

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FEDERICO CAMPANER, ACCUSED-APPELLANT.

G.R. Nos. 130500 and 143834. July 26, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an automatic review of the decision[1] of the Regional Trial Court, Branch 52, Puerto Princesa, finding accused-appellant guilty of two counts of rape against the daughter of his common-law spouse and sentencing him to death for each count and to pay complainant the amount of P100,000.00 as moral damages and the costs.

On June 20, 1995, Geraldine Magos, assisted by her mother, Desiree Magos, filed two complaints for rape against accused-appellant Federico Campaner, on the basis of which the public prosecutor filed two Informations[2] alleging —

Criminal Case No. 12447

That on or about the 20th day of April, 1995, in the afternoon, at Brgy. Igang, Municipality of Taytay, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, and by the use of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one GERALDINE MAGOS, a 15 year old girl, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.

Criminal Case No. 12448

That on or about the 20th day of April, 1995, in the evening, at Brgy. Igang, Municipality of Taytay, Province of Palawan, Philippines and within the jurisdiction of this Honorable Court, the accused, FEDERICO CAMPANER with lewd design and by the use of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one GERALDINE MAGOS, a 15 year old girl, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.

The cases were consolidated and, after accused-appellant had pleaded not guilty, joint trial was held.

The evidence for the prosecution established that Geraldine, the eldest of two daughters of Desiree and Jovito Magos, was born on April 21, 1980 in Dagat-Dagatan, Navotas, Metro Manila. At the time material to this case, she was 14 years old. She finished only the fourth grade of elementary school. In 1983, her parents separated and, as a result, she and her sister Joanna were taken by their mother to Barangay Pamantolon, Taytay, Palawan. In 1987, when Geraldine was seven, her mother started living with accused-appellant, a farmer from Igang, in the same municipality. Geraldine and her sister lived with their mother and accused-appellant in a two-bedroom nipa hut in Barangay Pamantolon. Geraldine came to regard accused-appellant as her father and called him “Tito.” Geraldine’s mother subsequently begot two children, Jethro and Freddie, by accused-appellant.[3]

In the latter part of March 1995, Desiree went to Manila, leaving her four children to the care of accused-appellant. On April 20, 1995, at about 1 o'clock in the afternoon, accused-appellant came home from the farm. He sent Joanna, 13, Jethro, 5, and Freddie, 2, to buy cigarettes at a store about half a kilometer away. When only the two of them were left in the house, accused-appellant pulled Geraldine inside the room, and, over her protests asking "Tito, aanuhin mo ba ako?," he undressed her, forced her to lie on the floor, and then had sexual intercourse with her. Geraldine suffered pain in her genitalia and cried. After he was through, accused-appellant stood up and left but not before warning her not to report the incident to anyone, otherwise, he would kill her and her siblings.[4]

Accused-appellant then went back to the farm. Geraldine was crying when her brothers and sister arrived, but she did not tell them what happened to her as she was afraid of accused-appellant.[5]

That night, after supper, accused-appellant went to his room to sleep, while Geraldine and her siblings went to sleep in the other room.[6] At around 9 o'clock that evening, Geraldine was awakened by the presence of accused-appellant in their room. Accused-appellant was carrying the younger children to his room. Afterwards, he lay beside Geraldine and started to remove her panty. Geraldine wanted to shout, but accused-appellant threatened to kill her and her siblings if she did. Again, accused-appellant succeeded in having sexual intercourse with Geraldine, and, after he was through, he went back to his room. Geraldine noticed that her genitalia was bleeding. She cried the whole night until she fell asleep at 3 o'clock in the morning of the following day.[7]

The following day was Geraldine's 15th birthday. Some relatives of accused-appellant came over to their house for lunch, but no friends and classmates came to greet Geraldine on her birthday. Geraldine admitted that although accused-appellant was still in the farm when the guests arrived, she did not tell them what had happened to her the day before.[8]

