

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NONOY DIZON Y MITANO, APPELLANT.

G.R. Nos. 126044-45. July 02, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Charged with,[1] tried for and thereafter convicted of two counts of rape committed separately on two DSWD[2] foundlings, the trial court sentenced appellant to suffer two reclusion perpetuas and ordered him to indemnify the victims.[3] From that adverse decision, appellant interposed an appeal contending that he is innocent of the charges and imputed error to the trial court in ruling that the two complainants had positively identified him as their rapist. Culled from the testimony and evidence on record are the following antecedents,

"Fifteen-year old Glenda Celis testified that she is in the custody of the Department of Welfare and Social Development (DSWD), in Malolos, Bulacan, because she was abandoned by her own father while ten-year old Merlyn Henares testified that she is also in the custody of the DSWD because she left their house as her aunt where she used to stay was always mauling her.

In the evening of May 27, 1994, Glenda was awakened by appellant, who was temporarily residing at said DSWD while waiting for his transportation allowance in going back to his home in Bacolod, when he (appellant) went on top of her (Glenda) without a shirt. Glenda asked appellant: "Bakit kuya Nonoy." Appellant offered money to Glenda but she refused to accept it. Then, appellant tied Glenda's hands and gagged her by wrapping her head with a white blanket.

Immediately thereafter, appellant began to undress Glenda. He then mashed Glenda's breast. Glenda felt pain because of the pressure applied by appellant. After that, appellant then pulled down Glenda's panty and then touched her thighs. Glenda tried to pull back her panty but appellant prevented her. Then, appellant inserted his finger into Glenda's vagina. After a while, he (appellant) inserted his penis into Glenda's vagina. Glenda felt pain so she tried to shake away appellant by moving her body but to no avail.

After the forcible coitus, appellant threatened Glenda with a knife and told her not to tell their "mommy" about the incident. Glenda was able to see the knife because of the illumination of the light from the adjacent room. Then, appellant ran away. Glenda immediately switched on the light and saw appellant running away down the hallway.

Shortly thereafter, Glenda woke up Merlyn, who was lying beside her. Merlyn asked Glenda why she (Glenda) kept on moving while they were sleeping. Glenda replied that appellant was on top of her at that time. Glenda saw her panty stained with blood. She threw it away and washed her vagina with soap and water. She saw that her vagina had a wound by examining it.

In the evening of the following day, while Merlyn was sleeping at the second floor of the DSWD building, their "Mommy Elaine" woke her up to go down because the light bulb in their room malfunctioned. At the ground floor, "Mommy Elaine" asked Merlyn to sleep in a wooden bench with Baby Rose.

While Merlyn was sleeping on the wooden bench, appellant bodily carried her and placed her on the cemented

floor. Then, appellant tied her hands and gagged her after which appellant stripped Merlyn's clothes and went on top of her. Then, appellant "raped" Merlyn.

Immediately thereafter, appellant warned Merlyn not to tell their "mommies" what happened.

Merlyn declared in court that she recognized her tormentor as her "Kuya Nonoy" because he was bald. She even touched appellant's head after she was untied.

After appellant raped Merlyn, he went straight to his bedroom at the ground floor of DSWD beside the kitchen.

Later, Sheryl (surname not on record), a mute ward of the DSWD overheard Merlyn and Glenda telling each other what appellant did to them. Sheryl reported the matter to the officer (name not on record) by means of sign language.

When Merlyn was asked about the incident by DSWD officers, she told them that appellant "raped" her.

Dr. Edgardo Gueco, chief of the Philippine National Police Crime Laboratory, Region III, physically examined Glenda and Merlyn on June 1994. He testified that Merlyn had a ruptured hymen and was physically in a non-virgin state. Aside from the ruptured hymen which Dr. Gueco concluded could have been caused by sexual intercourse, he also noted an abrasion near the umbilical region measuring 4 x 5 cm.

Dr. Gueco further declared that the laceration was deep and newly healed at 4, 6 and 12 o'clock positions. Dr. Gueco commented that considering the laceration was newly healed, his findings were compatible with the alleged date of commission of rape because fourteen (14) days had elapsed from the date of the reported commission of rape.

Dr. Gueco also said that the abrasion near the umbilical region of Merlyn's body can be considered as a sign of struggle on Merlyn's part due to some form of fingernails from the skin.

