

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODELIO AQUINO Y RODA, ACCUSED-APPELLANT.

G.R. Nos. 144340-42. August 06, 2002

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PER CURIAM:

Appellant Rodelio Aquino y Roda filed this Motion for Reconsideration asking the Court to reconsider its Decision of April 17, 2002, which held him guilty of qualified rape. The relevant portion of the Decision reads:

“To warrant the imposition of the supreme penalty of death in qualified rape under Article 266-B (1) of the Revised Penal Code, the concurrence of the minority of the victim and her relationship to the offender must be specifically alleged and proved with equal certainty as the crime itself.

In the instant case, the Information alleges that the child-victim was a five-year old minor and appellant was the child-victim’s uncle. The prosecution presented Charlaïne’s birth certificate to prove her age. This undisputed circumstance standing alone, qualifies the rape. Under Article 266-B (5) of the Revised Penal Code, the death penalty is mandated in rape cases “when the victim is a child below seven (7) years old.” The qualifying circumstance of relationship was also undisputedly proven by the prosecution. The child-victim’s mother, Winnie Bautista, testified in court that appellant is her brother, making appellant a blood relative of the victim within the third civil degree. Moreover, appellant categorically admitted during trial that the child-victim is his niece.” (Decision, pp. 19-20)

Appellant argues that he should only be convicted of simple rape because “while the age of the complainant(s) as well as their relationship to the accused-appellant were (sic) stated in the Information(s), the same were not alleged particularly to qualify the offense charged.”[1] Appellant contends that this failure to charge him specifically with the qualified offense “bars the imposition of the death penalty upon him.”

We deny the Motion for Reconsideration.

Appellant anchors his Motion for Reconsideration on two recent cases -People v. Manlansing[2] and People v. Alba.[3] In People v. Manlansing, the Court, citing People v. Alba, disregarded the qualifying circumstance of treachery, ruling that -

“We noted in Gario Alba, that although the circumstance of treachery was stated in the Information, it was not alleged with specificity as qualifying the killing to murder. Since the Information in Gario Alba failed to specify treachery as a circumstance qualifying the killing to murder, treachery was considered only a generic aggravating circumstance, hence, we said that the crime committed in Gario Alba was homicide and not murder.”[4] (Emphasis supplied)

However, the Court has repeatedly held,[5] even after the recent amendments to the Rules of Criminal Procedure, that qualifying circumstances need not be preceded by descriptive words such as “qualifying” or “qualified by” to properly qualify an offense. The Court has repeatedly qualified cases of rape[6] where the twin circumstances of minority and relationship have been specifically alleged in the Information even without the use of the descriptive words “qualifying” or “qualified by.”

In the recent case of *People v. Lab-eo*,^[7] the appellant there questioned the decision of the lower court raising the killing to murder. The appellant there argued that he could only be convicted of homicide since the Information merely stated “that the aggravating circumstances of evident premeditation, treachery, abuse of superior strength and craft attended the commission of the offense.” The appellant also asserted that since the circumstances were merely described as aggravating and not qualifying, he should only be convicted of the lesser crime of homicide. On this score, the Court ruled that -

“The fact that the circumstances were described as “aggravating” instead of “qualifying” does not take the Information out of the purview of Article 248 of the Revised Penal Code. Article 248 does not use the word “qualifying” or “aggravating” in enumerating the circumstances that raise a killing to the category of murder. Article 248 merely refers to the enumerated circumstances as the “attendant circumstances.” [8]

Article 266-B of the Revised Penal Code, as amended by RA No. 8353,^[9] states that the death penalty shall be imposed in the crime of rape if any of the “aggravating/qualifying circumstances” mentioned in Article 266-B is present. Prior to RA No. 8353, Article 335 of the Revised Penal Code, as amended by RA No. 7659,^[10] penalized qualified rape with the death penalty when any of the “attendant circumstances” mentioned in Article 335 was present. The present law uses the words “aggravating/qualifying circumstances” in referring to the attendant circumstances that qualify rape to a heinous crime punishable by death. The old law referred to these circumstances as the “attendant circumstances.”

The change in the wording did not make the use of the words “aggravating/qualifying circumstances” an essential element in specifying the crime in the Information. As in the old law, the essential element that raises rape to a heinous crime is the attendance of a circumstance mentioned in Article 266-B. As an essential element of the heinous crime, such attendant circumstance must be specifically alleged in the Information to satisfy the constitutional requirement that the accused must be informed of the nature of the charge against him.

The use of the words “aggravating/qualifying circumstances” will not add any essential element to the crime. Neither will the use of such words further apprise the accused of the nature of the charge. The specific allegation of the attendant circumstance in the Information, coupled with the designation of the offense and a statement of the acts constituting the offense as required in Sections 8 and 9 of Rule 110, is sufficient to warn the accused that the crime charged is qualified rape punishable by death.

The change in the wording from “attendant circumstances” to “aggravating/qualifying circumstances” did not signify a change in the law. As used in Article 335 (old provision on qualified rape), the words “attendant circumstances” referred to the circumstances that changed the nature of the crime when these circumstances were present in the commission of the crime. As used in Article 266-B (new provision on qualified rape), the words “aggravating/qualifying circumstances” also refer to the circumstances that change the nature of the crime when these circumstances are present in the commission of the crime. The words “aggravating circumstances” include “qualifying circumstances.”^[11] Qualifying circumstances are aggravating circumstances which, by express provision of law, change the nature of the crime to a higher category. The words “attendant circumstances,” which still appear in Article 248 (raising homicide to murder), refer to qualifying circumstances -those aggravating circumstances that, by express provision of law, change the nature of the crime when present in the commission of the crime.

