PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODELIO MARCELO, ACCUSED-APPELLANT.

G.R. Nos. 126538-39. November 20, 2001

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-nos-126538-39/

QUISUMBING, J.:

On automatic review is the decision[1] of the Regional Trial Court of Pasig City, Branch 68, finding accused-appellant Rodelio Marcelo guilty in two out of three cases of rape and sentencing him to death in one case and reclusion perpetua in another.

Appellant was originally charged under three separate Informations:

> Criminal Case No. 107976-H:
>
> That on or about the 10[th] day of September, 1994 in the City of Pasig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats, force and intimidation did then and there wilfully, unlawfully and feloniously have carnal knowledge to (sic) the complainant, Cecilia Osorio, against her will and consent.
>
> CONTRARY TO LAW.
>
> Criminal Case No. 108000-H:
>
> That sometime prior to March 31, 1995, in the City of Pasig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats, force and intimidation did then and there wilfully, unlawfully and feloniously have carnal knowledge to (sic) Mary Cyndel Marcelo, his own daughter, a minor 4 years of age, against her will and consent.
>
> CONTRARY TO LAW.
>
> Criminal Case No. 108001-H:
>
> That sometime prior to March 31, 1995, in the City of Pasig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of threats, force and intimidation did then and there wilfully, unlawfully and feloniously have carnal knowledge to (sic) Mariedel[2] Marcelo, his own daughter, a minor 3 years of age, against her will and consent.
>
> CONTRARY TO LAW.

During his arraignment, appellant pleaded not guilty to the charges. Thereafter, trial on the merits ensued.

The first witness for the prosecution was DR. OWEN J. LEBAQUIN, medico legal officer of the PNP Crime Laboratory. He testified that he examined Cecilia Osorio, Mary Cyndel and Mariedel Marcelo and his findings reveal that both Cecilia and Mariedel suffered lacerations in their hymen and were in non-virgin states. On the other hand, Mary Cyndel's hymen was still intact and she was, in fact, a virgin.[3]

SPO1 LARRY PABLO testified that he was one of the police officers who apprehended appellant and who investigated the case.[4]

ADELAIDA REYES, principal and guidance counselor of Silahis Katarungan Elementary School, was presented to corroborate the testimonies of Cecilia and Cynthia on how Mary Cyndel and Mariedel first related their harrowing experiences at the hands of their father.[5]

Appellant's wife, MA. CYNTHIA IMELDA MARCELO, testified that she is the sister of complainant Cecilia Osorio and the mother of Mary Cyndel Marcelo and Mariedel. She recalled that she and appellant lived in Santolan, Pasig, on September 10, 1994 and transferred to Sta. Teresita Village in Parang, Marikina, on September 16, 1994. Her sister, Cecilia, used to live with them but left them on September 10, 1994. Thereafter, Cecilia would just go to their house occasionally to "change her dress". Worried, Cynthia wrote their mother in Bicol to ask her to come to Manila to talk to Cecilia. On March 24, 1995, their mother and Cecilia coincidentally met in her house. Cynthia remembered that on March 31, 1995, she asked Cecilia to stay so they could talk but the latter refused and went back to her boarding house. Cynthia followed her and confronted her sister about her unwillingness to stay with them. Cecilia revealed that appellant raped her. Upon hearing this, Cynthia brought Cecilia to her home in Sta. Teresita. There appellant admitted to her that he raped Cecilia but only because, according to him, "pinasukan ng demonyo ang utak ko" (the devil possessed my brain). Appellant then left them.

Cynthia recounted that on April 11, 1995, appellant returned and asked her if they could still live together. After she refused, appellant left her a letter to give to his parents. Confused, Cynthia decided to call her Auntie Adelaida[6] Reyes for advice. As they spoke, they were rudely interrupted by her daughters, Mary Cyndel and Mariedel, who kept on talking about a "snake" which their father used when he played with them. According to them, this "snake" was placed by their father inside their mouths, in their anuses and their private parts. Curious, Adelaida took them inside a room and asked the younger brother of Cynthia to remove his shorts. Mary Cyndel pointed to the boy's penis and told the elders that the "snake" of her father was much bigger than the "snake" of the boy. Cynthia brought her children to Camp Crame Crime Laboratory to have them examined. Upon reaching said laboratory, Mary Cyndel pointed to a sketch of a male's genitalia and told her mother that it was like her father's "snake."[7]