In May 1995, accused-appellant brought Geraldine and her two brothers with him to El Salvador, Roxas, Palawan, where he found a job in a construction firm called Solid Construction. They stayed at a bunkhouse, about eight kilometers from the jobsite. Joanna did not go with them as she had earlier gone with their grandmother to Manila.[9]

On June 10, 1995, Geraldine's mother, Desiree Magos, came back from Manila. Upon learning that accused-appellant had taken her children to Roxas, Palawan, she followed them, apprehensive that accused-appellant might have taken advantage of Geraldine. She brought with her some policemen from the town. When accused-appellant saw them coming, he made for the nearby river where Geraldine was taking a bath. The police gave chase and arrested him. When she saw her mother, Geraldine broke down and told her that accused-appellant had abused and threatened her.[10]

On June 14, 1995, Geraldine was examined by Dr. Leo Salvino, municipal health officer of Roxas, Palawan, who issued the following certification:[11]

PHYSICAL EXAMINATION FINDINGS

External Examination:

Fairly developed, fairly nourished, female, Filipino. The breast[s] are developed, hemispherical in shape, soft in consistency. The nipples are prominent. No signs of external physical injury noted.

Internal Examination:

Pubic hair black & scanty. Labia majora & minora are in close apposition with each other. Fourchet slightly edematous. Complete hymenal laceration at 9 o'clock & 3 o'clock position. Introitus admits gloved index

finger with ease. No signs of bleeding noted.

Laboratory:

Sperm cell determination - positive for spermatozoa

Specimen - vaginal smear

Conclusions: Physical virginity lost with possible penile penetration.

Dr. Salvino testified that the laceration in Geraldine's hymen could have been caused by penetration of an erect penis. He told the court that because sperm cells have a lifespan of only one to three days, it could be inferred from their presence in Geraldine's vaginal canal that she had sexual intercourse within a week preceding the examination.[12]

Accused-appellant testified in his own behalf. He admitted that Geraldine is the daughter of his common-law spouse Desiree Magos and that he had been cohabiting with the latter since 1987. However, he denied having raped Geraldine on April 20, 1995, claiming that early in the morning of that day, he went to the farm about a kilometer from their house and, although he went home at 11 o'clock for lunch, he returned to his work at 2 o'clock in the afternoon. He said he did not come home until 5 o'clock that afternoon.[13]

With regard to the rape committed that evening, accused-appellant testified that, at 9 o'clock that evening, he went to sleep in his room and did not wake-up until 5 o'clock in the morning of the following day.[14]

To provide motive for the filing of the charges against him, accused-appellant alleged that Desiree instigated Geraldine to file such charges because he refused to give her the custody of their two sons. He added that Geraldine voluntarily went with him to El Salvador to take care of her two younger brothers.[15]

Accused-appellant denied he tried to run away to evade arrest. He stated that when he was arrested, he was taking a bath in the river near the Solid Construction compound, while Geraldine was in the house where they were staying. He claimed that, upon seeing him arrested, Geraldine even told the police officers not to hurt her "Tito" because he had done nothing wrong. Accused-appellant was subsequently detained in the municipal jail of Roxas, Palawan.[16]

Another witness for the defense, Roger Beltran, testified that his daughter Emily was a close friend and classmate of Geraldine; that shortly after accused-appellant had moved to El Salvador, Roxas, Geraldine went to their house and told Emily that she was going with accused-appellant to take care of her brothers; and that Geraldine never told Emily that she had been raped.[17]

When asked on cross examination how he could have overheard the conversation between his daughter and Geraldine when the fact was that he worked six days a week, from 7 o'clock in the morning to 4:30 in the afternoon, Beltran answered that Geraldine saw his daughter after 5 o'clock in the afternoon, and it was then that he overheard their conversation.[18]

On March 7, 1997, the trial court rendered its decision the dispositive portion of which reads:[19]

WHEREFORE, premises considered, a joint judgment is hereby rendered finding the accused FEDERICO CAMPANER guilty beyond reasonable doubt as principal of two (2) counts of rape, and appreciating the qualifying circumstance that the victim is under (18) years of age and the accused is the common-law spouse of the parent of the victim, and pursuant to R.A. No. 7659, he is hereby sentenced in both CRIMINAL CASE No[s]. 12447 and 12448, to death by lethal injection, with the accessory penalty provided for in Article 40 of the Revised Penal Code when not carried out by reason of commutation o[r] pardon; to pay to Geraldine Magos moral damages of P50,000.00 for each of the offenses charges; and to pay the costs.

