

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO D. MATUGAS, ACCUSED-APPELLANT.*G.R. Nos. 139698-726. February 20, 2002*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-139698-726/>**PER CURIAM:**

This is an automatic review of the decision[1] of the Regional Trial Court, Branch XXVIII, Mandaue City, finding accused-appellant Wilfredo Matugas guilty beyond reasonable doubt of twenty-nine (29) counts of rape, and sentencing him, in each case, to suffer the penalty of death, to indemnify the victim in the amount of P75,000.00, and to pay the costs.

Except as to the date of the commission of the rape and the age of the complainant on the several dates indicated, the 29 amended complaints,[2] which formed the basis of the 29 informations against accused-appellant, uniformly alleged as follows:

“The undersigned complainant, assisted by the undersigned prosecutor, accuses WILFREDO D. MATUGAS of RAPE, committed as follows:

That on or about the [date[3]], in Mandaue City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of complainant AIMEE G. MATUGAS, who is 13-year-old girl,[4] with deliberate intent, did then and there willfully, unlawfully and feloniously have sexual intercourse with the said offended party against the latter’s will.

CONTRARY TO LAW.”

When arraigned, accused-appellant pleaded not guilty, whereupon the cases were jointly tried.

The prosecution presented complainant Aime who testified as follows:

Aime was the eldest of three children of the spouses Librada Matugas and accused-appellant Wilfredo Matugas.[5] At the time she testified, she was 16 years old, having been born on November 1, 1981, and a fourth year high School student at the Consolacion National High School in Mandaue City. She lived in Canduman, Mandaue City with her father, mother, and sister, while her brother lived with their grandmother in Danao.

In the evening of September 6, 1995, Aime was alone in their house with her father and her one-year-old sister Cindy Mae. Her mother had not come home from work. While she and her father were watching television upstairs, the latter got up and, after closing the windows and the door, removed her short pants and forced her to have sexual intercourse with him. Complainant said she resisted and shouted for help as she felt so much pain in her private parts, but her father covered her mouth. After he was through, accused-appellant warned her not to tell anybody about the incident or he would kill all the members of their family.[6]

Again, in the evening of November 29, 1995, while complainant was watching television upstairs with her father, the latter switched off the television and the light. He made her lie down, took off her pants and panties, and forcibly inserted his penis into her vagina. After ravishing her, he threatened to kill her and the rest of their family if complainant told anyone about what had happened. So complainant simply suffered in silence, afraid that her

father would carry out his threat.[7]

After that, as if by habit, accused-appellant abused his daughter 27 times more, on December 9, 1995, February 18, 1996, February 26, 1996, March 6, 1996, April 10, 1996, May 3, 1996, June 6, 1996, July 1, 1996, August 26, 1996, September 8, 1996, September 16, 1996, October 6, 1996, November 7, 1996, January 7, 1997, January 18, 1997, February 2, 1997, March 24, 1997, April 6, 1997, May 17, 1997, May 27, 1997, June 5, 1997, July 2, 1997, July 10, 1997, August 21, 1997, September 8, 1997, September 16, 1997, and October 6, 1997.[8] Except for the first and the last dates, the others were her mere estimates of the dates she was raped by her father. She wrote these dates (Exh. "JJ") by referring to the calendar in relation to the time her mother was allegedly away for work.[9] She said there could be more than 29 instances when her father raped her.[10] On each occasion, complainant said, her father beat her up whenever she refused to accede to his demands.[11] The incidents happened either at about 9 o'clock in the morning or at about 9 o'clock in the evening, when her mother was away working.[12]

Fearing harm to her and her family, complainant said she kept the incidents to herself and did not tell anyone about them. On October 10, 1997, four days after the last incident, however, she finally broke her silence as she could no longer bear the abuses of her father. She confided to her maternal aunt, Elisa Gerundio, who lived about 30 meters from their house, about what accused-appellant had done to her. She was then taken to the barangay captain, who later accompanied her to the police station in Basak, Mandaue City.[13]

From the police precinct, her mother Librada Matugas and her aunt Elisa Gerundio took complainant to the Vicente Sotto Memorial Medical Center, where she was examined by Dr. Besie Acebes on October 11, 1997.[14] Dr. Acebes' medical report (Exh. "GG") reads in pertinent parts:

"Ext. gen. phys. injuries present: Extremity 1 (+) Contusion Hematoma 2x3, posterior aspect of the right forearm, 2x2 cm contusion hematoma, dorsum of the left hand, 2x2 cm hematoma, posterior the neck R, (+) erythema dorsal aspect of the R area

Hymen: + old healed laceration with 2, 4, 6 & 9 o'clock position

Orifice: Admits 2 finger with ease

Conclusions: Spermatozoa Identification (-)
Gram staining of the vaginal discharge"

