

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EMMANUEL QUEZADA, APPELLANT.*G.R. Nos. 135557-58. January 30, 2002*

Ponente: PANGANIBAN, J.

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Other than the passing, bare testimony of the victim, no other evidence has been presented to prove her minority. To justify the imposition of the death penalty, jurisprudence requires that the age of the victim should both be alleged in the information and proven with moral certainty during the trial. In-court identification of the offender is essential only when there is a question or doubt on whether the one alleged to have committed the crime is the same person who is charged in the information and subject of the trial. In the present case, there is no doubt at all that the rapist is the same individual mentioned in the Information and described by the victim during the trial. Hence, in-court identification is not absolutely necessary.

The Case

For automatic review by this Court is the Decision[1] dated July 17, 1998 promulgated by the Regional Trial Court (RTC) of Tandag, Surigao del Sur (Branch 27), finding Emmanuel Quezada guilty beyond reasonable doubt of two counts of rape and sentencing him to death. The decretal portion of the Decision reads as follows:

“WHEREFORE, finding accused Emmanuel Quezada y Gadugdug GUILTY beyond reasonable doubt of the crime of RAPE in both Criminal Case Nos. 3575 and 3576, committed with the attendant circumstance that the victim is under eighteen (18) years of age and the offender is a relative by affinity within the third civil degree, and pursuant to Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, the Court hereby sentences him to suffer the supreme penalty of DEATH in each case. Accused is further ordered to pay complainant Emily D. Orillaneda the amount of fifty thousand pesos (P50,000.00) as civil indemnity in each case or a total of one hundred thousand pesos (P100,000.00), in addition to moral damages of fifty thousand (P50,000.00) pesos in each case or a total of one hundred thousand (P100,000.00) pesos; and to pay the costs.

“Accused being detained, he is credited in the service of his sentence with the full term of his preventive imprisonment, if he agree[s] in writing to abide by the same disciplinary rules imposed on convicted prisoners, otherwise four-fifths (4/5) thereof.

“Let the entire records of these cases, together with all the exhibits and transcripts of stenographic notes of the proceedings, be elevated to the Honorable Supreme Court for automatic review.”[2]

Provincial Prosecutor Pretextato A. Montenegro filed on July 29, 1996 two Informations[3] against appellant docketed as Criminal Case Nos. 3575 and 3576. Except for the dates of the commission of the offenses, both Informations were similarly worded as follows:

“That sometime in the month of December 1995, at about 8:30 o’clock in the evening, more or less, at Poblacion Cagwait, Province of Surigao del Sur, Philippines and within the jurisdiction of this Honorable

Court, the above-named accused, with lewd design and by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with his sister-in-law, Emily Orillaneda, a 13 year-old girl, against the will of the latter, to the damage and prejudice of said Emily Orillaneda in the amount of P50,000.00.

“CONTRARY TO LAW. (In violation of Article 335 of the Revised Penal Code)”[4]

Almost identically worded as the first, the second Information[5] indicted appellant for rape albeit on a different date, “sometime in the month of February 1996.” On two separate dates -- February 11, 1997[6] and March 20, 1997[7] -- he was arraigned for each charge. With the assistance of counsel,[8] he pleaded not guilty to both of these charges. After trial in due course, the RTC -- as earlier stated -- convicted him.

The Facts

Version of the Prosecution

In its Brief,[9] the Office of the Solicitor General presents the prosecution’s version of the facts in this wise:

“Complainant Emily Orillaneda had lived with appellant Emmanuel Quezada and his wife Eloida Orillaneda Quezada, complainant’s elder sister at the couple’s residence in Cagwait, Surigao del Sur since she was eight (8) years old. She lived with them since she was in Grade II up to first year high school. They took her in because they wanted to support her education. While staying in the couple’s house, complainant slept in one of the rooms adjacent to the room of the couple and which was separated only by a cabinet (aparador).