CECILIA OSORIO, sister-in-law of appellant, testified that she stayed in her sister Cynthia's home while she was working for Purefoods. At around 3:00 A.M. of September 10, 1994, while asleep, something touched her body. When she opened her eyes, she saw appellant near her, naked. She pleaded with him not to pursue whatever he had in mind, but he just poked a knife at her and covered her mouth to prevent her from shouting. His threat to kill her terrified her. Appellant removed his hand from her mouth and started undressing her. After ejaculating inside her, appellant sat down and repeated his threat to kill her and her sister if she reported what he did to her. Days after, Cecilia left an lived with a friend somewhere in Parang, Marikina.[8]

MARY CYNDEL MARCELO, the four-year-old daughter of the couple, testified that her father often played with her and her sister Mariedel, using his "snake". He would place this "snake" inside their mouths, anuses and private parts while all of them were naked. With Atty. Mateo posing as appellant, Mary Cyndel pointed to the area of the groin where he asked to point where her father's "snake" was. She also testified that whenever her father placed this "snake" inside her mouth and that of Mariedel's, it emitted a worm-like substance from its head and then it dies. The said worm-like substance was described by Mary Cyndel as "malagkit" and "lasang sipon."[9]

The last prosecution witness was ESTRELLA RAGUNOT. She testified that she was a friend of Cecilia Osorio with whom the latter lived after she was sexually abused by appellant. She also narrated the stories told to her by Cecilia regarding the latter's experience.[10]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

In his defense, appellant RODELIO MARCELO denied the accusations against him. He alleged that Cecilia's complaint could have been motivated by his refusal to succumb to her sexual advances. He also opined that his wife might be the one responsible for the false accusations of their daughters as she wanted to get rid of him so that she may live with her lover, a certain Jack Victorino.[11]

MONINA MARCELO, cousin of appellant, was also presented to establish the fact that Cecilia had told her of her sexual experience in Singapore, and that Cecilia was a promiscuous woman who had sexual contacts with her lovers.[12]

SINFROSA[13] MENDOZA, aunt of appellant, testified that appellant's wife and a certain Jack Victorino were indeed lovers.[14]

On August 6, 1996, the trial court promulgated its decision, disposing as follows:

> WHEREFORE, in view of the foregoing, the Court hereby renders judgment finding accused RODELIO MARCELO GUILTY beyond reasonable doubt of two counts of Rape and sentences him to suffer:
>
> 1. In Criminal Case No. 107976-H, the penalty of reclusion perpetua; and
>
> 2. In Criminal Case No. 108001-H, the penalty of death.
>
> He is further ordered to pay complainant Cecilia Osorio and Mariedel Marcelo the sum of Fifty thousand pesos (Php 50,000.00) each as moral damages; the sum of Fifty thousand pesos (Php 50,000.00) each as exemplary damages and cost of suit.
>
> Insofar as Criminal Case No. 108000-H is concerned, the Court hereby ACQUITS the accused for insufficiency of evidence.
>
> In view of the penalty imposed in Criminal Case No. 108001-H, let the records of this case be elevated to the Supreme Court for automatic review.
>
> SO ORDERED.[15]

Appellant raises the following errors in his brief:

> I
>
> THE TRIAL COURT ERRED IN AFFORDING FULL CREDENCE TO THE EVIDENCE ADDUCED BY THE PROSECUTION THRU ITS WITNESS-COMPLAINANT CECILIA OSORIO TO SUPPORT A CONVICTION AGAINST THE ACCUSED IN CRIMINAL CASE NO. 107976-H.
>
> II
>
> THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT ON THE BASIS OF THE TOTALITY OF ALL THE EVIDENCE ADDUCED BY THE PROSECUTION IN RESPECT TO CRIMINAL CASE NO. 108000-H (sic)[16]

The issues here concern the credibility of witnesses and the sufficiency of the evidence for the prosecution.

