

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BALTAZAR CESISTA, ACCUSED-APPELLANT.

G.R. Nos. 131589-90. August 06, 2002

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Before this Court for automatic review[1] is the Joint Decision[2] dated July 7, 1997 of the Regional Trial Court, Branch 71, of Antipolo, Rizal, in Criminal Cases Nos. 95-11972 and 95-11973 finding herein accused-appellant Baltazar Cesista y Hagunoy guilty beyond reasonable doubt of rape and sentencing him to suffer the penalty of death and to indemnify private complainant Rea Cesista y Sulit the amount of P50,000.00 in both cases.

The prosecution charged the accused-appellant with two (2) counts of rape in separate informations which read as follows:

Crim. Case No. 95-11972

That on or about the 30th day of September, 1994 in the Municipality of Cainta, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with a 14-year old girl, his daughter Rea Cesista y Sulit without her consent and against her will.

CONTRARY TO LAW.[3]

Crim. Case No. 95-11973

That in or about the 1st week of September, 1994 in the Municipality of Cainta, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with a 14-year old girl, his daughter Rea Cesista y Sulit without her consent and against her will.

CONTRARY TO LAW.[4]

When arraigned in both cases, the accused-appellant pleaded not guilty.[5] Upon agreement of the prosecution and the defense, both cases were tried jointly.[6]

The prosecution's evidence tend to establish that the accused-appellant raped Rea twice in September, 1994 when her mother was in Samar.

The first rape happened at about ten o'clock in the evening of September 9, 1994 while Rea and her three (3) sisters were sleeping with the accused-appellant in their one-room house at Barangay Mayamot, Antipolo, Rizal.[7] Rea woke up when he went near her feet,[8] removed her shorts and panty, and laid on top of her.[9] He told her not to say anything to anybody or else he would kill her.[10] Then, to her horror, he put his penis inside her vagina, and moved his buttocks.[11] Feeling tremendous pain, she cried.[12] Her sisters remained asleep.[13] After sexually satisfying himself, he went to sleep.[14]

During the night of September 30, 1994, the accused-appellant again raped Rea[15] in the same manner.[16]

Sometime in January 1995, Rea found the courage to tell her aunt Daria that the accused-appellant raped her on September 9 and 30, 1994; and also sometime in October, 1994, on November 24, 1994, and December 3, 1994. In turn, her aunt told their other relatives what happened. They accompanied Rea to report the rape incidents to the police authorities at Barangay Mayamot. On January 21, 1995, Rea executed her sworn statement[17] narrating how she was raped.

Afterwards, Rea submitted herself for medical examination to Dr. Jesusa N. Vergara, the medico-legal officer of the Philippine National Police Crime Laboratory Service (PNPCLS). The Medico-Legal Report[18] dated January 23, 1995 prepared by Dr. Vergara states that Rea's "vagina had a deep healed laceration at 6 o'clock, and shallow healed lacerations at the 3 and 9 o'clock positions;"[19] and that she was "in a non-virgin state physically." [20]

On the other hand, the accused-appellant denied raping Rea. Through his evidence, he sought to prove that he was imprisoned between 1982 and 1992 for killing a person in Divisoria. After his release from prison, he returned home and supported his family. While he was imprisoned, however, his wife's sisters took care of Rea and the latter's sisters. For such reason, his wife's sisters harbored ill-feeling towards him and orchestrated the filing of the rape charges against him.

On July 7, 1997, the trial court rendered the Joint Decision mentioned at the outset hereof, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused Baltazar Cesista y Hagunoy GUILTY beyond reasonable doubt of the crime of RAPE in Criminal Case No. 95-11972 and Criminal Case No. 95-11973, and he is hereby sentenced to suffer the supreme penalty of DEATH in each case, to indemnify the private complainant in the amount of P50,000.00 also in each case, and to pay the costs.

SO ORDERED.[21]

The accused-appellant now comes before us with the following assignment of errors:

I.

THE COURT A QUO ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE ALLEGED RAPE VICTIM, REA CESISTA, NOTWITHSTANDING HER LACK OF CREDIBILITY.

II.

