

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FLORENTINO O. RAMIREZ, JR., APPELLANT.

G.R. Nos. 150079-80. June 10, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Constitution presumes the accused to be innocent until the contrary is proved. No less than proof beyond reasonable doubt of every fact necessary to constitute the crime charged must be established to overcome such presumption. This duty subsists notwithstanding the weakness of the evidence for the defense. Prosecutors are enjoined to exert their best to lay out the facts faithfully, clarify contradictions and fill up gaps in their evidence.

The Case

Florentino O. Ramirez Jr. appeals the June 29, 2001 Decision^[1] of the Regional Trial Court (RTC) of Lingayen, Pangasinan (Branch 68), in Criminal Case Nos. L-6275 & L-6276, finding him guilty of rape on two counts and sentencing him to reclusion perpetua for each crime. The dispositive portion of the Decision is worded thus:

“WHEREFORE, in view of the foregoing, judgment is hereby rendered convicting the accused Florentino Ramirez, Jr. beyond reasonable doubt of two (2) counts of rape as narrated in the aforementioned [I]nformations, which are contrary to Article 266-A, Revised Penal Code as amended by R.A. 8353 and hereby sentenc[ing] him to reclusion perpetua for each of the instant two (2) cases.

“The accused is likewise ordered to pay the complainant Diana Pagaduan the following: moral damages of P100,000.00 and exemplary damages of P50,000.00 for each of the two (2) cases.”^[2]

Two (2) Informations^[3] were filed against appellant on May 30, 2000. Except for the dates of the commission of the crimes, the Informations are similarly worded thus:

Criminal Case No. 6275

“That on or about the 7th day of May, 1999, in the evening, at Sitio Mangas, Barangay Baquieon, Municipality of Sual, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, through force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Diana F. Pagaduan, a minor 14 years old, against her will, to her damage and prejudice.”^[4]

Criminal Case No. 6276

“That on or about the 26th day of May, 1999 early dawn[,], at Sitio Mangas, Barangay Baquieon, Municipality of Sual, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, through force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Diana F. Pagaduan, a minor 14 years old, against her will, to her damage and prejudice.”^[5]

Upon his arraignment on June 27, 2000,^[6] appellant, assisted by his counsel,^[7] pleaded not guilty to both charges. The RTC tried the two cases jointly and thereafter rendered the assailed Decision.

The Facts

Version of the Prosecution

At the initial hearing on August 24, 2000, Prosecutor Edmundo M. Manaois informed the trial court of an amicable settlement reached between the parties as shown by an Affidavit of Desistance executed by private complainant, fully quoted herein as follows:

“AFFIDAVIT OF DESISTANCE

“I, DIANA F. PAGADUAN, 14 years old and a resident of Ba[c]quioen, Sual, Pangasinan after having duly sworn to on oath in accordance with law, hereby depose and say:

“1. That I am the complaining witness in Criminal Cases Nos. L-6275 and L-6276, both for Rape against accused Florentino O. Ramirez (detention prisoner) and pending trial in Regional Trial Court-Branch 68, Lingayen, Pangasinan;

“2. That after a heart to heart confrontation with the accused, I realize that the criminal charges against him is a mere product of a trivial misunderstanding between me and the accused;

“3. That I further realize that the accused is indeed innocent of the crimes charge[d] since in truth, he never molested me sexually as charged;

“4. That I and the accused have already patched up x x x our differences;

“5. That in fairness to the accused, I decided to desist from further prosecution of the charges against him not only because we intended to return our cordial relationship with each other but most of all because the accused had done me no wrong;

“6. That I have executed this instrument voluntarily without any force or intimidation imposed by anybody and neither [have I] been paid any consideration;

“7. That I am executing this affidavit in order to affirm the truth of the foregoing statements and in order to seek from the Honorable Court and other government entities for the dismissal of the charges against the accused.

“IN WITNESS WHEREOF, I hereby affixed my signature below this 16th day of August, 2000 at Lingayen, Pangasinan, Philippines.

