

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LORENZO DIAZ, SR., ACCUSED-APPELLANT.***G.R. Nos. 133735-36. August 09, 2000*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-133735-36/>**PER CURIAM:**

These cases are here on automatic appeal from the decision[1] of the Regional Trial Court, Branch 17, Davao City, convicting accused-appellant Lorenzo Diaz, Sr.,[2] in G.R. No. 133735 (Criminal Case No. 38,262-97), of rape against his daughter Lanie Diaz, then 13 years old, and imposing upon him the penalty of death, and, in G.R. No. 133736 (Criminal Case No. 38,263-97), of rape against another daughter Anniely[3] Diaz and imposing upon him the penalty of reclusion perpetua. Accused-appellant was also ordered to indemnify each of the offended parties in the amount of P30,000.00.

The facts are as follows:

In G.R. No. 133735 (Criminal Case No. 38,262-97), the information[4] alleged -

"That on or about September 03, 1996, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (father of the complainant) wilfully, unlawfully and feloniously and by the use of force and intimidation, had sexual intercourse with the offended party, Lanie Diaz y Almencion, his daughter who was then 13 years old, against her will."

In G.R. No. 133736 (Criminal Case No. 38,263-97), the information[5] charged -

"That on or about January 29, 1993, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (father of the complainant) wilfully, unlawfully, and feloniously and by use of force and intimidation, had sexual intercourse with the offended party, Anniely Diaz y Almencion, his daughter who was then 16 years old, against her will."

Accused-appellant, duly assisted by counsel, pleaded not guilty to the charges against him,[6] whereupon the two cases were jointly tried.

The prosecution evidence shows that accused-appellant Lorenzo Diaz and his wife Nimfa Almencion Diaz were married on June 14, 1976[7] and that three children (Anniely, Lanie, and Lorenzo, Jr.) were born to them.[8] Anniely was born on January 29, 1977,[9] while Lanie was born on October 14, 1983.[10] The Diaz family lived in Spring Valley, Buhangin, Davao City until 1992 when Nimfa left her family to live in Monkayo, Davao del Norte. It appears that the separation was caused by accused-appellant who maltreated his wife especially when he was drunk. Nimfa left her children in the care of accused-appellant as she was incapable of supporting them. The couple never reconciled.[11]

On January 29, 1993, Anniely Diaz turned 16 years old. Accused-appellant came home drunk. He was angry and ordered Anniely to prepare his dinner. He proceeded to the bedroom where Lanie was sleeping and transferred her to her brother's room. He then ate his dinner. While Anniely was washing the dishes, accused-appellant scolded her, telling her that she was not his daughter but that of another man. As Anniely cried, accused-appellant

reassured her and told her that he was only joking. Afterwards, accused-appellant allowed her to go to sleep but ordered her not to lock the door. At around 10 o'clock in the evening, Anniely was awakened by her father who entered her room. He touched her body. She pushed his hand, but he was able to remove her panty and her skirt. Anniely tried to resist her father's advances, but, because her father was a heavy man, he succeeded in inserting his penis into her vagina and performing the sexual act with her. Then he left the room with Anniely crying.

Anniely did not tell anyone, not even her mother, about her experience because she was afraid that her mother might kill her father, as she had threatened to do in the past. Anniely was also afraid because accused-appellant might hurt her and her siblings.

Anniely later escaped from her father's house. She was told her mother learned that Lanie had been molested by accused-appellant. Anniely then admitted to her mother that she too had been raped by her father. She told her that accused-appellant had been molesting her since she was nine years old, especially when the latter was drunk.[12]

On his birthday, September 3, 1996, accused-appellant got drunk again. At around 9 o'clock in the evening, he went inside the room where Lanie was sleeping. He removed Lanie's short pants, placed himself on top of Lanie, and inserted his penis into her vagina. Lanie tried to push him away, but he was too strong for her. When he was finished, accused-appellant just left Lanie without saying a word.