SO ORDERED.

Hence this appeal. Accused-appellant contends that the trial court erred —

- IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT AS PRINCIPAL OF THE CRIME OF RAPE IN CRIM. CASE NO. 12447.

- IN CRIM. CASE NO. 12447, SUBJECT MATTER OF THE ALLEGED SEXUAL ABUSE ON APRIL 20, 1995 AT AROUND 3:00 O’CLOCK IN THE AFTERNOON, FOR NOT ACQUITTING THE ACCUSED ON REASONABLE DOUBT, ON THE BASIS OF THE CONFLICTING STATEMENTS OF THE PRIVATE COMPLAINANT, GERALDINE MAGOS, AND HER TESTIMONY THAT NOTHING HAPPENED TO HER ON THE AFORESAID DATE AND TIME AND THAT THE ACCUSED WAS NOT IN THEIR HOUSE FROM 2:30 UNTIL 5:00 O’CLOCK IN THE AFTERNOON OF THE SAME DAY CONTRARY TO THE ALLEGATIONS IN THE COMPLAINT.

- IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT AS PRINCIPAL OF THE CRIME OF RAPE IN CRIM. CASE NO. 12448.

- IN CRIM. CASE NO. 12448, SUBJECT MATTER OF THE ALLEGED SEXUAL ABUSE IN THE EVENING OF APRIL 20, 1995, FOR NOT ACQUITTING THE ACCUSED ON REASONABLE DOUBT ON ACCOUNT OF THE INCREDIBLE, PREPOSTEROUS AND IMPROBABLE TESTIMONY OF THE COMPLAINANT GERALDINE MAGOS WHICH WERE NOT IN ACCORD TO ORDINARY HUMAN EXPERIENCE AND HER UNNATURAL AND FREAKISH CONDUCT IMMEDIATELY AFTER THE ALLEGED SEXUAL ASSAULTS OF CELEBRATING HER BIRTHDAY IN THE MORNING OF APRIL 21, 1995 INSTEAD OF COMPLAINING TO THE PROPER AUTHORITIES.[20]

We find these contentions without merit.

First. Accused-appellant cites alleged contradictions in the testimony of complainant with respect to Criminal Case No. 12447, to wit: (1) during her cross-examination, she stated that her sister Joanna went with their grandmother to Manila about a week before her birthday on April 21, 1995,[21] thus contradicting her testimony on direct examination that Joanna was with them on April 20, 1995; (2) during her cross-examination, she stated that at around 3 o’clock in the afternoon of April 20, 1995, her two brothers were asleep,[22] thus belying her testimony in the direct examination that after coming from the farm, accused-appellant sent the two boys and Joanna to buy cigarettes at around 2 o’clock in the afternoon of that day; (3) when asked what happened to her on April 20, 1995, at around 3 o’clock in the afternoon, Geraldine answered “nothing,”[23] thus negating her earlier testimony that she was raped at around that time on the said day; and (4) during her cross-examination, she stated that her father went back to his farm at 2:30 in the afternoon of April 20, 1995 and did not come home until 5 o’clock of that day,[24] thereby negating her earlier testimony that accused-appellant raped her at about 3 o’clock that afternoon.

The contradictions are insufficient to warrant rejection of complainant’s testimony that, through force and intimidation, accused-appellant succeeded in having sexual intercourse with her in the afternoon of April 20, 1995. Account must be taken of Geraldine’s youth (she was only 14 years old at the time of the incident) and inexperience, let alone her lack of sophistication, in understanding her testimony.