Appellant describes the testimony of Cecilia as full of half-truths, contradictions and improbabilities. He assails the delay of six months which Cecilia allowed to pass before she reported the alleged rape. He insists that Cecilia's complaint is nothing more than an act of "vengeance" for his refusal to give in to her sexual propositions. On the alleged rape committed against Mariedel, appellant attacks the paucity of evidence to prove the same. He asserts that the testimony of Mary Cyndel was too fluid, precise and was promptly given after each question, giving the impression that the responses were rehearsed and memorized. Appellant also points out that the

cross-examination of Mary Cyndel reveals that the "snake" she constantly refers to is not the sexual organ of her father. Appellant likewise dismisses the findings of Dr. Lebaquin with regard to the lacerations found in Mariedel's private parts for the simple reason that he was not able to identify the perpetrator thereof. Finally, appellant insists that the testimonies of Cynthia, Cecilia and Adelaida are all hearsay and deserve no probative value.[17]

The Office of the Solicitor General (OSG), for the State, avers that there is no reason to detract from the trial court's finding of credibility on the part of the prosecution's witnesses. The OSG argues that delay and vacillation on the part of rape victims in reporting their sordid experience do not impair their credibility, especially when such delay is grounded on fear. It also points out that the testimony of Mary Cyndel was carried out in a candid, straightforward and innocent manner as only a child of her age can, and it deserves utmost credence and belief.[18]

In resolving cases of rape, this Court is guided by the following principles: (a) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense;[19] and (d) the evaluation of the trial court judges regarding the credibility of witnesses deserves utmost respect on the ground that they are in the best position to observe the demeanor, act, conduct, and attitude of the witnesses in court while testifying.[20]

Guided by these principles and after a careful review of the records of this case, we find no reason to overturn the conclusion reached by the trial court concerning the guilt of the accused-appellant.

The testimony of Cecilia Osorio was given in a candid and straightforward manner leaving no room for doubt that she is telling the truth. Appellant tried to discredit her testimony by pointing out that it took Cecilia more than six months before she reported the incident to her family and, eventually, to the police. A delay of six months under the circumstances present in this case, however, is not enough to taint Cecilia's credibility. In the first place, she adequately explained why it took her a long time before she reported the incident. According to her, she was afraid and confused. This is expected considering that the person who raped her was her brother-in-law. Further, she had just gone through a harrowing experience. We cannot categorically state what might have entered the thoughts and minds of a young lady who had such an experience, from the time she was raped up to the time she decided to come out in the open. We are certain, however, that delay and her reluctance to make public the assault on her virtue is neither unknown or uncommon. In People vs. Malagar, 238 SCRA 512 (1994), the Court said:

> Vacillation in the filing of complaint by 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 to then expose herself to the morbid curiosity of the public whom she may likely perceived 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 (222 SCRA 255) 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.[21]

Cecilia's fear is a viable reason for her long silence. This should not be taken against her. It is fear, springing from the initial rape, from which the perpetrator hopes to build up a climate of extreme psychological terror, which would numb his victim to silence and submissiveness.[22] And even if delay could not be attributed to death threats and intimidation, the failure of complainant in promptly reporting the offense to the proper authorities

would not destroy the truth per se of the complaint.[23]

The attempt of the appellant to picture Cecilia as an indiscreet and sexually promiscuous woman deserves scant consideration. Prior sexual intercourse with a different person is irrelevant in a rape case.[24]

The "scorned woman theory" of appellant, i.e., his contention that the charge of rape was brought about as an act of spite and vengeance on the part of Cecilia because of his refusal to give in her to sexual desires, hardly inspires belief. If it were true that Cecilia entertained secret desires for appellant, she would not leave at all of a sudden. Her tendency would have been to keep close to the man she was secretly in love with. She would not fabricate a charge of rape for this would only expose her supposedly "secret love" and thwart her hidden designs. In other words, appellant's attempt to find solace in the literary aphorism, "Hell hath no fury like a woman scorned" has no basis in either the facts of this case or the law applicable. It is not a credible motivation for Cecilia to humiliate and expose herself to public scrutiny, even ridicule, in the course of a public trial. No woman would cry rape, allow an examination of her private parts, subject herself to humiliation, go through the rigors of public trial and taint her good name if her claim were not true.[25]

