After that what happened?

A. I was then pleading to him not to do it again to me, sir.

Q. Did he heed to your plea?

A. No, sir.

Q. So what happened after that?

A. He again succeeded with his desire, sir.

Q. How can he succeed with his desire to sexually abuse you?

A. He forcibly opened my thigh and I was appealing to him that I am his daughter, yet, he did not heed my plea, sir.

Q. Did you offer any resistance when he was trying to separate your thigh?

A. Yes, sir.

Q. How did you resist your father when he was trying to separate your thigh?

A. I was struggling, sir.

Q. How would you describe your struggling (pagkukumusot) with your father while he was opening your thigh?

COURT INTERPRETER

The witness is demonstrating that she is placing her two (2) legs together, yet the father started to hurt her.

PROS. BELTRAN

Q. How did he hurt you at that time?

A. He pushed my thigh, sir.

Q. Did he push your thigh hardly?

A. Yes, Sir.

Q. How many times did he push your thigh?

A. Once only, sir.

Q. After that what happened?

A. That was the time he succeeded with his lust, sir.

Accused-appellant insists that the foregoing narration of the victim “deserves scant consideration as it is tainted with factual infirmities and contrary to human experience and conduct.”[11] To buttress his claim of innocence, accused-appellant first adverts to the supposed impossibility of consummating the crime in a room measuring “a mere two meters in area” where the victim was sleeping beside her five other brothers and sisters. According to him: “It boggles the mind and confounds reason to accept the proposition that the accused-appellant was able to consummate the act despite the fact that she attempted to resist and in fact caused some commotion in her determined efforts to extricate herself from her father and none of her brothers and sisters were alerted to the event then transpiring.”[12]

The argument is tenuous.

The possibility of rape is not negated by the presence of even the whole family of the accused inside the same room with the likelihood of being discovered. Indeed, the Court pointed out only recently in *People v. Artech Antonio y Payagan*[13] that “for rape to be committed, it is not necessary for the place to be ideal, or the weather to be fine, for rapists bear no respect for locale and time when they carry out their evil deed.[14] Rape may be committed even when the rapist and the victim are not alone, or while the rapist’s spouse was asleep, or in a small room where other family members also slept, as in the instant case. The presence of people nearby does not deter rapists from committing their odious act.”[15] Verily –

...The court has time and again held that ‘the evil in man has no conscience. The beast in him bears no respect for time and place, driving him to commit rape anywhere – even in places where people congregate such as parks, along the road side, within school premises, and inside a house where there are other occupants.’[16] ‘Rape does not necessarily have to be committed in an isolated place and can in fact be committed in places which to many would appear to be unlikely and high-risk venues for sexual advances.’[17] Indeed, no one would think that rape would happen in a public place like the comfort room of a movie house and in broad daylight.[18]

Suffice it to state in this regard that the argument that rape cannot be committed in a house where other members of the family reside or may be found is a contention that has long been rejected by the Court, rape being no respecter of time and place.[19]

Accused-appellant further contends that the victim did not do everything in her power to prevent the assault on her virtue. He argues that the complaining witness admitted that although accused-appellant initially threatened

her at knife point, both his hands were free when he finally committed the act. Accused-appellant states that it is inexplicable why she did not seize this opportunity to make good her efforts.[20]

The contention fails to persuade.

The law does not impose upon a rape victim the burden of proving resistance,[21] especially where there is intimidation.[22] In fact, physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for her life or personal safety.[23] Indeed, it has been said that in rape cases, it is not necessary that the victim should have resisted unto death[24] or sustained injuries in the hands of the rapist.[25] It suffices that intercourse takes place against her will or that she yields because of a genuine apprehension of great harm.[26] In incestuous rape, actual force and intimidation is not even necessary.[27] The reason for this is that in a rape committed by a father against his own daughter, the moral ascendancy of the former over the latter substitutes for violence and intimidation.[28]

Accused-appellant next claims that the complete absence of any medical finding or examination which would directly contribute to establish that rape was indeed committed is a point too glaring to be ignored in the light of the fact that the complainant allowed more than two (2) years to pass before filing the case.[29]

The argument is likewise unpersuasive.