The following day, Lanie also left their house and went to her cousin's house. She talked to her sister Anniely and told her what had happened. When their mother learned that Lanie had left her father, she looked for her. Lanie told her mother what happened to her. She said she did not report the incident before because her father had threatened to kill her mother if she told anyone what happened to her.[13] Accused-appellant had been abusing Lanie since 1992, when her mother left the family home. She was then only nine years old.[14] She said she felt pain the first time her father had sexual intercourse with her, but later the pain ceased when her father continued to have sex with her. She even experienced an orgasm when her father had sexual intercourse with her.[15]

Nimfa Almencion Diaz, the victims' mother, learned about her daughters' fate from Nita Gulgat. (Gulgat was the person from whom Lanie asked for help after escaping from accused-appellant.) After talking to her daughters, Nimfa Diaz took them to the Buhangin Police Station. Lanie and Anniely underwent physical examination at the City Health Office.[16]

The results of Lanie's medical examination are as follows:

#### "FINDINGS

##### "GENERAL PHYSICAL EXAMINATION:

Height: 146.0 cms. Weight: 41.0 kgs.

Fairly nourished, normally developed, conscious, coherent, cooperative, ambulatory subject.

Breasts: Fully developed, hemispherical, firm. Areolae, light brown, 3.0 cms. in diameter. Nipples, light brown, protruding, 0.9 cm. in diameter.

No extragenital physical injuries noted.

##### "GENITAL EXAMINATION:

"Pubic hair, growing, sparse. Labia majora, gaping. Labia minora, coaptated. Fourchette, lax. Vestibule, pinkish, smooth. Hymen, thick, tall with old healed deep lacerations at 4, 8 and 10 o'clock positions corresponding to the face of a watch with rounded edges. Hymenal orifice originally annular, admits a tube, 2.75 cms. in diameter. Vaginal walls, tight, Rugosities, prominent.

"CONCLUSIONS:

- 1) No evident signs of extragenital physical injuries noted the body of the subject at the time of examination.
- 2) Old healed hymenal lacerations, present."[17]

On the other hand, the findings on Anniely are as follows:

"FINDINGS

"GENERAL PHYSICAL EXAMINATION:

Height: 148.5 cms. Weight: 44.0 kgs.

Fairly nourished, normally developed, conscious, coherent, cooperative, ambulatory subject.

Breasts: Fully developed, hemispherical, firm. Areolae, light brown, 3.5 cms. in diameter. Nipples, light brown, protruding, 1.5 cm. in diameter.

No extragenital physical injuries noted.

"GENITAL EXAMINATION:

"Pubic hair, fully grown, abundant. Labia majora, gaping. Labia minora, coaptated. Fourchette, lax. Vestibule, pinkish, smooth. Hymen, thick, tall with old healed deep laceration at 7 o'clock position corresponding to the face of a watch with rounded edges. Hymen, originally annular, admits a tube, 2.5 cms. in diameter. Vaginal walls, tight, Rugosities, prominent.

"CONCLUSIONS:

- 1) No evident signs of extragenital physical injuries noted the body of the subject at the time of examination.
- 2) Old healed hymenal lacerations, present."[18]

Dr. Danilo Ledesma, who examined Lanie and Anniely, testified that the healed lacerations found in the hymens of the two girls were more than four months old. In fact, they could be between one to five years old. At the time of the examination, Lanie was 13 years old, while Anniely was 19. According to Dr. Ledesma, it is possible that these lacerations were caused by the insertion of a hard object, a finger, or any sharp foreign object in the victims' vaginas.[19]

It then became the turn of the defense to present evidence.