Coming now to the testimony of Mary Cyndel Marcelo, appellant suggests that her testimony is too fluid and precise, signifying that it had been memorized and rehearsed. A close perusal of Mary Cyndel's testimony reveals, however, that it was spontaneous, candid and straightforward. Mary Cyndel was only four years old then, so innocent that she did not even know the word for a man and woman's private parts. Such testimony is generally given much weight and cannot be easily disregarded by appellant's mere denial.[26] Note that Mary Cyndel testified with only her younger sister by her side. Her mother and other relatives were asked by the court to leave the trial room. Notwithstanding the intimidating situation wherein a young witness is confronted and scrutinized by a judge and rigidly cross examined by the defense counsel, Mary Cyndel remained steadfast in her narration. Her consistency is a strong indication that her narration was not fabricated. At such a tender age, Mary Cyndel could hardly be expected to weave with uncanny recollection such a complicated tale as the sexual assault unconscionably perpetrated against her and her sister by their own father.[27] It is unfortunate that despite the weighty and trustworthy testimony of Mary Cyndel, appellant was acquitted of the charge of rape he committed against her on the sole basis that the doctor did not find any laceration in her private parts, and that his medical report indicated her hymen was intact. The trial court apparently missed our ruling in People vs. Palicte[28]and People vs. Castro[29]that the mere fact that the hymen remained intact is no proof that rape was not committed.[30]

The testimonies of Mary Cyndel and Dr. Lebaquin suffice to support appellant's conviction for the rape of Mariedel. Mary Cyndel clearly testified that her younger sister was ravished by appellant:

> Q:
>
> You said you love your mother, how about your father do you love him?
>
> A:
>
> No, Ma'm.
>
> Q:
>
> Why?
>
> A:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

"Kasi nilalagyan kami ng snake". (when literally translated because he is placing snake on us)

Q:

You mentioned we, aside from you, to whom was the snake being placed?

A:

The two of us.

Q:

And where is your Daddy placing snake on you?

A:

(witness pointing to her private part)

COURT:

Make it of record that the witness lifted her maong skirt.

PROS. UMALI:

For the better appreciation of the Court, may we request the witness to please stand so that she could point (sic) out where the snake was placed by her Daddy.

(witness pointing to the area of her private part)

Q:

What about Maridel, where did Daddy place his snake on Maridel?

A:

(Likewise the witness pointed to the area of her private part)

Q:

Where else?

A:

To the mouth. (witness pointing to the mouth)

Q:

Where else?

A:

(witness pointing to the area of her anus)

Q:

Where else Ms. Witness aside from the mouth, your private part and the anus, where else?

A:

"Doon lang".

Q:

What about Maridel, where did Daddy place the snake aside from the private part?

A:

To the mouth , the private part and also at the back.[31]

And who would not be moved by Mary Cyndel's declaration, to wit:

Q:

When your daddy was playing that green snake, putting it in your body, and the parts of the body of your sister, did you cry, laugh or enjoy?

A:

Yes, I cried, sir.

Q:

Why did you cry?

A:

Because my daddy is placing his snake to Mariedel, sir.

Q:

That was the only reason why you cried, because your daddy placed his snake to Mariedel?

A:

Yes, sir.

Q:

You cried because you pity your sister?

A:

Yes, sir.[32]

This testimony and the medical finding that Mariedel[33] suffered "deep healed laceration on her hymen at 3:00 o'clock position and was in a non-virgin state physically"[34]constitute conclusive proof that Mariedel was raped by appellant. Considering that Mariedel herself was only 3 years old, and could hardly be expected to verbalize her ordeal and grief, she was not placed on the witness stand. That the prosecution presented her person to medical examination and the results thereof presented by the PNP medico-legal officer, Dr. Lebaquin, should suffice to prove the extent of her injury.

Appellant urges that we disregard the testimony of Mary Cyndel because her cross-examination revealed that she was referring to a green snake found in the grass. The pertinent portion of said cross-examination is as follows:

Q:

Have you seen a snake before you draw this thing?

A:

Yes, sir.

Q:

Where did you see that snake, in the house or in the grass or in what place?

A:

In the grass, sir.

Q:

Did you remember the color of the snake which you saw, whether it was green, brown or what?

A:

Green, sir.

Q:

And this snake that your daddy played with you, is colored green, right?

A:

Yes, sir.

Q:

And that snake colored green was the same snake that your daddy put into your mouth?

A:

Yes, sir.

Q:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

And from that colored green snake, came out of the worm?

A:

Yes, sir.

Q:

And that is the very same colored green snake that your daddy used to place in the mouth of your sister, right?

A:

Yes, sir.

Q:

And from that snake, you came to know that a worm comes out to the mouth of your sister?

A:

Yes, sir.

Q:

And that is the very same snake that your daddy placed at about your anus, right?

A:

Yes, sir.