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED APPELLANT OF TWO (2) COUNTS OF RAPE AND SENTENCING HIM TO DEATH DESPITE THE FACT THAT THE PROSECUTION FAILED TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[22]

The accused-appellant contends that the prosecution failed to prove beyond reasonable doubt that he raped Rea on two occasions.

The contention is devoid of merit.

To begin with, based on the prosecution's evidence and as correctly found by the trial court, the crimes charged in the two informations have been sufficiently established beyond reasonable doubt.

Article 335 of the Revised Penal Code,[23] the applicable law at the time the acts of rape were committed,[24] provides:

Art. 335. When and how rape is committed.—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; and
3. When the woman is under twelve years of age or demented.

The crime of rape shall be punished by reclusion perpetua.

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The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

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 or victim.

x x x x x x x x

In these cases, the prosecution's evidence clearly established the guilt of the accused-appellant beyond reasonable doubt, and thus, had overcome the constitutional presumption of innocence.[25] Rea was unequivocal, unswerving and sincere in accusing him of raping her twice in September, 1994. Her account of how he raped her was straightforward, detailed, consistent on all material points and convincing, both in her Sworn Statement and testimony in the trial court.

In her Sworn Statement, Rea unequivocally declared the following:

05. T: Bakit mo naman gustong ireklamo ang tatay mong si Baltazar Cesista?

S: Dahil po sa ako ay kanyang pinag-samantalahan.

06. T: Anong klaseng pagsasamantala naman ang ginawa sa iyo ng tatay mo?

S: Pinilit (sic) at tinatakot po niya ako at ipinapasok niya ang ari niya sa ari ko.

07. T: Saan, kailan at anong oras naman nangyari ang bagay na sinasabi mong ito?

S: Doon po sa bahay na aming tinitigalan (sic) sa Viray Construction, Sumulong Highway, Brgy San Isidro, Cainta, Rizal, at ng una po ay noong unang linggo ng (sic) Septiembre 1994, humigit kumulang ika-10:00 ng gabi, at ang pangalawa po noong ika-30 ng Septiembre 1994, humigit kumulang ika-11:00 ng gabi, at ang pangatlo po ay noong buwan ng Oktubre 1994, humigit kumulang ika-9:00 ng gabi, at ang pang apat po ay noong ika-24 ng Nobyembre 1994, humigit kumulang ika-10:00 ng gabi, at ang pang lima at pang-huli po ay noong ika-3 ng Disyembre 1994, humigit kumulang ika-10:00 ng gabi.

08. T: Para sa ikaliliwanag ng pagsisiyasat na ito mangyari lamang na isalaysay mo kung papaano nangyari ang bagay na ito.

S: Ganito po iyon, noong unang Linggo ng September 1994, humigit kumulang ika-10:00 ng gabi habang ako ay mag-isang natutulog sa aming katre sa loob ng aming bahay ay nagising ako ng maramdaman ko na may humihipo sa ri ko at pagdilat ko ay ang tatay ko ang nakita kong nasa harapan ko at ang sabi sa akin ay "HUWAG KANG MAINGAY AT PAPATAYIN KITA" at pagkatapos ay hinubad niya ang aking short at panty at pagkanatpos (sic) ay siya naman ang nahubad (sic) ang kanyang short at walker at pagkatapos ay dinaganan niya ako at pilit na ipinapasok ang ari niya sa ari ko at ng ako ay nagpupumiglas ay sinabihan niya ako ng huwag daw akong malikot at pagkatpos (sic) ay hinahalikan niya ako sa bibig at sa leeg at pagkatapos

ay ibinuka niya ang dalawang hita ko at sapilitan niyang ipinasok ang ari niya sa ari ko, at habang nakapasok ang ari niya sa ari ko ay paulit-ulit niya akong hinahalikan sa labi at sa leeg. At pagkatapos ay hinugot na niya ang ari niya sa ari ko at bumangon na siya at sinabihan niya ako ng “HUWAG KANG MAGSUSUMBONG AT PAPATAYIN KITA PAG NAGSUMBONG KA” at pagkatapos ay iniwan na niya ako sa katre at doon siya natulog sa sahig kasama ang dalawa kong kapatid na sina Didang at Maylyn.

09. T: Hindi ba naman nalamang ng mga kapatid mo ang ginawa sa iyo ng tatay mo ng gabing iyon?

S: Hindi po.