Dr. Gueco likewise testified that Glenda also had a ruptured hymen with a deep newly healed laceration at 1, 5 and 9 o'clock positions. Except for the position of the lacerations in the hymen, he had the same medical findings on the two girls.

Dr. Maria Lourdes Reyes, a psychologist from the National Center for Mental Health in Mandaluyong City, testified that she conducted several tests on Glenda to determine her intellectual functioning. Dr. Reyes declared that Glenda's current intellectual functioning has been assessed within the moderate mental retardation level with a mental age of five (5) years and seven (7) months and can achieve mental maturity that is characteristic of children from four (4) to nine (9) years old.

On the other hand, Maria Suerte Cabiguin, also a psychologist from the National Center for Mental Health, testified that she gave an I.Q. test to Merlyn which were the Stanford Benet Scale and the Bender Visual Gestalt motor test. Cabiguin concluded that Merlyn's mental functioning which was caused by mental retardation is that of a mental age of five (5) years and ten and one-half (10 ½) months."^[4]

Pursuant to the law existing at the time of the commission of the crimes involved herein, rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- 1.) by using force or intimidation;
- 2.) when the woman is deprived of reason or otherwise unconscious;
- 3.) when the woman is under twelve (12) years of age or is demented.^[5]

The cases at bench involve all the three circumstances. First, complainant Glenda Celis, although 15, had the mentality of a five-to-seven year old; and complainant Merlyn Henares was ten (10) years old whose mental age was of a five-to-ten ½ year old. It has been ruled that "if the mental age of a woman above twelve years is that of a

child below twelve years, even if she voluntarily submitted to the desires of the accused, or even if the circumstance of force or intimidation or of the victim deprived of reason or otherwise unconscious are absent, the accused would still be liable for rape under the third circumstance of Article 335." The rationale for this is that if sexual congress of a victim below twelve years of age is rape, then it should follow that carnal knowledge of a woman whose mental age is that of a child below twelve years would also constitute rape.[6] The second victim's age, which was below 12 years, would have rendered as mere surplusage any evidence with respect to the employment of force or intimidation upon her since proof of the use thereof is not an essential element of statutory rape.[7] This is because, the consent or lack of it, to have carnal knowledge on the part of children under 12 years of age is irrelevant in statutory rape.[8] Even if the prosecution faltered when it failed to allege in the information the essential element with respect to the victims' mental age or the second victim's chronological age, yet these facts were duly proven without objection on the part of the defense. Besides, even assuming that both complainants were within their proper mental state, the prosecution was still able to establish its case against appellant by proving beyond reasonable doubt that the sexual assaults against both victims were committed with the use of force and intimidation. Appellant's first victim, the 15-year old Glenda Celis, narrated her ordeal, summarized by the trial court as follows:

"Glenda Celis testified that she was rudely awoken when accused Nonoy Dizon was on top of her naked; that after he undressed her, he touched and mashed her breasts, hurting her in the process because of the pressure he applied, and after inserting his finger inside her vagina, forcibly inserted his penis. That she didn't shout as the accused was armed with a knife. After making a push and pull movement with his penis inside her vagina which caused her much pain, being admittedly a virgin, the accused succeeded in having carnal knowledge with (sic) her against her will. She tried to fight him off but she was rendered helpless as her hands were tied and the accused gagged her. She was warned by the accused not to inform their DSWD Mommies lest he would kill her. She told Merlyn Henares of the rape immediately after the sexual assault. That her panty was bloodied and as her vagina was bleeding, she washed the same with soap and water." [9]

which was based on her testimony, the material portions of which run:

Q What is that?

xxx xxx xxx

A That night ni-lugos po ako.

xxx xxx xxx

Court:

Did he touched (sic) any part of your body?

A Yes, your Honor.

Court:

What part of your body?

A My breast, your Honor.

Court:

You mean he touched your breast, did he touched (sic) it, can you demonstrate how did he touched (sic) your breast?

A He capped my breast.

Court:

Did he capped? (sic)

A Yes, your Honor.

Court:

He merely capped your breast without mashing it?

A Nilamas po niya.

Court:

And you might awake when he was mashing your breast?

A Yes, your Honor.

Court:

What did you feel when he was mash (sic) your breast?

A Masakit po.

Court:

Did he mashed (sic) it with mash (sic) pressure?

A Yes, your Honor.

Court:

Aside from mashing your breast, did he touched (sic) any part of your body?