Q:

And that is the very same green snake that your daddy placed at about the area of your front organ, right?

A:

Yes, sir.

Q:

And that is the very same colored green snake that your daddy placed in the front portion of your organ and anus?

A:

Yes, sir.[35]

Appellant insists that the green snake Mary Cyndel was referring to could not have been his penis. According to him, this casts a doubt on the commission of the alleged rape. However, we have to bear in mind that the above testimony came from a four-year-old child whose testimony ought not to be treated similarly as that of an adult. It is not made clear whether Mary Cyndel knows what "green" means. It was not established that Mary Cyndel clearly understood the question about the "grass" asked by defense counsel before she answered. But the reference of "grass" could be to the pubic hair. And the "snake" therein is the penis. We note the manifestation and objection of Prosecutor Umali, thus:

Pros. Umali:

Objection, your honor, at this juncture may we suspend the questioning, your honor, because it appears that the witness had been answering "yes" when the question of counsel in English had not yet been translated in

Tagalog and these children are not English speaking, your Honor.[36]

We are convinced that what Mary Cyndel referred to as "snake" is appellant's penis. This conclusion is supported by the following: (1) Mary Cyndel was able to point to the groin area of Atty. Mateo when asked where the snake of her father can be located; (2) Mary Cyndel drew the snake along the groin area of the paper dolls, marked as Exh. "U"[37]; (3) physical evidence showing that Mariedel had been sexually molested is consistent with Mary Cyndel's testimony; (4) testimony of Mary Cyndel was substantially corroborated by Cecilia, Adelaida and Cynthia on its material points; (5) Mary Cyndel categorically stated that her father was naked when he showed the "snake"; and (6) she mentioned that after inserting the snake into her and her sister's mouths, the said snake would "die" and a white, worm-like substance which is "malagkit" and "lasang sipon" would come out. It is beyond any doubt that this white substance refers to no less than semen coming out from appellant's penis after he had ejaculated inside the victim's mouth.

Apparently Mary Cyndel was misled by the suggestion that the color of the "snake" was green. That suggestion had no basis. Nor is it material. What is material is that the "snake" was placed by appellant in the anus, vagina and mouth of babes, including the witness and her 3-year-old sister, Mariedel.

Appellant's assertion that it was Cynthia, Mary Cyndel's mother, who put her up to accuse him and instructed her to lie in court, so that Cynthia could get rid of him appears to us far-fetched. No mother in her right mind would stoop so low just to assuage her own hurt feelings as to subject her own daughter to the hardship and shame concomitant to a rape prosecution, especially if the one accused is the girl's own father. It is unnatural for a parent to use her offspring as an engine of malice and sacrifice her to the altar of public ridicule if she, in fact, has not been motivated by an honest desire to have the culprit punished.[38] The insistence of appellant that his wife fabricated the rape charges because she had a lover and wanted to get rid of appellant also appears baseless and illogical. It is not supported by the evidence. Moreover, appellant had testified that he left his family and even wrote a letter to his parents explaining why. If he had already left, there was no more reason for his wife to falsely accuse him.

Appellant says that the testimony of Dr. Lebaquin on the lacerations suffered by the victim should be disregarded since he did not after all identify who the perpetrator was. Appellant's contention deserves no serious consideration. Naturally, Dr. Lebaquin could not have identified the perpetrator because said witness was not present when these lacerations were inflicted. His role was only that of an expert witness, a physician, and not as an eyewitness to the crime.

In sum, we agree with the trial court's finding that appellant is guilty of raping Cecilia Osorio and Mariedel Marcelo. However, we are unable to agree that the death penalty be imposed on appellant in Criminal Case No. 108001-H, concerning the rape of Mariedel Marcelo.

Section 11 of Republic Act 7659,[39] the law governing at the time the offenses were committed, provides that the death penalty shall be imposed if the crime of rape is committed with any of the following attendant circumstances:

xxx

1.

when the victim is under eighteen (18) years of age and the offender is a parent,.....

xxx

4.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> when the victim is a religious or a child below seven (7) years old.