(Sgd)

DIANA F. PAGADUAN

Affiant

“ASSISTED BY:

(Sgd) (Sgd) Zenaida Pagaduan

ALEJO O. VERZO

Uncle Guardian

“SUBSCRIBED AND SWORN to before me this 16th day of August, 2000 at Lingayen, Pangasinan, Philippines.

(Sgd)

EDMUNDO M. MANAOIS

Asst. Prov'l. Prosecutor

Lingayen, Pangasinan”[8]

During this hearing, private complainant affirmed the veracity and the voluntariness of her Affidavit. She said that the document had been translated to her in Ilocano, and that she fully understood its contents. She confirmed her awareness that by reason of her execution thereof, her case was likely to be dismissed. The mother, Zenaida Pagaduan, affirmed that the Affidavit had been explained to and signed by her daughter.

Prosecutor Manaois then called the following witnesses to the stand: (1) Soledad Pagaduan, private complainant's older sister, and (2) Dr. Maria Teresa G. Sanchez, a medical officer of the Western Pangasinan District Hospital. Their respective testimonies are summarized by the Office of the Solicitor General (OSG) in its Brief as follows:

"SOLEDAD PAGADUAN, sister of private complainant, confirmed having brought the latter to the Western Pangasinan District Hospital, in Alaminos, Pangasinan for medical examination on June 25, 1999. She also confirmed the fact that during the preliminary investigation of these cases, she made the following statements, to wit: that at early dawn of May 26, 1999, she was inside their house in Sitio Mangas, Ba[c]queion, Sual, Pangasinan, [with] her brother, Romeo Pagaduan, her mother, Zenaida Pagaduan, her sister, herein private complainant Diana Pagaduan; and appellant [Florentino Ramirez] who is her mother's 'live-in partner'; that when she woke up that morning, she went upstairs and saw appellant on top of private complainant and holding her thigh; that when appellant saw her, he immediately picked up his shortpants and fled downstairs; that when she confronted the private complainant about the incident, the latter cried 'I was raped'.

"MARIA TERESA G. SANCHEZ, Medical Officer of the Western Pangasinan District Hospital related to the court that private complainant was brought to her for medical examination on June 25, 1999 by her sister, Soledad, and uncle, Alejo Verzo; that in the course of her examination, private complainant disclosed that she was raped by appellant; that the rape happened twice, the first time on May 7, 1999 and the second time on May 26, 1999; that the May 7, 1999 incident occurred about 9:00 p.m. when she was left behind in their house at Sitio Mangas, Barangay Ba[c]queion, Sual, Pangasinan, with appellant and her niece; [that] appellant poked a knife and forced her to have sexual intercourse with him; that the May 26, 1999 incident occurred at 4:00 a.m. and her companions at that time were the father and mother of the appellant; and that] when [she] inquired [about] the whereabouts of the private complainant's father, the latter replied that he 'died sometime on May 1993 or 1994'. The vaginal examination made by the doctor on private complainant disclosed the following findings:

= Nonparous introitus

= Old hymenal laceration at 3 o'clock position

= Vagina admits 2 fingers with ease

= Cervix close

= Uterus small

=

No bleeding

x x x x x x x x

1. non-parous introitus means that the patient [has] not given birth

2.

old hymenal laceration 3:00 o'clock position that relates to hymen as compared to the face of a watch[;] the laceration have already healed.

3.

vagina admits two fingers with ease, in layman's term, because normally the membrane around and inside the vagina is "kul[u]bot", but after repeated sexual act, the shape of the vagina would be obliterated, so there would be laxity of the vaginal muscle and that during the medical examination, insertion of two (2) fingers will have the slightest resistance.

4. include Cervix close[d].

Normally the cervix of a woman is close[d].

5. No bleeding – upon examination, the patient is not bleeding (vagina).

= Menstrual History

Menarche means the first menstrual period June 18, 1999.

