

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY MANLOD, ACCUSED-APPELLANT.

G.R. Nos. 142901-02. July 23, 2002

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PER CURIAM:

Before the Court on automatic review is the Decision dated March 16, 2000 of the Regional Trial Court (RTC) of Oroquieta City, Branch 12, in Criminal Cases Nos. 1386 and 1387 finding accused-appellant Jimmy Manlod guilty of two counts of qualified rape.

On May 29, 1999, two informations were filed against accused-appellant in the RTC of Oroquieta City. The informations alleged:

Criminal Case No. 1386 –

That sometime in the month of June 1998, in Taboc Sur, Oroquieta City and within the jurisdiction of this Honorable Court, the said accused who is the natural father of Jimmalou Manlod, a minor of 14 years having been born on January 13, 1984, with force and intimidation and with the use of a bladed weapon, did then and there wilfully, unlawfully and feloniously have carnal knowledge of his said daughter Jimmalou Manlod against the latter's will and consent.

CONTRARY to law with the commission of the offense attended by the aggravating circumstances of age and relationship, the private offended party being under 18 years of age and the offender being her natural father.[1]

Criminal Case No. 1387 –

That sometime in the month of June 1998, in Taboc Sur, Oroquieta City and within the jurisdiction of this Honorable Court, the said accused who is the natural father of Jimmalou Manlod, a minor of 14 years having been born on January 13, 1984, with force and intimidation and with the use of a bladed weapon, did then and there wilfully, unlawfully and feloniously have carnal knowledge of his said daughter Jimmalou Manlod against the latter's will and consent.

CONTRARY to law with the commission of the offense attended by the aggravating circumstances of age and relationship, the private offended party being under 18 years of age and the offender being her natural father.[2]

When arraigned, accused-appellant entered a plea of not guilty to both charges. Thereafter, a joint trial of the cases ensued.

The prosecution presented as it witnesses the victim Jimmalou Manlod, and Mrs. Lucita Chavez-Manlod, the victim's mother and spouse of accused-appellant.

The prosecution established that accused-appellant and his wife Lucita have seven children, the youngest being complainant Jimmalou, who was born on January 13, 1984.[3] The Manlod spouses lived together with their children Junior and Jimmalou, and their daughter-in-law Melissa, who is married to Junior[4] .

Jimmalou testified that accused-appellant raped her one evening in June, 1998, while she was left at home with him. Jimmalou's mother had earlier left their house to visit her daughter Marivic in Taboc Sur. Junior was out fishing and brought his wife Melissa with him. While accused-appellant was outside their house, Jimmalou went to the house of their neighbor Boy Masayon to watch television. Masayon's house was about 15 meters from the house of the Manlods. Not long thereafter, accused-appellant went to Masayon's house, whipped Jimmalou's back with a belt and commanded her to go home. At around 6:00 p.m., Jimmalou went home and laid out a mat in their living room where she, her mother and sister-in-law slept every night. While the rest of her family was still out, she went to sleep.[5]

Later that evening, she woke up because she felt someone kicking her. She saw that it was accused-appellant who kicked her and then commanded her to look for his short pants. Jimmalou said that accused-appellant looked drunk and smelled of liquor. She went inside accused-appellant's room to look for the latter's short pants when she noticed that accused-appellant had followed her and was closing the door of the room. Accused-appellant poked a double-bladed knife in Jimmalou's neck with his right hand and warned not to make any noise. He then pushed her towards the bed and made her lie down. Still poking the knife in Jimmalou's neck with his right hand, accused-appellant ordered her to remove her short pants. Thereafter, he ripped off her panty with his left hand. Accused-appellant knelt down, placed his knees beside her thighs, ripped off her panty and inserted his penis into Jimmalou's vagina by doing push and pull movements. Jimmalou said that she felt pain in her private part and in her abdomen. She added that she could not shout for help because each time she tried to do so, accused-appellant would press the pointed end of the knife to her neck and threaten her that he would kill her and her mother if she resisted.[6]

While accused-appellant was sexually abusing her, they heard someone walking outside the house. Accused-appellant released Jimmalou and instructed her to put on her short pants. After she left the room, Jimmalou placed her torn panty in the trash can then lay down on the mat in their living room and cried herself to sleep. Jimmalou was awakened later that night by the arrival of her mother and sister-in-law, but for fear of accused-appellant, she did not tell them what had happened earlier that evening.[7]

