

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SILVERIO MONTEMAYOR ALIAS ‘BERIONG’, ACCUSED-APPELLANT.

G.R. Nos. 124474 & 139972-78. January 28, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before us is an appeal from the joint decision dated January 17, 1996 of the Regional Trial Court of Lingayen, Pangasinan (Branch 38), finding accused Silverio Montemayor alias “Beriong” guilty beyond reasonable doubt of five (5)[1] counts of rape of Aileen S. Alba with the use of a deadly weapon and imposing upon him the penalty of “reclusion perpetua to death” for each count.

Accused was charged in eight (8) Informations[2] with eight (8) counts of rape alleged to have been committed on four (4) separate dates: four counts of rape on January 16, 1995, one count of rape on January 23, 1995, two counts of rape on February 4, 1995, and one count of rape on February 19, 1995.[3] Except as to the material dates of the commission of the crimes charged, the Informations are similarly worded as follows:

“That on or about the 16[th] day of January 1995, in the evening in barangay Manat, municipality of Binmaley, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a fan knife and a handgun, taking advantage of nighttime and his superior strength, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Aileen S. Alba against her will, to her damage and prejudice.

“CONTRARY to Article 335 of the Revised Penal Code.”

Upon being arraigned on May 9, 1995, accused, assisted by counsel, pleaded “not guilty” to each count of rape.[4] Thereafter, joint trial on the merits ensued.

The prosecution evidence established the following facts:

On January 16, 1995, twelve-year old Aileen S. Alba was a grade V pupil of the Manat Elementary School then staying with her grandparents, Gualberto and Felisa Soriano, in Manat, Binmaley, Pangasinan while her parents, Valentino and Dolores Alba, reside at Sapang Palay, Bulacan where her father sells ready-made clothings.[5]

At about 6:30 in the evening of said date, Aileen decided to go to the house of her playmate Agnes de Vera. She passed by the barangay hall, which was about twelve arms-length from her grandparents’ house. Accused Montemayor, who was inside the barangay hall, called Aileen to tell her something. Since Aileen knew accused, also known as “Beriong”, she went near him. Accused, who had a gun tucked in his waist and was holding a balisong, held Aileen’s hand and dragged her inside the barangay hall. Aileen did not resist and shout as she was afraid that accused might stab her. Once inside the barangay hall, accused covered Aileen’s mouth with a handkerchief and tied her hands and feet with a rope. Accused told her to lie down on a wooden bed inside the hall, after which accused lowered her short pants and underwear and proceeded to remove his own pants. Then, accused went on top of Aileen, inserted his penis in her vagina and made a push and pull movement. Aileen was

unable to shout despite the intense pain she felt in her vagina since her mouth was covered. After satisfying his lust, accused removed himself from Aileen, and ate a piece of bread. Having eaten, accused again ravaged Aileen the second time, then ate bread and drank water.[6] Accused raped Aileen two (2) more times that harrowing night. All the while, accused's gun was placed above her head while the balisong was beside her.

After the fourth rape, accused warned Aileen not to report the incident to anybody or else he will kill her. Then, Aileen's hands and feet were untied and the handkerchief removed from her mouth. Aileen went home and did not report what happened to anyone since she was afraid of the accused. All Aileen did was go to her room and cry. She had a fever for five (5) days.[7]

Unknown to Aileen and the accused, Jennifer Soriano, Aileen's eleven-year old cousin, saw the accused on top of Aileen. Jennifer was asked by their grandparents to look for Aileen. After looking for Aileen at the house of the latter's friend, Jennifer passed by the barangay hall when she heard the creaking sound of a bed. Out of curiosity, Jennifer climbed a chico tree near the barangay hall and she saw the accused on top of Aileen.[8] When Jennifer told Aileen that she saw what accused did to Aileen, Aileen told her not to tell anyone because accused had warned Aileen not to report the rape, otherwise, she will be killed.[9] Also unknown to Aileen, the four rapes did not end her ordeal.