On October 13, 1997, SPO3 Alejandro Vidal, Jr. of the Mandaue City Police conducted an investigation, taking the sworn statement of complainant as well as the supplemental affidavit on October 23, 1997. In his testimony, SPO3 Vidal explained that only one specific date of rape (October 6, 1997) was mentioned in the first sworn statement dated October 13, 1997 because complainant was unable to recall all the dates on which she was raped by her father. Upon his advice, complainant prepared a list of the dates on which she was raped. The list (Exh. "JJ") was presented to him on October 23, 1997. On the same date, the supplemental affidavit was prepared. Vidal said that during his interview of complainant, the latter spoke in a low voice which indicated that she was ashamed of what had happened to her.[15]

The defense presented six witnesses: the accused-appellant Wilfredo D. Matugas, his wife Librada Matugas, Crescencia Matugas, Evelyn Matugas-Avila, Dr. Besie Acebes, and Senen Batoon, Sr.

Accused-appellant's defense was alibi. According to him, he usually left their house at 5 o'clock in the morning to go to Danao, which was about a 40-minute ride from Mandaue City, in order to tend to his cow. He had just returned home in the evening of October 10, 1997 when several policemen arrived, with their guns drawn, and took him in handcuffs to the police precinct. His arrest was made without a warrant.[16]

He denied ever watching television alone with his daughter Aime.[17] He claimed the charges were fabricated by his daughter and by his sister-in-law, Elisa Gerundio. According to him, complainant concocted the story because he had laid hands on her on October 9, 1997 when he discovered that she was having a tryst with her boyfriend at about 11 o'clock in the evening at the Consolacion National High School. On the other hand, he claimed Elisa Gerundio had harbored a grudge against him even before he and his wife Librada, who was Elisa's sister, were married.[18]

Accused-appellant's testimony was corroborated by his wife Librada Matugas[19] and his sister Evelyn Matugas-Avila.[20] On the other hand, accused-appellant's cousin, Crescencia Matugas, testified that she lived in the house of accused-appellant from September 1996 to September 1997, sharing a room on the second floor with complainant. She denied ever seeing complainant being raped by her father.[21]

Dr. Besie Acebes, the medical officer who examined complainant and prepared the medical report, testified that while the old healed lacerations in the hymen of the complainant could have been caused by masturbation, it was also possible that it was caused by the insertion of the male organ.[22]

Lastly, Senen Batoon, Sr., a kagawad in Dunggoan, Danao City, whose wife was accused-appellant's niece, testified that he had secured certifications attesting to the good moral character of accused-appellant Wilfredo Matugas from the barangay captain of Guinsay, Danao City, Chief of Police of Guinsay, and MTCC of Danao City. However, he admitted that he was not able to secure a similar certification from the barangay captain of Canduman, Mandaue City, of which accused-appellant was a resident.[23]

Based on the evidence presented by both parties, the trial court rendered a decision on May 10, 1999 finding accused-appellant guilty of 29 counts of rape. It found complainant's testimony credible, taking note of the fact that she was 14 years old when she was first raped. It likewise gave weight to the medical certificate (Exhibit "GG-2") of Dr. Acebes. Accordingly, it sentenced accused-appellant in each of the 29 cases to death and ordered him to indemnify his daughter Aime Matugas in the amount of P75,000.00 and to pay the costs.

Accused-appellant assails the judgment of conviction. He contends that-

"I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE A CLEAR SHOWING THAT THE POLICE AND THE PROSECUTION HAD COMMITTED MANY IRREGULAR ACTS AND PROCEDURAL LAPSES, WHICH TAMPERED WITH THE EVIDENCE AND VIOLATED CERTAIN CONSTITUTIONAL AND STATUTORY RIGHTS OF THE ACCUSED.

II.

THE TRIAL COURT DISREGARDED THE LAW AND THE EVIDENCE IN CONVICTING THE ACCUSED-APPELLANT, FOR IT IS VERY PATENT THAT THE PROSECUTION FAILED TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT, OR OTHERWISE OVERTURN THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE.

III.

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE INCREDIBLE AND UNTRUSTWORTHY TESTIMONY OF THE COMPLAINING WOMAN, IN THIS CASE, WHO WAS OBVIOUSLY INCONSISTENT ON VERY MATERIAL POINTS."

Accused-appellant's contentions will be discussed seriatim.

First. Accused-appellant claims that his arrest by the police officers on October 10, 1997 was illegal because it was made without a warrant.