Accused-appellant Lorenzo Diaz, Sr. testified that he was a jeepney driver; that, as such, he worked for 16 to 17 hours a day; that his wife left him in 1994, and since then he had been alone in bringing up their children; that, in 1996, he found out his wife was living with another man; and that he decided not to file a complaint for adultery against her because he took pity on her and the filing of charges might take much of his time from his work. Accused-appellant denied the allegations against him. He claimed that these cases were filed at the instigation of his wife since if he was imprisoned, she would be free to do as she liked.[20]

On June 25, 1997, the trial court rendered a decision convicting accused-appellant of rape in the two cases. The dispositive portion of its decision reads:

"WHEREFORE, finding the evidence of the prosecution more than sufficient to prove accused, LORENZO DIAZ, SR., is guilty beyond reasonable doubt of the offense charged, pursuant to Sec. 11 of RA 7659 amending Art. 335 of the Revised Penal Code, in relation to par. 7 of said Rep. Act as well as sub. par. 1, to wit:

'When the victim is 18 years of age and the offender is a parent, ascendant, stepparent, guardian relative by consanguinity or affinity within the third civil degree or the common law spouse of the parent of the victim.'

"Accordingly, in Crim. Case No. 38,262-97, accused LORENZO DIAZ, SR., pursuant to Sec. 24 of RA 7659, is sentenced to suffer the supreme penalty of death through lethal injection, in accordance with RA 8176, in the manner and procedure for its execution, in accordance to law.

"In Crim. Case No. 38,263-97, accused LORENZO DIAZ, SR., is sentenced to suffer the penalty of reclusion perpetua, together with all accessory penalty as provided for by law.

"Moreover, pursuant to Art. 100 of the Revised Penal Code, and in relation to Art. 104 thereof, accused is furthermore ordered, to pay complainants, LANIE and ANNIELY, all surnamed DIAZ, the amount of P30,000.00 each, by way of civil indemnity and reparation of the damage and wrong done to them, resulting [in] the filing of these cases, which brought on them untold sufferings as well as dishonor of [their] persons.

"Pursuant finally, to Sec. 22 of RA 7659, par. 2 thereof, the Branch Clerk of Court of this court, is ordered to immediately elevate the entire records of these cases, with the Clerk of Court, Supreme Court, Manila, for the automatic review of the Supreme Court and issuance of its own decision en banc as the case may be.

### **"SO ORDERED."[21]**

In his lone assignment of error, accused-appellant contends that the trial court erred in convicting him. He contends that the evidence does not show that he used force, violence, threat, or intimidation against his daughters.[22]

Accused-appellant's assertion is untenable. Anniely Diaz' testimony clearly establishes the fact that accused-appellant succeeded in having sexual intercourse with her through force and intimidation. In G.R. No. 133736 (Criminal Case No. 38,263-97), Anniely testified:

"Q - Now, sometime on January 1993, or prior thereto, do you know of any sexual molestation committed by your father to you?

A - Yes, sir.

Q - Where?

A - In our house.

Q - What time was that within January 1993, when you were sexually molested?

A - That was in the evening.

Q - What time more or less in the evening?

A - 10:00 to 11:00 o'clock in the evening.

Q - In what part of your house?

A - In our bedroom.

Q - Who was sleeping with you at that time?

A - My younger sister.

Q - Are you referring to Lanie?

A - Yes, sir.

Q - How about your brother?

A - He was sleeping at that time on their own bedroom adjacent bedroom.

Q - You mean to say that there are two separate rooms in your house?

A - Three.

Q - One is occupied by your father?

A - Yes, sir.

Q - One for you and Lanie and your brother?

A - Yes, sir.

Q - And who is occupying the third room?

A - Lorenzo, Jr.

Q - Now, you said you were sexually molested in the evening of January, do you recall the date on January 1993?

A - Yes sir.

Q - Please tell us?

A - January 29, 1993.

Q - What made you remember that it was on January 29, 1993?

A - That was my birthday.

Q - You said you were sexually molested, what was the physical condition of your father in that night when you were sexually molested?

A - He was drunk.

Q - Now, please describe how you were sexually molested by your father?

A - Actually at that time, he was not yet in the house, but when he arrived and I opened the door and he ask me to prepare his dinner because he was going to eat his dinner and after that he ordered my younger sister to transfer to the other room.