On January 23, 1995, at 6:30 in the evening, as Aileen passed by the barangay hall, accused once again called her. When Aileen was near him, accused grabbed her hand and pulled her inside the barangay hall. Once inside, the previous harrowing scenario repeated itself. Accused, once again with a gun on his waist and holding a balisong, covered Aileen's mouth with a handkerchief, tied her hands and feet with a rope, ordered her to lie down on the wooden bed, lowered her short pants and panty, removed his short pants, went on top of her and inserted his penis in her vagina. Aileen felt pain but was unable to shout. His lust sated, accused repeated his warning to Aileen not to report the incident or he will kill her.[10]

The foregoing incidents again happened for three more times, twice on February 4, 1995 and finally on February 19, 1995, at 6:30 in the evening when Aileen passed by the barangay hall on her way to see Francine de Vera and Laya Rosario on said dates, respectively. On February 19, 1995, when accused called, Aileen did not go near accused and instead turned around to go back home. But accused followed Aileen, poked his balisong at Aileen's back and dragged Aileen to the barangay hall where Aileen was once again ravaged by the accused. Aileen was again crippled with fear, unable to shout for fear that the accused would stab her. Aileen again did not tell anyone of this harrowing incident since accused warned her again of what would befall her if she told anyone.[11]

Aileen's lips were sealed but not those of her cousin Jennifer's. When Aileen and Jennifer quarreled on February 20, 1995 due to the former's incessant teasing of the latter, Jennifer revealed to Nova Soriano, the aunt of both Aileen and Jennifer, what accused did to Aileen on January 16, 1995. Aileen was confronted about the rape and she admitted it.[12]

On February 20, 1995, Aileen was brought to the Pangasinan Provincial Hospital where she was medically examined by Dr. Mary Gwendolyn Luna.[13] The latter's medical examination revealed that: (a) Aileen's hymen bore old deep lacerations at 5 and 7 o'clock, and superficial lacerations at 3, 6, 9 and 11 o'clock;[14] (b) the deep lacerations are one cm. deep from the base of the hymen while superficial lacerations are ½ cm. from the base of the hymen;[15] (c) the lacerations are one week or more old and it is possible that they were inflicted sometime on January 15, 1995;[16] (d) the lacerations were caused by the insertion of an erect male organ causing the rupture of the hymen;[17] (e) the vagina admits two fingers with slight difficulty showing that something had entered it like an erect penis;[18] and, (f) the six (6) lacerations show that Aileen was sexually abused.[19]

On February 22, 1995, Aileen executed a sworn statement,[20] along with her father Valentino Alba.[21] On

March 15, 1995, four (4) Informations charging accused for the rapes allegedly committed on January 16, 1995, January 23, 1995, February 4, 1995, and February 19, 1995. Four additional Informations were filed on June 15, 1995 after the provincial prosecutor took a second look at the sworn complaint and found that he failed to consider that the three (3) other counts of rape alleged to have been committed on January 16, 1995 and one (1) other count of rape alleged to have been committed on February 4, 1995 were separate and distinct counts of rape.[22]

On February 23, 1995, accused was arrested.[23] However, he escaped detention on March 8, 1995[24] but was subsequently re-arrested on March 10, 1995.[25]

Accused had a different story to tell. He denied the allegations against him and offered alibi as his defense. Accused testified that in the evening of January 15, 1995, he was not in Manat, Binmaley, Pangasinan because Felisa Soriano (grandmother of Aileen) sent him to Baguio City to buy Campri leaves as medicine for Gualberto Soriano; that he came back to Manat the next day, January 16, 1995, at nine-thirty in the evening; that on January 23, 1995, he spent the whole evening at the house of his sister, Marissa Zembrana, so he was not at the barangay hall at the time Aileen Alba was allegedly raped; that on both dates of February 4 and 19 he was at the house of his sister, Marissa Zembrana, where he prepared and assisted in the offering for the unseen spirits which his sick mother might have offended; and that the offering on both occasions ended at past midnight. Accused denied having a gun or balisong and claims that he could not afford to buy a gun. To corroborate his testimony, Felisa Sanchez and his mother, Pacita Montemayor, testified in court.

The prosecution presented Felisa Soriano, as rebuttal witness. She testified that she never sent accused to Baguio City to buy Campri leaves on January 15, 1995 because she has children whom she could send to Baguio City to buy the medicine.