We agree with the accused-appellant's contention, considering that the arrest was not one of the instances enumerated in Rule 113, §5 of the Rules of Criminal Procedure when an arrest without a warrant may be made not only by a police officer but even by a citizen. However, for this objection to prosper, accused-appellant should have interposed it before entering his plea.[24] As he did not do so, he is now estopped from questioning any defect in the manner his arrest was effected as in fact he not only pleaded to the charge but also participated in the trial.[25] The fact that his arrest was illegal does not render the subsequent proceeding void and deprive the State of its right to convict him when all the facts point to his culpability.[26] His contention that he was arbitrarily detained for four days must fail. This contention stems from the fact that he was arrested without warrant.

Second. Accused-appellant makes much of the fact that the charges were filed in installments. This was because of the failure of complainant to mention in her first sworn statement the 28 other incidents of rape. Except for the dates of the first and last incidents of rape, complainant was unable to supply the dates and number of times she was raped by her father. In fact, she said she could actually have been raped more than 29 times by her father.[27] The dates which she wrote down at the instance of the police were mere approximations based on reference to the calendar. Consequently, for lack of certitude as to the number of times complainant was raped between the first, which happened on September 6, 1995, and the last time, which took place on October 6, 1997, the conviction of accused-appellant for 27 other rapes cannot be sustained. While the exact dates of the commission of the rape may be stated at or near the time it actually happened, the number of times the complainant was actually raped is important because each act of sexual intercourse constitutes one offense.

In her direct examination, complainant testified:

Q-

There were several dates that according to you, the crimes of rape were committed on you. Tell this Court how were you able to keep track of these specific dates?

(There was no answer from the witness.)

How come that according to you, your father committed rape on you on those specific dates and not on other dates?

(Still no answer.)

How did you know that the crime of rape was committed on you on September 6, 1995, November 29, 1995, December 9, 1995, and so on, and not on any other dates?

(Still no answer.)

Did you understand my question?

A-

Yes.

Q-

Answer it?

(No answer from the witness.)

Who supplied those dates of the commission of rape on you?

A-

Only myself.

Q-

Where did you base that?

A-

When my mother was working.

Q-

You mean your mother is not working everyday?

A-

There were times that she did not work.

Q-

That actually the dates in the complaints were based only on your memory?

A-

Yes.

Q-

It could not be 29 cases?

A-

It reached that number.

Q-

How did you know? Did you count it?

(There was no answer from the witness.)

Court:

Do you still have other questions, Fiscal?

Fiscal Perez:

That is all, Your Honor.

Atty. de Dios:

May we manifest that the witness has not answered the last question of the Court. xxx[28]

Testifying further on direct examination, complainant said:

Fiscal Perez:

Q:

Aime, you also told this Honorable Court that on several occasions aside from the first on September 6, 1995, you were raped by your father. How did you recall these several dates that had been mentioned in the past hearings?

Atty. de Dios:

We will object to that, Your Honor. That was already answered during the last setting. It was even the Honorable Presiding Judge who propounded the question.

Court:

She did not answer. Let her answer.

A:

It was only my estimate, sir, because this was done against me for several times already. xx xx xx xx xx[29]

At one time, when she testified as to the date of the alleged third rape, complainant admitted that she was uncertain as to the date. Further, she testified that she was uncertain as to the number of times she was raped. Thus,

Q-

You were allegedly raped by your father for the third time on December 9, 1995, is that correct?

A-

Yes, sir.

Q-

Why can you remember the date exactly, on December 9, 1995?

(There was no answer from the witness.)

Did you make a marking on the calendar?

A-

No.

Court:

Q-

How come you can say that the third time you were raped was on December 9, 1995?

A-

I looked at the calendar, Your Honor, and I only made an estimate.

Q-

So, you can not really say that the third time that you were raped by your father was really on December 9, 1995?

A-

No, I can not.

Court:

Proceed.

Atty. de Dios:

Q-

You told the Court that these dates are just your estimates. Now, you are a complainant against your father that you have been allegedly raped by your father 29 times. The number of times that you were allegedly raped, that is not an estimate. You are sure of that?

Fiscal Perez:

Your Honor please, I would like to, clarify. The good counsel was just asking for all these dates when it would mislead because as we recalled, the witness has already testified that she can clearly remember the first and the

last. The question now included all the dates.

Court:

It has nothing to do with the 29 cases. Because according to him 29 cases of rape, he is referring to the number of times if they are also estimates of the witness.

Fiscal Perez:

But he is stating or he is including the first and the second as an estimate. What the witness has testified a while ago was the third time was an estimate.

Court:

Let her answer.

Atty. de Dios:

I am not asking about the dates anymore but the number of times.

Witness

A-

Yes, and in fact, it could even be more than 29 times.

Court:

Q-

In other words, these 29 cases of rape that you have filed against your father are also estimate[s] insofar as the number is concerned because according to you, it could even be more than 29?