With respect to the first matter raised by accused-appellant, it is more probable that Joanna and her grandmother went to Manila in May 1995, not the week before Geraldine’s birthday on April 21, 1995, because Geraldine categorically stated that on April 20, 1995, accused-appellant sent Joanna and her younger brothers to buy cigarettes from a store half a kilometer away so that Geraldine would be alone with him. It was in fact Joanna who gave the cigarettes to accused-appellant in the farm. In addition, Geraldine testified that before raping her that

evening, accused-appellant transferred Joanna and the two boys to the other room.

Geraldine must have merely been mistaken as to the dates Joanna went to Manila. The undue emphasis on dates and time of events confused Geraldine and caused her to contradict herself. Upon questioning by the trial court, Geraldine admitted that she made a mistake in stating that a relative (a certain Malou) of accused-appellant was with her in the afternoon of April 20, 1995 because she thought that the question was whether Malou was with her in the morning of that day.[25]

On the other hand, what Geraldine meant when she said that her brothers were sleeping in their house on April 20, 1995 was simply that her brothers were sleeping before they were sent to buy cigarettes by accused-appellant.

Furthermore, although Geraldine said “nothing” when asked if anything had happened to her, it is obvious she did not mean to negate her claim that accused-appellant raped her in the afternoon and again in the evening of April 20, 1995. It is clear that she did not understand the question put to her. She more than clarified this matter in her subsequent cross-examination. Thus she testified:[26]

Q And at about what time did you wake up?

A Around 9:00 o'clock in the evening.

Q Why were you awakened at around 9:00 o'clock in the evening?

A Because Federico Campaner entered my bedroom at around 9:00 o'clock.

Q What did Federico Campaner do?

A He abused me.

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Q In what manner did he abuse you?

A He again [did] to me what he had done to me before.

Q What was it that he did to you before?

A He again inserted his male organ to my female organ.

As to Geraldine's testimony that accused-appellant went to the farm “at about” 2:30 in the afternoon of April 20, 1995, the use of the hedge-phrase was meant precisely to indicate that accused-appellant did not leave the house at exactly 2:30 in the afternoon, in the same way that her statement in the direct examination that accused-appellant raped her “at about” 3 o'clock that afternoon does not mean that the rape took place at exactly that time. Some allowance should be made as the two time frames mentioned by Geraldine were mere estimates and, considering the proximity of one to the other, a time difference of 30 minutes is not so great as to negate absolutely the possibility that she was raped that afternoon.

In evaluating the credibility of rape victims, the Court has repeatedly held that it is not unnatural for inconsistencies to creep into the testimony of a rape victim, especially one who is of tender age, as the witness is narrating the details of a harrowing experience.[27] So long as the testimony is consistent on material points, slightly conflicting statements will not undermine the witness' credibility nor the veracity of her testimony.[28] On the contrary, these mistakes in fact strengthen, rather than weaken, the complainant's credibility as they erase any suspicion that the testimony is rehearsed.[29]

Geraldine's testimony as to how she was raped by accused-appellant rings true and sincere. She had no reason to accuse her mother's common-law husband, with whom she and her sister had been living for the last eight years, if it were not true that the latter had molested her. As the trial court well observed:[30]

The accused is some kind of a stepfather to the complainant. In 1987, when complainant's mother started

living with accused as common-law wife of the latter, the complainant also lived with them. Although the accused is not married to her mother, over the years, they have been living in the same household, the complainant has regarded accused as her father. It can easily be believed, therefore, that the complainant accords respect and reverence to her [“]stepfather[”] that she [w]ould not have hailed him to the court for forcibly having carnal knowledge [with] her if such were not the truth.