A medical examination is not indispensable to the prosecution of rape as long as the evidence on hand convinces the court that conviction for rape is proper.[30] As recently pointed out by the Court in *People v. Wilson Dreu @ "Adang Dreu"*[31] -

...Although the results of a medical examination may be considered strong evidence to prove that the victim was raped, such evidence is not indispensable in establishing accused-appellant's guilt or innocence. In *People v. Docena* we stated:[32]

That there was no medical examination report presented, sign of resistance during the actual copulation, or proof of violence committed against MARGIE does not detract from our conclusion that she was raped. A medical examination is not indispensable in a prosecution for rape. Medical findings or proof of injuries, virginity, or an allegation of the exact time and date of the commission of the crime are not essential in a prosecution for rape...

... [The defense's contention is not bolstered by the victim's] failure to put up a strong resistance or shout for help, nor by the fact that there was no sign of force or intimidation, which should be viewed in the context of the victim's perception and judgment at the time of the commission of the offense. It is subjective, thus, lack of physical resistance cannot be considered consent.

Accused-appellant further points out that his characterization as being a good father and husband by his wife, Isabelita Watimar, echoed by his employer, Valentin Santiago as well as his father-in-law, Celestino Benolias, Sr., juxtaposed with complainant's characterization of him as being temperamental and unduly harsh, would at the very least generate reasonable doubt as to his being the perpetrator of the acts charged against him.[33]

This claim deserves short shrift.

Suffice it to state that no young and decent woman would publicly admit that she was ravished and her virtue defiled unless such was true for it would be instinctive for her to protect her honor.[34] A daughter would not concoct a story of defloration against her father, accuse him of so grave a crime as rape, allow an examination of her private parts, submit herself to public humiliation and scrutiny via an open trial, if she were not truly aggrieved or her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.[35] In short, a teenage unmarried lass would not file a rape case against anybody, much less her own

father, if it were not true.[36]

Accused-appellant, lastly, faults the complainant for tarrying for three (3) long years before telling her mother about his nefarious conduct despite ‘countless’ opportunities to seek the aid of her mother and other relatives particularly her grandfather who lived a mere ten (10) meters from her house. He insists that even assuming arguendo that the initial shock was so great as to deprive her of the facility to report these misdeeds to anyone, it is stretching the realm of logic and reason to accept her belated claims at face-value three (3) years after the operative fact giving rise to her trauma.[37]

The contention deserves scant consideration.

As aptly stated in *People v. Arthur De Leon y Lagmay @ “Joel”*:[38] “This Court has consistently held that delay in reporting rape incidents in the face of physical violence cannot be taken against the victim. A rape victim’s action is oftentimes overwhelmed by fear rather than reason. It is fear, springing from the initial rape, that the perpetrator hopes to build up a climate of extreme psychological terror, which would, he hopes, numb his victim to silence and submissiveness.”[39] While indeed the complainant may have tarried in reporting her defilement, the three-year hiatus in reporting the crimes adverted to by accused-appellant will not extricate him from his predicament. This is especially so considering the Court’s recent pronouncement in *People v. Conrado Cabana @ Randy*,[40] which states that –

... The delay and initial reluctance of a rape victim to make public the assault on her virtue is neither unknown or uncommon.[41] As held in the case of *People vs. Malagar*:[42]

Vacillation in the filing of [a] complaint by [a] rape victim is not an uncommon phenomenon. This crime is normally accompanied by the rapist’s threat on the victim’s life, and the fear can last for quite a while. There is also the natural reluctance of a woman to admit her sullied chastity, accepting thereby all the stigma it leaves, and then to expose herself to morbid curiosity of the public whom she may likely perceive rightly or wrongly, to be more interested in the prurient details of the ravishment than in her vindication and the punishment of the rapist. In *People vs. Coloma*[43] we have even considered an 8-year delay in reporting the long history of rape by the victim’s father as understandable and so not enough to render incredible the complaint of a 13-year old daughter.