“Sometime in December of 1995, at around 8:45 in the evening, while complainant was sleeping in her room, she was awakened by appellant who [lay] on top of her. Appellant was ‘pumping’ on her. Complainant struggled to free herself but could not do anything because appellant was pointing a small bolo at her. She lost consciousness because of fear. When she regained her consciousness and woke up the following day, she was completely naked. She felt pain when she urinated. Complainant did not tell anyone about the incident as appellant threatened to kill all of them if she should tell anyone what happened. At the time of the incident, complainant’s sister who was a teacher was in Tandag, Surigao del Sur. The couple’s children, the eldest of whom was barely six (6) years old, were in the couple’s room sleeping. Complainant was only thirteen years old then and was in first year high school.

“Later, or sometime in February 1996, at around 8:30 in the evening, complainant was awakened when appellant lifted her from her bed towards the sala. She struggled but appellant slapped her. She lost consciousness. When she woke up at around dawn, she noticed that she was completely naked. She found her t-shirt, skirt and panty beside her and she was covered with a blanket. She was weak and felt pain when she urinated. Complainant cried and dressed up. She wanted to relate what happened to her sister but because of appellant’s threats, she just kept it to herself.

“At the closing of the school year, complainant’s brother Elmer Orillaneda came to fetch her and brought her to their home in Cantilan, Surigao del Sur. As she was acting abnormally, her mother and brother asked her what happened to her. She narrated to them that appellant raped her. They had her examined by Dr. Welhelmina[10] Ang who issued a medical certificate. Subsequently, separate complaints for rape were filed against appellant.”[11] (Citations omitted)

Version of the Defense

On the other hand, appellant narrated his version of the facts in his Brief as follows:[12]

“The accused employed the defense of general denial. He presented Mercy Gascon, a 12 year-old roommate of the private complainant, his wife Eloida Orillaneda and himself [o]n the witness stand. Mercy Gascon testified and told the court that she stayed in the residence of the accused as early as December 3, 1995. That in that

house she used to sleep together with the private complainant in the other room, said house of the accused having only two bedrooms. She also told the court that the private complainant and [she] frequently watched bold beta shows shown in the house of one Jack Lamigo, their neighbor. And that everytime they watched such bold shows, she experienced that the private complainant used to insert her fingers including her big toe into her private part while they slept together in that room of the accused's house. That these incidents were repeated several nights by the private complainant until she went home to Cantilan, Surigao del Sur after the classes ended.

“Accused and his wife Eloida testified in court that the rape charges against him [were] a frameup. They told the court that ever since they got married, and even before that, accused[’s] in-laws were hesitant to accept him as the husband of Eloida, the accused being jobless and moreover, he is a seventh day Adventist. That during their union as husband and wife, the accused’s in-laws had x x x several times attempted to separate them and orchestrated some dirty strategies to separate them as a couple. But because of their love and devotion to each other, they survived and were able to preserve their marriage until these times whe[n] accused Emmanuel Quezada was prosecuted for the instant rape cases at the expense of [his] sister in-law Emily Orillaneda whom the accused and his wife sen[t] to school since she was yet a Grade II pupil at the age of eight (8) until that unfortun[at]e time the said complainant was already first year high school at the age of thirteen (13). Accordingly, accused’s in-laws had already manifested their intent to drop the cases at bar if they [would comply with] their conditions that they should burn their house in Cagwait, Surigao del Sur, and the accused must convert his faith from a [S]eventh [D]ay Adventist to a [R]oman [C]atholic. For failure to comply [with] their conditions, accused[’s] in-laws proce[de]d with the cases at bar and prosecuted the accused. Unfortunately, the accused was convicted of the two charges of rape and was sentenced to double death penalties.”[13] (Citations omitted)

Ruling of the Trial Court

Describing the testimony of the victim as “unrehearsed and uncoached,”[14] the RTC believed it. The trial court observed that her deportment on the witness stand was “unaffected, straightforward and candid.”[15]

It did not give credence to the claim of appellant that the charges had simply been fabricated by his in-laws, who did not approve of him as their son-in-law. It said that a mother would not subject her own daughter to a humiliating public trial, unless the former is motivated by a sincere desire to secure justice for the latter. Finally, it held that appellant’s identity was indubitably established.