A-

Yes. xxx[30]

This Court cannot thus sustain the conviction of accused-appellant for 29 counts of rape because only two incidents were sufficiently proven by the prosecution. While we do not doubt that she was raped on other dates, we cannot ascertain the exact number of times she was actually raped. It must be remembered that each and every

charge of rape is a separate and distinct crime so that each of the 27 other alleged incidents of rape charged should be proven beyond reasonable doubt. If, as complainant claimed, the number could be more, the possibility that it could be much less than 27 cannot be discounted.

Third. Accused-appellant points out alleged inconsistencies between complainant's testimony and her sworn statement. He claims that-

- Aime lied about the circumstances surrounding the first rape for she states on one hand that she was raped upstairs, and then caught by the established non-existence of a bed upstairs, she reversed herself;
- She lied about her age during the first time that she was allegedly raped;
- She lied about the presence of her sister in the room at the time of the alleged rape;
- She lied about the absence of her mother during the alleged second rape;
- She refused to answer questions during the cross-examination;
- She lied about the alleged mauling which were never substantiated in the physical examination report; and
- She fabricated all the charges, upon the instigation of her maternal aunt, Elisa Gerundio.[31]

Errorless recollection of a harrowing incident cannot be expected of a witness especially when she is recounting details of an experience so humiliating and so painful as rape.[32] Ample margin of error and understanding should be accorded to the young complainant who, naturally, would be seized with fear much more than adults when required to relive an experience she would most definitely rather forget.[33]

Moreover, as we have time and again held, discrepancies between the statement of an affiant in his affidavit and those made by him on the witness stand will not necessarily discredit him since ex parte affidavits are generally incomplete. Affidavits are generally subordinated in importance to open court declarations because they are oftentimes not in such a state as to afford a fair opportunity of narrating in full the incident which has transpired.[34] In addition, an extrajudicial statement is generally not prepared by the affiant himself but by another who uses his own language in writing the affiant's statement, hence omission and misunderstanding by the writer are not infrequent.[35]

In addition, the inconsistencies alleged refer to incidents of rape committed between the first and the last incidents. As we have already declared that accused-appellant cannot be convicted of any of these offenses for lack of evidence when and how many times these incidents took place, these alleged inconsistencies and improbabilities are clearly immaterial. Moreover, these inconsistencies and improbabilities actually concern minor matters not touching upon accused-appellant's guilt.

Re: Complainant's inconsistency as to the location of the first rape

Accused-appellant points out that while complainant stated in her affidavit that she was raped downstairs where there was a bed, she allegedly reversed herself in court by testifying that she was raped upstairs.

The inconsistency alleged is a minor one and does not detract from the fact that the testimony of complainant is credible. Complainant Aime explained that the first time she was raped was actually on the ground floor of their house where there was really a bed. She said:

"Q

You told the Court just a while ago repeatedly that there was no bed, while here in your sworn statement marked as Exh. "B" adopted as Exh. "I," it is clearly stated that your father maltreated you. In that rape in the

year 1995, part of this maltreatment was that you were struck into the bed.

My question is, you were not telling the truth then in your sworn statement?

A

During the first time when I was raped this occurred downstairs and there is a bed in the room downstairs. It is not upstairs where there was no bed.

Q

But you told the Court Miss Witness that in the year 1995, your family never owned a bed. You did not make any qualification?

A

Upstairs there was none but downstairs there was a bed. But we were living upstairs.[36]

Re: Complainant's inconsistency as to her age at the time of the first rape

Accused-appellant calls complainant Aime an inveterate liar because she allegedly lied about her age when she was first raped on September 6, 1995. Accused-appellant contends that because complainant allegedly lied about her age, she must also be deemed to have lied about the rape itself. *Falsus in unos, Falsus in omnibus*. This rule is not an ironclad rule, nor a categorical test of credibility of universal application.[37] It cannot be applied to portions of the testimony corroborated by other pieces of evidence.

Accused-appellant makes much of the fact that on April 27, 1998, complainant Aime testified that she was in third year high school[38] when the fact was that she was then already in her fourth year. First, this testimony does not refer to complainant's age but to her high school level. Second, complainant clarified the alleged discrepancy:

"Q

So, which is which, your statement now [April 30, 1998] that you are a 4[th] year high school or your statement on April 27, 1998 when you told the Honorable Presiding Judge that you were 3rd year?

A

I am 4[th] year."[39]

Re: Complainant lied about the presence of her sister and mother during the several incidents of rape

Accused-appellant next points to the inconsistencies of the complainant as to whether her mother and sister were in the house on the several dates she claimed she had been raped by her father. According to accused-appellant, complainant testified in court that she was raped while her sister was asleep on the floor in the same room where she was,[40] but in her sworn statement dated October 13, 1997[41] she stated that her sister was not around when

she was first raped by her father. As to her mother, complainant testified in court that her mother was in a rattan factory working when the incidents of rape happened,[42] whereas, she stated in her sworn statement[43] that she was raped while her mother was asleep in the same room with her sister.