Q - Are you referring to Lanie?

A - Yes.

Q - Did Lanie Diaz transferred?

A - He carried Lanie.

Q - Why, was your sister Lanie sleep at that time?

A - Yes.

Q - How about you, were you awaken or sleeping at that time?

A - At that time, he took Lanie and transferred to the other room, I was awaken.

Q - What did you tell your father when he transferred Lanie?

A - I asked him, why is it that he transferred Lanie when we were sleeping together?

Q - What was his answer?

A - According to him, he had to transfer Lanie to the other room, because our bed is narrow while in that room of Lorenzo is wide.

Q - When you say room of Lorenzo are you referring Lorenzo, Jr.?

A - Yes, sir.

Q - After your father transferred Lanie to the other room, where did he go?

A - He eat his dinner.

Q - After eating his supper?

A - He quarrelled me, he scolded at me.

Q - In what particular portion of your room was this sexual molestation happened?

A - In my own room.

Q - On the floor or at the bed?

A - On the bed.

Q - Now, please describe how your father sexually molested you?

A - While he was scolding me, he mentioned that I am not h[is] true daughter, I am the daughter of another man.

Q - And what transpired next?

A - And then he said that I have to stop crying, because I am really [his] own daughter.

Q - And after that?

A - So I said, after he told me not to cry anymore because I am his true daughter, I ask permission that I will be allowed to sleep, he said yes, but he told me, not to close the door of my room.

Q - And afterwards what happened?

A - I really wanted to close the door because he was angry I did not proceed to lock the door.

Q - After that what did your father do to you?

A - At that time, I was already sleeping, he entered the room and molested [me].

Q - You said he molested you, describe how did your father molest you?

A - He touch my body and then I push aside his hands and later on, he took off my panty.

Q - Aside from the panty, what were you wearing at that time?

A - Skirt.

Q - What did he do with your skirt?

A - He did take out my skirt.

Q - And at that point in time, what was your reaction when your father started molest[ing] you?

A - I tried to attempt to push him away, but I could not do it because he was heavy, because he is big.

Q - What was his position at that time when you push him?

A - He was already on top of me.

Q - While on top of you, what did you feel?

A - I felt pain.

Q - Why?

A - Because he inserted his penis to my vagina.

Q - And at that point, while he was placing his private parts to your vagina, what did he do?

A - He was pumping.

Q - Can you state more or less, how long your father made that sexual act to you?

A - I cannot estimate.

Q - And while he was pumping you, what did you feel, aside from the pain?

A - I felt the pain.

Q - After doing the sexual act, what did your father tell you?

A - None.

Q - Where did he go?

A - To his room.

Q - And how about you?

A - I was left in the room crying."[23]

Anniely's simple and straightforward narration of what her father did to her is convincing. According to Anniely, accused-appellant came to her room and, despite her resistance, succeeded in raping her.

While it is true that Anniely did not say she had been threatened by her father or that he employed force against her, this does not imply that Anniely consented to have sex with her father. Accused-appellant did not need to use words in order to threaten or force Anniely to submit to his will. A crime committed by a father who wields parental influence over the victim is often accomplished with facility. His moral ascendancy over the victim substitutes for violence or intimidation. A young woman, like the victim herein, can only cower in fear and yield in submission. All that is required to accomplish the crime of rape is intimidation, by which the perpetrator keeps his victim in a state of fear and humiliation.[24]

Indeed, accused-appellant's contention that Anniely consented to have sex with him deserves no consideration. Anniely related in her testimony how she tried to push her father away in an attempt to protect herself, but he was a heavy man and she could not do anything against his sexual advances. She was crying when her father left her the night he raped her. As soon as she was able, Anniely escaped from her house.[25] Clearly, Anniely's behavior during and after the rape is not that of a young girl who willingly engaged in sexual intercourse with her own father. With her mother gone and nobody else to turn to for help, Anniely was forced to endure accused-appellant's abuse rather than put herself and her siblings at risk by defying him. The fact remains that Anniely's testimony established that accused-appellant had sexual intercourse with her without her consent and against her will, both elements of which are constitutive of the crime of rape. Considering that Anniely's account of what her father did to her remains credible and believable, the trial court correctly convicted accused-appellant of the crime of rape against his 16-year old daughter Anniely Diaz.

