

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. APSALON DIZON Y ABLIR, ACCUSED-APPELLANT.

G.R. Nos. 134522-24 and 139508-09. April 03, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

APSALON DIZON Y ABLIR was charged before the court a quo with rape of his own daughter Esperanza Dizon y Ramirez, then nine (9) years old, allegedly committed in the first week of April 1992 and continuously thereafter.[1] Consequently, three (3) other rape cases were filed against the accused by the same daughter allegedly committed in the middle of 1994,[2] in the first quarter of 1993,[3] and on 27 March 1992.[4] A fifth case involving the same parties was also filed allegedly committed in the second quarter of 1994 but this time only for attempted rape.[5]

On 24 April 1998 a consolidated judgment was rendered by the trial court.

In Crim. Case No. SC-6576 Apsalon Dizon was held guilty of acts of lasciviousness instead of rape as charged. He was sentenced to an indeterminate prison term of six (6) months of arresto mayor as minimum to six (6) years of prision correccional as maximum, and to pay his daughter Esperanza Dizon P5,000.00 as civil indemnity, P5,000.00 as moral damages and P5,000.00 as exemplary damages.

In Crim. Case No. SC-6577, he was held guilty of consummated rape and sentenced to death. He was ordered to pay P50,000.00 as civil indemnity, another P50,000.00 as moral damages and still another P50,000.00 as exemplary damages.

In Crim. Case No. SC-6578, he was also found guilty of consummated rape. Although he was ordered to pay the same amounts awarded in Crim. Case No. SC-6577, he was only sentenced to reclusion perpetua.

In Crim. Case No. SC-6579, he was also held guilty of acts of lasciviousness against the same daughter Esperanza Dizon and meted the same penalty and required to pay the same monetary awards ordered in Crim. Case No. SC-6576.

Finally, in Crim. Case No. SC-6580, he was declared guilty of consummated rape and sentenced to the same penalty imposed and ordered to pay the same monetary awards granted in Crim. Case No. SC-6578. He was also ordered to pay the costs in all the cases against him.[6]

Born on 28 November 1982 Esperanza Dizon is one of accused Apsalon Dizon's seven (7) children with Teresa Ramirez. The spouses have four (4) boys and two (2) other girls.

On 27 March 1992, at around 10:30 in the morning, accused Apsalon Dizon brought along with him his nine (9)-year old daughter Esperanza to gather vegetables in Kanluran, Barangay Cabanbanan, Pagsanjan, Laguna. On their way home he suddenly dragged her towards a forested area. He ordered her to remove her panty after which he forced her to lie down on the grass. He kissed her lips, sucked her breasts and licked her vagina. Then he

inserted his penis into her vagina. She felt pain. After a while, he pulled out his penis and moved it around the lower portion of her abdomen. A substance which to her comprehension resembled urine came out of it and dripped below her navel. She felt nandidiri so she wiped the substance off and then put on her panty. At that time, she was not aware about the actual consequences of what he did to her. He threatened to kill her and members of their family if she told anybody about the incident.

In the morning of April 1992 Esperanza found herself alone with her father Apsalon in their house in Brgy. Cabanbanan. Teresa was out selling goods while Esperanza's brothers and sisters were out wandering around. While Esperanza was standing, Apsalon lifted her dress and started sucking her breasts. Julieta, aunt of Esperanza, chanced upon them while in the act. Julieta immediately summoned Esperanza to her house and asked her what her father did to her. She naively replied that her father was sucking her breasts. At lunchtime, Julieta informed Esperanza's maternal grandparents about the incident. The grandmother of Esperanza ordered the young girl and her mother Teresa to look for a person who could kill Apsalon. Teresa simply cried.

But Apsalon could not be deterred. In 1993, he sexually molested Esperanza on three (3) more occasions. One molestation happened inside their house. While she was cleaning their house, he ordered her siblings to go out and buy something. The two (2) other molestations occurred in the eastern and western portions of Brgy. Cabanbanan after gathering vegetables and picking young coconuts. In those occasions, Apsalon had carnal knowledge of Esperanza and threatened to kill her if she complained. Nonetheless, she reported the incidents to her mother who, unfortunately, paid no heed to her disclosures.