Hence, this automatic review.[16]

Assignment of Errors

In his Brief, appellant faults the court a quo with the following alleged errors:

“1.

The lower court erred in holding that the identity of the accused-appellant was positively established despite the fact that there was no courtroom identification ever made o[f] the person of the accused.

“2.

The lower court erred in holding that the evidence of the prosecution ha[d] sufficiently proved the guilt of the accused beyond reasonable doubt despite it[s] being inherently weak and contrary to common experience and natural occurrence.

”3.

The lower court erred in holding that the medical certificate (Exh. ‘A’) was corroborative [of] the private complainant’s testimony, the same being pure hearsay.”[17]

The Court’s Ruling

This Court finds no sufficient ground to reverse or modify the conviction of the accused; however, for reasons to be explained later, his penalty should be reduced to reclusion perpetua.

First Issue:

Courtroom Identification

Appellant submits that private complainant merely referred to a certain “Uncle Emmanuel” as her sexual tormentor, but that she did not point to him in the courtroom during the trial. He argues that: “while it is true that he admitted that he was the accused in both cases[;] nonetheless, he did not admit that he was that certain Uncle Emmanuel refer[r]ed to by the private complainant as her sexual attacker.”[18]

We disagree. As correctly pointed out by the solicitor general, complainant positively and categorically identified appellant as the author of the crime.

We also hold that the RTC did not err in ruling thus:

“From the time the prosecution presented the complainant as first witness, until the defense presented its evidence and rested, and up to the time the prosecution introduced rebuttal evidence, the reference had always been on herein accused Emmanuel Quezada as complainant’s sexual attacker. The prosecutors and even the defense counsel invariably and consistently adverted and alluded to accused Emmanuel Quezada as the one complainant had been accusing of having raped her. The defense never at any point objected to such reference and mention of the identity of accused Emmanuel Quezada.”[19]

Indeed, during her testimony, complainant positively and categorically identified appellant, husband of her sister Loida, as the offender. This categorical and positive identification leaves no doubt as to the identity of Appellant Quezada as the rapist.

We do not see the absolute need for complainant to point to appellant in open court as her attacker. While positive identification by a witness is required by the law to convict an accused, it need not always be by means of a physical courtroom identification. As the Court held in *People v. Paglinawan*:

“x x x. Although it is routine procedure for witnesses to point out the accused in open court by way of identification, the fact that the witness x x x did not do so in this case was because the public prosecutor failed to ask her to point out appellant, hence such omission does not in any way affect or diminish the truth or weight of her testimony.”[20]

In-court identification of the offender is essential only when there is a question or doubt on whether the one alleged to have committed the crime is the same person who is charged in the information and subject of the trial. This is especially true in cases wherein the identity of the accused, who is a stranger to the prosecution witnesses, is dubitable. In the present case, however, there is no doubt at all that the rapist is the same individual mentioned in the Informations and described by the victim during the trial.

Indeed, there is no question that the sexual attacker identified by complainant as the husband of her sister Loida is in fact the accused in Criminal Case Nos. 3575 and 3576. Complainant even explained in her testimony why she referred to the accused as an “uncle” when actually he was her brother-in-law:

“COURT: From the Court.

Q.

How is accused related to your Ate Loida?

A.

Her husband, sir.

Q.

When you said Uncle Emmanuel, you were referring to the accused?

A.

Yes, sir.

Q.

This Loida is your elder sister?

A.

Yes, sir.

Q.

Why do you call the accused Uncle instead of Kuya?

A.

I became used to it since I was still very young.

Q.

How old were you when you first stayed in the house of the accused?

A.