A No, more your Honor.

Court:

So both of you were wearing underwear at that time?

A He removed my panty and he touched my thighs.

Court:

Which thighs did he touched (sic)?

A Right, your Honor.

Court:

Did he merely touched your thighs only?

A Yes, your Honor.

Court:

When you pull up your panty, did he removed (sic) it again?

A Yes, your Honor.

Court:

Was he able to removed (sic) your panty?

A He was able to pull up to my knees, and I was (sic) to pull it back.

Court:

Did he touched (sic) your vagina?

A Yes, your Honor.

Court:

How did you know that he touched your vagina?

A Gising po ako, lahat po ng ginagawa niya ay alam ko.

Court:

He merely touched your vagina?

A Yes, your Honor, he touched my vagina.

Court:

Did he insert anything in your vagina?

A His penis, ma'am.

Court:

How do you know it was his penis, that was inserted in your vagina?

A When we went to the Hospital, I told that I was really used.

Court:

You said he touched your vagina with his finger with his hand did he, did you feel anything when he touch your vagina with his hand?

A No, your Honor.

Court:

How did he touched (sic) your vagina with his hands?

A Its really painful, he inserted his finger, with my vagina.

Q When he inserted his finger inside your vagina, did he bigla or slowly?

A Tudo, ma'am.

Court:

What did you feel when he inserted your finger?

A Its painful, your Honor.

Court:

How long did he insert his finger inside your vagina?

A For a while, your Honor.

Court:

And after that he inserted his penis?

A

Yes, your Honor.

Court:

What are you doing when he inserted his finger inside your vagina?

A After inserting his finger to my vagina, he left already but he even threatened to kill me.

Court:

Make it very clear, he inserted the two different objects inside your vagina, you said first he inserted his finger, then he inserted his penis, after he inserted his finger?

A Yes, your Honor.

Court:

And all throughout you did not kick him?

A No, ma'am.

Court:

You did not shout for help?

A May tali po ako sa bunganga.[10] (*italics supplied*).

Probably still at the height of his sexual ecstasy the previous night, appellant again went into action the next night. Like a nocturnal creature creeping in the dark, he succeeded once more in satisfying his prurient interest, claiming his second young and virgin victim (Merlyn Henares). Before the court, this second victim, notwithstanding her tender age, mustered enough courage to let the world know the shameful acts done to her by appellant:

Q What did Nonoy Dizon do to you?

A He tied me up.

Q Please demonstrate how Nonoy Dizon tied you up?

A He tied me up downstairs, ma'am, with my arms stretched.

Q What were you doing then when Nonoy Dizon tied you up? Before he tied you up?

A I was crying, ma'am.

Q Why were you crying then?

A Because I refused to be tied up, ma'am.

xxx xxx xxx

Q Who were your companions then?

A We were many, ma'am.

Q Can you name some of your companions?

A I can no longer remember their names.

Q Not even Glenda Celis?

A I knew her name.

Q Glenda Celis was with you at that time?

A

No, ma'am.

Q What happened after Nonoy Dizon tied you up?

A I do not know, ma'am.

Q What else did Nonoy Dizon do to you after tying you up?

A He stripped me off my clothes, ma'am.

Q You mean your entire clothes, even your underwear?

A Yes, ma'am.

Q And what was your position then?

A He took off all my clothes, ma'am.

Q While you were lying down?

A Yes, ma'am.

Q And what else did Nonoy Dizon do to you?

A He raped me, ma'am.

Q What do you mean by rape?

A He laid on top of me, ma'am.

Q What else?

A None, ma'am.

Q What was Nonoy Dizon's appearance then when he laid himself on top of you?

A

Q Did he have clothes with him?

A None, ma'am.

Q Pants?

A No, ma'am.

Q Brief?

A None, ma'am.

Q What did Nonoy Dizon say to you, if any, at the time he lied on top of you?

A He warned me not to talk about the matter to the mommies.

xxx xxx xxx

Q You said that Nonoy Dizon laid himself on top of you, while on top of you, what was Nonoy Dizon doing?

A He was raping me.

Q Did he kiss you?

A Yes, ma'am.

Q Did he fondle your breast?

A Yes, ma'am.

Q Did he insert his penis to you?

A Yes, ma'am.

Q What did you feel?

A It was painful, ma'am.

Q What was your reaction at that time?