In 1994 Apsalon continued abusing Esperanza. Sometime in the middle part of that year, Esperanza and younger sister May Ann went along with their father to the western portion of Brgy. Cabanbanan to gather dalanghita. When they reached the citrus plantation, Esperanza told him she liked buko. So he accompanied her to where they could gather buko, thus leaving May Ann behind. Along the way, he ordered Esperanza to stop. Then he started kissing her neck. She resisted and pushed him away. He unsheathed his bolo which prompted her to run away only to return home with May Ann. Esperanza did not bother to report the incident to her mother considering that her previous revelations had been simply ignored.

Again, in the middle part of 1994, at a time when Esperanza's family had nothing to eat, she and her father went to the western portion of Brgy. Cabanbanan to gather vegetables. At first, she was hesitant to go with him alone but her mother prevailed upon her saying that her brothers and a sister would accompany them. However, she told her siblings not to join them anymore because they might experience difficulty in walking. After gathering vegetables, Apsalon brought Esperanza to a forested area and raped her again. She reported the incident to her mother but, again, there was no response from her.

One time, while Esperanza was planting palay, she asked Apsalon why he was doing such things to her instead of to her mother. He retorted, "Akala mo lang 'yon, 'yong ibang magulang ginagawa din 'yan sa kanilang anak," adding that soon she would easily be a grown-up lady.

In April 1995 Esperanza left for Floridablanca, Pampanga, to work as a saleslady in the variety store of her Lola Ela, her mother's aunt. Before leaving however the accused raped her anew in the rice field of Brgy. Bubukal, Pagsanjan, Laguna. Shortly before November or December 1995 she related to her Lola Ela the things that her father had done to her. She advised her to file a complaint.

On 27 January 1997 her Lola Ela took Esperanza back to Laguna because she was entertaining a suitor and her Lola Ela did not want to assume responsibility. Having known however about the sexual abuses of Apsalon, her Lola Ela placed Esperanza under the care of her Lolo Dominador Ramirez, uncle of Teresa, who was residing in Brgy. Bubukal. While there, Esperanza told Dominador everything that her father had done to her. On the same

day, Esperanza and Dominador proceeded to the Pagsanjan Police Station and blotted several counts of rape against the accused. She was then subjected to physical examination. The physician who examined her found that she had healed hymenal lacerations at 3:00 and 9:00 o'clock positions.[7]

Accused Apsalon Dizon, thirty-four (34) years old when he took the witness stand, denied all the charges against him. He claimed that they were instigated by Dominador. Also, he asserted that Esperanza hurled the accusations against him because previously, he hit her with the side of his bolo. Teresa sided with the accused and so did his mother Rosalita Dizon.

The trial court found Esperanza's testimony straightforward, clear and convincing, and dismissed that of the accused as totally unbelievable. In fact, the defense consisted principally of mere blanket denial.

As regards the supposed instigation by Dominador, the trial court did not accord it any consideration as it was never proved.

With respect to the alleged motive of Esperanza in filing the cases, the trial court said that even assuming its veracity it was not sufficient reason for a young daughter to concoct such grave offenses involving her very own father.

Concerning the testimonies of Teresa and Rosalita, the trial court categorized them as self-serving.

Accused-appellant would cast some dubiety on Esperanza's actuation in going with him alone in the middle part of 1994 to the western portion of Brgy. Cabanbanan instead of insisting on being accompanied by her siblings so that the alleged rape would have been prevented. He then banks on the circumstance that Teresa testified in his favor and in relation thereto draws attention to the human experience that no sane mother would testify against her own daughter if the latter was telling the truth. He theorizes that if he had been raping Esperanza he would not have allowed her to work in Pampanga but would have required her instead to stay in Laguna to avoid the disclosure of the incidents to others. Lastly, he points out an alleged inconsistency in her testimony regarding the place of the commission of the claimed first rape incident, to wit: during the direct examination she said that it was in the forested place of Kanluran, Brgy. Cabanbanan, but during the cross examination she narrated that it was at the back of the house of her grandparents.

We sustain the assailed ruling. In rape cases, the evaluation of the credibility of witnesses is addressed to the sound determination of the trial court whose conclusion thereon deserves much weight and respect.[8] Moreover, courts usually give credence to the testimony of a girl who is a victim of sexual assault, particularly if it constitutes incestuous rape because, normally, no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice.[9] The trial court evaluated the testimony of Esperanza to be straightforward, clear and convincing. We find no reason to hold otherwise.