A week after the aforementioned incident, also in June 1998, Jimmalou was again sexually abused by accused-appellant. She recalled that this took place one morning at about 11:00 a.m. Jimmalou narrated that this occurred when she was alone with accused-appellant in their house. She had just arrived from her classes at the Misamis Occidental National High School. Her mother was attending a party at Barangay Pines, where she was employed as a health worker. Junior was fishing at sea while Melissa went to her parents' home in Plaridel, Bulacan. Because she was feverish and felt pain on her abdomen, Jimmalou lay down on the bench in their living room and fell asleep. Subsequently, she noticed that somebody was opening the door. When she saw that it was accused-appellant, Jimmalou tried to go back to sleep but was kicked by accused-appellant and ordered to look for the receipt of the karaoke which was allegedly kept by her mother inside their bedroom.[8]

Jimmalou obeyed accused-appellant and proceeded to look for the receipt inside her parents' bedroom but could not find the same. She was about to tell accused-appellant that she could not locate the receipt when accused-appellant entered the room and closed the door behind him. He poked a double-bladed knife in Jimmalou's neck, pushed her toward the bed and warned her not to tell her mother of what was going to happen. Jimmalou fell with her back on the bed. Accused-appellant lifted her skirt, removed her panty, then mounted on top of her. Jimmalou tried to free herself from her father's clutches to avoid being raped again, but could not do so because accused-appellant pressed the knife down her neck. Accused-appellant made push and pull movements while inserting his penis into Jimmalou's vagina. Thereafter, she felt pain in her private part and abdomen. Jimmalou cried and told accused-appellant, "you are a senseless father, you can afford to do it only to your own

daughter.”[9] Accused-appellant warned Jimmalou not to tell her mother about what happened or else he would kill them both, then he left the room and went to the kitchen. Jimmalou cried as she returned to the bench in their living room. Later, she wrapped her panty which was full of blood, in a cellophane bag and threw it away. She was unable to go back to school in the afternoon because she felt like vomiting and felt pain in her body. Her mother came home at about 5:00 p.m. that day but Jimmalou was unable to tell her what accused-appellant did for fear that he would make good his threats.[10]

Accused-appellant left their home in August 1998 and lived with his son, Angging Manlod, whose house was located at Taboc Norte.[11]

On February 1, 1999, about eight months after accused-appellant last sexually abused Jimmalou, the latter noticed that her stomach had grown unusually large. She was accompanied by her mother to an arbularyo (quack doctor) who advised Jimmalou to have her stomach subjected to an x-ray examination because she had a tumor therein. Jimmalou went to another arbularyo who confirmed the findings of the first arbularyo.[12]

Heeding the advice of the arbularyos, Jimmalou went to a hospital for an ultrasound examination. The resident physician informed her that she did not have a tumor in her stomach, but that she was pregnant. However, she did not divulge the identity of her child’s father to anyone.[13]

On March 24, 1999, Jimmalou gave birth to a baby boy. Thereafter, on April 1, 1999, she met her friend Ethel Molato at the house of her neighbor Boy Masayon and there revealed to Ethel that the father of her child was her own father.[14]

Outraged, Ethel told a certain Gina Albios what Jimmalou told her earlier. Albios in turn told Jimmalou’s mother on April 2, 1999 that her husband was the father of their daughter’s baby.[15]

Mrs. Lucita Manlod (“Mrs. Manlod”) testified that she was angered by what she learned so she accompanied Jimmalou to the police authorities on April 5, 2000 and filed two criminal complaints charging accused-appellant of having raped Jimmalou.[16]

Mrs. Manlod corroborated Jimmalou’s testimony and narrated that in the evening of April 2, 2000, while she was at the house of Gina Albios asking for leftover food to feed their pigs, Gina told her to ask Jimmalou who the father of her child was, because she was informed by Ethel Molato that it was accused-appellant who sired Jimmalou’s child. Mrs. Manlod said that she could not immediately confirm the information from Jimmalou because she was shocked, but she finally mustered the courage to ask her daughter in the evening of April 2, 2000.[17]

She further stated that Jimmalou then related to her the details of the first rape incident where accused-appellant asked their daughter to look for his short pants, and ravished her when he found her looking for the same inside his room. Mrs. Manlod was told by Jimmalou that accused-appellant raped her (Jimmalou) twice in June 1998.[18]

Accused-appellant, the lone witness for the defense, denied the accusations against him. He said that he was hardly at home during the month of June 1998, and thus, he could not have sexually abused Jimmalou.