On January 17, 1996, the trial court rendered a joint Decision[26] finding accused guilty of the four (4) counts of rape committed on January 16, 1995 and the one (1) count of rape committed on January 23, 1995, but acquitted him for the rapes committed on February 4 and 19, 1995, thus:

“Wherefore, in light of all the foregoing considerations discussed above, judgment is hereby rendered in the above-entitled cases as follows:

“In Criminal Cases Nos. L-5256, 5992[27], 5994[28], 5295 and 5257, this court finds and holds the accused, Silverio Montemayor alias Beriong, guilty beyond reasonable doubt of the crime of Rape on five (5) counts as charged in the informations filed against him, defined and penalized under the provisions of Article 335 of the Revised Penal Code as amended by R.A. 7659, and conformable thereto, pursuant to law, hereby sentences said accused in each case, to suffer the penalty of Reclusion Perpetua to Death and to pay the costs of the proceedings.

“The court further directs the accused to indemnify the offended party, Aileen Alba the sum of P50,000.00 in each case or a total sum of P250,000.00 as moral damages without subsidiary imprisonment in case of insolvency.

“In Criminal Cases Nos. L-5258, 5293 and 5259, the court finds that the guilt of the accused Silverio Montemayor alias Beriong not having been established beyond preadventure of doubt by the evidence adduced by the prosecution said accused is therefore declared not guilty of the offenses charged against him in the aforesaid cases, therefore, he should be acquitted with costs de officio.

“SO ORDERED.”[29] (Emphasis supplied)

Assailing his conviction, accused filed the appeal before us anchored on three (3) assigned errors, to wit:

“I.

“THE TRIAL COURT ERRED IN GIVING PROBATIVE VALUE TO THE INCREDIBLE, IMPLAUSIBLE AND HIGHLY INCONGRUOUS TESTIMONY OF PRIVATE COMPLAINANT ANENT THE IMPUGNED INCIDENTS IN CRIMINAL CASE NOS. L-5256, 5992, 5994 AND 5295.

“II

“THE TRIAL COURT ERRED IN NOT GIVING DUE WEIGHT AND CREDENCE TO THE EVIDENCE ADDUCED BY ACCUSED-APPELLANT WHICH WAS AMPLY CORROBORATED ON MATERIAL POINTS.

“III

“THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIMES CHARGED IN CRIMINAL CASE NOS. L-5256, 5992, 5994 AND 5295 DESPITE THE FACT THAT HIS GUILT WAS NOT ESTABLISHED BEYOND REASONABLE DOUBT.”[30]

Appellant challenges the credibility of the complainant, Aileen S. Alba, by capitalizing on his physical handicap of being a one-armed man, his right arm having been amputated. He submits that with this physical disadvantage, the complainant’s assertions that she was raped eight (8) times on four (4) occasions; that her mouth was covered with a handkerchief and her hands and feet were tied; that after each incident, the handkerchief was removed from her mouth and her hands and feet untied; that this same procedure was followed in all incidents, are incredible, and the consummation of the crimes ascribed to him, highly impossible.

We find appellant’s reliance upon his disability as a futile attempt to disprove the charge against him and escape liability. While it is true that he is one-armed, such fact alone does not sufficiently prove that he could not have committed the crime. His physical defect does not make it entirely implausible for him to have committed the crime of rape, in the face of 12-year old Aileen’s positive identification and unwavering testimony that appellant raped her. What is essential is that the essence of the crime – sexual penetration of the female genitalia by the male organ - is established beyond reasonable doubt.

After a thorough review of the declaration on the witness stand of complainant Aileen, we find her testimony very typical of an innocent child whose virtue has been violated.[31] Aileen testified that appellant used his left hand and his teeth to tie both ends of the handkerchief.[32] Thus, it was not impossible for appellant to cover Aileen’s mouth with a handkerchief. As to the fact that her feet were tied when she was raped, Aileen testified that her feet were tied near the ankle.[33] Aileen remained constant and steadfast despite intense grilling by defense counsel on cross-examination. Enlightening are the following excerpts from her candid and unequivocal testimony which we quote verbatim:

“Q

Now, what did the accused do next to you?

“A

He removed my shortpant, sir.

“Q

Removed or just lowered your shortpant?

“A

He lowered, sir.

“Q

Then he went on top of you?

“A

But first, he removed his pants, sir.

“Q

Then he went on top of you?

“A

Yes, sir.

“Q

Then, you claim that he inserted his penis to your vagina?

“A

Yes, sir.

“Q

Now, in spite of the fact that the accused did not remove your panty first before he inserted his penis to your vagina?

“A

He lowered my panty, sir.

“Q

I thought what was lowered only is shortpant?

“A

He lowered my shortpant and my underwear, sir.