Section 9, Rule 110 of the Revised Rules of Criminal Procedure states that the-

“x x x qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know x x x (the) qualifying and aggravating circumstances x x x.”

Thus, even the attendant circumstance itself, which is the essential element that raises the crime to a higher category, need not be stated in the language of the law. With more reason, the words “aggravating/qualifying circumstances” as used in the law need not appear in the Information, especially since these words are merely descriptive of the attendant circumstances and do not constitute an essential element of the crime. These words are also not necessary in informing the accused that he is charged of a qualified crime. What properly informs the accused of the nature of the crime charged is the specific allegation of the circumstances mentioned in the law that raise the crime to a higher category.

The rules require the qualifying circumstances to be specifically alleged in the Information in order to comply with the constitutional right of the accused to be properly informed of the nature and cause of the accusation against him.[12] The purpose is to allow the accused to prepare fully for his defense to prevent surprises during the trial.[13]

The Information in the instant case passes this test. The Information reads-

“Sometime in October 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, being the uncle of the 5-year old Charlaine Bautista, with lewd designs, did then and there willfully, unlawfully, and feloniously have sexual intercourse with said Charlaine Bautista, by then and there touching her vagina and inserting his penis in her vagina, against the latter’s will and consent.

Contrary to law.”

The Information clearly forewarns the accused that the circumstances of minority and relationship attended the commission of the crime. It specifically states that the child-victim is a five-year old minor while also specifically alleging that the accused is the child-victim’s uncle. These allegations, once proven beyond reasonable doubt, qualify the rape to a heinous crime. The appellant never raised in the trial court the argument that he was not apprised of the charges against him because of an alleged defect in the Information. Not even in his appellant’s brief did he remotely suggest that the Information was defective or insufficient.

Section 8 of Rule 110 requires that the Information shall “state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances.” (Emphasis supplied) Section 8 merely requires the Information to specify the circumstances. Section 8 does not require the use of the words “qualifying” or “qualified by” to refer to the circumstances which raise the category of an offense. It is not the use of the words “qualifying” or “qualified by” that raises a crime to a higher category, but the specific allegation of an attendant circumstance which adds the essential element raising the crime to a higher category.

In the instant case, the attendant circumstances of minority and relationship were specifically alleged in the Information precisely to qualify the offense of simple rape to qualified rape. The absence of the words “qualifying” or “qualified by” cannot prevent the rape from qualifying as a heinous crime provided these two circumstances are specifically alleged in the Information and proved beyond reasonable doubt.

We therefore reiterate that Sections 8 and 9 of Rule 110 merely require that the Information allege, specify or enumerate the attendant circumstances mentioned in the law to qualify the offense. These circumstances need not be preceded by the words “aggravating/qualifying,” “qualifying,” or “qualified by” to be considered as qualifying circumstances. It is sufficient that these circumstances be specified in the Information to apprise the accused of the charges against him to enable him to prepare fully for his defense, thus precluding surprises during the trial. When the prosecution specifically alleges in the Information the circumstances mentioned in the law as qualifying the crime, and succeeds in proving them beyond reasonable doubt, the Court is constrained to impose the higher penalty mandated by law. This includes the death penalty in proper cases.

Unfortunately, this is one of those cases. The allegation of the twin circumstances of minority and relationship in the Information, which were proven beyond reasonable doubt during the trial, compels the Court to impose the death penalty.

To guide the bench and the bar, this Resolution clarifies and resolves the issue of how to allege or specify qualifying or aggravating circumstances in the Information. The words “aggravating/qualifying,” “qualifying,” “qualified by,” “aggravating,” or “aggravated by” need not be expressly stated as long as the particular attendant circumstances are specified in the Information.

WHEREFORE, the Motion for Reconsideration is DENIED and the Decision of the Court dated April 17, 2002 is AFFIRMED.

SO ORDERED.

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

[1] Appellant's Motion for Reconsideration, May 24, 2002, p. 3; Rollo, p. 144.

[2] G.R. No. 131736-37, March 11, 2002, decided En Banc.

[3] G.R. No. 130523, January 29, 2002, decided by the Second Division.

[4] Supra, see note 2 at 12.

[5] People v. Callet, G.R. No. 135701, May 9, 2002; People v. Pacantara, G.R. No. 140896, May 7, 2002; People v. Judavar, G.R. No. 135521, April 11, 2002; People v. Ciron, Jr., G.R. No. 139409, March 18, 2002; People v. Cantuba, G.R. No. 126022, March 12, 2002.

[6] People v. Santos, G.R.No. 137993, April 11, 2002; People v. Platilla, G.R.No. 140723, March 6, 2002; People v. Villaruel, G.R. No. 135401, March 6, 2002; People v. Daganio, G.R. No. 137385, January 23, 2002.

[7] G.R. No. 133438, January 16, 2002.

[8] Ibid., p. 10.

[9] Anti-Rape Law of 1997, which reclassified rape under Crimes Against Persons.

[10] An Act to Impose the Death Penalty on Certain Heinous Crimes, amending for that Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, and for Other Purposes.

[11] Florenz d. Regalado, Criminal law Conspectus, p. 73 (2000 Ed.); Luis B. Reyes, The Revised Penal Code, Book One, p. 317 (2001 Ed.).

[12] People v. Lab-eo, supra, see note 7.

[13] Ibid.

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