Zorayda was only sixteen years old when she was subjected to the lustful desires of the accused; thus, she was understandably cowed into silence as the accused-appellant warned her not to tell her mother about the incident. No woman especially one of tender age, practically only a girl, would concoct a story of defloration, allow an examination of her private parts and thereafter expose herself to a public trial if she were not motivated solely by the desire to have the culprit apprehended and punished[44] to avenge her honor[45] and to condemn a grave injustice to her.[46]

Accused-appellant merely raised denial and alibi as his defense. The Court has consistently held in previous cases too numerous to cite that for alibi to prosper, it must be proven that during the commission of the crime, the accused was in another place and that it was physically impossible for him to be at the locus criminis. Alibi and denial are inherently weak defenses and unless supported by clear and convincing evidence, the same cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified accused-appellant as the defiler of her chastity. Succinctly stated, the positive assertions of accused-appellant’s daughter that he raped her is entitled to greater weight.[47] While denial and alibi are legitimate defenses in rape cases, bare assertions to this effect cannot overcome the categorical testimony of the victim.[48]

All told, we find no reason to reverse the ruling of the trial court. The acts of rape are rendered all the more

heinous and reprehensible in this case inasmuch as the perpetrator is the father of the victim. *People v. Lao*[49] scathingly condemned this kind of criminal thus:

Such a “father” deserves no place in society, and more especially in a country like the Philippines whose fundamental law considers the family as a basic autonomous social institution and the foundation of the nation, recognizes the sanctity of family life and mandates the State to defend the right of children to special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.

The two acts complained of in this case were committed in 1990 and 1992, respectively, at which time Article 335 of the Revised Penal Code, as amended, provided:

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

1. By using force and intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by reclusion perpetua.

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

x x x x x x x x

Considering that a deadly weapon was employed in the commission of the offenses charged in this case, the imposable penalty ranges from reclusion perpetua to death. The use of the bladed weapon already qualified the acts of rape.[50]

A circumspect scrutiny of the record shows that none of the aggravating circumstances enumerated in Article 14 of the Revised Penal Code was alleged and proven by the prosecution. Where there is no aggravating circumstance proved in the commission of the offense, the lesser penalty shall be applied.[51] While the employment of the knife was sufficiently established by the prosecution, such clear showing can not justify the imposition of the death penalty in the absence of an aggravating circumstance. Furthermore, at the time of commission of the crimes in this case, the imposition of the death penalty was suspended.[52] Hence, the trial court correctly sentenced accused-appellant to suffer the penalty of reclusion perpetua.[53]

The Court notes that the court a quo, while awarding P50,000.00 as moral damages in each count of rape, did not award any indemnity ex delicto which current jurisprudence has fixed at P50,000.00.[54] It needs be stressed in this regard that civil indemnity is separate and distinct from the award of moral damages which is automatically granted in rape cases.[55] Pursuant to controlling case law, the award of P50,000.00 ex delicto is mandatory upon the finding of the fact of rape.[56] Moral damages are additionally awarded without need of pleading or proof of the basis thereof.[57] This is because it is recognized that the victim’s injury is concomitant with and necessarily resulting from the odiousness of the crime to warrant per se the award of moral damages.[58]

The anguish and the pain a victim had to endure are evident.[59] The Court need not belabor the fact that the offended party in a rape case is victim many times over. In our culture which puts a premium on the virtue of purity or virginity, rape stigmatizes the victim more than the perpetrator.[60]

Considering that the offender is the father of the victim, we agree with the trial court that accused-appellant

should likewise pay the victim exemplary damages.[61] Accused-appellant should, therefore, be liable for exemplary damages of P25,000.00 for each count of rape.[62]

WHEREFORE, in view of all the foregoing, the Decision appealed from, finding accused-appellant guilty beyond reasonable doubt of two counts of rape and sentencing him to reclusion perpetua for each crime, is **AFFIRMED** with the **MODIFICATIONS** that the accused-appellant is ordered to pay the victim Myra Watimar for each count of rape the amounts of P50,000.00 by way of civil indemnity ex delicto, P50,000.00 as moral damages and P25,000.00 by way of exemplary damages.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1]1 People v. Amado Sandrias Javier, G.R. No. 126096, 26 July 1999, 311 SCRA 122.1