Again, sworn statements, which are ex parte, are often incomplete and inaccurate, because of partial suggestion or want of suggestions and inquiries, without the aid of which the witness may be unable to recall all connected circumstances.[44] As between the sworn statement and the testimony of the complainant given in court, the latter is given more weight.[45]

Aime testified in open court that her mother was not in their house when she was raped, but that her sister was. She thus ably explained the seeming inconsistency as to what was stated in her affidavit. Errorless testimony cannot be expected of the complainant. It is unfair to impose upon her the job of testifying in court with the ability to recall all the details surrounding the incidents of rape.

Needless to say, however, the presence or absence of the mother and sister of Aime during the incidents of rape does not discount the fact that the rapes were committed, as she clearly testified. Lust is no respecter of time and place, and rape can be committed in places where people congregate, in parks, alongside the road, within school premises, inside the house where there are other occupants, and even in the same room where there are other members of the family who are sleeping.[46]

Re: Complainant refused to answer questions during cross-examination

Accused-appellant next claims that as complainant Aime refused to answer questions during the cross-examination, she is not a truthful or credible witness.

The fact that complainant Aime failed or refused to answer questions on cross-examination does not affect her credibility as a witness. The questions pertained to the contents of her first sworn statement, which was prepared by police officer SPO3 Alejandro Vidal, Jr. She, however, remained steadfast in her claim that her father raped her. She testified:

“Fiscal Perez:

Q

Aime, you said your father forced you to have sexual intercourse by inserting his penis inside your vagina. Now, before your father inserted his penis into your vagina, what, if anything, would he tell you?

A

That if I will refuse though I did not like it, he said he will kill me.

Court

Q

How did he manifest that he will really kill you if you will not submit to his bestial act or desire?

A

He was in rage (nangisog).

Q

How did he manifest his enragement?

A

He will harm me.

Q

How will he harm you?

A

By boxing me.

Q

Did he really box you?

A

Yes.

Q

Where were you hit? What portion of your body was hit?

A

Here (witness indicating the right shoulder).

Q

What happened to you when you were hit?

A

I cried.

Q

Why did you cry?

A

It was painful.

Q

You were only hit once?

A

Several times.

Court:

Proceed.

Fiscal Perez:

Q

After your father inserted his penis inside your vagina, ... What would your father do with his penis inside your vagina?

Witness:

A

He started to push and pull.

Fiscal Perez:

Q

How did you feel while your father's penis was being pushed and pulled?

A

Pain.

Q

And after your father had committed sexual intercourse with you... We manifest, your Honor, that she is continuously wiping tears rolling down her cheeks.”[47]

At several instances during her testimony, Aime cried as she was overcome by emotion, indicating that she was telling the truth.[48] The Court is hard put to dismiss her testimony as a mere concoction. If she had concocted her tale, she would not have remained consistent throughout her entire testimony in the face of intense and lengthy interrogation.[49]

Re: Complainant lied about the mauling inflicted upon her by the accused-appellant

Accused-appellant claims that complainant Aime lied about the mauling inflicted upon her by accused-appellant since these were never substantiated in the physical examination report.

Contrary to accused-appellant's contention, the medical report clearly states the result of the mauling. The report reads in pertinent parts:

“Ext. gen. phys. injuries present: Extremity 1 (+) Contusion Hematoma 2x3, posterior aspect of the right forearm, 2x2 cm contusion hematoma, dorsum of the left hand, 2x2 cm hematoma, posterior the neck R, (+) erythema dorsal aspect of the R area. x x x”[50]

The lower court found her credible; its findings, conclusions, and evaluation of the testimony and credibility of the complainant are received on appeal with the highest respect, the same being supported by substantial evidence on record.[51]

Moreover, in a rape committed by a father against his own daughter, the former's moral ascendancy and influence over the latter takes the place of violence or intimidation.[52] In *People vs. Matrimonio*,[53] the Court said that the test is whether the threat or intimidation produces a reasonable fear in the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out.

Re: Complainant lied as to the date of the second rape

Accused-appellant also claims that complainant's testimony is incredible and untrustworthy because she allegedly lied as to the date of the second rape. According to him, while complainant Aime related in her statement before SPO3 Alejandro Vidal, Jr. that she was raped one week after the first rape on September 6, 1995, she testified in open court that the second rape was on November 29, 1995, or more than one month after the first.