He testified that on June 1 or 2, 1998, he went to Sinian, Baliangao, Misamis Occidental to sell seven trunks of coconut trees. He returned to Taboc Sur on June 7, 1998 at around noontime to fetch Jimmalou and buy her school uniform. However, he did not go home with his daughter. Instead, he proceeded to his son Angging Manlod’s house at Taboc Norte and spent the night there. The next day, he left Oroquieta City and went to the house of a relative in Ozamiz City where he stayed for three days. On June 12, 1998, accused-appellant and a

nephew left for Iligan City. Upon his arrival there, he worked in the house of a certain Jose Batbatan for three days. Subsequently, he worked for three weeks as part of a construction team headed by a certain Khadi for the building of a mosque. On or about July 12, 1998, accused-appellant went to Oroquieta City to look for additional laborers for the construction of the mosque, and remained in Angging Manlod's home for four days. He did not return to his family's residence in Taboc Sur, because he found out that his wife was angry at him for reasons he did not know. On July 16, 1998, accused-appellant returned to Iligan City together with two men whom he was able to recruit for the construction of the mosque. He stayed in Iligan City until the end of July 1998. Accused-appellant intended to go home to Taboc Sur, but he first engaged in a drinking spree with a neighbor. When he arrived at his house to eat supper, he was met by his wife who called him evil, satan and other similar names. Accused-appellant said that he did not know that his daughter had filed complaints for rape against him. He added that he learned of Jimmalou's pregnancy from several persons in their neighborhood.[19]

On March 16, 2000, the trial court promulgated its Decision in the two cases, the dispositive portion of which reads:

WHEREFORE, finding accused JIMMY MANLOD guilty beyond reasonable doubt of the crime of rape aggravated by relationship in both cases, the Court sentences said accused to suffer the penalty of DEATH in Criminal Case No. 1386 and another DEATH in Criminal Case No. 1387, to be implemented in the manner provided by law. Accused is likewise ordered to pay victim Jimmalou Manlod the amount of P75,000.00 moral damages plus P20,000.00 as exemplary damages in each of the two cases.

Pursuant to Section 10 of Rule 122 of the 1985 Rules of Criminal Procedure, the records of the two (2) cases including the transcript are hereby ordered forwarded to the Honorable Supreme Court for automatic review and judgment within the reglementary period.

SO ORDERED.[20]

In his Appeal Brief, accused-appellant asserts that the trial court erred in finding that his guilt had been proven beyond reasonable doubt. He argues that there was a significant delay between the time when the alleged rape incidents occurred and the time when Jimmalou reported the matter to the police authorities diminishes the credibility of private complainant's testimony. Accused-appellant points out that Jimmalou's explanation for the delay, that she did not inform the police authorities at once regarding her father's sexual abuses because he had threatened to kill her or her mother, was not satisfactory considering that accused-appellant had left their home as early as August 1998. Jimmalou could have reported the incidents to the police at that time. However, she kept everything to herself even during her pregnancy and after she had given birth. Worse, accused-appellant contends, Jimmalou chose to reveal her secret to her friend Ethel, whom she had known for only two years and whose surname she could not even remember. Accused-appellant claims that Jimmalou filed charges against him to cover-up her relationship with a certain Carlito Lacia, which relationship was disapproved by her parents.[21]

The Court finds that the trial court did not err in finding accused-appellant guilty beyond reasonable doubt of raping his daughter Jimmalou twice in June 1998.

