

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL LIBAN, ACCUSED-APPELLANT.***G.R. Nos. 136247 & 138330. November 22, 2000*

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-136247/>**VITUG, J.:**

"He eats his own children,"[1] Nerissa so described her father, accused-appellant Manuel Liban, as she tearfully recounted before the trial court the details of her dire experience.

At early age, Nerissa Liban and her two other sisters were virtually left on their own. They were still little when their mother left the sleepy town of Caricaran, Sorsogon, for what she thought to be the green pastures of Manila to augment her husband's measly income from selling empty bottles. Letters from her, including some sums of money, regularly came at first but soon dwindled. After the last letter asking them to pray for the success of her bid to work in Japan, the family never heard from her again. Her three daughters - Leonarda, private complainant Nerissa, and Hilda - were left to the custody of her husband whose strange notion of discipline was to strike, pinch, and bite his daughters. Far worse, he would turn to them to sate the appetite of his loins whetted by his wife's absence.

The first rape occurred on 06 November 1995 when Leonarda spent the night at the house of an aunt. The young Nerissa and eight-year old Hilda, left behind by her, were already in bed when their father arrived home drunk. He demanded food but when Nerissa set the table for him, he threw the food away and slapped her. Reeling from the blow, Nerissa fell on her back. She was in this position when the accused placed himself on top of her. He then removed her panty and, pressing a knife on her, inserted his penis into her vagina and then had her. All that Nerissa could do was to cry in pain. His lust satisfied, he told her to put back on her clothes. The next morning, at about seven o'clock, Nerissa left the house and went to see her aunt with whom she stayed for a week until her father came to fetch her. She felt that she had no choice but to reluctantly go with him. The following night, he again raped her. Manuel Liban would eventually continue raping his daughter on seven different occasions within a one-year period, the specific dates of some of which Nerissa could no longer distinctly remember.

The last rape took place on 15 October 1996. The three sisters were already asleep. When Nerissa awoke, she found herself tied and naked. Her father then mounted her and inserted his organ into her vagina. She wanted to shout but she was gagged. When her father had left, Leonarda came and untied her. Manuel Liban later came back and seeing Nerissa already unbound, he lashed her to the window. Leonarda told her that their father was also doing the same thing to her. Crying, the two sisters made plans to escape and proceeded to the house of their maternal aunts, remaining there for a while.

When school started, Nerissa also took Hilda away for fear that their father would do "the same thing" to the young sibling. Tormented by her traumatic encounters, Leonarda left for Manila. Other than Leonarda, Nerissa never told a soul about the rape incidents. On one occasion, while attending church services, she met her friend Manay Luisa. Unable to contain her pent-up anguish, Nerissa blurted out to Luisa her cruel experience. Luisa

advised her to see a doctor for check-up to ascertain whether her frequent bouts with dizziness indicated possible pregnancy. The medical certificate[2] issued by Dr. Ma. Humilde Janaban attested to private complainant's non-virgin state and the presence of vaginal lacerations caused by sexual intercourse. The doctor told Nerissa, to her relief, that she was not expecting.

In December that year, Nerissa was accompanied by her Tia Nora to the police headquarters to lodge a complaint against her father. Informations were filed against Manuel Liban for two counts of rape committed against Nerissa Liban, one on 06 November 1995, docketed Criminal Case No. 97-4363, and the second on 15 October 1996, docketed Criminal Case No. 97-4362, that read:

"INFORMATION[3]

(Criminal case No. 97-4363)

"The undersigned Assistant Provincial Prosecutor accuses MANUEL LIBAN, of Barangay Caricaran, Bacon, Sorsogon, of RAPE defined and penalized under Article 335 of the Revised Penal Code, committed as follows:

"That on or about 9:00 P.M. of November 6, 1995 at Barangay Caricaran, Bacon, Sorsogon, the above-named accused with lewd designs, by means of force and intimidation and taking advantage of his moral ascendancy over his 12-year old daughter NERISSA P. LIBAN, did then and there willfully, unlawfully and feloniously, had sexual intercourse with the said victim against her will and consent, to her damage and prejudice.