“Q

And in spite of the fact that your thighs are near each other you claim still that the accused was able to insert his penis to your vagina?

“A

My thighs were not too close, sir.

“Q

What do you mean that your thighs were not too close when you said before hand during all the time that you were raped by the accused on January 16, 23, February 16 and your thighs were near to each other?

“A

What I mean my legs were quite open, sir?

“Q

With your knees pointed upward?

“xxx xxx xxx.

“WITNESS:

“A

My legs are about three (3) inches apart, sir.

“COURT:

“Q

Are you very sure that is your position when the accused laid you down and rape you on top of the bed?

“FISCAL:

“With due respect, she was ordered to lie down, Your Honor.

“A

Yes, sir.

“COURT:

“Q

In spite of the fact that you claim that your feet were tightly tight that was your position?

“WITNESS:

“A

My feet were tightly tight but the accused spread my legs a little far apart, sir.

“xxx xxx xxx

“ATTY. CASTRO:

“Q

Now, when did the accused open your legs a little apart was it before he went on top of you or he was already on top of you?

“WITNESS:

“A

Before he went on top of me, sir.

“xxx xxx xxx

“COURT:

“Q

Did you feel pain when the accused sexually abused you?

“WITNESS:

“A

Yes, sir.

“Q

What part of your body?

“A

My whole body, sir.

“xxx xxx xxx

“ATTY. CASTRO:

“Q

In spite of the pain you felt on your body, you did not cry?

“WITNESS:

“A

I cried, sir.

“Q

You cried loud?

“A

No, sir.

“Q

How loud was your cry?

“A

My tears were just flowing, sir.

“xxx xxx xxx

“ATTY. CASTRO:

“Q

You said the accused was able to insert his penis to your vagina, for how long did the accused take before he could finally insert his penis to your vagina on January 23, 1995?

“WITNESS:

“A

Quite sometime, sir.

“Q

How long is that quite sometime?

“A

Quite long time, sir.

“Q

While he was trying his penis to insert into your vagina was he embracing you titely?

“A

Yes, sir.

“Q

He kiss you also?

“A

No, sir.

“xxx xxx xxx

“ATTY. CASTRO:

“Q

For how long did the accused make sexual intercourse against you on January 23, 1995?

“WITNESS:

“A

Long time, sir.

“Q

How long is that long time?

“A

I cannot remember how many minutes at that time, sir.

“xxx xxx xxx

“Q

Considering that you are now Grade VI, how long is that one (1) minute, more or less?”

“A

The accused take a long time in sexually but I cannot tell how many minutes, sir.

“xxx xxx xxx

“COURT

“Q

Were you also enjoying the act being done to you by the accused?

“A

No, sir.

“ATTY. CASTRO:

“Q

And what did you feel?

“WITNESS:

“A

I felt pain, sir.

“Q

When you were feeling that pain, did you try to move your buttocks counter likewise in order to remove the penis of the accused or just remain stand still?

“A

When I tried to move I cannot because Beriong (the accused) was very heavy, sir.” [34]

The child remained steadfast and candid on further cross-examination:

“Q

Now, when the accused was on top of you, did he embrace you tightly?

“A

Yes, sir.

“Q

And after that he inserted his penis to your vagina?

“A

Yes, sir.

“Q

And you claim that despite of facts that you ties are very closed to each other, Beriong was able to insert his penis to your vagina?

“FISCAL:

“Near not very close.

“COURT:

“Reform the question.

“Near.

“WITNESS:

“A

Yes, sir.

“ATTY. CASTRO:

“Q

Was he able to insert his penis to your vagina with ease?

“WITNESS:

“A

No, sir.

“Q

How long was he able to insert his penis to your vagina?

“A

I don’t know, sir.

“Q

You also claimed no one guided his penis to your vagina he was able to insert his penis to your vagina?

“COURT: (interrupted)

“Q

How were he able to insert his penis to your vagina and your ties were closed to each other?

“WITNESS:

“A

I cannot tell, sir.

“Q

The accused did not hold his penis, then, inserted it in your vagina?

“A

He held, sir.

“ATTY. CASTRO:

“Q

Is it not you claimed a while ago before the accused inserted his penis to your VAGINA?

“FISCAL:

“Objection, there is no showing it was simultaneous embracing and inserting of the penis with the use of the nad.

“COURT:

“Answer.