A

Q Did you not ask for help or shout?

A He gagged me up.

Q Do you mean to say aside from your hands being tied by Nonoy Dizon, you were also being gagged by Nonoy Dizon?

A Yes, ma'am.[11] (*italics supplied*).

From the nature of the offense of rape, where usually only two people are privy,[12] the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[13] That is why the lone testimony of either victim in this case is sufficient to sustain a conviction as it met the test of credibility.[14] It is clear from the foregoing testimonies that appellant employed force and intimidation in consummating his innate desires against his hapless victims. On the first victim, appellant bound her hands, "gagged" her mouth and later covered her head with a white blanket. On the second victim, abrasions were found on her umbilical region which, as explained by the examining physician, were "produced by friction or rubbing of a rough object against the skin of the body" which could be the "fingernails of the accused or it may be due to the floor where the subject was pushed down or rolled during the incident." [15] Moreover, when the second victim struggled against appellant, the latter punched her and she thus lost consciousness. Then, appellant ravished her. The carnal knowledge of an unconscious woman constitutes rape, opposition or resistance not being required, for the state the woman is in means she has no will.[16]

Although the medical examination of the rape victim is not indispensable in the prosecution for rape, there being no law that requires the same,[17] yet the presentation of the medical report as evidence in this case, coupled with the testimony of the examining physician not only corroborates, but all the more strengthens the complainant's grievance against appellant. As found by the said physician, both complainants are in a non-virgin state and had deep and newly healed lacerations in different positions in their respective hymens. In any case, the presence of healed lacerations or the absence of lacerated wounds do not negate sexual intercourse[18] especially when there are other evidence on record which established forced sexual coitus.

That both victims did not immediately cry for help while the brutish sexual advances were being made on them is not too difficult to comprehend since appellant was armed with a knife. Their tender age, lack of education, the fact that they were only temporarily residing in the DSWD premises away from their blood relatives, and their fear for life and safety against appellant's threats that he will kill them, are factors that have easily cowed the young girls into submission. The act of holding a knife by itself is strongly suggestive of force or at least intimidation, and threatening the victim with a knife is sufficient to bring a woman into submission.[19] Force used in the consummation of rape need not be irresistible or overpowering - what is necessary is that the force employed is sufficient to consummate the purpose which the accused has in mind.[20] It should be noted that rape victims are not required to resist until death.[21]

The fact that it was not the victims themselves who reported the rapes to their "Mommies" does not mean that the charges are false. Suffice it to say, that when asked by their caretakers, they immediately admitted without hesitation that appellant violated their dignity. The Court notes that silence is not an odd behavior of rape victims[22] considering the stigma of shame and degradation that attaches to such crime against chastity (now a crime against persons[23]). Besides, the failure of these young victims to immediately report a rape is understandable[24] and is not an indicium of a fabricated charge.[25]

In a futile attempt to exculpate himself, appellant who can only offer denial as his defense, contends that both complainants failed to positively identify him as the perpetrator of the crimes. Such contention cannot stand against the time-honored precept that when a woman, especially a minor, says that she was raped, she in effect says all that is necessary to prove the commission of the crime, and the accused may be convicted thereof so long as her testimony meets the test of credibility.[26] The task of assigning values to the testimony of witnesses and assessing their credibility belongs to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying,[27] which opportunity is denied to the reviewing tribunals.[28] Courts usually give credence to the testimony of a girl who is a victim of sexual assault, considering that ordinarily no person would be willing to undergo the humiliation of a public trial, as well as the indignities and difficulties concomitant to a prosecution for rape[29] and to testify on the pulsating and very intimate details of her ordeal were it not to condemn an injustice.[30] It is also highly unlikely, that the complainants herein who are "illiterate, naive, unschooled" without "formal education (except Grade I for Glenda Celis)" and were virgins,"[31] barely in their teens, innocent to the ways of the world, would concoct a reprehensible story of defloration, allow an examination of their private parts if such was not the plain truth or if their motive was not purely to bring the perpetrator to the bar of the law.[32] Accordingly, the trial court's evaluation of the witnesses' testimonies is accorded great respect on appeal,[33] and thus, binds the appellate tribunal, particularly since no convincing reason was shown that there was bias, partiality or grave abuse of discretion on the part of the trial judge[34] who, as earlier mentioned, has the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses as they present the same.[35]