Eight (8) years old.”[21]

Well-settled is the rule that testimonies of young victims deserve full credence[22] and should not be so easily dismissed as a mere fabrication.[23] No woman, especially one of tender age, would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, unless she is motivated solely by the desire to have the culprit apprehended and punished. Considering that the young victim had not been exposed to the ways of the world, it is most improbable that she would impute a crime so serious as rape to any man, if the charge were not true.[24] Complainant did not ascribe the crime just to any man, but to her very own brother-in-law who was in fact feeding her, attending to her basic needs and spending for her schooling.

Given the positive and unequivocal identification of appellant by the offended party, the defense of denial must perforce fail. Categorical and consistent positive identification, absent any showing of ill motive on the part of the

eyewitness testifying on the matter, prevails over the defense of denial. In this case, there is no showing of any improper motive on the part of the victim to testify falsely against the accused or to implicate him falsely in the commission of the crime; hence, the logical conclusion is that no such improper motive exists and that the testimony is worthy of full faith and credence.[25]

Second Issue:

Guilt Beyond Reasonable Doubt

Appellant then argues that the Informations did not allege the victim to be unconscious during the rapes. Hence, he could not be convicted of the type of rape corresponding to such state.

We are not persuaded. True, unconsciousness was not alleged in the Informations. However, force and intimidation were. Complainant's unconsciousness was the immediate and direct consequence of the force, violence and threats employed by appellant in raping her.

In similar cases,[26] this Court has already debunked this argument by holding that a duly proven allegation of force and intimidation is sufficient for conviction. It is not necessary for the consequent unconsciousness to be alleged in the information. Indeed, in the present case, the loss of consciousness was the immediate result of appellant's violence.[27]

Thus, in the first incident of rape, complainant was awakened as appellant kept pumping on top of her. Penetration occurred even as she struggled to free herself. During the second incident, she was carried to the sala and thereafter slapped. The violence inflicted, the threatening words hurled and the strain caused by the bladed instrument ("small bolo") poked at her were enough to render her unconscious and to enable him to satisfy his beastly passion. Upon regaining consciousness in both instances, she found herself completely naked -- her t-shirt, skirt and panty beside her. She also felt pain in her private part.

The narration of the incidents by complainant was straightforward, categorical and free of any serious contradiction. We find no compelling reason to disturb or set aside the findings of the lower court, which gave due weight and credence to her testimony. The conclusions of trial courts on the credibility of witnesses and their testimonies are generally not disturbed by appellate courts. Having heard the witnesses themselves and observed their deportment and manner of testifying, they were in a better position to decide the issue.[28] In the present case we take into account the RTC's observation of complainant's demeanor, conduct and attitude when she testified in court thus:

"The testimony of the complainant, obviously unrehearsed and uncoached, perhaps even without the benefit of any briefing before [being called] to the witness stand, appears to the Court to be unaffected, straightforward and candid. She gave guileless answers to the questions, unmindful of the consequences." [29]

It should also be noted that complainant could not control her emotion during the trial of the case. Her poignant cry while testifying on her harrowing experience is a testament to the truth. This is a matter of judicial cognizance, its verity borne out by human nature and experience.[30]

Further, complainant who was subjected to a grueling cross-examination by the defense counsel, never faltered in her story. She remained consistent all throughout her testimony.

Neither can appellant find sanctuary in the prohibition against a conviction for rape under the second circumstance ("unconscious") set forth in Article 335[31] of the Revised Penal Code, when the Information charged him with rape under the first paragraph ("force or intimidation").[32] This proscription proceeds from the constitutional right of the accused to be informed of the nature of the charges against them.[33] It is clear that appellant was convicted by the trial court, not under the second paragraph of Article 335, but under the first one --

through “force or intimidation.” Instructive is the court a quo’s Decision on the matter:

“Under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, rape is committed by having carnal knowledge of a woman under any of the following circumstances: (a) by using force or intimidation; (b) when the woman is deprived of reason or otherwise unconscious; and (c) when the woman is under twelve (12) years old or is demented. The Informations allege the first circumstance, namely, that accused had carnal knowledge of the complainant, who is his sister-in-law, ‘by means of force and intimidation’. Prosecution’s evidence sufficiently established this circumstance. x x x.