Indeed, Geraldine’s claim that she had been raped is confirmed by the findings of Dr. Salvino who noted lacerations in the victim’s hymen which, according to him, could have been caused by penile penetration. Dr. Salvino likewise found spermatozoa in Geraldine’s vaginal smear sample. The presence of sperm in complainant’s vagina during the medical examination on June 14, 1995 supports the claim in her sworn statements that, after raping her on April 20, 1995, accused-appellant “abused” her every night. Indeed, in his resolution finding that accused-appellant had committed rape against complainant twice on April 20, 1995, the Public Prosecutor specifically stated that the filing of the cases was without prejudice to the filing of other charges based on other incidents of rape mentioned by the complainant in her affidavit.[31]

As we have said time and again, no woman, especially one who is of tender age such as complainant, would concoct a story of defloration against a virtual[32] stepfather, allow an examination of her private parts and subject herself to risk ridicule and the humiliation, rigors, trouble, and inconvenience of a public trial unless in fact she was raped and her only motive in bringing the cases is to see to it that justice is done.[33]

Accused-appellant claimed below that Geraldine had been induced by her mother to file these cases because he allegedly refused to give the custody of their two sons to Desiree. We find this story unlikely for the fact is that Geraldine had been raped, as her medical examination by Dr. Leo Salvino showed.

Second. With regard to the second incident of rape which is the subject of Criminal Case No. 12448, accused-appellant makes much of the following testimony of Geraldine given during her cross examination:[34]

Q At about what time did you go upstairs and sleep?

A About 7:30 in the evening.

....

Q And you slept soundly that evening?

A No, sir.

Q And at about what time did you wake up?

A Around 9:00 o’clock in the evening.

Q Why were you awakened at around 9:00 o’clock in the evening?

A Because Federico Campaner entered my bedroom at around 9:00 o’clock.

Q What did Federico Campaner do?

A He abused me.

....

Q He abused you . . . while your two (2) kid brothers were sleeping?

A Yes, sir.

Q And your two (2) brothers were not awakened, is it not?

A No, sir, they were not awakened.

Q In fact he did it very quietly?

A Yes, sir.

....

Q You mean to say he abused you in the same bed where your two (2) kid brothers were sleeping?

A Yes, sir.

Accused-appellant contends that it was unthinkable for him to have raped Geraldine while her two younger brothers were sleeping beside her and that the fact that her younger siblings were not awakened means that the sexual act was consensual.[35] But it is equally possible to read the testimony of Geraldine as also meaning that she was raped in the same bed where her younger brothers were sleeping before they were transferred by accused-appellant to the other room. It should be remembered that Geraldine was a young girl not yet in her teens who did not have the sophistication to explain her answer. Her answer during the cross examination should be understood in the context of what she said in her testimony in chief since there is no indication that she meant to make her later testimony supersede the former. Under Rule 132, §13, in order to impeach Geraldine's credit, her previous testimony, alleged to be inconsistent with her subsequent one, should have been shown or read to her and then she should have been asked to explain the apparent discrepancy. This was not done in this case and accused-appellant cannot derive any benefit from the supposed contradictions in Geraldine's testimony.

Still, it is contended that the fact that accused-appellant was able to have sexual intercourse with Geraldine without waking up the younger children means that the intercourse was consensual. The contention has no merit. Complainant was under the moral authority of accused-appellant. She was threatened with harm if she shouted for help. Her mother was away and only his younger sister and brothers were in the house. Under these circumstances, it is not difficult to believe her claim that she was forced to submit to accused-appellant's will.

It has been held that because of a father's moral ascendancy over his daughter, the degree of intimidation upon her need not be the same as that required in rape cases committed by an accused who has no filial relations with the victim.[36] This rule has been applied to cases involving rape committed by stepfathers against their stepdaughters[37] and even by a godfather against his goddaughter.[38] There is no reason not to apply the rule in this case where the accused is the common-law spouse of the victim's mother who had been living with complainant for eight years, from the time when she was only seven years old.

Third. Accused-appellant says that Geraldine's behavior during her birthday on April 21, 1995 never showed that she had been raped the day before. He points out that she did not report what had happened to her when her natural instinct would have been to do so had she really been abused.