In reviewing the cases at bar, the Court observed the following guidelines it had previously formulated for the review of rape cases: (1) an accusation of rape can be made with facility, but it is difficult to prove, and even more difficult for the accused to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.[22]

In a prosecution for rape, the complainant's credibility is the single most important issue.[23] The trial court's evaluation of the credibility of the victim's statements is accorded great weight because it has the unique opportunity of hearing the witnesses testify and observing their deportment and manner of testifying. The trial court judge is indisputably in the best position to determine the truthfulness of the complainant's testimony. Thus, unless it is shown that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight or substance that would otherwise affect the result of the case, its findings will not be disturbed on appeal.[24]

The Court has adhered to the rule that when the testimony of a woman who states under oath that she had been raped meets the test of credibility, the accused may be convicted on the basis of such testimony. This is so because by its very nature, rape is committed with the least possibility of being seen by the public.[25] A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and who remains consistent, is regarded as a credible witness.[26]

In the cases at bar, the trial court found Jimmalou's testimony to be "firm, categorical and straightforward." [27] The trial court noted that while she was narrating the bestial acts committed by her father upon her, she cried unashamedly several times.[28] It has been held in several cases that the crying of a victim during her testimony is evidence of the truth of the rape charges,[29] for the display of such emotion indicates the pain that the victim feels when she recounts the details of her traumatic experience:

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Q What happened after you fell asleep?

A Someone kicked me and when I open my eyes I saw my father and he told me to look for his short pants.

Q What if any did you notice of your father?

A As if he was drunk.

Q Why did you say that he was drunk?

A Because he smell Tanduay.

Q After your father told you to look for his short pants, did he tell you where to look for his short pants?

A No.

Q What did you do after your father told you to look for his short pants?

A I look for his short pants in the room of father because that was the place where his clothings were placed.

Q What happen while you were trying to locate the short pants inside the room of your father?

A He entered the room and closed the door.

Q Did you ask him why he closed the door?

A Yes.

Q What was his answer?

A He told me: "Don't make any noise" at the same time pointed to me a double bladed knife.

Q Why do you know that that was a double bladed knife?

A That was what he told me.

Q When did he tell you that?

A In the house when he send me on an errand.

Q Are you referring to that particular evening when he ask you to look for his short pants?

A No.

Q So, that was previous to the incident in question when you came to know that that was a double bladed knife?

A Yes.

Q And what happened after he closed the door pointing a double bladed knife? By the way, where did he point that double bladed knife, what part of your body?

A On my neck.

Q What happened after he closed the door pointing a double bladed knife against your neck and told you to keep quiet?

A He pushed me towards the bed.

Q What happened after that?

A He pushed me towards the bed and mounted on top of me and at the same time the double bladed knife was still aim on my neck and rip off my panty.

Q What were you wearing at that time?

A T-shirt with short pants.

Q How about your short pants?

A He told me to remove my short pants before he rip my panty.

Q Why did you not fight back?

A Because he threatened me that if ever I fight against him he will kill my mother and me.

Q Why did you not shout considering that there are houses of your neighbors located very near your house?

A If I will shout he will pushed and pressed the double bladed knife to my neck.

Q After your father was able to tear your panty from your body, what did he do next?

A His organ was inserted to mine and made a push and pull movement.

Q By the way, what hand did he use in holding the knife when that knife was being pointed against your neck?

A The right hand.

Q What hand did he use to tear or rip your panty from your body?

A The left hand.

Q When he tried to insert his organ into your organ why did you not attempt to push him away from you?

A If ever I move he will also pressed the double bladed knife on my neck.

Q When he tried to tear or rip your panty from your body, what was his position at that time?

A He was in that position of kneeling in between my two thighs.

Q What did you feel when your father succeeded in inserting his organ into your organ?

A I felt pain on my abdomen and pain on my private part.

Q While your father was making this push and pull movement, what were you doing?

A I was crying.

Q Then, after making those push and pull movement, what happened next?

A Then we heard some noise that someone was walking at our side so he immediately stood up.

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Q Was that the only time that your father abused you sexually?

A Two times I was abused by him.

Q Can you still remember when you were abused for the second time?

A June, 1998.

Q Considering that it was still in the same month of June, 1998 when you were rape for the second time, could you at least approximate how long after he

committed that first rape against you in the same month of June when he committed the second rape?

A One week after.

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Q Will you please tell us if you went to school in the morning of that day when you were rape for the second time?

A Yes.

Q What time did you arrive home from school at noon?

A Past eleven o'clock already.

Q When you arrived home was there anybody there?

A None

Q What did you do after arriving home?

A I lied down on a bench and fell asleep.

Q Were you feeling okay at that time?

A No.

Q Why? What were your feelings then?