"The offense is attended by the alternative aggravating circumstance of relationship, the accused being the father and direct ascendant of the victim.

"ACT CONTRARY TO LAW."

"INFORMATION[4]

(Criminal Case No. 97-4362)

"The undersigned Assistant Provincial Prosecutor accuses MANUEL LIBAN, of Barangay Caricaran, Bacon, Sorsogon of RAPE defined and penalized under Article 335 of the Revised Penal Code, committed as follows:

"That on or about 9:00 P.M. of October 15, 1996 at Barangay Caricaran, Bacon, Sorsogon, the above-named accused with lewd designs, by means of force and intimidation and taking advantage of his moral ascendancy over his 12 year old daughter NERISSA P. LIBAN, did then and there willfully, unlawfully, and feloniously, had sexual intercourse with the said victim against her will and consent, to her damage and prejudice.

"The offense is attended by the alternative aggravating circumstance of relationship, the accused being the father and direct ascendant of the victim.

"ACT CONTRARY TO LAW."

In his defense, appellant testified that, on both dates of 06 November 1995 and 15 October 1996, he was resting at their house with his youngest daughter, Hilda, while Nerissa was with her friends, Eden Desoyo and a certain Embang, both residents of Cogon, Bacon, located about half a kilometer away from their house. Manuel asserted that Nerissa had always spent her time in the company of friends and that, since January 1993, Nerissa had been living with her peers. Manuel could not think of any reason why Nerissa would turn against him, except for the possibility of his daughter having been brainwashed by his in-laws. Manuel explained that the enmity between him and his in-laws had started when he demanded, through the barangay captain of Caricaran, the return of his daughter Leonarda who had gone to Laguna, without his prior knowledge and permission, to find work with the help of his in-laws. During an ensuing confrontation, an in-law, one Winefreda Pulvorido, accused him of raping his daughters.

In Criminal Case No. 97-4362, the trial court ruled to acquit accused Manuel Liban; it explained:

"The matter of the feet of the complainant being tied when the accused was on top of her was not clearly explained, thus; creating reasonable doubt in the mind of the court that when said accused was on top of the complainant and her feet were tied together, it became physically impossible for a sexual intercourse to take place. When two or more interpretations are possible, that interpretation which is favorable or beneficial to the accused must be adopted. In this particular instance, the Court honestly believes that when the feet of the victim were tied together, rape upon the victim cannot take place, hence on reasonable doubt, the accused must necessarily be acquitted."[5]

In Criminal Case No. 97-4363, however, the court found the accused guilty beyond reasonable doubt of the crime of rape penalized under Article 335 of the Revised Penal Code, as so amended by Section 11 of Republic Act ("R.A.") No. 7659, and imposed upon him the penalty of death -

"WHEREFORE, premises considered, the COURT finds the accused guilty beyond reasonable doubt of the crime of RAPE under Article 335 as amended by Sec. II, R.A. 7659 in Criminal Case No. 97-4363 and hereby sentences him the maximum penalty of death and to pay the offended party the amount of P50,000.00 as civil indemnity; to pay the amount of P10,000.00 as moral damages, and the amount of P10,000.00 as exemplary damages without subsidiary imprisonment in case of insolvency and to pay the cost.

"As to Crim. Case No. 97-4362, on reasonable doubt, the accused is hereby acquitted.

"With cost de oficio."[6]

The case has been forwarded to this Court for its review. Closely examining the records, the Court finds hardly anything of substance or significance that can warrant a reversal of the finding of the court a quo that indeed accused-appellant has violated his own daughter.

The testimony of private complainant was unflinching and straightforward. With tears of anguish, she was able to convincingly narrate the ordeal she had been through. No nefarious motive was shown that would have impelled her to testify falsely against her own father. She testified thusly:

"Q.

When did the first time that he raped you happen?

"A.

On November 6, 1995.

"Q.

Where did that happen?

"A.

In the house of Magno.

"Q.