10. T: Ano naman ang ginawa mo matapos na gawin sa iyo ng tatay mo ang bagay na ito?

S: Nag-iiyak na po lamang ako.

11. T: Ano naman ang naramdaman mo ng ito ay gawin sa iyo ng tatay mo?

S: Masakit po ang aking katawan lalo na ang ari ko.

12. T: Ano naman ang sumunod na nangyari?

S: Noong pong ika-30 ng September 1994, humigit kumulang ika-11:00 ng gabi, habang ako po ay natutulog sa katre ay muli akong nagising ng naramdaman ko na may humihipo sa ari ko at paggising ko ay ang tatay ko ang nasa harapan ko at pagkatapos ay muli nanaman niya kong hinubaran ng short at panty at ginawa na naman niya sa akin ang una niyang ginawa, at pagkatapos niya akong pang-samantalahan (sic) ay muli na naman niya akong pinagbantaan na huwag daw akong mag-susumbong kahit kanino at papatayin daw niya ako pag ako ay nagsumbong, at bagay na ito ay paulit-ulit niyang ginagawa sa akin at ang huli nga ay noong ika-30 ng Disyembre 1994, humigit kumulang ika-10:00 nga ng gabi.

13. T: Ang bagay ba naman ito ay sinasabi mo sa nanay mo?

S: Hiwalay na po ang nanay at tatay ko at ang nanay ko ay may asawa nang iba at hindi na naming (sic) alam kung saan ito nakatira.

14. T: Papaano naman kayo napunta rito sa aming tanggapan at papaano nadala dito ang tatay mo?

S: Kahapon pong ika-20 ng Enero 1995, humigit kumulang ika-2:00 ng hapon, ako po ay nagsumbong na (sic) kapatid ng tatay ko na si Tita Daria tungkol sa ginagawa sa akin ng tatay ko, at ng ito po ay sabihin ko sa Tita Daria ko ay sinabi naman ito ng Tita Daria ko sa iba pang kapatid ng tatay ko na sina Tita Virginia, Tita Mila at Tita Vilma, at ng ito po ay malaman ng mga tiyahin ko ay galit na galit sila sa tatay ko, at ngayon pong ika-21 ng Enero 1995, humigit kumulang ika-3:00 ng hapon ako po ay nagpunta sa bahay ng Tita Virginia sa La Onion Subd., sa Mayamot, Antipolo, Rizal, at habang ako ay nasa bahay ng Tiya Virginia ko ay biglang dumating doon ang Tita Melda ko at sinabi sa amin na galit na galit daw ang tatay ko at bakit daw ako nagpunta sa Tita Virginia ko at dahil sa sinabi ni Tita Melda ay natakot na akong umuwi at ang ginawa naman ng mga Tita ko ay doon nakami nagtuloy sa police Out Post sa tabi ng Roosevelt College malapit sa Viray Construction at inireport na namin sa pulis ang mga ginawa sa akin ng tatay ko at pagkatapos ay inimbitahan ng mga pulis ang tatay ko at pagkatapos ay dinala nakami dito sa tanggapan ng pulisya.[26]

During the trial, she clearly testified in this wise:

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Q: Sometime in the night of September 1994, you together with your father and other sisters slept in that room?

A: Yes, Your Honor.

Q: Now, try to recall since you were with your father or beside your father beside the door, who was sleeping

immediately beside you?

A: My brothers and sisters, sir.

Q: Who was immediately to your left?

A: My elder sister.

Q: Who was at your right?

A: My sister, sir.

Q: All are sisters?

A: I have no brother, sir.

Q: You said your father was also sleeping, how many were sleeping between you and your father?

A: Two sisters, sir.

Q: What time did you sleep at that date?

A: About 9:00 in the evening, sir.

Q: What time will you wake up?

A: About 4:00 in the morning because I will go to school.

Q: Can you describe to the Court how your father raped you?

A: We were then sleeping he went near our feet.

Q: After that what did he do?

A: He removed my shorts and panty.

Q: What happened after he removed your shorts and panty?

A: He raped me, sir.

Q: Before he raped you did he already took off his pants?

A: No, sir.

Q: Are you saying that his pants were already down?