A As if I was feverish and I felt pain on my abdomen.

Q What happened while you were lying on a bench inside your house?

A Somebody suddenly open the door and I happened to be awaken and saw my father and I return to my sleep.

Q You just open your eyes, you did not rise or stand up?

A No.

Q Now, this bench where you were lying where was this located inside your house?

A In the sala.

Q When you went back to sleep, what happened next?

A Someone kick me and I work up and open my eyes and saw it was my father.

Q What was his purpose in kicking you?

A He wanted me to find the receipt of the Astrone.

Q What is this Astrone.

A Of a karaoke appliance.

Q Did he tell you why he wanted you to locate the receipt of the Astrone?

A Yes.

Q What did you do?

A I look for the said receipt in his room and told my father that the same is nowhere in the room. I reminded him that he took it from where my mother keep it.

Q Why did you went inside the room of your father in order to look for that receipt?

A Because it was in that room that my mother had keep the receipt.

Q After telling your father that the receipt was not in the place where your mother placed it, what happened next?

A Again he closed the door of the room when I was inside and pointed to me the double bladed knife.

COURT:

Q What time was that?

A About twelve noon.

PROS. RAMOS:

Q What were you wearing at that time?

A I was in my school uniform.

Q To what part of your body was the knife pointed?

A On my neck.

Q While pointing the knife against your neck, what else did he do?

A He pushed me towards the bed and told me not to tell my mother and then he mounted on top of me.

Q You said you were wearing your school uniform, what did he do with that school uniform you were wearing?|

A He open the skirt and remove my panty.

Q He did not remove your skirt?

A No.

Q Did he succeed in removing down your panty?

A Yes.

Q Why did you not try to wiggle or move your body to prevent him in removing your panty?

A Because if ever I moved he will pressed hard against my neck the double bladed knife and I cannot do anything.

Q After he succeeded in removing your panty and mounted on top of you, what else did he do?

A He inserted his organ to my organ and made a push and pull movement.

Q Did you feel when your father succeeded in penetrating you?

A Yes.

Q How did you feel when he succeeded in penetrating you?

A I felt pain on my private part as well as on my abdomen.

Q While he was making this push and pull movement what did you do?

A I just keep on crying and telling him that you are a senseless father, you can afford to do it only to your own daughter.

COURT:

Q It appears that you are now crying, why are you now crying?

A I am afraid of him because as told by my brother that my father is going to kill me so that he also own a pistol which is in the possession of my brother.

COURT:

Let it remain on record that the witness is crying.

Proceed.

Q After making those push and pull movement, what else happened?

A He left and went towards the kitchen.

Q Did he tell you anything before he went out of his room to go to the kitchen?

A Yes.

Q What did he tell you?

A Again he told me not to tell the incident to my mother because in case I will tell he will kill me as well as my mother.

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Q As a result of the sexual assault committed against you by your father, will you please tell us what happened to you?

A I got pregnant.

Q When for the first time that you come to know that you were pregnant?

A February 1, 1999.

Q What was the reason why you came to discover that you were pregnant?

A Because my stomach was bulging. We went to a quack doctor and I was told I have a tumor and advise to have an X-Ray and we went to another quack doctor in Plaridel and again I was told to have an X-Ray and then I went to the hospital and we were advise (sic) to have an ultrasound in order to know what cause the bulging of my stomach.

Q When you were advise (sic) to submit to an Ultrasound examination, what did you do?

A Yes, I submitted for an ultrasound examination to Doctor Conde.

Q That was on February 1, 1999?

A Yes.

Q That was the reason why you came to know that you were pregnant?

A Yes.

Q Did your mother forced (sic) you to tell the truth who was the father of the baby you were conceiving?

A Yes, I was forced.

Q Did you tell your mother?

A No.

Q Why?

A Because I am afraid of my father.

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Q When did you deliver the child?

A March 24, 1999.

Q When you already deliver the child, still you did not inform your mother and your siblings who fathered your child?

A No.