[2]2 Rollo, p. 10.2

[3]3 Ibid., p. 12.3

[4]4 Record, pp. 11, 29.4

[5]5 Ibid., p. 82; penned by Judge Johnson L. Ballutay.5

[6]6 TSN, 30 June 1994, pp. 10, 11.6

[7]7 People v. Felipe Hofileña y Taala, G.R. No. 134772, 22 June 2000, p. 8, citing People v. Sta. Ana, 291 SCRA 188 [1998]; People v. Ramirez, 266 SCRA 335 [1997]; People v. Teves, 246 SCRA 236 [1995]; People v. Guamos, 241 SCRA 528[1995]; People v. Casinillo, 213 SCRA 777 [1992].7

[8]8 People v. Penaso, G.R. No. 121980, 23 February 2000, pp. 5-6; People v. Garces, Jr., G.R. No. 132368, 20 January 2000, pp. 9-10; People v. Borja, 267 SCRA 370, 379 [1997]; People v. Ramirez, 266 SCRA 335, 348 [1997].8

[9]9 People v. Jimmy Mijano y Tamora, G.R. No. 129112, 23 July 1999, 311 SCRA 81.9

[10]10 People v. Emil Babera y Rabanera, G.R. No. 130609, 30 May 2000, p. 8, citing People v. Dacoba, 289 SCRA 265 [1998] and People v. Gagto, 253 SCRA 455 [1996].10

[11]11 Appellant's Brief, p. 31.11

[12]12 Ibid., pp. 32-33.12

[13]13 G.R. No. 122473, 8 June 2000, p. 8.13

[14]14 People v. Ildefonso Bayona, G.R. Nos. 133343-44, 2 March 2000.14

[15]15 People v. Joselito Baltazar, G.R. No. 115990, 31 March 2000; italics supplied.15

[16]16 People v. Agbayani, 284 SCRA 315 [1998].16

[17]17 People v. Wilson Mitra, G.R. No. 130669, 27 March 2000; People v. David Silvano y Hayag, *supra*.17

[18]18 People v. Vicente Balora y Delantar, G.R. No. 124976, 31 May 2000, p. 8.18

[19]19 People v. Reynaldo Ponado, G.R. No. 130334, 28 July 1999, 311 SCRA 529, citing People v. Alimon, 257

SCRA 658 [1996]; *People v. Dones*, 254 SCRA 696 [1996].¹⁹

[20]20 Appellant's Brief, p. 33.²⁰

[21]21 *People v. Cresente Napiot*, G.R. No. 119956, 5 August 1999, 311 SCRA 772, citing *People v. David Silvano y Hayag*, *supra*.²¹

[22]22 *People v. Dominador Historillo*, G.R. No. 130408, 16 June 2000, citing *People v. Penero*, 276 SCRA 564 [1996].²²

[23]23 *People v. Rabosa*, 273 SCRA 142 [1997].²³

[24]24 *People v. Monfero*, G.R. No. 126367, 17 June 1999, 308 SCRA 396.²⁴

[25]25 *People v. Napiot*, *supra*.²⁵

[26]26 *Ibid*.²⁶

[27]27 *People v. Marcelo "Marlon" Nava, Jr.*, G.R. Nos. 130509-12, 19 June 2000, p. 14, citing *People v. Tabugoca*, 285 SCRA 312 [1998].²⁷

[28]28 *People v. Taneo*, 284 SCRA 251 [1998]; *People v. Agbayani*, 284 315 [1998]; *People v. Bartolome*, 296 SCRA 615 [1998].²⁸

[29]29 Appellant's Brief, pp. 33-34.²⁹

[30]30 *People v. Rizalino P. Rebose*, G.R. No. 131104, 17 June 1999, 308 SCRA 499, citing *People v. Devilleres*, 269 SCRA 716 [1997].³⁰