The discrepancies in the testimony of Aime regarding the exact dates she was allegedly raped are inconsequential, immaterial and, cannot discredit her credibility as a witness. The exact date of the commission of the rape is not an element of the crime.[54] What is decisive in a rape charge is that the commission of the rape by accused-appellant has been sufficiently proven. Inconsistencies and discrepancies as to minor matters irrelevant to the elements of the crime cannot be considered grounds for acquittal. In fact, in one case, the accused was validly convicted under an information alleging that he committed the rape on September 8, 1995 even if it appeared that the actual date was September 9, 1995.[55]

Fourth. Accused-appellant claims that the charges filed against him were fabricated by his daughter because he chastised her when he found that she had a tryst with her boyfriend at the Consolacion National High School on October 9, 1997 and that they were made only upon the instigation of his sister-in-law Elisa Gerundio, who did not like him.

It is unthinkable, however, for Aime to falsely accuse her father solely by reason of resentment. It would take a certain amount of psychological depravity for her to concoct a story which would put her own father for most of his remaining life in jail, if not put him to his death, and drag herself and the rest of her family to a lifetime of shame.[56] It is hard to believe that a young girl, like complainant, who is inexperienced in the ways of the world, to make up a story of defloration, allow the examination of her private parts, subject herself to public trial, and

tarnish her family's honor and reputation unless her motive is really to seek justice for the wrong committed to her.[57]

Nor do we find merit in accused-appellant's claim that Elisa Gerundio instigated the filing of the charges because she hates him. No blood relative could be so foolish as to expose her niece to such a disgrace just to manifest her spite for her brother-in-law.[58] There could have been so many ways to alienate her sister from accused-appellant.

In the end, all the foregoing boils down to the issue of credibility of the complainant. The issue is to be resolved primarily by the trial court which is in a better position to decide the question, having heard the witness and observed her deportment and manner of testifying on the witness stand. We hold that the trial court correctly gave credence to the testimony of the complainant.

In rape cases, the following principles have been formulated to guide the courts in the decision of these cases: (1) it is difficult to prove rape, but even more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape, where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence of the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.[59] The Court is convinced beyond a shadow of doubt that accused-appellant committed the two counts of rape alleged in the amended complaints filed by complainant. Although complainant failed to sufficiently prove that her father raped her 29 times, the Court believes that she was abused on two occasions, i.e., on September 6, 1995, which is the subject of Criminal Case No. DU-6119, and on October 6, 1997, which is the subject of Criminal Case No. DU-6097. Complainant testified in a forthright manner. The record shows that she was unperturbed throughout the lengthy and repetitive questioning both during her direct examination and cross-examination. Her testimony is corroborated by the medical findings of healed lacerations in her hymen. Against such evidence of the prosecution, the denial and alibi of the accused-appellant, which are inherently weak, cannot prevail.[60]

Moreover, in considering the testimonies of the witnesses for the defense allowance must be made for the fact that, save for Dr. Besie Acebes, they are relatives of accused-appellant. Librada Matugas is his wife, Evelyn Matugas-Avila is his sister, Crescencia Matugas is his first cousin, and Senen Batoon, Sr. is the husband of accused-appellant's niece. Obviously, their testimonies cannot be received at face value.[61]

With respect to the penalty, a modification as to the number of death sentences imposed by the trial court is proper. R.A. No. 7659, which took effect on December 31, 1993, imposes the death penalty for rapes committed under any of the circumstances provided under Section 11 thereof. Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, provides that the death penalty shall be imposed if the victim of rape is under 18 years of age and the offender is the 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. These two-minority and relationship-constitute special qualifying circumstances, which, in accordance with the settled rule, must be alleged in the information and proven by the evidence presented.[62]

In the case at bar, there is no dispute that accused-appellant is the father of the complainant. Accused-appellant even admitted the relationship during his direct-examination[63] and the same is further corroborated by the joint affidavit of accused-appellant and his wife Librada Matugas, duly signed, which indicates that they are the legal parents of Aime.[64]

Nor is there any dispute as to the age of complainant. She was born on November 1, 1981, according to her birth certificate,[65] a fact which was not disputed by the defense. Moreover, defense witness Librada Matugas, Aime's mother, admitted such fact.[66] Clearly, therefore, complainant Aime was under 18 when the incidents of

rape happened. She was exactly 13 years old when she was raped on September 6, 1995 and 15 years old when raped on October 6, 1997. This concurrence of both the minority of the complainant and her relationship to the offender constrains us to affirm the death sentence of accused-appellant as to the two incidents of rape committed on September 6, 1995 and on October 6, 1997.[67]

With regard to the award of damages, the amount of P75,000.00 granted by the trial court for civil indemnity must be applied to each of the two incidents of rape sufficiently proven. The amount is actually in the nature of actual or compensatory damages, which is mandatory upon the finding of the fact of rape.[68] However, an additional award of moral damages, in the amount of P50,000.00 for each of the two counts of rape, should be made in line with recent rulings.[69] Moral damages are awarded taking into account the immeasurable havoc wrought on the complainant's youthful feminine psyche.[70]

WHEREFORE, the judgment appealed from is **AFFIRMED** with the modification that accused-appellant Wilfredo Matugas is hereby declared guilty of two counts of rape, in Criminal Case Nos. DU-6097 and DU-6119, and is sentenced in each case to death and ordered to pay to complainant Aime Matugas in each case P50,000.00 as moral damages, in addition to the P75,000.00 civil indemnity ordered by the trial court to be paid to complainant. In Criminal Case Nos. DU-6120 to DU-6146, accused-appellant is **ACQUITTED** of the crime of rape on the ground of reasonable doubt.