In any case, upon a thorough scrutiny of the records, the Court finds itself in agreement with the findings of the court below. For one, at the time of the commission of the crime against the first victim, the room where the rape occurred is illuminated by a light coming from the adjacent room which gave her the opportunity to identify her assailant, which is why she asked him "Bakit, Kuya Nonoy?"[36] For another, when appellant was finished with his savage act, the victim switched on the light and thus, saw the former when he ran away. Thereafter, Merlyn, who would become the victim on the next night, commented to her why she was "malikot na matulog",[37] to which she answered that appellant was on top of her. With respect to the second victim, she touched and felt the head of her attacker who was bald. At that time, there was no other bald male in the DSWD area except appellant. Moreover, appellant's behavior after the said incidents changed from being friendly, kind and industrious to being

nervous and uneasy.[38] Accordingly, with the absence of any significant facts or circumstances that have been overlooked or disregarded by the trial court which when considered would have altered the outcome of the case,[39] there is no reason to warrant a departure from its factual findings as they are amply supported by evidence on record.[40] It is the trial court that had the unequaled opportunity to observe the quality of the victims' perceptions and the manner they can make them known to the court." And as found by the lower court, it is "fully convinced of the truth" of the victims' testimonies which is "impressed with plausibility and had the ring of sincerity that despite the "thorough cross-examination x x x they stood firm that it was the accused who ravished them." [41]

Finally, appellant's defense of alibi remains, aside from his bare asseverations, unsupported and uncorroborated by other evidence. Nothing is more settled in our jurisprudence in criminal cases than the rule that alibi is a weak defense,[42] since it is easy to fabricate and difficult to disprove,[43] which should be rejected when the identity of the accused has been sufficiently and positively established by an eyewitness to the crime.[44] The compelling positive and credible testimony of the two victims herein, when juxtaposed with appellant's unsubstantiated denial and alibi, is given full faith and credit. Positive testimony, like that of the complainants', prevail over a negative one.[45]

On the award of civil indemnity, the amount of fifty thousand pesos (P50,000.00) which the trial court ordered appellant to pay to each victim is in accordance with the latest jurisprudence since the rapes herein were not effectively qualified by any circumstance under which the death penalty is authorized by the present amended law.[46] Civil indemnity is different from the award of moral and exemplary damages.[47] That is why, in addition to such indemnity, each victim can also recover moral damages pursuant to Article 2219 of the Civil Code[48] in such amount as the court deems just, without the necessity for pleading or proof of the mental and physical suffering provided in Article 2217 of the Civil Code[49] other than the fact of the commission of the offense.[50] This is because it is "recognized that the victim's injury is inherently concomitant with and necessarily resulting from the odious crime of rape to warrant per se the award of moral damages." Besides, rape victims whose age ranges between 13 to 19 years are entitled to moral damages.[51]

Anent the penalty, under the law existing at the time of the commission of the rapes involved herein, "whenever the crime of rape is committed with the use of a deadly weapon x x x, the penalty shall be reclusion perpetua to death." [52] Appellant's case comes within the purview of the above provision due to the concurrence of the special circumstance that he used a knife, which is considered a deadly weapon,[53] in consummating his bestial acts against both complainants. Pursuant to Article 63 of the Revised Penal Code (RPC), when the law prescribes a penalty consisting of two indivisible penalties (reclusion perpetua and death) and there is neither mitigating nor aggravating circumstance, as in this case, the lesser of the penalties, which is reclusion perpetua, shall be applied for each crime.

WHEREFORE, premises considered, the decision of the Regional Trial Court is **AFFIRMED** subject to the **MODIFICATION** that appellant is ordered to pay both victims, moral damages in the amount of P50,000.00 each, in addition to the civil indemnity of P50,000.00 awarded to each of them by the trial court.

SO ORDERED.

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

[1] The two criminal charges read:

1.) "That on or about the 27[th]day of May, 1994, in the municipality of Malolos, province of Bulacan,

Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully, and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of said Glenda Celis, against her will.

"Contrary to law."

2.) "That on or about the 28[th] day of May, 1994, in the municipality of Malolos, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully, and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of said Merlyn Henares against her will.

"Contrary to law."

[2] Department of Social Welfare and Development.