6. No external physical injuries upon examination

7. Negative of Pregnancy Test

8.

Negative for gram stain of vaginal discharge for the presence of spermatozoa.”[9]

After formally offering private complainant's Affidavit of Desistance and the Medical Certificate prepared by Dr. Sanchez as documentary evidence, the prosecution rested its case. Notwithstanding the Affidavit submitted by the prosecution, the RTC proceeded to hear the defense.

On October 6, 2000, after the defense had closed its presentation of evidence, Prosecutor Manaois objected to its formal offer of the Affidavit of Desistance of private complainant. He manifested her retraction thereof on the ground that it had been obtained through improper influence and force. Thus, the Affidavit was not admitted by the court a quo.

On February 14, 2001, private complainant testified on rebuttal that the allegation by appellant that he was in Baguio City on May 7, 1999, was not true. She declared that in reality, he had been at home in Sitio Mangas, Barangay Bacquioen, Sual, Pangasinan, where he had sexual intercourse with her. She affirmed that she really wanted her mother to be separated from him because, as private complainant declared in Tagalog, “Binaboy niya ako.”

Version of the Defense

The version of the facts offered by the defense is summarized in appellant's Brief as follows:

“Accused FLORENTINO O. RAMIREZ, JR., under oath, testified that he is 29 years old, married, farmer and a resident of Urdaneta, Pangasinan.

“He is the same Florentino Ramirez, Jr. the accused in Criminal Case Nos. 6275 and 6276 for rape filed against him by Diana F. Pagaduan, his stepdaughter. It is not true that he sexually abused the latter sometime in the evening of May 7, 1999, because he was then [at] Camp 8, Baguio City working as a laborer for his uncle Piano Ramirez, who was then repairing his three-storey house x x x. On the said date that he was working at his uncle's house, he was with his co-workers, namely: Boy Ramirez, Julie Ramirez, Rudy Ramirez, Joel Pagaduan and one person [whose name he forgot]. He never left his uncle's house on May 7, 1999 particularly in the evening [thereof]. x x x, he slept at his uncle's house together with his fellow workers, leaving only his stepdaughter Diana and his wife Zenaida Pagaduan in their house at Barangay Bacquioen, Sual, Pangasinan. However, on May 26, 1999, he was in the residence of Diana Pagaduan [at] Sitio Mangas, Barangay Bacquioen, Sual, Pangasinan, where he slept in the same house where Diana Pagaduan was staying, together with his father, mother, their siblings and his wife.

“The house where he slept on the said date is made up of two storeys. He slept on the second floor x x x which has no room, together with his wife and Diana Pagaduan. He slept beside his wife Zenaida, but was only two (2) meters away from Diana, whom he could easily touch by just stretching his hand.

“It is not true, as testified to by his step-daughter Soledad Pagaduan, that the latter saw him suspiciously wearing his brief half naked inside the mosquito net where Diana Pagaduan was then sleeping. While he admit that Diana Pagaduan is beautiful, young and was studying in high school, he denied having a secret liking [towards] her. He considered Diana as his own child. Diana Pagaduan filed these instant case[s] against him because his stepchildren wanted him to be separated from their mother Zenaida Pagaduan. However, he never confronted any of his stepchildren on this matter, neither did he ask his wife Zenaida, if the latter really wanted to separate from him.

“BOY RAMIREZ, 41 years old, laborer, and a resident of Camp 8, Baguio City, testified under oath on the following facts: that he was with his brother Florentino Ramirez, Jr., the accused in these cases, on May 7, 1999, [at] Camp 8, Baguio City particularly [i]n their uncle Cipriano ‘Pianong’ Ramirez’ house[; t]he accused arrived thereat in the morning of May 7, 1999 and stayed at Camp 8, Baguio City for more than a week[; t]he accused worked for their uncle ‘Pianong’ Ramirez in the construction of a one[-]room extension at the latter’s house, and was assigned in digging a hole for the tie [b]eam foundation; that their working time thereat was from 8:00 o’clock in the morning to 12:00 o’clock noon, and 1:00 o’clock in the afternoon to 5:00 o’clock in the afternoon; that he has never seen the accused leave their uncle ‘Pianong’ Ramirez’ house on May 7, 1999; that after their work on May 7, 1999, he was not with his brother Florentino, instead he attended to his family from 5:00 o’clock p.m. to 9:00 o’clock p.m. when he and his wife went to sleep.