ATTY. MENDOZA: Objection Your Honor, leading.

Q: You said he raped you. What exactly did he do?

A: He laid on top of me, sir.

Q: After he laid on top of you, did he put his penis into your vagina?

A: Yes, sir.

Q: After he put his penis into your vagina, what did he do next?

A: He was raping me, sir.

Q: Did he move his buttocks while he was raping you?

A: Yes, sir.

Q: Did you feel anything when he raped you?

A: Yes, sir.

Q: Did you feel anything when he raped you?

A: Yes, sir.

Q: What was that?

A: Painful, sir.

Q: Did you cry out when you felt the pain?

A: Yes, sir.

Q: After your (sic) cried out in pain, were your sisters awakened that time?

A: No, sir.

Q: Did your father utter anything before he inserted his organ in your private part?

A: Yes, Your Honor.

Q: What did he say?

A: He told me not to tell anything, if I will tell anything to anybody, he will kill me.

Q: Did you believe him?

A: Yes, Your Honor.[27]

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Q: Ms. Witness, during the last hearing, you stated that you were first raped in September 1994, how come you remember that it was on September 1994 that you were raped?

A: That was the time I had my monthly menstruation.

Q: Was that the first time that you had your menstruation?

A: Yes, sir.

Q: When in September did you have your menstruation?

A: September 14.

Q: And when is the first time that you were raped, was it before or after your first menstruation?

A: Before menstruation.

Q: How many days before your first menstruation were you raped by your father?

A: About five (5) days.

Q: So, you were raped in other words sometime September 9, is that correct?

A: Yes, sir.

Q: And you said you were raped again for the second time by your father, when were you raped by your father, before or after your second menstruation?

A: After my second menstruation.

Q: How many days after your second menstruation were you raped by your father?

A: Six days.

Q: So, since your second menstruation or on August 14 you were raped therefore on the second time by your father on August 20, is that correct?

A: Yes, sir.[28]

The trial court was correct in finding Rea a credible witness. It is well-settled that findings of fact of the trial judge who tried the case and heard the witnesses should not be disturbed on appeal and should be given considerable weight and respect especially on the credibility of witnesses, since he was in a better position to decide the question having heard and observed the demeanor attitude, conduct and deportment of witnesses.[29]

Also, it is quite clear that the accused-appellant used intimidation, threat and force on Rea when he raped her twice in September, 1994.

. . . Intimidation, which includes coercion is a relative term, depending on the difference in age, size and

strength of the parties, and their relationship. It can be addressed to the mind as well. For rape to exist, it is not necessary that the force or intimidation employed be so great or be of such character that it can not be resisted. It is only necessary that the force or intimidation be sufficient to consummate the purpose of the accused. Intimidation must be viewed in the light of the victim's perception and judgment at the time of the rape and not by any hard-and-fast rule. It is, therefore, enough that it produces fear - fear that if the victim does not yield to the bestial demands of the accused, something horrible would happen to her at the moment or thereafter, as when she is threatened with death if she should report the incident. Intimidation would explain the absence of any sign of struggle, which would otherwise indicate that the victim fought or tried to fight off her attacker.[30]

Here, as Rea's father, the accused-appellant was able to effectively intimidate and threaten her to submit to his will because he has the moral ascendancy over her. In *People v. Dusohan*,[31] the Court 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." "Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself against her will to the rapist's embrace because of fear for life and personal safety." [32] Rea's complete obedience to the accused-appellant's commands, her lack of struggle against him, and her silence despite her sufferings were all caused by her fear of him. In her mind, she was convinced of the danger he presented to her life.[33]

Likewise, it is settled that "the force necessary in rape is relative, depending on the age, the size and strength of the parties. When applied, such force need not be overpowering or irresistible. What is essential is that the force used is sufficient to consummate the purpose which the offender had in mind, or to bring about the result." [34] In the instant cases, as unequivocally testified by Rea, whose youth and immaturity are badges of truth and sincerity,[35] during the time the accused-appellant raped her, she was only fourteen (14) years old. Without doubt, he was able to rape her with impunity because of his physical superiority which physically and mentally overpowered her.