[3] Regional Trial Court (RTC - Branch 10, Malolos, Bulacan) Decision dated March 25, 1996 penned by Judge Victoria Villalon-Pornillos. The dispositive portion of said decision reads:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of two separate crimes of rape as charged in Criminal Cases Nos. 1969-M-94 and 1970-M-94, he is hereby SENTENCED to suffer a separate penalty of reclusion perpetua and to indemnify each of Glenda Celis and Merlyn Henares the amount of P50,000.00. He is likewise SENTENCED to suffer all the accessory penalties of the law and pay the costs.

"As the accused has been detailed at the Provincial Jail of Malolos, Bulacan since June 7, 1994 and as he failed to agree to abide by the same disciplinary rules imposed upon convicted prisoners, he is hereby CREDITED in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

"SO ORDERED."

[4] Appellee' Brief, pp. 3-7; Rollo, pp. 119-123; references to the TSNs are omitted in order not to clutter the narration.

[5] Article 335, (now Art. 266-A and 266-B) Revised Penal Code; *People v. Pili*, 289 SCRA 118; *People v. Salarza, Jr.*, 277 SCRA 578.

[6] *People v. Estares*, 282 SCRA 524 citing *People v. Manlapaz*, 88 SCRA 704; *People v. Galano*, 108 SCRA 405; *People v. Asturias*, 134 SCRA 405; *People v. Race*, 212 SCRA 90; *People v. Antonio*, 233 SCRA 283; *People v. Pamor*, 237 SCRA 462.

[7] *People v. Oliva*, 282 SCRA 470; *People v. Ligotan*, 331 Phil. 98; *People v. Oarga*, 328 Phil. 395; *People v. Abordo*, 328 Phil. 80.

[8] *People v. De la Peña*, 276 SCRA 558; *People v. Henson*, 270 SCRA 634; *People v. Andres*, 253 SCRA 751; *People v. Lagrosa, Jr.*, 230 SCRA 298.

[9] RTC Decision, pp. 9-10; Rollo, pp. 40-41; references to TSN are omitted.

[10] TSN, July 13, 1994, Glenda Celis, pp. 4-5, 11-17.

[11] TSN, July 3, 1995, Merlyn Henares, pp. 5-8; See also RTC Decision, p. 10.

[12] *People v. Soriano*, 272 SCRA 760.

[13] *People v. Fuensalida*, 281 SCRA 452; *People v. Antonio*, 233 SCRA 283 (1994); *People v. Tismo*, 204 SCRA 535 (1991); *People v. Matrimonio*, 215 SCRA 613 (1992).

- [14] *People v. Pontilar, Jr.*, 275 SCRA 378; *People v. Adora*, 275 SCRA 441.
- [15] TSN, Dr. Gueco, February 8, 1995, pp. 20-21.
- [16] *People v. Del Rosario*, 282 SCRA 178.
- [17] *People v. Bugarin*, 273 SCRA 384; *People v. Edualino*, 271 SCRA 189; *People v. Julian*, 270 SCRA 733; *People v. Devilleres*, 269 SCRA 716.
- [18] *People v. Rabosa*, 273 SCRA 142; *People v. San Juan*, 270 SCRA 693.
- [19] *People v. Reynaldo*, 291 SCRA 701.
- [20] *People v. Corea*, 269 SCRA 76.
- [21] *People v. Igdanes*, 272 SCRA 113.
- [22] *People v. Pardillo, Jr.*, 282 SCRA 286.
- [23] Article 266-A and 266-B, of the RPC as amended by R.A. No. 8353.
- [24] *People v. Rancal*, 338 Phil. 749.
- [25] *People v. Tadulan*, 217 SCRA 233; *People v. Perez*, 270 SCRA 526.
- [26] *People v. Bugarin*, 273 SCRA 384; *People v. Rabosa*, 273 SCRA 142; *People v. Butron*, 272 SCRA 52.
- [27] *People v. Manambit*, 338 Phil. 57; *People v. Tan, Jr.*, 264 SCRA 425; *People v. Lo-ar*, 280 SCRA 207; *Sumalpong, v. CA*, 268 SCRA 764; *People v. Burton*, 268 SCRA 531.
- [28] *Rabaja v. CA*, 280 SCRA 290.
- [29] *People v. Pontilar, Jr.*, 275 SCRA 338.
- [30] *People v. Adora*, 275 SCRA 441.
- [31] RTC Decision, pp. 5,6; Rollo, pp. 36, 37.
- [32] *People v. Betonio*, 279 SCRA 532; *People v. Marollano*, 276 SCRA 84; *People v. Tan, Jr.*, 264 SCRA 425.
- [33] *People v. Baccay*, 284 SCRA 296; *People v. Tenorio*, 284 SCRA 420.
- [34] *People v. Pardillo, Jr.*, 282 SCRA 286.
- [35] *People v. Geronas*, 193 SCRA 263 (1991); *People v. Bravo*, 180 SCRA 694 (1989), *People v. Ramos*, 167 SCRA 476 (1988); *People v. Jarzi*, 163 SCRA 307 (1988).
- [36] TSN, Glenda Celis, July 17, 1995, p. 6.
- [37] TSN, Glenda Celis, July 17, 1995, p. 5.
- [38] TSN, Crispin Magaling, December 21, 1994, pp. 7-9; RTC Decision, p. 12.
- [39] *People v. Arellano*, 282 SCRA 500; *People v. Ragay*, 277 SCRA 106; *People v. Acabo*, G.R. No. 106977, July 17, 1996; *People v. Padilla*, 312 Phil 721 (1993), citing *People v. Florida*, 214 SCRA 227 (1992) and *People v. Matrimonio*, 215 SCRA 613 (1992); *People v. Codilla*, 224 SCRA 104 (1993); *People v. Dio*, 44 SCAD 559 (1993).
- [40] *People v. Kyamko*, 222 SCRA 183 (1993); *US v. Macuti*, 26 Phil. 170 (1913).