We find that, in regard to the first qualifying circumstances abovecited, the victim's minority and her relationship to the offender have been alleged. But the fact of his being the father of Mariedel has not been sufficiently established by competent and independent evidence. For the imposition of capital punishment, we cannot rely on the silence of appellant regarding this point. In the case of qualified rape, the prosecution bears the burden of establishing the qualifying circumstances that characterize the offense as such. Unfortunately, the prosecution here did not present any documentary proof to establish that appellant is the father of Mariedel. Nor did it try to elicit a categorical declaration from the mother, or even from the appellant himself, that indeed Mariedel was his offspring. As held in People vs. Javier:

> ...In a criminal prosecution especially of cases involving the extreme penalty of death, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which an accused is charged must be established by the prosecution in order for said penalty to be upheld....[40]

Likewise, in regard to the fourth qualifying circumstance of Section 11 of R.A. 7659 earlier cited, we find that it was not proved adequately. This circumstance pertinently requires that the victim must be below seven years old. Mariedel was allowed to sit beside Mary Cyndel while the latter testified,[41] apparently to impress on the court by their youthful appearances that the sisters were minors and below seven years old. But Mariedel was not presented so that her age could be of judicial notice.[42] Nor was there any admission by the defense of her age, much less a hearing expressly on the point of her age being below seven years. Their mother's testimony that Mary Cyndel was four while Mariedel was three years old, was not sufficient nor indubitable proof of their ages. The failure of the prosecution to present Mariedel's birth certificate without credible explanation lead to doubt, if not to an adverse conclusion.

We are not unmindful that in People vs. Tipay,[43] citing People vs. Javier, G.R. No. 126096, 311 SCRA 122 (1999), we said that, "The minority of the victim of tender age who may be below the age of ten is quite manifest and the court may take judicial notice thereof." Neither have we overlooked that in People vs. Dela Cruz,[44] we accepted the testimony of the mother as proof of the minority of the victims who were 15 and 14 years old, without requiring their birth certificates in compliance with the first circumstance of R.A. 7659. Note, however, that these aforementioned cases referred to proof of minority and not of actual age. Carefully considered, said cases are not on all fours with the present case. We must stress that here what is required to qualify the penalty to death is definite, independent, and indubitable proof that Mariedel was below seven years old at the time of her rape, conformably with the fourth circumstance of Section 11, R.A. 7659.[45]

To put a man to death based on implications and assumptions, or on his silence regarding allegations against him, could be the height of injustice. As oftenly repeated, the evidence for the prosecution must stand or fall on its own merit, and it cannot be allowed to draw strength from the weakness of the evidence for the defense.[46] It is the duty of the prosecution to establish, beyond a shadow of a doubt, that (1) Mariedel was a minor and that appellant is her father, or (2) Mariedel was aged below seven. Failure to discharge this duty on the part of the prosecution bars conviction of the accused for the crime of rape in its qualified form. Absent clear, categorical, unequivocal and indubitable proof of the qualifying circumstance required to convict for qualified rape, appellant must be spared from capital punishment.

Anent the damages awarded, we find that modifications are called for. In Criminal Case No. 107976-H, the case of Cecilia Osorio, aside from the award of P50,000 as moral damages, there should also be an award of P50,000 as civil indemnity in accordance with prevailing jurisprudence.[47] The award of exemplary damages is reduced to P25,000 pursuant to present case law.[48]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

In Criminal Case No. 108001-H, the case of Mariedel Marcelo, aside from the award of moral damages, we should likewise grant civil indemnity in the amount of P50,000. The award for exemplary damages should also be pegged at P25,000, pursuant to current jurisprudence.

WHEREFORE, the decision of the trial court finding appellant Rodelio Marcelo guilty of two counts of rape is AFFIRMED, with the following MODIFICATIONS:

(a)

In Criminal Case No. 107976-H, the appellant is sentenced to suffer the penalty of reclusion perpetua. Appellant is ordered to pay the offended party P50,000 as civil indemnity, P50,000 as moral damages, and P25,000 as exemplary damages.

(b)

In Criminal Case No. 108001-H, the appellant's sentence of death is reduced to reclusion perpetua. He is ordered to pay the offended party P50,000 as civil indemnity, P50,000 as moral damages, and P25,000 as exemplary damages.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

---

[1] Rollo, pp. 28-40.

[2] Sometimes referred to as "Maridel" in the records.

[3] TSN, September 19, 1995, pp. 8-15.

[4] TSN, September 26, 1995, pp. 4-6.

[5] TSN, October 4, 1995, pp. 4-7.

[6] Sometimes referred to by her as "Tita Aida."

[7] TSN, October 10, 1995, pp. 4-14.