“Complainant might not have put up a determined fight or resistance when she was sexually attacked, such as boxing, kicking or scratching the accused, but this does not mean that she consented to the sexual assault. x x x.

“On the contrary, she could be, as she was, easily subdued or cowed into submission to the sexual assault on her, more so, because accused poked a small bolo [at] her, causing her to lose consciousness due to extreme fear.”[34]

Appellant also contends that the behavior of complainant after the rape incidents is “contrary to common experience and natural occurrence”[35] He questions how she could have slept the whole night despite having been sexually abused and mentally tormented.

We should view complainant’s behavior after those two fateful nights in the light of two legal principles. First, different people react differently to a given type of situation, there being no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[36] Second, it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected from mature persons under similar circumstances.[37]

This Court has been categorical in declaring that “the workings of a human mind placed under emotional stress are unpredictable and people react differently -- some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion.”[38] Yet it can never be argued that the ones who apparently welcome it are sexual victims any less than the others.[39]

Given these declarations, the fact that after complainant was raped she slept on until morning is not unusual or unnatural. Nobody can tell how a victim of sexual aggression is supposed to act or behave after her ordeal. At any rate, in the present case it would not be too farfetched to suppose that, out of fear or a desire to forget the horror just committed upon her chastity, the victim slept soundly thereafter, as alleged.[40]

Appellant further questions the behavior of complainant who did not immediately report the incident to her mother, to her friends or to the authorities.

Deeply imbedded in our jurisprudence is the rule that the failure of the complainant to report the rape immediately to the members of her family or to the police authorities does not detract from her credibility, her hesitation being attributable to her age, the moral ascendancy of appellant or his threats against her.[41] It is not unlikely that a minor would be intimidated into silence by the mildest threat against her life or the lives of members of her family.[42] A young girl, unlike a mature woman, cannot be expected to have the courage and the intelligence to report immediately a sexual assault committed against her, especially when a death threat hangs over her head.[43]

The above doctrines also answer the contention of appellant that it was unusual for complainant to have continued living normally in his house despite having supposedly been raped by him twice. It was not unusual because she might have been paralyzed by fear, considering his moral ascendancy over her.

Further, we do not give much credence to the allegation that the accusation against appellant was impelled by ill motive on the part of complainant's family. This Court has repeatedly opined that it is unlikely for a young girl like complainant -- or for her family -- to impute the crime of rape to no less than a relative and to face social humiliation, if not to vindicate her honor.[44] Declared the trial court:

"The foregoing circumstances belie the defense's claim that accused's in-laws disliked him to the point of fabricating the instant rape cases. Were they really against him, they would not allow herein complainant to stay with him for years (and he would have no occasion to rape her), would not allow his wife to marry him in the first place, and would not be so solicitous about his and his family's problems in Cagwait, to the extent of providing him and his wife with jobs or additional sources of income. x x x. The Court finds it difficult to believe that a mother would sacrifice her own daughter and allow her to be the subject of a humiliating public trial if she had not been motivated by a sincere desire to have her daughter's attacker, who ruined her life, punished. It is unnatural for a mother to use her own daughter to realize her desire to separate her elder daughter from the latter's husband (whose marriage she herself facilitated) and, in the process, subject her daughter to unnecessary embarrassment and lasting stigma, just as it is unbelievable for herein complainant, a young girl at that, to admit in public that she was deflowered by her brother-in-law, unless she was telling the truth for, in doing so, she would be compromising her own future."[45]

In a desperate attempt to cast doubt on the credibility of complainant, appellant paints her as sexually promiscuous. This was easily dismissed by the trial court in this wise:

"Complainant, who was yet in her early adolescence living in a rural area, was required strictly to act with circumspection and prudence and avoid indulging in anything immodest, much [less], in sexual perversity, which would surely blemish her reputation and ruin her honor. The Court finds Mercy Gascon's story too fantastic to be true, [n]ay, it belongs to the realm of the inscrutable and is thus beyond judicial cognizance."[46]