The narration of Esperanza as to what transpired between her and accused-appellant on 27 March 1992 is enlightening -

Q: In what particular place in Cabanbanan, Pagsanjan, Laguna that first incident happened?

A: Forested place at Kanluran, Cabanbanan, Pagsanjan, Laguna, sir x x x x

Q: Would you please tell us why you were in that forested place on that date at around 10:30 in the morning?

A: He ordered me to come with him because he would be getting vegetables x x x x

Q: Would you please tell us what actually happened on that date and time?

A:

It was when we were already on our way home when he pulled me to the forested place. He ordered me to put off my panty. I was forced to lay down on the grass.

Q: What happened next when you already removed your panty?

A:

He put out his penis when he saw that I had removed my panty. He saw my vagina. He licked his tongue on my vagina. He inilapat his penis on my vagina.

Q: When you said inilapat, would you please tell us what you mean by inilapat his penis?

A: He inserted his penis in my vagina and I felt so hurt x x x x

Q: What was he doing when you felt that his penis was already inside your vagina?

A: I just felt so much hurt and I saw that something which resembles urine came out of his penis x x x x

Q: How were you able to see that substance?

A:

I looked at it because he still tried to rotate his penis on the lower portion of my umbilical chord (sic) over my vagina x x x x

Q: What else did he do to you aside from inserting his penis on that occasion?

A: He sucked my breast x x x x

Q: Did he kiss you on your face, your lips?

A: Yes, he did, sir.

Q: What happened after you saw substance coming out from his penis?

A:

I wiped my body (witness pointing to the lower portion of her abdomen over her vagina below her ambilical [sic] cord). I was so nandidiri.

Q: What did you do next after wiping that white substance on your stomach?

A: I put on my panty.

Q: Did you ask your father why did he do that thing to you?

A: No, sir.

Q: Why did you not ask him?

A:

I did not know what he was actually doing to me, that is the reason why I was not able to ask him why x x x x

Q:

How about your father, did he threaten you not to tell to anybody what he did to you? Please tell us what did he say to you before and after that incident?

A: He would kill us.[10]

Esperanza continued her testimony by recounting what happened between her and her father in April 1992 -

Q: Would you please tell us what happened in that month of April 1992?

A: x x x x My father was doing lascivious act on me when he was sucking my breast, somebody saw it.

Q: Where were you in particular when your father was sucking your breast?

A: In our house, sir x x x x

Q: Would you please tell us your exact position at the time when your father was sucking your breast?

A: I was standing, sir.

Q: How about your father, what was his position then?

A: He was likewise standing, sir.

COURT: At that time, did you have your clothes on?

A: It was raised up, Your Honor.

Q: Who raised up your dress?

A: My father, Your Honor x x x x

Q:

You said somebody saw you on that particular point and time x x x x Would you please tell us the name of that person?

A: Ate Julieta, sir x x x x

Q: Any relation to you?

A: My aunt, sir.

Q: At the time the incident happened, who were inside your house x x x aside from the two of you?

A: Nobody else, sir.

Q: Where were your other sisters at that time?

A: Wandering around, sir.

Q:

How about your mother, where was she at that time?

A: Vending, sir.

Q: What was the reaction of Julieta when she noticed your father doing that sucking of your breast at that time?

A: She called me to their house, sir x x x x

Q: Tell us what you talked about.

A: She asked what my father was doing to me, sir.

COURT: What was your answer?

A:

I told my aunt that my father was sucking my breast, Your Honor.[11]

Esperanza further narrated three (3) other incidents that took place involving her and accused-appellant in 1993 -

Q:

Would you please tell us what happened in that incident sometime in 1993 inside your house?

A:

I was then cleaning our house and my brothers and sisters were with me, (my father) ordered (them) to go out to buy something x x x then he closed the door of our house x x x x

Q: What did he do to you after closing the door of your house?

A: He ginalaw na niya ako by holding all parts of my body and ordered me to undress.

Q: And when you were already undressed, what else did he do to you?

A: He caused me to lay (sic) down, sir.

Q: What did he do to you when you were already lying down?

A: He kissed my vagina thereafter he put out his penis, sir.

Q: What did he do with his penis?

A: He put it in my vagina, sir.

Q: Were you able to actually see your father inserting his penis into your vagina?