“WITNESS:

“A

He first placed his penis on top of my vagina and embrace me tightly, sir.

“COURT:

“Q

How were he able to insert his penis with the use of his hand?

“WITNESS:

“A

I cannot describe, sir.[35]

The physical evidence corroborates Aileen’s testimony. The medico-legal report of Dr. Mary Gwendolyn Luna on the evidence of the non-virgin state of Aileen is the definitive proof that penetration did in fact occur. The examination conducted by Dr. Luna revealed that Aileen’s hymen bore two old, deep lacerations at 5 and 7 o’clock, and superficial lacerations at 3, 6, 9 and 11 o’clock.[36] It is settled that when the victim’s testimony is corroborated by the physician’s finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[37] Laceration, whether healed or fresh, is the best physical evidence of forcible defloration.[38]

Thus, we are not inclined to deviate from the established rule that testimonies of rape victims, especially child victims, are given full weight and credit.[39] It bears emphasis that the victim in this case was barely twelve (12) years old when she was raped. In a litany of cases, the Court has applied the well settled rule that when a woman, more so if she is a minor, says she has been raped, she says in effect, all that is necessary to prove that rape was committed.[40] We give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, for it is most unnatural for a young and immature girl to fabricate a story as sordid as her own defilement, allow a medical examination of her genitalia, subject herself to a public trial and expose herself to public ridicule for no reason other than her thirst for justice.[41]

Mere surmises on the improbability of penetration due to the fact that the feet of the victim were tied at the ankles and appellant is a one-armed man, do not overcome our foregoing rulings in the face of the unfaltering testimony of Aileen and the physical evidence testified to by Dr. Luna.

Furthermore, Aileen’s conduct of simply going home after the commission of the rape should not be taken against her. The non-revelation of the first and succeeding incidents of rape can be attributed to the fear created in her mind by the threats appellant made against her. Rape victims, especially child victims, should not be expected to act the way mature individuals would when placed in such a situation. It is not proper to judge the actions of children who have undergone traumatic experience by the norms of behavior expected from adults under similar circumstances. “The range of emotions shown by rape victims is yet to be captured even by the calculus. It is thus unrealistic to expect uniform reactions from rape victims”. [42]

In stark contrast to the categorical declarations of Aileen, appellant merely raised denial and alibi as his defenses. Denial and alibi are weak defenses which are unavailing in the face of positive identification by the victim of the appellant as the violator of her honor.[43] Furthermore, appellant’s alibi was shattered by the prosecution’s rebuttal witness, Felisa Soriano, who testified that she never sent the appellant to Baguio to buy Campri leaves on January 15, 1995 since she has children whom she could send to Baguio City to buy the medicine.[44] It is further weakened by the fact that he escaped from detention on March 8, 1995[45] and was subsequently re-arrested two (2) days later on March 10, 1995[46] before his arraignment on May 9, 1995.[47] Such escapade is akin to flight before arrest in the commission of a crime, which signifies an awareness of guilt and a consciousness that he had no tenable defense against the rape charge.[48]

The Informations in Criminal Cases Nos. L-5256, 5292, 5294, 5295 and 5257 alleged that the appellant committed the rape while “armed with a fan knife and a handgun”, thus he is charged with rape qualified by the use of a deadly weapon. It must be stressed that what qualifies the crime of rape is not just the overt act of “being armed with a weapon” but the “use of a deadly weapon” in the commission of the crime,[49] i.e., when a deadly weapon is used to make the victim submit to the will of the offender and not when it is simply shown to be in the possession of the latter.[50]

In this case, complainant Aileen S. Alba testified that appellant brandished the balisong at her and threatened her with death if she did not submit to his lustful desires; and that the balisong was placed beside her and the handgun was above her head while she was being raped.[51] Thus, the threat to kill her was imminent and constant. While the record is bereft of evidence to show how appellant used the handgun other than placing it above the head of Aileen when he raped her, we find that when appellant brandished the balisong at her, it was sufficient to make twelve-year old Aileen submit to appellant’s beastly will.

Although neither the fan knife nor the handgun were presented in court, the production of the weapon used in the commission of the crime is not a condition sine qua non for the discharge of the burden of proof beyond reasonable doubt for the same may not have been recovered at all from the assailant.[52] The presentation of the weapon used in the commission of the rape is not essential to the conviction of the accused for it suffices that the testimony of the rape victim is credible. The trial court did not err in finding that the testimony of the offended party is credible and therefore worthy of full faith and credit, sufficient to sustain the conviction of the accused,[53] beyond reasonable doubt.