Who were your companions in that house?

"A.

We, the siblings and our father.

"Q.

Who owns that house?

"A.

Magno.

"Q

And you are only renting that place?

"A.

We borrowed it.

"Q.

Let us go to that incident that you said that your father raped you on November 6. What time did that rape happen?

"A.

Between 9:00 o'clock and 10:00 o'clock in the evening.

"Q.

What were you doing then?

"A.

I was asleep.

"Q.

Then what happened?

"A.

When my father arrived, he was drunk and he asked food, so I set the table for him, but when I set the table for him, he threw the food away.

"Q.

What happened after that?

"A.

He slapped me and I fell down on my back and when I fell down on my back, he placed himself on top of me.

"Q.

What were you wearing at that precise time?

"A

. I was wearing a skirt and my upper dress was a T-shirt with red stripes.

"Q.

Now, let us go this one by one. After you fell, what did your father do to you?

"A.

When I fell on my back, he removed my panty.

"Q.

What else happened after he removed your panty?

"A

He inserted his penis to my vagina.

"Q

What were you doing while your father was doing these things to you?

"A.

I was crying.

"Q.

And did you not try to ward him off?

"A

I tried to move away but he poked his knife on me.

"Q.

What did you feel after your father inserted his penis into your vagina?

"A.

It was very painful.

"Q.

You said that you were then with your siblings. Were they awakened?

"A.

My youngest sister was with me because my elder sister was sleeping in the house of my auntie.

"Q.

How old was your youngest sister?

"A.

Eight (8) years old.

"Q.

Now, after your father had carnal knowledge with you, what did he do?

"A.

He told me to dress up and the following morning, I went away."[7]

Nerissa Liban appeared to have fully understood the impact of her decision to file the charges against her father -

"Q.

Do you understand that the person you are accusing of having raped you is your father?

"A.

Yes, ma'am.

"X X X X X X X X

"Q.

And do you understand that if found guilty, your father could be sentenced to death?

"A.

Yes, ma'am.

"Q

. Now, what do you feel about the consequences of your filing a complaint against your father?

"A.

Good for him because he is `eating his own children.'"[8]

Manuel Liban, in this appeal, no longer persists in assailing the veracity of his daughter's account of the rape; instead, he bewails the death sentence, his lone assignment of error being that -

"THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY UPON ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE THE REAL AGE OF THE VICTIM."[9]

Citing the cases of *People vs. Ernesto Perez*[10] and *People vs. Amado Sandrias Javier*,[11] accused-appellant asks the Court to reduce the penalty of death imposed upon him to reclusion perpetua.

Article 335 of the Revised Penal Code, as so amended by Section 11 of Republic Act 7659, has placed in the category of a "heinous" offense punishable by death the rape of a minor by her own father. This extreme penalty is to be imposed when the following circumstances concur, i.e., 1) there is sexual congress without consent; 2) the offender is the father, stepfather, ascendant, guardian or relative by consanguinity or affinity within the third civil degree of the victim or the common-law spouse of the parent of the victim; and 3) the victim is under eighteen years of age at the time of the commission of the crime.[12] In looking at the attendance of the above conditions the Court has consistently taken an extremely careful stance. With regard, particularly, to the minority of the victim, the Court has belabored the matter on end.

In *People vs. Ernesto Perez*,[13] the Court reduced the penalty from death to reclusion perpetua for the failure of the prosecution to specifically state in the information the age of the victim. The Court deemed the omission to be constitutionally fatal. Perez equated the imposition of the death penalty in the face of such oversight as being a denial of the right of the accused to be informed of the charges so as to adequately prepare him for his defense, a flaw that could not be cured simply by introducing evidence therefor.