Be that as it may, the prosecution need not prove the elements of force and intimidation in the instant cases. Settled is the rule that in rape committed by a father or a person recognized by the victim as her father, the former's moral ascendancy and influence over the latter substitutes for violence and intimidation.[36]

Moreover, the accused-appellant's assertion that he did not rape Rea is belied by her conduct after the incident. Granting *arguendo* that it is true that she had freely given herself to him, it would have been quite ridiculous for her (a) to invent a story of multiple incest rape; (b) to subject herself to medical examination; and (c) to narrate said rape incidents to her aunts when she divulged the matter to them, to the police authorities who took her sworn statement, and to the trial court when she gave her testimony therein. Verily, "[n]o young girl would concoct a story of sexual assault, undergo gynecologic examination, subject herself to the trauma and embarrassment of criminal prosecution unless she speaks the truth." [37]

At any rate, "what is decisive in a rape charge is the complainant's positive identification of the accused as the malefactor." [38] In the instant cases, we find that Rea's candid and straightforward testimony of how the accused-appellant forced and inserted his penis inside her vagina during the time he raped her, sufficiently established that such acts were done with force, intimidation and against her will. Her testimony is entitled to great weight because she is charging of a heinous crime her own father, and the record is barren of any showing that her motive in testifying against him was other than to protect her honor and bring him to justice for having twice sexually defiled her.[39]

In any case, Dr. Jesusa Vergarra's testimony, who conducted the medical examination, corroborated Rea's claim that she was raped. The presence of healed laceration in Rea's hymen indicated that she was no longer a virgin

and it is possible that the cause of said laceration is the insertion of a penis in her vagina. Stated differently, the medical evidence, notably the finding of healed lacerations on Rea's vagina, supports the theory that she had been a victim of rape.[40]

It bears stressing that the accused-appellant failed to sufficiently show any improper motive on Rea's part to falsely testify against him. Hence, her testimony is worthy of full faith and credence; and that her only motive can well be to bring him to justice for twice raping her.[41] It taxes our credulity to believe his claim that his wife's sisters orchestrated the filing of the false charges against him because when he was imprisoned, said sisters had to support his family. Indeed, the alleged grudge that said sisters allegedly held against him appears much too trivial compared to the magnitude of Rea's accusation against him. It would take a great deal of psychological depravity on Rea's part to weave, unless true, a tale of rape and drag herself to a possible lifetime of shame. Verily, no woman would concoct a story of defloration and subject herself to public humiliation if she has not really been violated.[42]

Equally unpersuasive is the accused-appellant's submission that it would have been impossible for him to rape Rea in their tiny and crowded room. Suffice it to state that "lust is no respecter of time and place; it can be committed even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many would appear unlikely or high risk venues for its commission.[43]

The accused-appellant heavily relied on denial as his defense, which is inherently a weak and unreliable defense.[44] His denial is feeble, flimsy, self-serving and uncorroborated. Hence, it cannot prevail over Rea's unwavering and positive identification of him as her defiler and tormentor.[45] As between Rea's categorical testimony that rings of truth on one hand, and his bare denial on the other, the former is to prevail. In short, his denial constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than Rea's credible declarations on affirmative matters.[46]

Furthermore, Rea's testimony is not rendered doubtful by her belated reporting of the incidents that happened sometime in January, 1995 and executed her sworn statement on January 21, 1995. It bears stressing that Rea testified that the accused-appellant threatened to kill her should she tell someone that he raped her; and that she knew that he was imprisoned for having killed a person. Her failure to immediately report the incidents was due to said threat. Thus, her delay or vacillation in making her criminal accusation against him does not impair her credibility as the same was not without reason.[47] It must be noted that it is not easy for a rape victim to decide whether to conceal her humiliation in secrecy or to bravely have the rapist punished, at the same time bearing the inevitable and consequent public ridicule and embarrassment.[48]

Nor are we impressed with the accused-appellant's submission that Rea's testimony should not be believed because she testified that when he raped her, he did not remove his pants. Her testimony when read in its entirety clearly shows that what she intended to convey to the trial court was that he had already succeeded in taking out his penis either by lowering his pants or unbuttoning it. Evidently, Rea's testimony on this point was construed out of context. Settled is the rule that the testimony of a witness must be considered and calibrated in its entirety and not by truncated portions thereof or isolated passages therein.[49]

