PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY JACOB Y LOPEZ, ACCUSED-APPELLANT.

G.R. Nos. 138576-77. July 13, 2001

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-nos-138576-77/

PER CURIAM:

JIMMY JACOB Y LOPEZ was found guilty by the court a quo of two (2) counts of rape and sentenced to death for each count, and to pay the victim, his 14-year old daughter Celina A. Jacob, moral damages in the sum of P100,000.00 for both.[1]

A week before 1 November 1995 Celina Jacob was fetched by her father, accused Jimmy Jacob, from her grandmother's house in Silang, Cavite, to stay with him in his "barracks" in Kaylaway, Nasugbu, Batangas, to cook for him. At around 6:00 o'clock in the evening of 1 November 1995 she and her father were lying down and preparing to sleep on an improvised bed of wooden planks. Suddenly the accused went on top of her and lasciviously kissed her on the lips. She resisted and bit him on the lips. He forcibly removed her pajama and panty and rammed his penis into her exposed genitalia. She could not effectively repulse his vicious sexual incursion since he threatened to hit her with a hammer. After unleashing his lust in his sexual misadventure with Celina, she sat on the bed to ease the pain in her genitalia. She could not leave the "barracks," which was now "hell" to her, as she did not know how to go back to her grandmother in Silang.

Emboldened quite apparently by the helplessness of his daughter, his libido struck again the following evening. At around 7:00 o'clock, 2 November 1995, while Celina was lying in bed beside him, he mounted her once again and had sexual intercourse with her against her will. His overwhelming strength, coupled with his threats to smash her head with his hammer, virtually rendered inutile any form of resistance from her. It was only providential that an aunt of hers visited her the following morning. The visit gave her the opportunity for escape by going with her aunt home to Lalaan, Silang, Cavite, where she recounted her nightmarish ordeal to Rolando Amon, her uncle and her aunt's husband, who then brought her to the police station to file her complaint.

Explaining the medico-legal certificate he issued to Celina, Dr. Jaime L. Butiong pointed out that she suffered lacerations of the hymen at 4:00, 6:00 and 8:00 o'clock positions most probably as a result of the entry of the male organ into her genitalia. But other than those lacerations, Dr. Butiong found no other physical injuries.

Jimmy Jacob denied the accusations against him. He said that on 1 November 1995 he was idly spending his time with his co-workers at the construction site in Batulao, Nasugbu, Batangas, as work was suspended because of a raging typhoon. At around 7:00 o' clock in the morning of the following day, 2 November, his daughter was with him at the construction site. He instructed her to proceed to their living quarters to prepare lunch. When he followed his daughter a little later, he was taken aback when he saw his brother-in-law on top of Celina and apparently having sexual intercourse with her. Equally stunned by the sudden appearance of the accused, Rolando and Celina immediately stood up and fled. He gave chase but the two (2) were able to run away. The accused then boarded a vehicle bound for Lalaan where he thought the two (2) might have gone.

As soon as Jimmy arrived at Rolando's house around 11:00 o'clock in the morning, Rolando together with some

bystanders accosted Jimmy and accused him of raping Celina. They brought Jimmy to the municipal jail where he was detained. The police did not believe his protestations of innocence and his insistence that it was in fact his brother-in-law who raped his daughter. Jimmy and Celina saw each other at the police station but apparently angry at her father, she avoided him like a plague. The accused could only theorize that his daughter was probably brainwashed by Rolando into hating him, and that Rolando even threatened to harm her if she talked to him. Jimmy also said that he was rebuffed by Rolando when he attempted to confront the latter about having abused his daughter.

Upon taking the witness stand again, a privilege which was granted him at this instance, the accused informed the court that his daughter became pregnant in 1997 although she was not married, but did not know who was responsible for her pregnancy although one thing was certain - she was then living with his brother-in-law in Lalaan, Silang, Cavite.

Controverting the version of the accused, Rolando Amon denied that he had sexual intercourse with Celina inside the "barracks" of Jimmy in the morning of 2 November 1995. He asserted that on 1 November he was in fact in Alfonso, Cavite, selling ice cream, and on 2 November he was in Balayan, Batangas, also selling ice cream and stayed there until 3:00 o' clock in the morning of 3 November. The following day he learned from his niece Celina that she had been molested by her father thus prompting him to cause the arrest and detention of his brother-in-law Jimmy Jacob.

The trial court did not sustain the defense of alibi and denial. According to the court, the affirmative testimony of the complaining witness was much stronger than the denial of the accused. It found the defense too weak and far from convincing as against the positive testimony of Celina that her father, the accused, Jimmy Jacob y Lopez, raped her on 1 and 2 November 1995 in his "barracks" in Kaylaway, Nasugbu, Batangas, as it found Celina's testimony straightforward, candid and "free from tergiversation."

Accused-appellant now insists that the prosecution failed to satisfactorily pass the test of moral certainty and/ or standard of proof beyond reasonable doubt required for his conviction. He claims that the testimony of the complaining witness is riddled with contradictions and inconsistencies as to effectively cast serious doubt on her credibility. He also notes that Celina had the tendency not to respond to questions propounded to her at the trial which underscores the improbability of the rape in the "barracks" with so many co-workers of accused-appellant present.[2]

We find the arguments without merit. The alleged inconsistencies and contradictions are so minor and inconsequential to warrant a reversal of accused-appellant's conviction. The triviality of the supposed inconsistencies can hardly affect the substance or veracity and weight of complaining witness' testimony which, on the contrary, only serves to reinforce than weaken her credibility.[3]

Accused-appellant belabors to impress the Court that it was highly improbable for him to have perpetrated the crime of rape as the "barracks" was occupied by many individuals. But, contrary to this claim, complaining witness categorically asserted that only the two (2) of them, referring to herself and her father, were occupying her father's "barracks" on the two (2) occasions that she was abused by him. It has been shown time and again that rape can be committed even in the most unlikely places, such as parks, schools and other areas frequented by people.