[8] TSN, October 18, 1995, pp. 7-14.

[9] TSN, December 12, 1995, pp. 3-8.

[10] TSN, December 20, 1995, pp. 4-10.

[11] TSN, January 23, 1996, pp. 6-8; TSN, February 21, 1996, pp. 2-8; TSN, March 6, 1996, pp. 2-9.

[12] TSN, May 28, 1996, pp. 3-7.

[13] Also spelled "Sinforosa" in the TSN.

[14] TSN, June 11, 1996, pp. 3-7.

[15] Rollo, pp. 39-40.

[16] Id. at 70.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

[17] Id. at 70-77.

[18] Id. at 148-164.

[19] People vs. Quijada, G.R. No. 114262, 321 SCRA 426, 431 (1999).

[20] People vs. Maglente, G.R. Nos. 124559-66, 306 SCRA 546, 558 (1999).

[21] As cited in People vs. Cabana, G.R. No. 127124, 331 SCRA 569, 581-582 (2000).

[22] People vs. De Leon, G.R. Nos. 124338-41, 332 SCRA 37, 47 (2000).

[23] People vs. Sagun, G.R. No. 110554, 303 SCRA 382, 397 (1999).

[24] People vs. Tabanggay, G.R. No. 130504, 334 SCRA 575, 599 (2000), citing People vs. Tanail, G.R. No. 125279, 323 SCRA 667, 676 (2000); People vs. Cabiles, G.R. No. 112035, 284 SCRA 199, 216 (1998).

[25] People vs. Oliver, G.R. No. 123099, 303 SCRA 72, 81-82 (1999), citing People vs. Mamalayan, G.R. No. 115282, 280 SCRA 748, 760 (1997) and People vs. Cristobal, G.R. No. 116279, 252 SCRA 507, 516 (1996); People vs. Gomez, G.R. No. 112074, 279 SCRA 688, 696 (1997); People vs. Adora, G.R. Nos. 116528-31, 275 SCRA 441, 467 (1997) and People vs. De Guzman, G.R. No. 117217, 265 SCRA 228, 242 (1996).

[26] People vs. Perez, G.R. No. 129213, 319 SCRA 622, 638 (1999).

[27] See People vs. Baygar, G.R. No. 132238, 318 SCRA 358, 368 (1999); also People vs. Padil, G.R. No. 127566, 318 SCRA 795 (1999).

[28] G.R. No. 101088, 229 SCRA 543 (1994).

[29] G.R. No. 91490, 196 SCRA 679 (1991).

[30] As reiterated in People vs. Murillo, et al., G.R. Nos. 128851-56, February 19, 2001, p. 15.

[31] TSN, December 12, 1995, p. 4. Emphasis supplied.

[32] TSN, December 13, 1995, pp. 8-9.

[33] Spelled also as "Marydel" in the Medico-Legal Report No. M-382-95, Exh. "I", Records, p. 115.

[34] Medico-Legal Report No. M-382-95, Exhibit "I", supra.

[35] TSN, December 13, 1995, pp. 4-5.

[36] Id. at 5.

[37] Records, p. 133.

[38] See People vs. Perez, supra at 642.

[39] Took effect December 31, 1993, but later amended on October 22, 1997 by RA 8353.

[40] G.R. No. 126096, 311 SCRA 122, 141 (1999).

[41] TSN, December 12, 1995, p. 2.

[42] Rules of Court, Rule 129, Sec. 3. Judicial notice, when hearing necessary.--During that trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon.

After the trial, and before judgment or on appeal, the proper court, on its own initiative or on request of a party, may take judicial notice of any matter and allow the parties to be heard thereon if such matter is decisive of a material issue in the case.

[43] G.R. No. 131472, 329 SCRA 52, 76 (2000).

[44] G.R. Nos. 131167-68, 338 SCRA 582, 599-600 (2000).

[45] Supra, note 39. Now fifth under R.A. 8353.

[46] People vs. Alipar, G.R. No. 137282, March 16, 2001, p. 17, citing People vs. Gutierrez, G.R. No. 132772, August 31, 2000, p. 9; People vs. Balacano, G.R. No. 127156, July 31, 2000, p. 7.

[47] People vs. Delos Santos, G.R. No. 137889, March 26, 2001, p. 8.

[48] People vs. Santos, G.R. Nos. 131103 & 143472, 334 SCRA 655, 672 (2000).

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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.