Neither do we find anything strange with Rea's difficulty in recalling with accuracy the date the second rape incident took place. In the first place, we have repeatedly ruled that the date of the commission of the rape is not an essential element of the crime.[50] In the second place, a rape victim cannot be expected to immediately remember every ugly detail of the appalling outrage especially so since she might in fact have been trying not to remember the traumatic experience.[51] "Time-honored is the doctrine that discrepancies referring to minor

details and collateral matters do not affect the veracity of the witnesses' declarations. In fact, they strengthen rather than impair, the witnesses' credibility for they erase any suspicion of rehearsed testimony.[52] Besides, an errorless testimony cannot be expected when the complainant is recounting details of a harrowing experience.[53] What matters most is Rea's vivid recollection that the accused-appellant twice raped her. Her inability to give full details of her horrible experience is totally understandable.

Undisputedly, the qualifying circumstances of the victim's age and her relationship to the accused must specifically be alleged and proved.[54] In these cases, the records show that although Rea's minority was alleged in the informations in these cases, the same was not sufficiently established during the trial of these cases. While she did testify that she was fourteen (14) years old when she was raped by the accused-appellant,[55] the prosecution did not present her birth certificate or any other documentary evidence proving her age. Consequently, the accused-appellant can only be sentenced to suffer the penalty of reclusion perpetua in both these cases, instead of death.

We likewise award moral damages of P50,000.00 to Rea in each count of rape pursuant to the Court's current policy that "moral damages are automatically awarded to rape victims without need of proof for it is assumed that they have suffered moral injuries entitling them to such award." [56] Moreover, we award exemplary damages of P25,000.00 in each count of rape, to deter fathers with perverse tendencies and aberrant sexual behavior, like the accused-appellant, from sexually abusing their daughters.[57] Pursuant to existing jurisprudence,[58] we also award to her civil indemnity ex delicto in the amount of P50,000 for each count of rape.

WHEREFORE, the Joint Decision dated July 7, 1997 of the Regional Trial Court, Branch 71, of Antipolo, Rizal, in Criminal Cases Nos. 95-11972 and 95-11973 finding the accused-appellant BALTAZAR CESISTA in both cases guilty beyond reasonable doubt of the crime of rape, is AFFIRMED with MODIFICATION. As modified, the accused-appellant is sentenced to suffer the penalty of reclusion perpetua for each count of rape, instead of death, and he is ordered to pay in each count of rape, the victim, Rea Cesista, the sum of P50,000.00 as civil indemnity ex delicto, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. Costs against the accused-appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

[1] Pursuant to Article 47 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659.

[2] Penned by Judge Felix S. Caballes.

[3] Rollo, p. 6; Record in Criminal Case No. 95-11972, p. 1.

[4] Id., at 8; Record in Criminal Case No. 95-11973, p. 1.

[5] Id., at 15; Joint Decision, p. 2.

[6] Id.

[7] T.S.N., August 14, 1995, pp. 2-6.

[8] Id.

[9] Id., at 5-A.

[10] Id.

[11] Id.

[12] Id.

[13] Id.