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Moreover, the trial court relied on Jimmalou's testimony because it found no motive on her part to fabricate such

grave charges against her own father. The Court has held in several cases that no daughter would go out in public and falsely accuse her father of rape if it were not true. It is against human nature for a girl to fabricate a story that would expose herself as well as her family to a lifetime of dishonor,[31] especially where her charges could mean the death of her own father.[32]

The Court agrees with the trial court's pronouncement that the lapse of ten months between the time Jimmalou was last raped by accused-appellant and the time she reported the matter to the authorities does not diminish the credibility of her story. There is no standard human reaction when one suffers such a harrowing experience as rape. It is therefore not unusual for a rape victim to suffer in silence the onslaught on her honor rather than reveal her story.[33] The Court has acknowledged in several cases that the hesitance of the victim in reporting the crime to the authorities is not necessarily an indication of a fabricated charge for the initial reluctance of a young, inexperienced lass to admit having been ravished is normal and natural.[34] This is especially true where the delay can be attributed to the pattern of fear instilled by the threats of bodily harm made by a person who exercises moral ascendancy over the victim.[35] In *People vs. Santos*,[36] the Court explained:

A rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror which would, he hopes, numb his victim into silence and submissiveness. Incestuous rape magnifies this terror, because the perpetrator is a person normally expected to give solace and protection to the victim. Furthermore, in incest, access to the victim is guaranteed by the blood relationship, proximity magnifying the sense of helplessness and the degree of fear.

...The rapist perverts whatever moral ascendancy and influence he has over his victim in order to intimidate and force the latter to submit to repeated acts of rape over a period of time. In many instances, he succeeds and the crime is forever kept on a lid. In a few cases, the victim suddenly finds the will to summon unknown sources of courage to cry out for help and bring her depraved malefactor to justice.

Given this pattern, we have repeatedly ruled that the failure of the victim to immediately report the rape is not indicative of fabrication xxx[37]

In the cases at bar, Jimmalou repeatedly explained that accused-appellant threatened to kill her or her mother if she did not give in to his desires.[38] Her fear of what accused-appellant would do to her or her mother if she revealed his evil deeds was what compelled her to suffer in silence for a long time.

The lower court was also correct in imposing the supreme penalty of death since R.A. No. 8353 (The Anti-Rape Law of 1997) was already in force in 1998 when the rapes were committed. Said law requires that the circumstances of the minority of the victim and her relationship with the offender must concur for the death penalty to be imposable. Article 226-B of the Revised Penal Code, as amended by R.A. No. 8353 provides:

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The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying 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 degree, or the common-law spouse of the parent of the victim;

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The Court has previously explained that the circumstances of minority and relationship are considered as special qualifying circumstances because they alter the nature of the crime of rape and thus warrant the imposition of the

death penalty. These circumstances must be alleged in the information and established during trial for the court to be able to impose the death penalty.[39]

In the cases at bar, the father-daughter relationship between accused-appellant and Jimmalou was alleged in the information and proven in the course of the trial.[40] Jimmalou's minority at the time the crimes were committed was also sufficiently established by the prosecution.[41]

The Court also finds it necessary to increase the award of damages by the trial court. The lower court in its decision held accused-appellant liable to pay moral damages in the amount of Twenty Thousand Pesos (P20,000.00) only in each of the cases, in addition to the civil indemnity of P75,000.00 for each count of rape. In addition to civil indemnity, moral damages are automatically granted to the victim in rape cases without need of proof for it is assumed that the private complainant has sustained mental, physical and psychological suffering.[42] Under current rulings, the victim is entitled to the amount of Fifty Thousand Pesos (P50,000.00) as moral damages for each count of rape.[43]

Further, where the existence of an aggravating circumstance is proven, as in the cases at bar where the circumstances of minority and relationship were established, exemplary damages may be awarded, in accordance with Article 2230 of the Civil Code.[44] The exemplary damages awarded by the lower court in the amount of Twenty Thousand Pesos (P20,000.00) for each count of rape should be increased to Twenty Five Thousand Pesos (P25,000.00) in accorded with the latest rulings of the Court.

WHEREFORE, the Decision of the Regional Trial Court of Oroquieta City, Branch 12 in Criminal Cases Nos. 142901 and 142902 is hereby MODIFIED, as follows:

- In Criminal Case No. 142901, the accused-appellant is sentenced to suffer the penalty of death and ordered to pay the victim the amounts of Seventy Five Thousand Pesos (P75,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages, and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages; and

- In Criminal Case No. 142902, the accused-appellant is sentenced to suffer the penalty of death and ordered to pay the victim the amounts of Seventy Five Thousand Pesos (P75,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages, and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages.