“He does not know if his brother Florentino Ramirez, Jr. was in Sual or lived in Sual from May 16, 1999 up to the end of the month, because as far as he knows, the latter is just residing in Pangasinan.

“VILLAMOR AYATON under oath testified that he is 37 years old, married, unemployed and a resident of Barangay Bacquioen, Sual, Pangasinan.

“On the morning of May 26, 1999 he was called by his mother Gloria Orpilla, who was then in the house of Diana Pagaduan purposely to talk about the killing of his brother Virgilio Ayaton. Aside from his mother and stepfather, Soledad Pagaduan and the latter’s mother were likewise present. When he reached the house of Diana Pagaduan, his half brother Florentino Ramirez, Jr. was outside the said house while Diana was inside the house. His brother Florentino Ramirez, Jr. was then wearing only his brief[,] which prompted his mother Gloria to tell Florentino to get something to wear. The latter then entered the house of Soledad Pagaduan and at that juncture, he was surprise[d] to hear the latter confront[ed by] Soledad Pagaduan. [He did not] talk to the mother of Soledad Pagaduan because he was so ashamed of what his brother Florentino Ramirez, Jr. allegedly did to Diana Pagaduan. He likewise knew at that time that Diana Pagaduan was still inside the house. But despite his knowledge, he neither look[ed] for Diana x x x nor talked to the latter because he left for his work. On the other hand, Soledad Pagaduan likewise left and went to the house of one Alejo Ver[j]o. He did not give any statement about what he heard on that month, neither did he report the same to the barangay officials.”[10]

Ruling of the Trial Court

The RTC gave more credence and weight to the prosecution’s evidence, specifically to the testimony of private complainant. It held that she had no ill motive to charge appellant falsely. For lack of proof of the physical impossibility of his being at the locus criminis at the time of its commission, scant consideration was given to his defense of alibi. Holding that denial was intrinsically weak and must therefore be supported by strong evidence of non-culpability to merit credence, the trial court likewise debunked his denial of the alleged second rape incident on May 26, 1999.

Hence, this appeal.[11]

Issue

In his Brief, appellant assigns this lone error for our consideration:

“The court a quo erred in finding that the guilt of the accused for two (2) counts of rape has been proven beyond reasonable doubt, despite failure of the prosecution to present evidence to prove the crimes charged.”[12]

The Court’s Ruling

The appeal is meritorious.

Sole Issue:

Sufficiency of the Prosecution Evidence

Appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt. First, in her Affidavit of Desistance dated August 16, 2000, private complainant categorically stated that he was innocent of the crime charged. Second, she gave no direct testimony describing the circumstances of the alleged rape. Her sweeping statement that he had sexual intercourse with her was clearly inadequate to establish his guilt.

Affidavit of Desistance

As a rule, a recantation or an affidavit of desistance is viewed with suspicion and reservation. Jurisprudence has invariably regarded such affidavit as exceedingly unreliable, because it can easily be secured from a poor and ignorant witness, usually through intimidation or for monetary consideration.[13] Moreover, there is always the probability that it would later on be repudiated,[14] and criminal prosecution would thus be interminable.[15]

Indeed, the Affidavit of Desistance of private complainant is highly suspect. Apparently, she executed it on the basis of a consideration of P5,000, which was later increased to P100,000. After her testimony had been rendered, however, appellant refused to pay the amount agreed upon, thereby prompting her to recant the Affidavit.[16]

She had stated therein that “the accused is indeed innocent of the crimes charge[d] since in truth, he never molested me sexually as charged.” Such statement was a mere legal conclusion, bereft of any details or other indicia of credibility, much less truth. More likely, it emanated not from this young girl’s mouth, but from a trained legal mind.[17] Moreover, while she affirmed her Affidavit on the stand, she also declared, on clarificatory question from the judge, that she was 14 years old when she was molested and raped by appellant.[18] These facts raise doubts as to the reliability of her statements in her Affidavit.