Again, the contention has no merit. In *People v. Isip, Jr.*,[39] instead of cancelling her birthday party, the complainant in a rape case went through with it two days after the incident. This Court found nothing in her behavior which was inconsistent with her claim that she had been raped. In this case, as the Solicitor General well observed:

. . . [T]he fact that complainant [Geraldine Magos] still celebrated her birthday immediately the day after the rape incidents cannot be considered as unnatural conduct. It should be noted that appellant had threatened to kill complainant and her siblings if she revealed the rape incidents (TSN, January 23, 1996, pp. 16-17). Presumably, she only tried to act naturally by proceeding with the birthday celebration because its cancellation would have aroused the curiosity of the guests whom she had earlier invited. She could not have avoided revealing the rape incidents when she had to explain why the birthday party would be called-off. It is therefore submitted that Geraldine merely acted within the dictates of reason according to her 15 year-old mind. Overwhelmed by fear and in her effort to protect herself and her siblings from appellant's threats of bodily harm and death, she concealed her ordeal by proceeding with her birthday celebration. Under the circumstances, her actions cannot be branded as unnatural.[40]

The delay in filing charges against the accused, which in this case took two months, does not impair the credibility of a witness if the same is satisfactorily explained.[41] In this case, the delay is explained by the fact that complainant was afraid that accused-appellant would do her harm if she reported the matter to the authorities. It was only after her mother arrived and took her on June 10, 1995 that she was able to reveal her ordeal. Ten days after she had been rescued from accused-appellant's control, Geraldine filed the charges against him.

The foregoing findings notwithstanding, we hold that the penalty imposed by the trial court must be modified. The trial court sentenced accused-appellant to death for each count of rape on the ground that he is the common-law spouse of complainant's mother and complainant was under 18 years of age on the date of commission of the crime. It is settled, however, that the circumstances[42] provided in Art. 335 of the Revised Penal Code, as amended by R.A 7659, §11, are in the nature of qualifying circumstances because they have the effect of raising the imposable penalty from reclusion perpetua to death. Hence, they must not only be proved but also alleged in the Information in view of the accused's right to be informed of the nature and cause of the accusation against him.[43] With regard to the first special qualifying circumstance mentioned therein, both the age of the victim and her relationship to the accused must be so alleged and proved.[44]

In this case, the two Informations against accused-appellant alleged only the minority of the complainant[45] but not the fact that accused-appellant is also the common-law spouse of complainant's mother. As in *People v. Bragas*,[46] in which the victim was below 18 years old and the accused was also the common-law husband of the complainant's mother but the Information alleged only the victim's minority without stating her filiation with the accused, the penalty imposed on accused-appellant must be reduced to reclusion perpetua.

Furthermore, civil indemnity of P50,000.00 for each count of rape, or the total amount of P100,000.00, should be awarded to Geraldine, in addition to the total amount of P100,000.00 given in the judgment of the trial court for moral damages. This award for civil indemnity is made upon a mere finding that complainant was raped and need not be proved.[47]

WHEREFORE, the decision of the Regional Trial Court, Branch 52, Puerto Princesa, is **AFFIRMED** with the modification that accused-appellant is sentenced to reclusion perpetua for each count of rape in Criminal Case Nos. 12447 and 12448 and he is ordered to pay complainant Geraldine Magos the total amount of P100,000.00 as indemnity, in addition to the total amount of P100,000.00, awarded by the trial court as moral damages.

SO ORDERED.

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

[1] Per Judge Filomeno A. Vergara.

[2] Records, pp. 1 & 13.

[3] TSN (Geraldine Magos), pp. 3, 5-6, 9, 31, Jan. 23, 1996; TSN (Desiree Magos), pp. 5-6, 8-9, Feb. 13, 1996.

[4] TSN (Desiree Magos), p. 18, Feb. 13, 1999; TSN (Geraldine Magos), pp. 10-17, Jan. 23, 1996.

[5] TSN (Geraldine Magos), p. 18, Jan. 23, 1996.

[6] TSN (Geraldine Magos), pp. 5-6, April 17, 1996.