Accused-appellant insists that it was his brother-in-law who ravished his daughter, and not he. But we are not convinced. It is not easy to persuade a young girl to have herself physically examined and thereafter undergo the rigors of a public trial for rape brought against the very man who sired her if she was not motivated by a genuine desire to bring the perpetrator to the bar of justice. Moreover, accused-appellant himself admitted that Celina was

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

mad at him and even went to the extent of avoiding him altogether, an attitude she never exhibited before 1 November 1995.

Accused-appellant questions the imposition on him of the death sentence, two (2) death sentences in fact, in view of what he describes as the failure of the prosecution to establish that his daughter was below eighteen (18) at the time of the rape. While it is true that the Information alleged that Celina was fourteen (14) years old, having been born on 23 September 1980, hence was fifteen (15) years, one (1) month and nine (9) days on 1 November 1995, this does not sufficiently prove that she was under eighteen (18) years of age to justify the imposition of the death penalty. According to him, such defect cannot be cured by the presentation of the victim's baptismal certificate which does not suffice to prove her exact age.

Invariably this Court has ruled that it is the burden of the prosecution to prove with certainty that the victim was below eighteen (18) when the rape was committed to justify the imposition of the death penalty. In People v. Tipay[4] the presentation of certificate of live birth or other equally acceptable official document concerning date of birth is vital and essential to ascertain the age of the victim. Such independent proof can only be dispensed with in cases where the court can take judicial notice of the victim's tender age in view of the manifest minority of the victim who may be below ten (10) years old. The crucial years, according to Tipay, pertain to the ages of fifteen (15) to seventeen (17) where minority may seem doubtful due to one's physical appearance. In that situation, the prosecution has the burden of proving with certitude that the victim was under eighteen (18) years of age when the rape case was committed to justify the imposition of the death penalty.

In the instant case, it is undisputed that the victim is a minor, who was born on 23 September 1980, or fifteen [15] years, one [1] month and nine [9] days on 1 November 1995, which accused-appellant, her own father, never denied; aside from the fact that it is amply supported by a baptismal certificate[5] showing that indeed Celina was born on 23 September 1980 in Silang, Cavite, and was christened three (3) months later on 25 December 1980.

Relative to the acceptability of a baptismal certificate as an independent proof to establish the minority of the victim, we refer to People v. Contreras[6] where minority as a qualifying circumstance was disallowed for failure of the prosecution to present a birth certificate or at least a baptismal certificate to support the bare testimony of the victim as to her exact age.

People v. Liban[7] was more categorical. It said that "x x x 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 x x x x 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" (emphasis supplied).

Article 335 of The Revised Penal Code, as amended by RA 7659, provides:

> The death penalty shall 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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree or the common-law spouse of the parent of the victim.

To repeat, the two (2) Informations charging accused-appellant with rape clearly alleged that accused-appellant had carnal knowledge of his daughter, Celina Jacob, then fourteen (14) years of age. Celina testified that she was born on 23 September 1980 which was corroborated by her baptismal certificate, thus undeniably showing that she was fifteen (15) years old when she was raped on 1 and 2 November 1995.

The concurrence of minority of the private complainant and her relationship to the offender having been alleged in the two (2) Informations and duly established by the prosecution during the trial constrains the Court to affirm the conviction of accused-appellant of qualified rape on two (2) counts and the imposition of the death penalty in each case.

Four (4) members of the Court, although maintaining their adherence to the separate opinions expressed in People v. Echegaray,[8] that RA 7659, insofar as it prescribes the penalty of death is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should be imposed.

As to the civil indemnity, accused-appellant should be made to pay the amount of P150,000.00 or P75,000.00 for each of the two (2) counts of rape in accordance with prevailing jurisprudence. We affirm the award of P100,000.00 for moral damages for both cases, or P50,000.00 for each count of rape.

WHEREFORE, the Decision of the court a quo finding accused-appellant JIMMY JACOB Y LOPEZ guilty of two (2) counts of incestuous rape and imposing on him the DEATH penalty in each case and ordering him to pay his victim, his own daughter Celina A. Jacob, the amount of P100,000.00 as moral damages for both cases is AFFIRMED with the MODIFICATION that he is further ordered to pay her the amount of P75,000.00 as civil indemnity in each case, or P150,000.00 for both cases.

Upon finality of this Decision, let the records of this case be forwarded to Her Excellency the President for the possible exercise of her pardoning power.

SO ORDERED.

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

---

[1] Decision penned by Judge Antonio A. De Sagun, RTC-Br. 14, Nasugbu, Batangas.

[2] Id., p. 63.

[3] People v. Pacistol, G.R. Nos. 119074-75, 22 January 1998, 284 SCRA 520.

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

[5] Original Records, p. 23.

[6] G.R. Nos.137123-24, 23 August 2000.

[7] G.R. Nos. 136247 and 138330, 22 November 2000.

[8] G.R. No.117472, 7 February 1997, 267 SCRA 682.

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.