A: Yes, sir x x x x

Q: Will you tell us whether he was doing anything aside from trying to insert his penis in your vagina x x x x

A: He was sucking my breast, sir.

COURT: When you said your father was inserting his penis inside your vagina, will you tell the Court what movement, if any, your father was doing at that time x x x x

A:

Umaandayog or kumakayog, moving upward and downward strokes, Your Honor, as well as kinakayog, sir.

Q: What did you feel when he was moving that downward and upward strokes?

A: I was hurt, sir x x x x I was just a little girl then and I couldn't stand the thing he was doing to me then, sir x x x

Q: Why did you not complain?

A: It is because he always threatened me that he would kill me, sir.

Q: Did you believe him?

A: Yes, sir.[12]

The second incident in 1993 was narrated by Esperanza thus -

Q: What happened in that second incident in the year 1993 at Silangan-Eastern portion?

A: He ordered me to come with him on the eastern portion because we used to gather vegetables there, sir.

Q:

According to you, you were also abused, raped by your father in that particular incident at that Silangan-Eastern portion x x x please tell us how you were abused or raped by your father?

A: He used to undress me and when I have undressed, he did all the things to me prior to that incident, sir.

COURT: Will you be specific in stating what are those prior acts done to you by your father?

A:

He undressed me, sucked my breast, sucked my vagina then he put out his penis and inserted in my vagina, Your Honor.

Q: What did you feel?

A: I was always hurt, Your Honor.[13]

As to the third incident in 1993, Esperanza continued -

Q: How about the third time, incident that happened at Kanluran Western portion, where is this place located?

A: It is a portion of Brgy. Cabanbanan, Pagsanjan, Laguna, sir x x x x

Q: Please tell us what was done by your father to you on that occasion?

A:

I am very fond of buko or young coconut, he always tells me to go with him to get buko and after I have eaten, he dragged me on the grass which caused me to lay down, ordered me to remove my panty, sucked my vagina and inserted his penis inside my vagina, sir.[14]

As Esperanza continued with her narration, she also mentioned an incident in 1994 that concerned her and her father -

Q: After the year 1993 what transpired next between you and your father x x x x

A:

It was on that occasion sometime in 1994, my younger sister by the name of May Ann was with us and we were about to gather dalanghita or oranges. I told my father that I like (sic) buko or young coconut. We left my sister in the citrus plantation dalandanan where we could pick her up upon return. When we were on our way to the place where we would gather young coconut, we stopped because my father ordered me to stop x x x x

Q: By the way, what place are you referring to where you gathered fruits x x x x

A: Western portion of Brgy. Cabanbanan, Pagsanjan, Laguna, sir x x x x

Q: What happened there after your father instructed you to stop on that place?

A:

He held me by my arm, he started to kiss me on my neck, I fought back nanlaban and I was able to push him, however, there was a bolo that was tucked on his back and he was able to put out the bolo on his waist, sir.

Q: What did he do when he was able to get the bolo out of the scabbard?

A:

When I pushed him, I ran away and proceeded to the direction where my sister was, sir. We tried to go home alone, we do (sic) not know the way in going home together with my younger sister.

Q: Were you able to go home on that particular occasion?

A: Yes, sir.

Q:

Did you tell your mother of what happened on that particular morning?

A:

No, sir x x x x I have been telling my mother what my father had done to me but she did not mind at all.[15]

Esperanza also described the second incident in 1994 -

Q: What happened next after that incident sometime in the middle year of 1994?

A:

On that same year, another incident happened when my father ordered me to gather vegetables again because we had nothing to eat then, sir.

Q: Did you go with him on that particular occasion despite of what happened to you?

A:

Yes, sir x x x x because we had nothing to eat then and my mother was forcing me to go with my father since I have my brothers and sister as companions, sir.

Q: And in what particular place did you go? x x x x

A: Also in the western portion x x x x Barangay Cabanbanan, Pagsanjan, Laguna, sir x x x x

Q: Aside from you and your father, who are the other brothers and sister who accompanied you at that time?

A: Nobody, sir x x x x

Q:

Did you not tell a while ago that your mother was insisting that you go with your father for anyway your brothers and sister will go along with you?

A:

Yes x x x x I did not tell my brothers and sister to go with us anymore because they would have some difficulty in walking, we just walked in going to the forested area x x x x

Q: What happened on that particular occasion?