On the other hand, in G.R. No. 133735 (Criminal Case No. 38,262-97), Lanie Diaz testified as follows:

"Q - On September 3, 1996 can you tell the court what unusual incident if any happened to you?

A - Yes.

Q - What was that unusual incident?

A - It was a birthday of my father. He got drunk.

Q - Are you referring to your father Lorenzo Diaz?

A - Yes.

Q - In your house at Spring Valley?

A - Yes.

Q - You said your father was drunk, what time was that when he was drunk?

A - About 9 to 10:00 in the evening.

Q - And what happened at that time to you?

A - I was already sleeping when I was molested by my father.

Q - In what particular part of the house where you sleeping?

A - In the room.

Q - How about your sister Annalie where was she sleeping at that time?

A - She did not arrive yet at that time.

Q - How about your brother Jr.?

A - At that time he was living with my auntie.

Q - You said your father molested you at that time you are sleeping please describe to the court how did your father molest you?

A - He undressed me.

Q - What were you wearing at that time?

A - A short pants.

Q - You said undressed, what do you mean by that?

A - He took out my short pants and he placed himself on top of me.

Q - And when your father placed himself on top of you, what happen?

A - He proceeded to molest me.

Q - How?

A - He inserted his organ on my private organ.

Q - What happen next?

A - What was what he did to me.

Q - What did you feel if any as your father inserted his organ in your private organ?

A - I felt bad.

Q - What did you do at that point in time when your father inserted his organ on your private parts?

A - I tried to push him away.

Q - Were you able to successfully push him?

A - Yes.

Q - What did he tell you, if any?

A - He did not say anything.

Q - After the incident where did you go?

A- The following morning I left our house."[26]

On cross examination, Lanie Diaz testified:

"Q - If you could recall, how many times in 1993 were you sexually molested by your father?

A - I cannot recall.

Q - That for so many times?

A - Yes, sir.

Q - Was this sexual advances committed by your father against you committed day time or night time?

A - Sometimes during day time and sometimes during night time.

Q - Why do you say that th[ese] sexual advances made by your father was committed daytime and night time?

A - Because there are times that he got drunk during day time and also at times he got drunk during night time.

Q - Where in particular was this sexual molestation happened?

A - In our house.

Q - Why, were you alone in your house?

A - No.

Q - Who were present when you were molested by your father?

A - My elder sister was schooling at that time, although I have my younger brother, but he was told to go out by my father.

Q - When told to go out, where did your brother go?

A - He will sent him an errand.

Q - Did you not go with your brother when your father instructed your brother to get out of the house?

A - Because he only instructed my younger brother.

Q - Now, when this sexual advances committed by your father happened, did you not offer any resistance?

A - At first.

Q - But subsequent, you no longer offer any resistance?

A - I did not anymore resist, because I was afraid already.

Q - Were there neighbors adjacent to your house?

A - There is.

Q - You did not shout for help when your father molested you?

A - As I said, I was afraid.

Q - Is your house near the highway?

A - No, sir.

Q - Now, you said that your father started molested you by undressing you, by removing your shorts, is that correct?

A - Yes, sir.

Q - Aside from your shorts, what else was removed by your father?

A - My panty.

Q - How about your blouse, was it also removed by your father?

A - No, sir.

Q - In the subsequent molestation, was your blouse and underwear removed?

A - My blouse was not also taken out.

Q - Everytime your father sexually molested you, only your shorts and panty were removed?

A - Yes, sir.

Q - Now, while your panty and your shorts were already removed, did your father undress himself?

A - Yes, sir.

Q - What did he remove?