[7] TSN, pp. 20-27, Jan. 23, 1996.

[8] TSN pp. 3-5, 7-8, Jan. 30, 1996.

[9] TSN, pp. 27-28, Jan. 23, 1996; TSN, p. 6, Feb. 5, 1997.

[10] TSN (Desiree Magos), pp. 10-18, Feb. 13, 1996.

[11] Records, p. 11. (Emphasis added)

[12] TSN, pp. 5-7, 9, June 6, 1996.

[13] TSN, pp. 5-7, 10-11, Jan. 9, 1997.

[14] Id., pp. 11, 13-15.

[15] Id. pp. 21-22, 25.

[16] Id., pp. 8, 11-12. Accused-appellant's warrantless arrest does not appear to fall under any of the circumstances mentioned under Rule 113, §5 of the Revised Rules of Criminal Procedure.

[17] TSN, pp. 5-6, 9-11, Jan. 30, 1996.

[18] Id., pp. 13-15.

[19] RTC Decision, p. 14; Rollo, p. 34.

[20] Appellant's Brief, pp. 6-8; Rollo, pp. 57-59.

[21] TSN, p. 13, Jan. 30, 1996.

[22] Id., p.19.

[23] Id.

[24] Id.

[25] TSN, pp. 15-16, Jan. 30, 1996.

[26] TSN, pp. 8-9, April 17, 1996. (Emphasis added)

[27] People v. Esquila, 254 SCRA 140 (1996); People v. Licanda, G.R. No. 134084, May 4, 2000.

[28] People v. Licanda, supra; 2000; People v. Barcelona, G. R. No. 125341, Feb. 9, 2000.

[29] People v. Tan, 264 SCRA 425 (1996).

[30] RTC Decision, pp. 11-12; Rollo, pp. 31-32.

[31] Records, pp. 4, 15.

[32] As used in Art. 335, the term "stepfather" is defined as the man legally married to the victim's mother after the death of the victim's biological father (People v. Manggasin, 306 SCRA 228 (1999)). Since in this case accused-appellant is not married to Geraldine's mother, he is not her stepfather.

[33] People v. Tan, supra; People v. Catoltol, 265 SCRA 109 (1996); People v. Abordo, 258 SCRA 571 (1996);

[34] TSN, pp. 7-10, April 17, 1996.

[35] Appellant's Brief, pp. 18-20; Rollo, pp. 69-71.

[36] People v. Dusohan, 227 SCRA 87 (1993).

[37] *People v. Vitor*, 245 SCRA 392 (1995); *People v. Robles*, 170 SCRA 557 (1989).

[38] *People v. Alcid*, 135 SCRA 280 (1985).

[39] 188 SCRA 648 (1990).

[40] Appellee's Brief, p. 15; Rollo, p. 119.

[41] *People v. Bugarin*, 273 SCRA 384 (1997); *People v. Devilleres*, 269 SCRA 716 (1997).

[42] 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

2. When the victim is under the custody of the police or military authorities.

3. When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

4. When the victim is a religious or a child below seven (7) years old.

5. When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

6. When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

7. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.

[43] *People v. Licanda*, supra.

[44] *People v. Licanda*, supra; *People v. Fraga*, G.R. Nos. 132779-82, April 12, 2000; *People v. Sacapaño*, G.R. No. 130525, September 3, 1999; *People v. Maglente*, 306 SCRA 546 (1999); *People v. Ramos*, 296 SCRA 559 (1998); *People v. Manggasin*, supra.

[45] Although the Informations alleged that Geraldine was 15 years old at the time she was raped on April 20, 1995, she was in fact one day short of that age as she was born on April 21, 1980.

[46] G.R. No. 128874, September 24, 1999.

[47] *People v. Licanda*, supra; *People v. Bernaldez*, G.R. Nos. 132779-82, January, 19, 2000; *People v. Acala*, G.R. Nos. 127023-25, May 19, 1999; *People v. Prades*, 293 SCRA 411 (1998).

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