A:

Whenever we finished gathering vegetables my father took me to the forested area, specifically where grasses were thick, then he ordered me to remove my panty, he sucked my breast again as well as my vagina, sir x x x x

Q: On that occasion, may we know if your father was able to insert his penis?

A: Yes, sir.[16]

As against these testimonies of Esperanza which demonstrate no earmarks of falsehood, the testimony of accused-appellant cannot prevail. It was nothing but a sweeping denial which could not overcome the categorical and positive testimony of the victim.[17] Besides, the testimonies of Teresa and Rosalita which merely corroborated the disavowal were no less self-serving. But even assuming that accused-appellant had previously hit Esperanza with the side of his bolo, parental punishment is not a reason compelling enough to drive a daughter to falsely accuse her father of rape.[18] It was not shown either that her Lolo Dominador had instigated the filing of the present cases.

Accused-appellant faults Esperanza for not insisting on being accompanied by her siblings in going to the western portion of Brgy. Cabanbanan in the middle part of 1994 so that the alleged rape could not have happened. In this regard, the Court agrees with the observation of the Solicitor General that Esperanza was then very young, immature and innocent of the ways of the world, being barely nine (9) years old. She could not be expected to act the way mature individuals would when placed in such a situation, i.e., to insist that her siblings join them to deter any sexual molestation by her father. It is not proper to judge the actions of children who have undergone traumatic experience by the norms of behavior expected from adults under similar circumstances.[19] As it was, Esperanza was concerned more with the difficulty in walking that her siblings might encounter. At any rate, it would have been futile to bring along her siblings with them as their father could have easily devised a way to get rid of them as he had done in the past. In one of the incidents in 1993, accused-appellant ordered all his children except Esperanza to go out of the house and buy something which turned out be a ploy to have her all to himself. In another occasion, in 1994, May Ann accompanied Esperanza and their father in going to the forested area in Brgy. Cabanbanan only to be left behind when Esperanza and Apsalon proceeded to another place to gather buko.

Accused-appellant capitalizes on the circumstance that his wife Teresa aligned herself with him which, he asserts, should be taken in conjunction with the human experience that no sane mother would testify against her own daughter if the latter were telling the truth.

It is lamentable that Teresa's being a mother is only skin-deep. She did not lend succor to Esperanza when the rape incidents were disclosed to her. Such reports of rape by Esperanza, especially where the assailant is a first degree ascendant should have at least triggered the maternal instinct in her and impelled her to confront her husband. Teresa's basis for disbelieving the rape claims of Esperanza, as disclosed during the trial, was that she did not see any evidence thereof such as blood on her underwear nor any unusual behavior on her part.[20] Be that as it may, the prudent course of action of Teresa should have been to subject her daughter to physical examination as a confirmatory measure. Teresa's supportive stance for accused-appellant before the trial court was clearly in line with her indifference towards Esperanza's allegations of sexual abuse. But, as the trial court unearthed from the clarificatory questions propounded on Teresa, her real motive in claiming that Esperanza did not tell the truth was -

Q: You are testifying because you want to help your husband Apsalon Dizon?

A: Yes, Your Honor.

Q: As a matter of fact, you want him acquitted of the rape charges filed against him?

A: Yes, Your Honor.

Q: And that is precisely the reason why you are now saying that your daughter is lying?

A: Yes, Your Honor.[21]

We share the view of the Solicitor General that Teresa's love for accused-appellant was more intense than her love for her own child. Truly, some wives are overwhelmed by emotional attachments to their husbands to such an

extent that the welfare of their own offsprings takes back seat. Le coeur a ses raisons que la raison ne connaît point.[22] Knowingly or otherwise, they suppress the truth and act as medium for injustice to preponderate. Though heavens fall, they would stand by their man. Teresa exemplifies this breed of women.

Accused-appellant invokes another circumstance that, he claims, preponderates in his favor, i.e., he allowed Esperanza to work in Pampanga. He theorizes that if he had been abusing her he would have instead made her stay in Laguna to forestall the possibility that his sexual assaults on her would come out in the open.