A - His shorts and his underwear.

xx xx xx xx

Q - But did you feel that the penis of your father was there touching your vagina?

A - Yes, sir.

Q - Now, was it hard, when it touches your vagina?

A - Yes, sir.

Q - Now, when your father inserted his penis into your vagina, did you feel any pain?

A - Yes, sir.

Q - How about the subsequent sexual molestation by your father, did you still experience pain?

A - No more.

Q - Now, while your father was pumping you, did you come to a point that you reach an orgasm?

A - Yes, sir.

xx xx xx xx

Q - Now, Ms. Witness, despite all these things, that your father had done to you, are you still willing to forgive your father?

xx xx xx xx

A - No. (witness shaking her head and said No)"[27]

Lanie's testimony is characterized by candor and simplicity which underscore the fundamental truth of its contents. In her testimony, Lanie related how her father, when drunk, had been abusing her since she was nine years old. She testified that although she resisted him at first, she stopped doing so out of fear of her father. The sexual abuse was done so frequently that it had ceased to cause her pain but rather enabled her to have orgasm.

It has been held that "it is well-nigh impossible for any woman to experience orgasm while being assaulted by a rapist." [28] Acquittals have been made on this basis. [29] But, with the evidence on record, we are not prepared to hold the same in this case.

In *People vs. Jervoso*, [30] where the accused was acquitted because the complainant admitted that she reached a climax during the sexual act with the accused, there were several improbabilities which undermined the credibility of complainant's testimony, i.e., the absence of abrasions and other injuries on complainant despite her claim that she was dragged on the ground, slapped, and pushed down the floor with great force, her testimony as to how she was raped which belied her assertion that she struggled and resisted the accused's advances, her failure to shout and make an outcry when there were several houses near the place where she was allegedly raped, and the unexplained delay by complainant in reporting the alleged rape. Likewise, in *People vs. Burgos*, [31] where the complainant admitted that she enjoyed having sex with the accused, the Court also observed that the complainant's testimony contained conflicts on major details which discredited its veracity, i.e., her retractions on whether or not the accused ejaculated, her vacillations as to how many times she had sex with the accused, and her location while the accused allegedly talked with the owner of the house where she was supposedly raped. In both cases, that the complainants had orgasm was not the sole reason for the acquittal of the accused. A more important consideration was that the testimonies made by the complainants were replete with inconsistencies on significant details which considerably eroded their probative value.

But, in this case, Lanie's testimony remained unshaken despite the numerous questions propounded to her. She made no attempt to embellish or improve upon her story to the extent of even admitting something that would endanger her own cause. This admission so clearly against her own interest tends to strengthen rather than weaken Lanie's credibility as it erases any suspicion of a rehearsed testimony. [32]

Considered in its entirety, Lanie's testimony contains no indication that she agreed to have sex with her father. She "felt bad" when her father had sexual intercourse with her. Like Anniely, she tried to push her father away. Also noteworthy is that the day following the rape on September 3, 1996, Lanie left their house to escape from her father. [33] Finally, when asked whether she could forgive her father for what he had done, Lanie did not hesitate

to say "no." [34]

We cannot view Lanie's acts and sentiments to be consistent with that of a young girl who consented to have sexual intercourse with her own father. We previously held that one who was sexually abused by her own father would want to leave the family home. Indeed, that Lanie ran away from her house shows an unwillingness to live with her own father which bolsters her claim of repeated sexual abuse by him. [35] That she ceased to resist accused-appellant's advances does not necessarily mean that she voluntarily agreed to have sex with her father. "Where resistance would be futile, offering none at all cannot amount to consent to the sexual assault." [36] This rings especially true in the case of accused-appellant who, being the father, has moral ascendancy over his victim stemming from his parental authority over her and the latter's correlative duty to obey and observe reverence and respect towards him. [37]