At this point, we reiterate that, by itself, an affidavit of desistance or pardon is not a ground for the dismissal of an action, once it has been instituted in court.[19] In the present case, private complainant lost the right or absolute privilege to decide whether the rape charge should proceed, because the case had already reached and must therefore continue to be heard by the court a quo.

Proof Beyond Reasonable Doubt

Nonetheless, after a scrutiny of the records and the evidence in this case, we find ourselves unable to affirm the judgment of the trial court.

In concluding that appellant had raped private complainant, the RTC was guided by the precept that -- had she not indeed been raped -- no woman would claim that she was sexually abused, allow an examination of her private parts, and go through the humiliation of a trial. This argument, however, does not by itself overcome the fundamental right of the accused to be presumed innocent until proven otherwise.[20]

The testimony of private complainant on the commission of the two counts of rape does not satisfy the standard of proof required to justify the conviction of appellant. Significantly, she failed to narrate just how the alleged rape

took place. She said nothing at all about how he had supposedly raped her. We have carefully gone over the transcript of stenographic notes and found nothing there describing, no matter how briefly or simply, how the alleged offense had taken place.

Private complainant's Sworn Statements, which formed part of the records of the preliminary investigation, cannot be used to convict appellant, because they do not form part of the records of the case in the RTC.[21] They were not marked, much less formally offered before it. Evidence not formally offered cannot be taken into consideration in disposing of the issues of the case.[22]

The Informations allege that the crimes were committed through force, threats and intimidation as set forth under Article 266-A[23] of the Revised Penal Code (amended by RA 8353). Hence, to convict appellant, the prosecution had the duty of proving not only carnal knowledge of private complainant, but also his use of force or intimidation to accomplish it.

On direct examination, the testimony of private complainant centered on the veracity of her Affidavit of Desistance, which she later recanted. Her description of how appellant had allegedly abused her, scant and peripheral as it was, was made only on rebuttal, as follows:

“Q

He further testified that on May 6, 1999, he did not have sexual intercourse with you because of the presence of your mother, what can you say to that?

A No, he ‘used’ me.

Q What do you mean by ‘used’?

A He had sexual intercourse with me.

Q

He further claimed that the reason why you filed a case against him was that you want your mother to separate with him?

A Yes sir.

Q Why did you want your mother to be separated with Florentino Ramirez, Jr.?

COURT:

Recess Session resumed. May we ask everybody to please go outside the courtroom including the accused, as well as the mother. Proceed.

PROS. MANAOIS:

I would like to manifest that the witness is crying.

COURT:

Yes noted. Witness answer the question.

A

Because I don't like his character, and that was the reason why I would like my mother to be separated with him.

Q What do you mean by that?

A Because 'Binaboy niya ako'.

Q What do you mean by those words?

A He destroyed my virginity.

Q

When you said that, do you mean to say that the accused sexually abused you and that was the reason why you wanted that your mother be separated with the accused?

A Yes sir.”[24]

This was all she testified to.

It is the primordial duty of the prosecution to present its case with clarity and persuasion, to the end that conviction becomes the only logical and inevitable conclusion.[25] While it is true that the accused may be convicted on the basis of the lone uncorroborated testimony of the rape victim, it must be clear, positive, convincing, and consistent with human nature and the normal course of things.

Mere accusation is not enough.[26] The simplistic assertion of private complainant that appellant had sexual intercourse with her on May 7 and May 26, 1999, cannot suffice to establish moral certainty as to his guilt. Her statements miserably fell short of the requirement of the law on the quantum of evidence required in the prosecution of criminal cases.[27] As appellant correctly argued, her testimony was sorely lacking in details. Equally important, there was absolutely no proof of force or intimidation.