In accordance with Section 25 of R.A. No. 7659, amending Article 83 of the Revised Penal Code, upon finality of this decision, let the certified true copies thereof, as well as the records of these cases, be forthwith forwarded without delay to the Office of the President for the possible exercise of the pardoning power.

SO ORDERED.

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

[1] Per Judge Mercedes Gozo-Dadole.

[2] Criminal case Nos. DU-6097, DU-6119, DU-6120, DU-6121, DU-6122, DU-6123, DU-6124, DU-6125, DU-6126, DU-6127, DU-6128, DU-6129, DU-6130, DU-6131, DU-6132, DU-6133, DU-6134, DU-6135, DU-6136, DU-6137, DU-6138, DU-6140, DU-6141, DU-6142, DU-6143, DU-6144, DU-6145, and DU-6146.

[3] September 6, 1995; November 29, 1995; December 9, 1995; February 18, 1996; February 26, 1996; March 6, 1996; April 10, 1996; May 3, 1996; June 6, 1996; July 1, 1996; August 26, 1996; September 8, 1996; September 16, 1996; October 6, 1996; November 7, 1996; January 7, 1997; January 18, 1997; February 2, 1997; March 24, 1997; April 6, 1997; May 17, 1997; May 27, 1997; June 5, 1997; July 2, 1997; July 10, 1997; August 21, 1997; September 8, 1997; September 16, 1997; October 6, 1997.

[4] Complainant Aime Matugas was 13 years old when she was first raped on September 6, 1995, 14 years old in 1996, and 15 years old in 1997, it appearing that she was born on November 1, 1981, per Exh. "2-A" and Records, p. 73.

[5] Counter-Affidavit of Librada Matugas dated January 23, 1998; Records, p. 127.

[6] TSN (Aime Matugas), April 21, 1998, pp. 3-6.

[7] *Id.*, pp. 7-8.

[8] *Id.*, pp. 8-26.

- [9] TSN (Aime Matugas), April 27, 1998, p. 32.
- [10] TSN (Aime Matugas), May 4, 1998, pp. 12-13.
- [11] TSN (Aime Matugas), April 27, 1998, p. 5; TSN (Aime Matugas), April 29, 1998, p. 3.
- [12] TSN (Aime Matugas), April 27, 1998, pp. 9-31.
- [13] TSN (Aime Matugas), April 21, 1998, pp. 26-29.
- [14] TSN (Librada Matugas), July 7, 1998, p. 9; TSN (Elisa Gerundio), May 19, 1998, p. 7.
- [15] Id., pp. 5-7.
- [16] TSN (Wilfredo Matugas), Sept. 16, 1998, pp. 8-16; TSN (Wilfredo Matugas), Nov. 29, 1998, p. 18.
- [17] TSN (Wilfredo Matugas), Nov. 29, 1998, p. 13.
- [18] TSN (Wilfredo Matugas), Sept. 16, 1998, pp. 22, 31.
- [19] TSN (Librada Matugas), June 22, 1998, pp. 6-10.
- [20] TSN (Evelyn Avila), Aug. 11, 1998, p.7.
- [21] TSN (Crescencia Matugas), July 30, 1998, pp. 4-12.
- [22] TSN (Dr. Besie Acebes), Nov. 17, 1998, pp. 3-4.
- [23] TSN (Senen Batoon, Sr.), Dec. 14, 1998, pp. 5, 9-13, 15.
- [24] People vs. Baniguid, 340 SCRA 92 (2000); People vs. Patalin, Jr., 311 SCRA 186 (1999); People vs. Cabiles, 284 SCRA 199 (1998).
- [25] People v. Escordial, G.R. Nos. 138934-35, January 16, 2002.
- [26] People vs. Galvez, G.R. No. 136790, March 26, 2001.
- [27] TSN (Aime Matugas), Aug. 29, 1988, p. 3.
- [28] TSN (Aime Matugas), April 27, 1998, pp. 32-33 (emphasis supplied).
- [29] TSN (Aime Matugas), April 29, 1998, pp. 9-10 (emphasis supplied).
- [30] TSN (Aime Matugas), May 4, 1998, pp. 11-13 (emphasis supplied).
- [31] Appellant's Brief, p. 6; Rollo, p. 251.
- [32] People vs. Calayca, 301 SCRA 192 (1999).
- [33] People vs. Marcelo, 305 SCRA 105 (1999).
- [34] People vs. Sirad, 335 SCRA 114 (2000); People vs. de la Cruz, 335 SCRA 620 (2000); People vs. Castillo, 261 SCRA 493 (1996); People vs. Leangsiri, 322 Phil. 226 (1996).
- [35] People vs. Bergonio, 340 SCRA 269 (2000); People vs. Ramos, 296 SCRA 559 (1998).
- [36] TSN (Aime Matugas), April 30, 1998, p. 17 (emphasis supplied).
- [37] People vs. Sala, 311 SCRA 301 (1999); People vs. Costelo, 316 SCRA 895 (1999); People vs. Bibat, 290 SCRA 27 (1998).