In *People vs. Melencio Bali-balita*,[14] the victim, Ella Magdasoc, testified that she was eleven years old, having been born on 12 April 1987, when she was raped by the accused on 26 August 1992. Although no birth certificate or other official document to prove the age of the victim was presented in evidence, the testimony of the victim about her age, however, was corroborated by her half-sister, Miriam Gozum, who declared that, indeed, Ella was eleven years old at the time of the rape. Bali-balita considered the testimony of the two sisters, along with her physical appearance at the time of trial and the fact that no conflicting piece of evidence on her actual age was

given that could place the matter in any serious doubt, to be sufficient in establishing the minority of the victim.[15]

In *People vs. Amado Sandrias Javier*,[16] the lack of objection on the part of the defense pertaining to the age of the victim was held not to exempt the prosecution from presenting the birth certificate of the private complainant upon the premise that the alleged age of the private complainant, at the time of the commission of the offense, was sixteen or just two years shy from the majority age of eighteen. Javier explained that in an "age of modernism," there would hardly be much difference between a sixteen-year old lass and an eighteen-year old girl on physical features and attributes.

People vs. Cula[17] reiterated Javier when this Court lowered the penalty in a case of rape committed on a 16-year old victim on the ground that the prosecution did not present any independent proof of age, such as a birth certificate, and for the failure by the trial court to make a categorical finding on the matter. Cula stressed that it was the burden of the prosecution to prove, with certainty, the fact that the victim was below eighteen years at the time of commission of the rape to justify the imposition of the death penalty, and that the failure of the accused-appellant to there present testimony or proof to the contrary did not exonerate the prosecution from its burden.

People vs. Tipay[18] held that the presentation of a birth certificate was not indispensable to prove minority; thus, the minority of a victim who was well below the age of ten, being quite manifest, could enable the court to take judicial notice thereof. Tipay thought to only be crucial years the age range of fifteen to seventeen years where minority might not always be "indubitable."

In *People vs. Tundag*,[19] the victim testified that she was thirteen years old at the time of the rape but later admitted that she did not know exactly when she was born. The manifestation by the prosecution of its inability to secure a copy of the victim's birth certificate, as well as its motion that judicial notice be taken of the fact that the victim was below eighteen years old at that time, was not sanctioned by this Court to be sufficient in establishing the victim's minority. Not even absence of contest from the defense, the Court said, could exempt the prosecution from this burden. Tundag stressed that the minority of the victim should also be proven with equal certainty as the crime itself to justify a conviction of rape in its qualified form. Tundag went on to say that the age of the victim, without qualification, was not a matter of judicial notice, whether mandatory[20] or discretionary.[21] Citing *People vs. Rebancos*,[22] and *People vs. Vargas*,[23] both of which cases required the presentation of independent proof on the age of private complainants whose ages were said to be nine and ten years old, respectively, at the time of rape, Tundag ruled that the evident tender age of the victim in a crime of rape committed by a relative did not excuse the prosecution from the need to present a birth certificate or, in its absence, an independent piece of evidence, sufficient for the purpose.[24]

The Court here emphasizes that the severity, as well as the irreversible and final nature, of the penalty of death once carried out makes the decision-making process in capital offenses aptly subject to the most exacting rules of procedure and evidence. It is to be recognized that, due to variable circumstances, no two cases are really ever alike that, at times, may easily mislead one to perceive the Court to be giving, albeit inaccurately, vacillating rulings. Relative particularly to the qualifying circumstance of minority of the victim in incestuous rape cases, the Court has consistently adhered to the idea that the victim's minority must not only be specifically alleged in the information but must likewise be established beyond reasonable doubt during trial. Neither the obvious minority of the victim, nor the absence of any contrary assertion from the defense, can exonerate the prosecution from these twin requirements. Judicial notice of the issue of age, without the requisite hearing conducted under Section 3,[25] Rule 129, of the Rules of Court, would not be considered enough compliance with the law. The birth certificate of the victim or, in lieu thereof, any other documentary evidence, like a baptismal certificate, school

records and documents of similar nature, or credible testimonial evidence, that can help establish the age of the victim should be presented. While the declaration of a victim as to her age, being an exception to the hearsay proscription, would be admissible under the rule on pedigree, the question on the relative weight that may be accorded to it is another matter. Corroborative evidence would be most desirable or even essential when circumstances warrant.