However, we find that the trial court erred in imposing the penalty of “reclusion perpetua to death”. Rape with the Use of a Deadly Weapon is punishable by two indivisible penalties, i.e., reclusion perpetua to death, under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659. This is called the prescribed penalty which is distinct from the imposable penalty. The imposable penalty is that which is applicable after considering the evidence on the modifying circumstances which mitigate or aggravate criminal liability, provided under Articles 13, 14 and 15 of the Revised Penal Code in relation to Article 63 of the same Code.

Article 63 provides for the applicable rules in cases where the law prescribes a penalty composed of two indivisible penalties, thus:

“1.

When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

“2.

When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

“3.

When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

“4.

When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonable allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.”

The prosecution failed to establish any aggravating circumstance. While nighttime was alleged in the Informations, it does not appear that it was purposely sought by or afforded some degree of impunity to appellant.[54] The mere fact that the rape was committed at nighttime with nothing more than that does not make nocturnity an aggravating circumstance.[55] Neither can the alleged abuse of superior strength be appreciated as an aggravating circumstance. No proof was offered that superior strength was deliberately taken advantage of.[56]

No mitigating circumstance as provided for in Article 13 of the Revised Penal Code was established.

Hence, pursuant to Article 63 (2) of the Revised Penal Code, the lesser penalty of reclusion perpetua should be imposed upon appellant for each of the five (5) counts of rape.

Civil indemnity must be awarded to complainant Aileen S. Alba. Civil indemnity, which is mandatory in a finding of rape, is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion. [57] In accordance with prevailing jurisprudence, we grant civil indemnity of Fifty Thousand Pesos (P50,000.00) in each case.[58]

Moreover, exemplary damages should be awarded. In the recent case of *People vs. Yonto*[59] we reiterated our ruling in *People vs. Catubig*[60] that exemplary damages are justified under Article 2230 of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying. Since the qualifying circumstance of the use of a deadly weapon was present in the commission of the rapes subject of these cases, exemplary damages may be awarded to the offended party. Thus, an award in each case of P25,000.00 as exemplary damages should also be given to the complainant Aileen S. Alba.

WHEREFORE, the Joint Decision dated January 17, 1996, of Branch 38 of the Regional Trial Court of Lingayen, Pangasinan, finding accused Silverio Montemayor alias “Beriong” guilty beyond reasonable doubt of five (5) counts of rape of Aileen S. Alba with the use of a deadly weapon is hereby AFFIRMED, with the MODIFICATION that accused-appellant is sentenced to suffer the penalty of reclusion perpetua for each count and ordered to pay complainant Aileen S. Alba the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages, for each of the five (5) rapes, or a total of P625,000.00.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.
Bellosillo, J., on leave.

[1] Criminal Cases Nos. L-5256, 5292, 5294, 5295 and 5257.

[2] Docketed as Criminal Cases Nos. L-5256 to L-5259, L-5292 to L-5295.

[3] Original Records, pp. 32-33.

[4] Original Records, p. 25.

[5] TSN, July 5, 1995, pp. 2-3.

[6] TSN, July 5, 1995, pp. 3-7; TSN, July 12, 1995, pp. 5-6.

[7] TSN, July 5, 1995, pp. 7-9.