[31]31 G.R. No. 126282, 20 June 2000, pp. 7-8.³¹

[32]32 G.R. Nos. 131894-98, 20 January 2000.³²

[33]33 Appellant's Brief, p. 34.³³

[34]34 *People v. Alexander Tano y Caballero*, G.R. No. 133872, 5 May 2000, p. 12, citing *People v. Auxtero*, 289 SCRA 75 [1998].³⁴

[35]35 *People v. Alexander Tano y Caballero*, *supra*, citing *People v. Escobar*, 281 SCRA 498 [1997]; *People v. Antipona*, 274 SCRA 328 [1997]; *People v. Ramirez*, 266 SCRA 335 [1997]; *People v. Marcelo "Marlon" Nava, Jr.*, *supra*, citing *People v. Escala*, 292 SCRA 48 [1998].³⁵

[36]36 *People v. Alfonso Pineda y Esmino*, G.R. Nos. 118312-13, 28 July 1999, 311 SCRA 368, citing *People v. Calayca*, 301 SCRA 192[1999].³⁶

[37]37 Appellant's Brief, p. 35.³⁷

[38]38 G.R. Nos. 124338-41, 12 May 2000, p. 13.³⁸

[39]39 Citing *People v. Caballero*, G.R. No. 129693, 24 January 2000, citing *People v. Melivo*, 253 SCRA 347 [1996].³⁹

[40]40 G.R. No. 127124, 9 May 2000, pp. 14-15.⁴⁰

[41]41 *People v. Montefalcon*, 243 SCRA 617 [1995].⁴¹

[42]42 238 SCRA 512 [1994].42**[43]43 222 SCRA 255 [1993].43**

[44]44 People v. Echegaray, 257 SCRA 561 [1995]; People v. Guibao, 217 SCRA 64 [1993].44

[45]45 People v. Delovino, 247 SCRA 637[1995].45

[46]46 People v. Base, 196 SCRA 688 [1991]; emphasis and italics supplied.46

[47]47 People v. Romeo Arillas y Montoya, G.R. No. 130593, 19 June 2000, p. 7.47

[48]48 People v. Elraine Martinez, G.R. No. 130606, 15 February 2000, citing People v. Masalihit, 300 SCRA 147 [1998] and People v. Taneo, supra.48

[49]49 249 SCRA 137 [1995], citing Article II, Section 12; Article XV, Section 1 and 3, Constitution.49

[50]50 People v. de Leon, G.R. No. 128436, 10 December 1999, p. 11.50

[51]51 People v. Jimmy Sabredo y Garbo, G.R. No. 126114, 11 May 2000, p. 7.51

[52]52 People v. Romulo Carullo, 289 SCRA 481, 499 (1998).52

[53]53 People v. Modesto Mamac y Caminero, G.R. No. 130332, 31 May 2000, p. 9, citing People v. Padilla, 301 SCRA 265 [1999].53

[54]54 People v. Henry De Guzman y Pascual, 124368, 8 June 2000; People v. Salazar, 258 SCRA 55 [1996]; People v. Caballero, 258 SCRA 541 [1996]; People v. Abordo, 258 SCRA 571 [1996]; People v. Emil Babera y Rabanera, supra.54

[55]55 People v. Edwin R. Decena, G.R. No. 131843, 31 May 2000, p. 7.55

[56]56 People v. Maglente, 306 SCRA 546 [1999]; People v. Penaso, supra.56

[57]57 People v. Prades, 293 SCRA 411 1998]; People v. Ludigario Candelario and Gerry Legarda, G.R. No. 125550, 28 July 1999, 311 SCRA 475.57

[58]58 People v. Rolando Tabanggay, G.R. 130504, 29 June 2000, p. 30.58

[59]59; People v. Loriega, G.R. No. 116009-10, 29 February 2000, p. 13; People v. Garces, Jr., G.R. No. 132368, 20 January 2000, p. 22; People v. Penaso, supra.59

[60]60 People v. Felipe Hofileña y Taala, supra, citing People v. Villamor, 297 SCRA 262 [1998] .60

[61]61 People v. Romeo Arillas y Montoya, G.R. No. 130593, 19 June 2000, p. 11.61

[62]62 Ibid.62

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.