A rape victim's testimony charging a close relative with having raped her, such as a complaint filed by a daughter against her own father, is entitled to great weight. [38] We see no reason to doubt the veracity of the testimonies of these two young girls. Being of tender age, they would be hard put to fabricate a story of defloration against their own father, make public their painful and humiliating experiences which are better left forgotten, allow an examination of their private parts, expose themselves to the trouble, inconvenience, embarrassment, and humiliation of a public trial, and jeopardize their chances for marriage unless they are telling the truth and are motivated by nothing but the desire to obtain justice for the grievous wrongs committed against them by their own father. [39]

Accused-appellant's bare denials of the allegations against him, on the other hand, have little evidentiary weight in the face of the clear, categorical, and convincing testimonies of his two daughters. [40] His claim that his wife instigated her daughters to file these cases so that she can be free to live with another man is not entitled to be given credit. It is quite unnatural for a parent, especially a mother, to use her offspring as an engine of malice and expose her daughters to the stigma attached to rape victims simply because she wants to end her relationship with her husband or to retaliate against him for the sins he committed against her. [41] Besides, accused-appellant himself said that he did not charge his wife with adultery because he felt pity for her and that he was unwilling to face the prospect of along litigation that would affect his work. There would thus be no reason for his wife to file false charges against him.

We, therefore, find no reason to reverse the findings of the trial court. Accused-appellant was correctly sentenced to reclusion perpetua for the commission of rape against Anniely Diaz because, at that time, R.A. No. 7659 was not yet in effect and the imposition of the death penalty was still constitutionally prohibited. [42]

But with respect to Lanie Diaz, the commission of the rape against her on September 3, 1996 is governed by R.A. No. 7659 which took effect on December 31, 1993. [43] R.A. No. 7659 amended Art. 335 of the Revised Penal Code by imposing the penalty of death in cases where rape is committed "[w]hen the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity of affinity within the third civil degree, or the common-law spouse of the parent of the victim." [44] Consequently, for the imposition of the death penalty, the information must allege the qualifying circumstances of relationship between the accused and the victim and the victim's age. [45]

In G.R. No. 133735 (Criminal Case No. 38,262-97), the information alleged the presence of these qualifying circumstances, i.e., that the accused is the father of the victim and that the latter was a 13-year old minor [46] at the time of the commission of the rape. [47] Moreover, these allegations were duly proven in this case. The birth certificate of Lanie Diaz [48] states that Lorenzo Diaz is her father. Accused-appellant himself admitted that both Anniely and Lanie Diaz are his children. [49] As to the victim's age, her birth certificate [50] shows that she was

born on October 14, 1983. Thus, on September 3, 1996, Lanie was exactly 12 years, 10 months, and 20 days old and, therefore, a minor at the time of the commission of the rape.

Four justices of the Court maintain that Republic Act 7659 is unconstitutional insofar as it prescribes the death penalty; nevertheless they submit to the ruling of the majority to the effect that this law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

The award of civil indemnity to Anniely Diaz must be increased to P50,000.00 in accordance with current jurisprudence.[51] In addition, moral damages in the amount of P50,000.00 must be awarded to her without need of further proof other than that rape was committed against her.[52]

With regard to Lanie Diaz, the civil indemnity awarded must be increased to P75,000.00 in accordance with our current rulings[53] that if rape is qualified by any of the circumstances under which the death penalty shall be imposed, the indemnity shall be P75,000.00.[54] In addition, she must be paid P50,000.00 as moral damages.

WHEREFORE, the decision of the Regional Trial Court, Branch 17, Davao City is AFFIRMED, with the modification that in G.R. No. 133735 (Criminal Case No. 38,262-97), the indemnity to Lanie Diaz is increased to P75,000.00 and, in addition, accused-appellant is ordered to pay her P50,000.00 as moral damages, while in G.R. No. 133736 (Criminal Case No. 38,263-97), the indemnity awarded to Anniely Diaz is increased to P50,000.00, and in addition, the amount of P50,000.00 is awarded to her by way of moral damages.