[41] RTC Decision, p. 13; Rollo, p. 44.

[42] *People v. Garcia*, 281 SCRA 463; *People v. Jagolinay*, 280 SCRA 768.

[43] *People v. Quiamco*, 268 SCRA 516.

[44] *People v. Midtomod*, 283 SCRA 395; *People v. Cabel*, 282 SCRA 410; *People v. Taton*, 282 SCRA 308; *People v. Escobar*, 281 SCRA 498; *People v. Erese*, 281 SCRA 316; *People v. Bajar*, 281 SCRA 262; *People v. Montealto*, 336 Phil. 725; *People v. Namayan*, 246 SCRA 6545; *People v. Amaro*, 235 SCRA 8; *People v. Retuta*, 234 SCRA 645; *People v. Bongadillo*, 234 SCRA 233; *People v. Ramos*, 315 Phil. 435; *People v. Amador*, 226 SCRA 241; *People v. Ylarde*, 224 SCRA 405.44 It is a negative and self-serving evidence bearing no weight in law.

[45] *People v. Arellano*, 282 SCRA 500; *People v. Carpio*, 282 SCRA 23; *People v. Paloma*, 278 SCRA 114; *People v. Parazo*, 272 SCRA 512.

[46] *People v. Estares*, 282 SCRA 524; *People v. Apangan*, 270 SCRA 713. See also *People v. Mendoza*, 236 SCRA 666.

[47] *People v. Mahinay*, G.R. No. 122485, February 1, 1999; *People v. Perez*, G.R. No. 122764, September 24, 1998; *People v. Bernaldez*, G.R. No. 109780, August 17, 1998 citing *People v. Victor y Penis*, G.R. No. 127903, July 9, 1998; *People v. Papa Talaboc*, G.R. No. 103290, April 23, 1996; *People v. Abendano*, 312 Phil. 625 [1995]; *People v. Sartagoda*, 221 SCRA 251 (1993).

[48] *People v. Prades*, G.R. No. 127569, July 30, 1998 cited in *People v. Mostrales*, G.R. No. 125937, August 28, 1998.

[49] "Moral damages may be recovered in the following and analogous cases:

x x x x x x x x

(3) seduction, abduction, rape or other lascivious acts;

x x x x x x x x

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this Article, may also recover moral damages."

[50] *People v. Bartolome*, G.R. No. 129054, September 29, 1998 citing *People v. Prades*, G.R. No. 127569, July 30, 1998; *People v. Alfeche*, G.R. No. 124213, August 17, 1998; *People v. De los Santos*, G.R. No. 121906, September 17, 1998; See also Article 2219(3), New Civil Code.

[51] *People v. Estares*, 282 SCRA 524; *People v. Cabales*, 274 SCRA 83.

[52] *People v. Sabellina*, 238 SCRA 492; *People v. Liray*, 253 SCRA 654.

[53] Article 335, RPC, as amended by R.A. 7659.

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