- [14] Id., at 6.
- [15] TSN, August 21 1995, p. 3.
- [16] TSN, August 14, 1995, p. 6.
- [17] Exh. "B."
- [18] Exh. "A."
- [19] Exh. "A-3."
- [20] Exh. "A-4."
- [21] Rollo, p. 18; Record in Criminal Case No. 95-11973, p. 89; Joint Decision, p. 5.
- [22] Id., at 44.
- [23] As amended by Section 11 of Republic Act (R.A.) No. 7659 which took effect on December 31, 1993 [People v. Midtomod, 283 SCRA 395 (1997)].
- [24] The law has been subsequently amended by R.A. No. 8353 reclassifying rape as a crime against persons punishable under Article 266-A of the Revised Penal Code.
- [25] People v. Magpayo, 226 SCRA 13 (1993); People v. Castillion, 217 SCRA 76 (1993).
- [26] Record in Crim. Case No. 95-11973, pp. 4-5.
- [27] T.S.N., August 14, 1995, pp. 5-6.
- [28] Id., at 2-3.
- [29] People v. Lima, G.R. No. 128289, April 23, 2002, citing People v. Olivara, 215 SCRA 759, 768 (1992).
- [30] People v. Bertulfo, G.R. No. 143790, May 7, 2002, citing People v. Ardon, G.R. No. 137753-56, March 16, 2001; see also People v. Canada, 253 SCRA 277, 285 (1996).
- [31] 227 SCRA 87 (1993).
- [32] People v. Quiamco, 268 SCRA 516 (1997).
- [33] People v. Soan, 243 SCRA 627 (1995).
- [34] People v. Maribillas, 303 SCRA 352 (1999).
- [35] People v. Lusa, 288 SCRA 296 (1998).
- [36] People v. Dulay, G.R. Nos. 144082-83, April 18, 2002; see also People v. Casil, 241 SCRA 285 (1995); People v. Taneo, 284 SCRA 251 (1998); People v. Agbayani, 284 SCRA 315 (1998).
- [37] People v. Padil, 318 SCRA 795, (1999) citing People v. Erese, 281 SCRA 361 (1997); People v. Gomez, 279 SCRA 288 (1997); People v. Mamalayan, 280 SCRA 748 (1997).
- [38] People v. Libreta, G.R. No. 139231, April 12, 2002, citing People v. Quilatan, 326 SCRA 75, 85 (2000).
- [39] People v. Buyok, 235 SCRA 622 (1994); People v. San Juan, 270 SCRA 693 (1997); People v. Escobar, 281 SCRA 498 (1997).
- [40] People v. Esureña, G.R. No. 142727, January 23, 2002, citing People v. Seguis, G.R. No. 135034, January 18, 2001.
- [41] People v. Banela, 301 SCRA 84 (1999).
- [42] People v. Pagurayan Jr., G.R. No. 143658, April 17, 2002.
- [43] People v. Lopez, G.R. No. 134774, April 19, 2002, citing People v. Mangompit Jr., G.R. Nos 139962-66, March 7, 2002.
- [44] People v. Conde, G.R. Nos. 138445-50, April 3, 2002, citing People v. Guamos, 241 SCRA 528 (1995).
- [45] Id., People v. Delovino, 247 SCRA 637, 649 (1995); People v. Gomez, 251 SCRA 455, 470 (1995).
- [46] See People v. Gilbero, G.R. No. 142005, January 23, 2002; People v. Garcia, 281 SCRA 463, 481 (1997); see also People v. Ramirez, 266 SCRA 335 (1997); People v. Francisco, 258 SCRA 558 (1996); People v. Atop, 286 SCRA 157, 174 (1998); People v. Salison Jr., 253 SCRA 768 (1996); People v. Digno Jr., 250 SCRA 237, 244 (1995); People v. Sandoval, G.R. Nos. 132625-31, December 18, 2000.
- [47] People v. Errojo, 1994, 229 SCRA 49 (1994).

- [48] *People v. Palarca*, G.R. No. 146020, May 29, 2002.
- [49] *People v. Garcia*, *supra*.
- [50] *People v. Conde*, *supra*, citing *People v. Bernaldez*, 294 SCRA 317 (1998); *People v. Bugarin*, 273 SCRA 384 (1997).
- [51] *People v. Caballes*, 274 SCRA 83 (1997).
- [52] *People v. Ugang*, G.R. No. 144036, May 7, 2002, citing *People v. Villanueva*, 339 SCRA 482, 505 (2000); *People v. Paraiso*, G.R. No. 131823, January 17, 2001.
- [53] *People v. Gonzales Jr.*, G.R. Nos. 143143-44, January 15, 2002, citing *People v. Sagun*, 303 SCRA 382, 397 (1999).
- [54] *People v. Esureña*, *supra*.
- [55] T.S.N. August 14 1995, p. 2.
- [56] *People v. Gonzales, Jr.*, *supra*, citing *People v. Del Mundo Sr.*, GR No. 132065, April 3, 2001.
- [57] *People v. Esureña*, *supra*.
- [58] *People v. Gonzales, Jr.*, *supra*, citing *People v. Narido*, 316 SCRA 131 (1999); *People v. De La Cuesta*, 304 SCRA 83, (1999); *People v. Prades*, 293 SCRA 411, (1998).

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