[38] TSN (Aime Matugas), April 27, 1998, p. 17.

[39] TSN (Aime Matugas), April 30, 1998, p. 5.

[40] Id., p. 18.

[41] Records, p. 75.

[42] TSN (Aime Matugas), April 30, 1998, pp. 10-12.

[43] Records, p. 75.

[44] People vs. Acala, 307 SCRA 330 (1999); People vs. Castillo, 261 SCRA 493 (1996).

[45] People vs. Acala, 307 SCRA 330 (1999); People vs. Conde, 252 SCRA 681 (1996).

[46] People vs. Paraiso, G.R. No. 131823, Jan. 17, 2001.

[47] TSN (Aime Matugas), April 27, 1998, pp. 5-7.

[48] People vs. Bares, G.R. Nos. 137762-65, March 27, 2001; People vs. Sancha, 324 SCRA 663 (2000); People vs. Ramos, 296 SCRA 559 (1998).

[49] People vs. Sancha, 324 SCRA 663 (2000); People vs. Perez, 296 SCRA 17 (1998).

[50] Exh. "GG-1"; Records, p. 81. Emphasis supplied.

[51] People vs. Silvano, 309 SCRA 396 (1999); People vs. Baccay, 284 SCRA 296 (1998); People vs. Tenorio, 284 SCRA 420 (1998).

[52] People vs. Freta, G.R. Nos. 134451-52, March 14, 2001; People vs. Sayao, Jr. G.R. No. 124297, Feb. 21, 2001; People vs. Maglente, 306 SCRA 573 (1999); People vs. Flores, 320 SCRA 560 (1999).

[53] 215 SCRA 613 (1992).

[54] People vs. Alba, 305 SCRA 811 (1999).

[55] People vs. Montejo, G.R. Nos. 137762-65, March 27, 2001.

[56] People vs. Acala, 307 SCRA 330 (1999).

[57] People vs. Marabillas, 303 SCRA 352 (1999).

[58] People vs. Atop, 286 SCRA 173 (1998); People vs. Ibalang, 286 SCRA 400 (1998).

[59] People vs. Painitan, G.R. No. 137665, Jan. 16, 2001; People vs. Panique, 316 SCRA 757 (1999); People vs. Mahinay, 302 SCRA 455 (1999); People vs. Manansala, 273 SCRA 512 (1997); People vs. Godoy, 250 SCRA 676 (1995); People vs. Sanchez, 250 SCRA 14 (1995); People vs. Teves, 246 SCRA 236 (1995); People vs. Tacipit, 242 SCRA 241 (1995).

[60] People vs. Maglente, 306 SCRA 575 (1999); People vs. Taneo, 284 SCRA 251 (1998).

[61] See People vs. Galvez, G.R. No. 136790, March 26, 2001; People vs. Gopio, G.R. No. 133925, Nov. 29, 2000.

[62] People vs. Fraga, 330 SCRA 669 (2000); People vs. Gianan, 340 SCRA 477 (2000); People vs. Bernalez, 322 SCRA 462 (2000); People vs. Manggasin, 306 SCRA 228 (1999); People vs. Magbanua, 319 SCRA 719 (1999).

[63] TSN (Wilfredo Matugas), Sept. 16, 1998, p. 6

[64] Exh. "A-1"; Records, p. 74.

[65] Exhs. "A," "2-A"; records, p. 73.

[66] TSN (Librada Matugas), June 22, 1998, p. 5.

[67] Three (3) members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* (267 SCRA 682 (1997)) that R.A. No. 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 accordingly be imposed.

[68] *People vs. Baring*, G.R. Nos. 130515 & 147090, March 14, 2001; *People vs. Bañago*, 309 SCRA 417 (1999).

[69] *People vs. Baring*, G.R. Nos. 130515 & 147090, March 14, 2001; *People vs. Baid*, 336 SCRA 656 (2000).

[70] *People vs. Sagun*, 303 SCRA 382 (1999).

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