Three (3) members of this Court maintain their position that R.A. No. 7659, insofar as it prescribes the death penalty is unconstitutional. Nevertheless, they submit to the ruling of the majority that the said law is not unconstitutional and that the death penalty should be imposed in this case.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of R.A. 7659, upon finality of this decision, let the record of this case be forwarded to the Office of the President for possible exercise of clemency and pardoning power.

SO ORDERED.

Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

Davide, Jr., C.J., on official leave.

Bellosillo, J., no part. Did not take part in deliberations.

[1] Rollo, p. 12

[2] Id., at 14.

[3] Birth Certificate of Jimmalou Chavez Manlod, Records, p. 6.

[4] TSN, February 11, 2000, p.5.

[5] Id., at 6-9.

[6] Id., at 9-12.

[7] Id., at 12-14.

[8] Id., at 14-17.

[9] Id., at 17-19.

[10] Id., at 19-20.

[11] Id., at 22.

[12] Id.

[13] Id., at 22-23.

[14] Id., at 23-24.

[15] Id. at 24-25.

[16] See Records, p. 5.

[17] TSN, February 22, 2000, pp. 4-6.

[18] Id., at 6-8.

[19] TSN, March 2, 2000, pp. 3-7.

[20] Rollo, p 25.

[21] Accused-Appellant's Brief, Rollo, pp. 58-61.

[22] People vs. De Guzman, G.R. Nos. 140333-34, December 11, 2001.

[23] People vs. Tundag, 342 SCRA 704, 711 (2000).

[24] People vs. Yaoto, G.R. Nos. 136317-18, November 22, 2001; People vs. Rebato, G.R. No.139552, May 24, 2001; People vs. Villadares, G.R. No. 137649, March 8, 2001, People vs. Saladino, G.R. Nos. 137481-83 & 138455, March 7, 2001.

[25] People vs. Barcelona, 325 SCRA 168, 178 (2000); People vs. Lerio, 324 SCRA 76, 82 (2000); People vs. Sancha, 324 SCRA 646, 663 (2000); People vs. Flores, 322 SCRA 779, 784 (2000).

[26] People vs. Supnad, G.R. Nos. 133791-94, August 8, 2001.

[27] RTC Decision, p. 6, Rollo, p. 23.

[28] Id., p. 7, Rollo, p. 24.

[29] People vs. Quilatan, 341 SCRA 247, 253 (2000); People vs. Villanos, 337 SCRA 78, 87 (2000); People vs. Sancha, 324 SCRA 646, 663 (2000).

[30] TSN, February 11, 2000, pp. 9-23.

[31] *People vs. Traya*, 332 SCRA 499, 505 (2000); *People vs. Guiwan*, 331 SCRA 70, 77 (2000); *People vs. Bernaldez*, 322 SCRA 462, 471 (2000).

[32] *People vs. Tundag*, 342 SCRA 704, 713 (2000).

[33] *People vs. Lucban*, 322 SCRA 313, 320 (2000).

[34] *People vs. Taño*, 331 SCRA 449, 461 (2000); etc.

[35] *People vs. Alpe*, G.R. No. 132133, November 29, 2001.

[36] 334 SCRA 655, [666] (2000), citing *People vs. Melivo*, 253 SCRA 347 (1996).

[37] *Id.*, at 666.

[38] TSN, January 15, 1998, p.10; TSN, February 11, 1998, pp. 12, 14.

[39] *People vs. Baniqued*, G.R. Nos. 130653 and 139384, December 11, 2001; *People vs. Gabon*, *supra*; *People vs. Ferolino*, 329 SCRA 719 (2000).

[40] Birth Certificate of Jimmalou Chavez Manlod, Records, p. 6; Testimony of Mrs. Lucita Chavez Manlod, TSN, February 22, 2000, p. 3; Testimony of Accused-appellant Jimmy Manlod, TSN, March 2, 2000, p. 4.

[41] *Id.*

[42] *People vs. De Guzman*, *supra*.

[43] *Id.*; *People vs. Balas*, G.R. No. 138838, December 11, 2001; *People vs. Dumlao*, *supra*.

[44] *Id.*

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