The circumstantial evidence in the present case consists of 1) the results of the medical examination conducted by Dr. Sanchez and 2) Soledad Pagaduan's testimony that on the morning of May 26, 1999, she saw appellant on top of the victim and holding her thigh. Indeed, such evidence admits of the possibility that he could have had carnal knowledge of private complainant. But we cannot affirm his conviction on the basis alone of a mere possibility. To stress, there was no evidence, either, that the alleged offense had been perpetrated through force or intimidation.

True, appellant's defense of denial and alibi is weak and undeserving of serious consideration. But the argument that it is weak is of no moment. Settled is the rule that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.[28] The prosecution must demonstrate the culpability of the accused beyond reasonable doubt, for an accusation is not synonymous with guilt.[29]

Our legal culture demands that before any person may be convicted of any crime and deprived of life, liberty or property, the requisite quantum of proof must be presented. A strong suspicion or possibility of guilt is not sufficient.[30] Correlatively, to determine the sufficiency of the evidence for the State, it is important to examine it cautiously. If it falls short of establishing moral certainty of guilt, the verdict must be one of acquittal.[31]

“Rape is undoubtedly a vicious crime, and it is rendered more loathsome in this case where the victim is a minor and the accused is a person whom she perceives as a figure of authority. However, our sympathy for the victim and our disgust at the bestial criminal act cannot prevail over our primordial role as interpreters of the law and dispensers of justice.”[32] If the prosecution fails to discharge its burden, the court must sustain the presumption of innocence of the accused, whose exoneration must then be granted as a matter of right.

Finally, we cannot leave unnoticed the lackadaisical, if not inept, manner in which the prosecution presented its case before the trial court. Prosecuting attorneys are admonished to lay out painstakingly the pertinent facts at

their disposal, clarify contradictions, and fill the gaps and loopholes in their evidence, in order to avert legal repercussions that may prove prejudicial to the interest of the State and of the private offended parties.

WHEREFORE, the appeal is GRANTED and the appealed Decision REVERSED. Appellant Florentino O. Ramirez Jr. is ACQUITTED on reasonable doubt. His immediate RELEASE from confinement is ORDERED, unless he is being detained for some other legal cause. The director of prisons is DIRECTED to inform this Court, within five days from receipt of this Decision, of the actual date appellant is released. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 22-34; records, Vol. I, pp. 102-114. Written by Judge Salvador P. Vedana.

[2] RTC Decision, pp. 12-13; rollo, pp. 33-34; records, Vol. I, pp. 113-114.

[3] Both signed by 3rd Assistant City Prosecutor Borromeo R. Bustamante.

[4] Rollo, p. 10; records, Vol. I, p. 1.

[5] Rollo, p. 12; records, Vol. II, p. 1.

[6] Records, Vol. I, p. 43.

[7] Atty. Raul B. Campos.

[8] Records, Vol. II, p. 35.

[9] Appellee's Brief, pp. 7-9; rollo, pp. 100-102. Signed by Assistant Solicitors General Carlos N. Ortega and Alexander G. Gesmundo and Solicitor John Emmanuel F. Madamba. Citations omitted.

[10] Appellant's Brief, pp. 6-10; rollo, pp. 54-58. Signed by Attys. Amelia C. Garchitorena, Marvin R. Osias and Beatriz Teves-de Guzman of the Public Attorney's Office (PAO). Citations omitted.

[11] This case was deemed submitted for decision on May 9, 2003, upon this Court's receipt of appellant's Reply Brief, signed by Attys. Amelia C. Garchitorena and Beatriz Teves-de Guzman of the Public Attorney's Office. Appellant's Brief was received by the Court on September 12, 2002, while appellee's Brief was received on February 4, 2003.

[12] Appellant's Brief, p. 1; rollo, p. 49.