In accordance with Section 25 of R.A. 7659, amending Art. 83 of the Revised Penal Code, upon the finality of this decision, let the records of these cases be forthwith forwarded to the Office of the President should he decide to exercise his prerogative of mercy.

**SO ORDERED.**

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

Bellosillo, J., on leave.

---

[1] Penned by Judge Renato A. Fuentes.

[2] Also referred to as Florencio Diaz, Sr. in the Records.

[3] Also referred to as Annalie in the Records.

[4] Records (Crim. Case No. 38,262-97), p. 1.

[5] Records (Crim. Case No. 38,263-97), p. 1.

[6] Records, p. 12.

[7] Exh. A.

[8] TSN, March 12, 1997, p. 3.

[9] Exh. B (Crim. Case No. 38,263-97).

[10] Exh. B (Crim. Case No. 38, 262-97).

[11] TSN, March 12, 1997, pp. 4 & 10.

- [12] TSN, March 13, 1997, pp. 11-17.
- [13] TSN, March 12, 1997, pp. 15-17.
- [14] TSN, March 13, 1997, p. 8.
- [15] Id., p. 5.
- [16] TSN (Nimfa Diaz), March 12, 1997, pp. 4-5.
- [17] Exh. D (Crim. Case No. 38,262-97).
- [18] Exh. D (Crim. Case No. 38,263-97).
- [19] TSN, March 14, 1997, pp. 8-11.
- [20] TSN, April 4, 1997, pp. 2-5.
- [21] RTC Decision, pp. 13-14; Records, pp. 58-59.
- [22] Brief for the Accused-Appellant, p. 3; Rollo, p. 52.
- [23] TSN, March 13, 1997, pp. 11-14.
- [24] People vs. Silvano, 309 SCRA 362, 384 (1999).
- [25] TSN, March 13, 1997, p. 14.
- [26] TSN, March 12, 1997, pp. 15-16. (Underscoring supplied)
- [27] TSN, March 13, 1997, pp. 3-6. (Underscoring supplied)
- [28] People vs. Jervoso, 124 SCRA 765, 771 (1983).
- [29] Id.; See also People vs. Burgos, 279 SCRA 697 (1997).
- [30] Supra.
- [31] Supra.
- [32] See People vs. Alfeche, 294 SCRA 352 (1998).
- [33] TSN, March 12, 1997, p. 16.
- [34] TSN, March 13, 1997, p. 6.
- [35] People vs. Juntilla, G.R. No. 130604, Sept. 16, 1999.
- [36] People vs. Maglente, 306 SCRA 546, 573 (1999).
- [37] Id.
- [38] People vs. Juntilla, supra.
- [39] People vs. Magdato, G.R. Nos. 134122-27, Feb. 7, 2000; People vs. Juntilla, supra; People vs. Silvano, supra.
- [40] See People vs. Sala, G.R. Nos. 76340-41, July 28, 1999.
- [41] People vs. Silvano, supra; People vs. Torejos, G.R. No. 132217, Feb. 18, 2000.
- [42] People vs. Alimon, 257 SCRA 658 (1996).

[43] *People vs. Unarce*, 272 SCRA 321 (1997).

[44] *People vs. Taneo*, 284 SCRA 251 (1998).

[45] *People vs. Silvano*, *supra*.

[46] Lanie Diaz was in fact 12 years old at that time.

[47] Records (Crim. Case No. 38, 262-97), p. 1.

[48] Exh. B (Crim. Case No. 38,262-97); Records, p. 30.

[49] TSN, April 4, 1997, p. 5.

[50] Exh. B (Crim. Case No. 38,262-97); Records, p. 30.

[51] *People vs. Villamor*, 297 SCRA 262 (1998).

[52] *Id.*

[53] *People vs. Silvano*, *supra*; *People vs. Alfeche*, *supra*; *People vs. Sugano*, 310 SCRA 728 (1999); *People vs. Mahinay*, 302 SCRA 455 (1999).

[54] *Id.*

**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.