Besides, assuming Gascon's story to be true, still, the rape victim's character in this crime is immaterial.[47] Even a prostitute can be a victim of rape.[48]

Third Issue:

Medical Certificate

Finally, appellant avers that the RTC gravely erred when it gave probative value to the Medical Certificate signed by Dr. Welhilmina Ang, despite her failure to testify in court. But even without this Certificate, complainant's testimony is already sufficient to convict appellant of rape.[49] To be sure, a medical certificate is not necessary to prove the commission of rape.[50] It is merely corroborative in character and not an indispensable element in rape. What is important is that the complainant's testimony about the incident is clear, unequivocal and credible,[51] as in the instant case.

Proper Penalty

We however hold that the RTC erred in imposing the death penalty on appellant. Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659 (the Death Penalty Law), reads, inter alia, as follows:

"xxx x x x x x x

"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 of the victim."

While the relationship of complainant and appellant was alleged in the Informations and established through both the prosecution and the defense witnesses' testimonies, the former's minority though similarly alleged, was not satisfactorily proven, however. Except for her bare, passing testimony that she was still a minor when the offenses charged were committed, no other evidence was adduced to support her statement. No birth record or even baptismal certificate was offered. It is evident that the prosecution did not discharge the burden of proving with certainty the fact that she was under 18 years of age when the rape was committed. Thus, the imposition of the death penalty under the above-cited provision was not justified.[52]

When the alleged age of the victim at the time of the sexual assault is between 13 and 18 years, neither her bare testimony nor that of her mother would suffice to prove her age and consequently qualify the crime to justify the imposition of the death penalty.[53] This is because in this era of modernism and rapid growth, the victim's mere physical appearance is not enough to gauge her exact age. For the extreme penalty of death to be upheld, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime must be substantiated. Verily, the minority of the victim should be not only alleged but likewise proved with equal certainty and clearness as the crime itself.[54] Be it remembered that the proof of the victim's age in the present case spells the difference between life and death.

The award of P50,000 as civil indemnity ex delicto for each count of rape is sustained. Likewise, the trial court's award of P50,000 as moral damages for each rape stands. This amount is awarded to a rape victim without the necessity of additional pleading or proof other than the fact of rape.[55]

WHEREFORE, the appealed Decision is **AFFIRMED** with the **MODIFICATION** that the penalty imposed is reduced to reclusion perpetua for each count of rape.

SO ORDERED.

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

[1] Penned by Judge Ermelindo G. Andal.

[2] Assailed Decision, pp. 28-29; rollo, pp. 108-136; records, Vol. 3, pp. 275-303.

[3] Rollo, pp. 8-11; records, Vol. 3, pp. 47- 48; records, Vol. 2, pp. 10-11.

[4] Information dated July 29, 1996; rollo, p. 8; records, Vol. 3, p. 47.

[5] Information dated July 29, 1996; rollo, p. 10; records, Vol. 2, p. 10.

[6] Order dated February 11, 1997; records, Vol. 3, p. 89.

[7] Order dated March 20, 1997; records, Vol. 2, p. 30.

[8] Assisted by Counsel de oficio, Atty. Elpidio I. Digaum.

[9] Signed by Solicitor General Ricardo P. Galvez, Asst. Solicitor General Nestor J. Ballacillo and Solicitor Roselyn O. Balanquit-Bernardo.

[10] Also spelled as "Welhilmina" in the Medical Certificate.

[11] Appellee's Brief, pp. 4-6; rollo, pp. 168-170.

[12] Appellant's Brief was signed by Atty. Elpidio I. Digaum.

[13] Appellant's Brief, pp. 2-5; rollo, pp. 91-94.

[14] Assailed Decision, p. 19; rollo, p. 126.

[15] Ibid.

[16] This case was deemed submitted for resolution on March 2, 2000, upon receipt by this Court of appellant's Reply Brief.