But that is futile. It cannot help to exonerate him. Our analysis is that he must have felt secure in the belief that he had sufficiently instilled fear in her mind that in the span of three (3) years or from the time the first rape incident occurred up to the time she left for Pampanga his sexual abuses were kept under wraps. For, it is not uncommon for a girl of tender age to be intimidated or cowed into silence by the slightest threat to her life.[23]

Accused-appellant also claims that Esperanza contradicted herself when she testified during the direct examination that the first rape incident took place in the forested area of Brgy. Cabanbanan whereas during the cross examination she said that it occurred at the back of her grandparents' house.

Indeed, Esperanza might have described under cross examination a different crime scene regarding the first rape incident. Nonetheless, the matter was readily clarified by her when she explained that she was just confused, then reiterated her statement in the direct examination that the first rape incident occurred in the forested area in Brgy. Cabanbanan.[24] Minor lapses are to be expected when a person is recounting details of a traumatic experience too painful and too nauseating to recall.[25]

Thus, the trial court did not err in finding accused-appellant guilty of three (3) counts of rape and two (2) counts of acts of lasciviousness. He had forced sexual intercourse with his nine (9)-year old daughter Esperanza on 27 March 1992, in the first quarter of 1993, and in the middle part of 1994. She complained of only one (1) incident of rape in 1993 per advice of the police officers. Inasmuch as the Information so charged a single offense of rape in 1993, even if the evidence showed two (2) other rapes committed that year, conviction for only one (1) can be proper.[26] The presence of lewd designs, or the lack of them, is inferred from the nature of the acts themselves and the environmental circumstances.[27] Here, the presence of lewd designs was obviously deducible from his separate acts of sucking her breasts inside their house and kissing her neck while they were in the western portion of Brgy. Cabanbanan to gather dalanghita.

Article 335 of The Revised Penal Code as amended by Sec. 11, RA 7659[28] punishes rape with reclusion perpetua but justifies the imposition of the death penalty "(w)hen the victim is under eighteen (18) years of age and the offender is a parent x x x" which is properly alleged in the Information. However, as we have now repeatedly held, there is need for independent proof of the age of the victim, aside from her testimonial evidence or that of her relatives, even though her age is not contested by the defense.[29]

The records show that Esperanza merely testified that she was born on 28 November 1982 without presenting independent proof thereof such as her birth certificate. Neither is there any showing that the document was lost or destroyed to justify non-presentation thereof. The imposition of death in Crim. Case No. SC-6577 is therefore erroneous, which we consequently lower to reclusion perpetua. The penalties of reclusion perpetua in Crim. Cases Nos. SC-6578 and SC-6580 are affirmed.

On the other hand, the crime of acts of lasciviousness is punished under Art. 336 of the same Code by prison correccional. Applying the Indeterminate Sentence Law and appreciating relationship as an aggravating circumstance, we find it appropriate to impose upon accused-appellant the same penalty meted by the trial court for each of the two (2) counts of acts of lasciviousness in Crim. Cases Nos. SC-6576 and SC-6579, to wit, six (6)

months of *arresto mayor* maximum as minimum to six (6) years of *prision correccional* as maximum, with the modification that six (6) months of *arresto mayor* should be more accurately referred to as *arresto mayor* maximum, as minimum, and the six (6) years of *prision correccional* should be properly denominated as *prision correccional* maximum, as maximum.

Civil indemnity of P50,000.00 is automatically given to the offended party without need of further evidence other than the fact of the commission of rape which we award for each count.[30] The requirement of proof of mental and physical suffering has been dispensed with and this Court recognizes the victim's injury as being inherently concomitant with and necessarily resulting from the odious crime of rape to warrant per se an award for moral damages,[31] and we consider P50,000.00 adequate and proper for each count. An award for exemplary damages is also proper to deter other fathers with similar perverse tendencies or aberrant sexual behavior from sexually abusing their own daughters,[32] which we however reduce to P25,000.00 for each count.

The civil indemnity of P5,000.00 for each count of acts of lasciviousness is deleted for lack of basis. But moral damages of P5,000.00 is affirmed as Esperanza had to stop going to school and reached only fifth grade because of these proceedings which brought shame and scandal to her.[33] The award for exemplary damages for the reason earlier mentioned is reduced to P2,000.00 for each of the cases for acts of lasciviousness.

WHEREFORE, the Decision appealed from finding accused-appellant APSALON DIZON Y ABLIR guilty of three (3) counts of rape and two (2) counts of acts of lasciviousness is AFFIRMED subject to MODIFICATION as to the penalties and monetary awards in favor of his own daughter, complaining witness Esperanza Dizon.