In the instant case, save for the bare testimony of the victim that she was ten years old at the time of the first rape,[26] nothing else could be elicited from the records to ascertain the correct age of the victim.

In sum, the Court upholds the decision of the trial court convicting Manuel Liban of the crime of rape but must reduce, on account of the insufficiency of proof on the qualifying circumstance of minority of the victim, the penalty of death to reclusion perpetua. With respect to the civil liability, the Court sustains the award of P50,000.00[27] as civil indemnity and of P10,000.00 as moral damages[28] but increases the exemplary damages from P10,000.00 to P20,000.00 in consonance with prevailing jurisprudence.[29]

WHEREFORE, the appealed judgment of the court a quo finding accused-appellant Manuel Liban, guilty of rape is **AFFIRMED** but the sentence of death therein imposed by it is reduced to reclusion perpetua. The awards of civil liability in favor of the victim are **SUSTAINED** except for the exemplary damages of P10,000.00 which is hereby increased to P20,000.00.

SO ORDERED.

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

[1]TSN, Nerissa Liban, 12 August 1997, p. 15.

[2] Exh. A, Records of Crim. Case No. 97-4363, p. 3.

[3] Records, People of the Philippines vs. Manuel Liban, Criminal Case No. 97-4363, p. 15.

[4] Records, People of the Philippines vs. Manuel Liban, Criminal Case No. 97-4362, p. 3.

[5] Rollo, p. 13.

[6] Rollo, p. 14.

[7] TSN, Nerissa Liban, 12 August 1997, pp. 4-6.

[8] Ibid., pp. 14-15.

[9] Rollo, p. 32.

[10] 296 SCRA 17.

[11] G.R. No. 126096, 26 July 1999.

[12] In cases where the victim is below seven years old, her offender is meted the mandatory penalty, regardless of whether he is a relative or not.

[13] 296 SCRA 17.

[14] G.R. No. 134266, 15 September 2000.

[15] Mr. Justice Josue Bellosillo, in a separate opinion, insisted on the strict requirement of an "independent" proof of age.

[16] G.R. No. 126096, 26 July 1999.

[17] G.R. No. 133146, 28 March 2000.

[18] G.R. No. 131472, 28 March 2000.

[19] G.R. No. 135695-96, 12 October 2000.

[20] Mandatory judicial notice only pertains to the following --- the existence and territorial extent of states, their political history, forms of government, and symbols of nationality, the law of the nations, the admiralty and maritime courts of the world, and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time and the geographical divisions. (Section 1, Rule 129, Rules of Court)

[21] Discretionary judicial notice only pertains to matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. (Section 2, Rule 129, Rules of Court).

[22] 172 SCRA 426.**[23] 257 SCRA 603.**

[24] In Tundag however, the victim's baptismal certificate, coupled with the testimony of her mother, was held as a sufficient independent proof of age. In contrast, People versus Vargas dismissed the testimony of the victim and her aunt as to the victim's age, and the trial court judge's personal evaluation of the victim's age based on her personal appearance to be inadequate.

[25] Sec. 3. Judicial notice, when hearing necessary. - During the trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon.

After the trial, and before judgment or on appeal, the proper court, on its own initiative or on request of a party, may take judicial notice of any matter and allow the parties to be heard thereon if such matter is decisive of a material issue in the case.

[26] Although the information stated that she was twelve years old.

[27] In People vs. Victor (292 SCRA 186), we have laid down the rule that if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by law, the indemnity for the victim shall be increased from P50,000.00 to P75,000.00. Absent the qualified circumstance of minority of victim, actual compensatory damages is maintained at P50,000.00.

[28] In line with People vs. Senen Prades (293 SCRA 411), on the thesis that the trauma of mental, physical and psychological sufferings of complainant which constitute the bases for moral damages are too obvious to still require the recital thereof at trial by the victim since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility.

[29]In line with *People vs. Amado Sandrias Javier* (supra), to deter other fathers with perverse tendencies and aberrant sexual behavior from sexually abusing their own daughters.

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.