[13] *People v. Bertulfo*, 381 SCRA 762, May 7, 2002; *People v. Nardo*, 353 SCRA 339, March 1, 2001; *Alonte v. Savellano Jr.*, 350 Phil. 700, March 9, 1998; *Reano v. Court of Appeals*, 165 SCRA 525, September 21, 1988.

[14] *People v. Libo-on*, 358 SCRA 152, May 23, 2001; *People v. Nardo*, supra; *People v. Dalabajan*, 345 Phil. 944, October 16, 1997; *Lopez v. Court of Appeals*, 239 SCRA 562, December 29, 1994; *Reano v. Court of Appeals*, supra.

[15] *People v. Garcia*, 351 Phil. 624, March 31, 1998; *Gomez v. Intermediate Appellate Court*, 220 Phil. 295, April 9, 1985; *Ibabao v. People*, 217 Phil. 210, September 28, 1984.

[16] Records, Vol. II, pp. 50-51. The Investigation Report dated October 25, 2000, was prepared by Trial Prosecutor Edmundo M. Manaois in compliance with the October 23, 2000 Order of the court.

- [17] *People v. Garcia*, supra.
- [18] TSN, August 24, 2000, p. 7.
- [19] *People v. Montes*, GR Nos. 148743-45, November 18, 2003; *Alonte v. Savellano Jr.*, supra; *People v. Igat*, 291 SCRA 100, June 22, 1998.
- [20] *People v. De la Cruz*, 353 Phil. 294, April 19, 2001; *People v. Painitan*, 349 SCRA 266, January 16, 2001; *People v. Mariano*, 345 SCRA 1, November 17, 2000; *People v. Cabalida*, 378 Phil. 562, December 15, 1999; *People v. Domogoy*, 364 Phil. 547, March 22, 1999 (citing *People v. Godoy*, 321 Phil. 279, December 6, 1995; and *People v. Sandagon*, 233 SCRA 108, June 13, 1994).
- [21] §8, Rule 112 of the Rules of Court; *Santos v. People*, 395 SCRA 507, January 20, 2003; *People v. Crispin*, 383 Phil. 919, March 2, 2000; *People v. De Guzman*, 351 Phil. 587, March 30, 1998.
- [22] §34, Rule 132 of the Revised Rules on Evidence; *People v. Pecardal*, 230 Phil. 51, November 24, 1986; *Soliman v. Sandiganbayan*, 230 Phil. 45, November 24, 1986; *Republic v. Court of Appeals*, 202 Phil. 83, September 11, 1982.
- [23] Art. 266-A. Rape; When and How Committed. – Rape is committed
- “1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
- ‘a) Through force, threat or intimidation;
- ‘b) When the offended party is deprived of reason or otherwise unconscious;
- ‘c) By means of fraudulent machination or grave abuse of authority; and
- ‘d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.”
- [24] TSN, February 14, 2001, pp. 3-4.
- [25] *People v. Painitan*, supra.
- [26] *People v. Laguerta*, 344 SCRA 453, October 30, 2000.
- [27] *People v. Supnad*, 414 Phil. 637, August 8, 2001; *People v. De Leon*, 377 Phil. 776, December 3, 1999.
- [28] *People v. Librado*, GR No. 141074, October 16, 2003; *People v. Sodsod*, 404 SCRA 39, June 16, 2003; *People v. Ortega*, 412 Phil. 588, June 28, 2001; *People v. Melencion*, 355 SCRA 113, March 26, 2001.
- [29] *People v. Ortega*, supra (citing *People v. Reyes*, 60 SCRA 126, September 30, 1974; *People v. Melencion*, supra; and *People v. Laguerta*, supra).
- [30] *People v. Robles*, supra.
- [31] *People v. Abino*, 423 Phil. 263, December 11, 2001; *People v. De la Cruz*, supra; *People v. Laguerta*, supra.
- [32] *People v. Laguerta*, supra, p. 462, per Ynares-Santiago, J.

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