- [8] TSN, August 28, 1995, pp. 4-6, 7-13.
- [9] TSN, July 5, 1995, pp. 9; TSN, July 31, 1995, pp. 40-41.
- [10] TSN, July 5, 1995, pp. 9-11; TSN, July 12, 1995, pp. 2-3, 6-14, 16-19.
- [11] TSN, July 5, 1995, pp. 11-14; TSN, July 31, 1995, pp. 3-11, 27-35.
- [12] TSN, July 5, 1995, p. 14; TSN, August 22, 1995, pp. 5, 11; TSN, August 28, 1995, p. 6.
- [13] TSN, June 15, 1995, p. 4; TSN, July 5, 1995, p. 15; TSN, August 22, 1995, p. 6.
- [14] TSN, June 14, 1995, pp. 6-7; Original Records, p. 6.
- [15] TSN, June 14, 1995, p. 6.
- [16] TSN, June 14, 1995, p. 6.
- [17] TSN, June 14, 1995, p. 7.
- [18] TSN, June 14, 1995, p. 7; Original Records, p. 6.
- [19] TSN, June 14, 1995, p. 12.
- [20] TSN, July 5, 1995, pp. 15-16; Original Records, p. 8.
- [21] Original Records, p. 9.
- [22] Original Records, pp. 32-33.
- [23] Original Records, p. 67.
- [24] Original Records, p. 68.
- [25] Original Records, p. 66.
- [26] Rollo, pp. 30-45.
- [27] Should be Criminal Case No. L-5292.
- [28] Should be Criminal Case No. L-5294.
- [29] Rollo, pp. 44-45.
- [30] Rollo, p. 100.
- [31] *People vs. Balgos*, 323 SCRA 372, 385 (2000); *People vs. Jose*, 307 SCRA 571, 578 (1999).
- [32] TSN, July 12, 1995, pp. 7-8.
- [33] TSN, July 5, 1995, p. 5.
- [34] TSN, July 12, 1995, pp. 12-18.
- [35] TSN, July 31, 1995, pp. 9-10.
- [36] TSN, June 14, 1995, pp. 6-7; Original Records, p. 6.
- [37] *People vs. Belen*, G.R. Nos. 137991-92, June 10, 2002; *People vs. Brondial*, 343 SCRA 600, 621 (2000); *People vs. Rosales*, 313 SCRA 757, 763 (1999).

- [38] *People vs. Belen*, supra.; *People vs. Acala*, 307 SCRA 330, 345 (1999); *People vs. Espinoza*, 247 SCRA 66, 73 (1995).
- [39] *People vs. Galvez*, G.R. Nos. 136867-68, September 25, 2001; *People vs. Lusa*, 288 SCRA 296, 303 (1998); *People vs. Escobar*, 281 SCRA 498, 508 (1997); *People vs. Rosare*, 264 SCRA 398, 412 (1996); *People vs. Galimba*, 253 SCRA 722, 728 (1996).
- [40] *People vs. Galvez*, supra.; *People vs. Balmoria*, 287 SCRA 687, 707-708 (1998); *People vs. Tabugoca*, 285 SCRA 312, 329 (1998); *People vs. Tumala, Jr.*, 284 SCRA 436, 439 (1998).
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- [42] *People vs. Dizon*, 356 SCRA 69, 84 (2001); *People vs. Sta. Ana*, 291 SCRA 188, 209 (1998).
- [43] *People vs. Libeta*, G.R. No. 139231, April 12, 2002; *People vs. Elpedes*, 350 SCRA 716, 726 (2001).
- [44] TSN, November 6, 1995.
- [45] Original Records, p. 68.
- [46] Original Records, p. 66.
- [47] Original Records, p. 25.
- [48] *People vs. Gallate*, G.R. Nos. 144395-98, June 26, 2002; *People vs. De Las Eras*, G.R. No. 134128, September 28, 2001; *People vs. Nerio*, G.R. No. 142564, September 26, 2001.
- [49] *People vs. Sagaysay*, 308 SCRA 455, 465 (1999); *People vs. Poculan*, 167 SCRA 176, 191 (1988)
- [50] *People vs. Napiot*, 311 SCRA 772, 782 (1999). See also *People vs. Emocling*, 297 SCRA 214 (1998); *People vs. Cantos, Sr.*, 305 SCRA, 786 (1999); *People vs. Padilla*, 301 SCRA 265 (1999); *People vs. Ranido*, 288 SCRA 369 (1998); *People vs. Taton*, 282 SCRA 300 (1997); *People vs. Tadulan*, 271 SCRA 233 (1997); *People vs. Igdanes*, 272 SCRA 113 (1997).
- [51] TSN, July 5, 1995, pp. 3-7; TSN, July 12, 1995, pp. 5-6.
- [52] *People vs. Agoncillo*, G.R. No. 138983, May 23, 2001.
- [53] *People vs. Siao*, 327 SCRA 231, 241 (2000); *People vs. Traverro*, 276 SCRA 301, 313 (1997).
- [54] *People vs. Baroy*, G.R. Nos. 137520-22, May 9, 2002.
- [55] *People vs. Oranza*, G.R. No. 127748, July 25, 2002; *People vs. Lining*, G.R. No. 138401, July 11, 2002; *People vs. Lomerio*, 326 SCRA 530, 551-552 (2000).
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