[17] Appellant's Brief, p. 1; rollo, p. 90, original in upper case.

[18] Ibid., pp. 5-6; rollo, pp. 94-95.

[19] Assailed Decision, p. 27; rollo, p. 134.

[20] 233 SCRA 494, 500, June 28, 1994, per Regalado, J.

[21] TSN, March 20, 1997, p. 28.

[22] People v. Ibalang, 286 SCRA 387, February 24, 1998.

[23] People v. Molas, 286 SCRA 684, March 2, 1998.

[24] People v. Tipay, 329 SCRA 52, March 28, 2000; People v. Atienza, 326 SCRA 802, February 29, 2000.

[25] People v. Banela, 301 SCRA 84, January 18, 1999.

[26] People v. Reyes, 311 SCRA 408, July 28, 1999; People v. Perez, 307 SCRA 276, May 19, 1999.

[27] People v. Fabro, 239 SCRA 146, December 13, 1994; People v. Palapal, 114 SCRA 783, June 29, 1982.

[28] People v. Villanos, 337 SCRA 78, August 1, 2000; People v. Palma, 308 SCRA 466, June 17, 1999.

[29] Assailed Decision, p. 19; rollo, p. 126.

[30] People v. Ramos, 296 SCRA 559, September 25, 1998; People v. Gecom, 254 SCRA 82, February 23, 1996.

[31] 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

x x x x x x x x”

[32] Ibid.

[33] People v. Pailano, 169 SCRA 649, January 31, 1989. See also 1987 Constitution, Art. III, Sec. 14 (2).

[34] Assailed Decision, pp. 18-20; rollo, pp. 125-127.

[35] Appellant's Brief, p. 14; rollo, p. 103.

[36] People v. Villanos, *supra*; People v. Palma, *supra*.

[37] People v. Villanos, *supra*; People v. Sta. Ana, 291 SCRA 188, June 26, 1998; People v. Tadulan, 271 SCRA 233, April 15, 1997.

- [38] *People v. Reyes*, supra, p. 423, per Romero, J., citing *People v. Peñero*, 276 SCRA 564, 568, July 31, 1997, per Romero, J.
- [39] *People v. Ibay*, 233 SCRA 15, June 8, 1994.
- [40] *People v. Labayne*, GR No. 132170, April 20, 2001.
- [41] *People v. Villanos*, supra; *People v. Emocling*, 297 SCRA 214, October 7, 1998; *People v. Antipona*, 274 SCRA 328, June 19, 1997; *People v. Abad*, 268 SCRA 246, February 13, 1997.
- [42] *People v. Ibay*, supra.
- [43] *People v. Olivar*, 215 SCRA 759, November 13, 1992.
- [44] *People v. Namayan*, 246 SCRA 646, July 18, 1995.
- [45] *Assailed Decision*, pp. 23-25; *rollo*, pp. 130-132.
- [46] *Ibid.*, p. 21; *rollo*, p. 128.
- [47] *People v. Baniguid*, 340 SCRA 92, September 8, 2000; *People v. Alcartado*, 334 SCRA 701, June 29, 2000.
- [48] *People v. Bares*, GR Nos. 137762-65, March 27, 2001.
- [49] *People v. Villadares*, GR No. 137649, March 8, 2001.
- [50] *People v. Bares*, supra.
- [51] *People v. Dela Peña*, GR No. 128372, March 12, 2001.
- [52] *People v. Tipay*, supra.
- [53] *People v. Bawang*, 342 SCRA 147, October 5, 2000; *People v. Tabanggay*, 334 SCRA 575, June 29, 2000; *People v. Tipay*, supra.; *People v. Cula*, 329 SCRA 101, March 28, 2000; *People v. Brigildo*, 323 SCRA 631, January 28, 2000.
- [54] *People v. Galeno*, GR Nos. 135976-80, June 20, 2001.
- [55] *People v. Prades*, 293 SCRA 411, July 30, 1998.

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