In Crim. Case No. SC-6577 (G.R. No. 134523) for Rape, accused-appellant is sentenced to *reclusion perpetua* and ordered to pay Esperanza Dizon P50,000.00 for civil indemnity, another P50,000.00 for moral damages and P25,000.00 for exemplary damages.

In Crim. Case No. SC-6578 (G.R. No. 134524) for Rape, he is sentenced to *reclusion perpetua* and ordered to pay Esperanza Dizon P50,000.00 for civil indemnity, another P50,000.00 for moral damages and P25,000.00 for exemplary damages.

In Crim. Case No. SC-6580 (G.R. No. 139509) for Rape, he is sentenced to *reclusion perpetua* and ordered to pay Esperanza Dizon P50,000.00 for civil indemnity, another P50,000.00 for moral damages and P25,000.00 for exemplary damages.

In Crim. Case No. SC-6576 (G.R. No. 134522) for Acts of Lasciviousness, he is sentenced to an indeterminate prison term of six (6) months of *arresto mayor* maximum as minimum to six (6) years of *prision correccional* maximum as maximum and ordered to pay Esperanza Dizon P5,000.00 for moral damages and P2,000.00 for exemplary damages.

In Crim. Case No. SC-6579 (G.R. No. 139508) for Acts of Lasciviousness, he is sentenced to an indeterminate prison term of six (6) months of *arresto mayor* maximum as minimum, to six (6) years of *prision correccional* maximum as maximum and ordered to pay Esperanza Dizon P5,000.00 for moral damages and P2,000.00 for exemplary damages.

Costs against accused-appellant in all five (5) cases.

SO ORDERED.

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

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- [1] Docketed as Crim. Case No. SC-6576; Original Records, p. 2.
- [2] Docketed as Crim. Case No. SC-6577, id., p. 1.
- [3] Docketed as Crim. Case No. SC-6578, id., p. 1.
- [4] Docketed as Crim. Case No. SC-6580, id., p. 1.
- [5] Docketed as Crim. Case No. SC-6579, id., p. 17.
- [6] Decision penned by Judge Fernando M. Paclibon Jr., RTC-Br. 28, Sta. Cruz, Laguna; Rollo, pp. 63-64.
- [7] Exh. "I;" Records of Crim. Case No. SC-6576, p. 8.
- [8] *People v. Venerable*, G.R. No.110110, 13 May 1998, 290 SCRA 15.
- [9] *People v. Lusa*, G.R. No. 122246, 27 March 1998, 288 SCRA 296.
- [10] TSN, 8 October 1997, pp. 3-5.
- [11] Id., pp. 6-7.
- [12] TSN, 9 October 1997, pp. 4-6.
- [13] Id., pp. 6-7.
- [14] Id., pp. 7-8.
- [15] TSN, 9 October 1997, pp. 9-11.
- [16] Id., pp. 11-13.
- [17] *People v. Taneo*, G.R. No.117683, 16 January 1998, 284 SCRA 251.
- [18] *People v. Cabanela*, G.R. No. 127657, 24 November 1998, 299 SCRA 153.
- [19] *People v. Sa. Ana*, G.R. Nos. 115657-59, 26 June 1998, 291 SCRA 188.
- [20] TSN, 15 January 1998, pp. 19-20.
- [21] Id, p. 26.
- [22] The heart has its own reasons that reason knows nothing of.
- [23] *People v. Villamor*, G.R. No. 124441, 7 October 1998, 297 SCRA 262.
- [24] TSN, 14 October 1997, pp. 2-3.
- [25] See Note 19.
- [26] See Note 8.
- [27] *People v. Balbar*, Nos. L-20216-17, 29 November 1967, 21 SCRA 1119.
- [28] Death Penalty Law.
- [29] *People v. Javier*, G.R. No. 126096, 26 July 1999, 311 SCRA 122; *People v. Cula*, G.R. No.133146, 28 March 2000; *People v. Veloso*, G.R. No. 130333, 12 April 2000.

[30] People v. Pili, G.R. No. 122764, 15 April 1998, 289 SCRA 118.

[31] People v. Perez, G.R. No. 122764, 24 September 1998, 296 SCRA 17.

[32] People v. Guiwan, G.R. No. 117324, 27 April 2000.

[33] TSN, 9 October 1997, p. 16.

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