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EN BANC

[G.R. Nos. 144445-47. April 30, 2003.]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **GENARO BIONG,** *appellant.*

SYNOPSIS

On automatic appeal is appellant's conviction for two counts of qualified rape committed against his 13-year old daughter and sentencing him to death for each count.

On appeal, appellant claimed that the prosecution failed to sufficiently establish his guilt and faulted private complainant for not shouting to get help from her mother who was sleeping right there on the same bed while the incident was happening.

The Supreme Court upheld his conviction on appeal, ruling: that determination of a witness' credibility rests primarily with the trial court; that the trial court found the victim's testimony credible and convincing; that while the victim's mother was on the same bamboo bed when the rape was commited, it did not make cimpainant's claim any less credible; and that fear of her father prevented the victim from attempting to get help from her mother. The Court, however, reduced the death sentence to *reclusion perpetua*, because the prosecution failed to submit independent evidence to prove the victim's minority, despite the admissions of the accused.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; DETERMINATION OF THE TRIAL COURT THEREON IS GENERALLY BINDING ON APPEAL; CASE AT BAR.** – The trial court found the testimony of private complainant to be both credible and convincing. It is settled that the determination of the competence and the credibility of a witness rests primarily with the trial court, because it has the unique position of observing the witness's deportment on the stand while testifying. Absent any substantial reason to justify the reversal of the assessments and conclusions of the

Supreme Court E-Library

trial court, the reviewing court is generally bound by the former's findings. Moreover, in the case at bar, the victim's testimony is corroborated by the medical findings.

2. **ID.; ID.; ID.; MINOR INCONSISTENCIES DO NOT AFFECT CREDIBILITY; CASE AT BAR.** – We have examined the records of the case, but found no significant inconsistencies in her testimony. The supposed contradictions refer to minor details that do not in any way affect or obscure her otherwise explicit account. To be sure, inconsistencies in the testimony of a rape victim are inconsequential when they refer to minor details that have nothing to do with the essential fact of the commission of the crime — carnal knowledge through force or intimidation.

3. **ID.; ID.; ID.; STRAIGHTFORWARD TESTIMONY OF A YOUNG WOMAN THAT SHE WAS RAPED BY HER OWN FATHER MUST BE GIVEN CREDENCE; CASE AT BAR.** – When a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to constitute the commission of the crime. No young woman would recklessly accuse her own father of so grave a crime, unless she has been truly aggrieved. When her testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, it must be given full faith and credit. In a rape case, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing and consistent with human nature and the normal course of things.

4. **ID.; ID.; ID.; FACT THAT MOTHER WAS ASLEEP ON THE SAME BED WHERE VICTIM WAS RAPED IS CREDIBLE IN CASE AT BAR.** – The fact that the mother of private complainant was on the same bamboo bed when the rape was committed does not make the latter's claim any less credible. It was established that the mother was a deep sleeper; working as a laundrywoman, she was always tired at the end of the day. It was also established that she had hearing problems. The records further show that the accused used to sleep on the space between her and the victim. Hence, it is believable that the mother was unaware of and undisturbed by the bestial acts being done by the accused to their daughter.

Supreme Court E-Library

5. ID.; ID.; ID.; VICTIM'S FAILURE TO SHOUT OR TO GET HELP WAS DUE TO FEAR OF HER FATHER; CASE AT BAR. – We cannot fault private complainant for not shouting or trying to get help from her mother, though the latter was sleeping right there on the same bed while the incident was happening. Like any child raised in the traditional Filipino way, the victim was afraid of her father. This was evident from her own testimony when she said, "*Dahil isang tingin lang niya ay natatakot na ako.*" It is understandable that the fear that gripped her cowed her into silence and prevented her from attempting to get help from her mother.

6. CRIMINAL LAW; RAPE; WHEN QUALIFIED; MINORITY OF THE VICTIM MUST BE PROVED, DESPITE ADMISSIONS OF THE ACCUSED, TO WARRANT IMPOSITION OF THE DEATH SENTENCE; CASE AT BAR. – To warrant the imposition of the death penalty, the prosecution must allege in the Information and establish beyond reasonable doubt the minority of the victim as well as her relationship with the accused. In the instant case, the records show that appellant admitted during the pretrial that private complainant was his daughter, and that she was born on August 12, 1985. After getting that admission, the prosecution did not present any more evidence to prove her minority. In *People v. Javier*, we stressed that the prosecution must present independent proof of the victim's age, even though it has not been contested by the defense. "The minority of the victim must be proved with equal certainty and clearness as the crime itself."

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

PANGANIBAN, *J.*:

Just as the prosecution is still required to present evidence to prove the guilt of the accused beyond reasonable doubt despite a guilty plea in a capital offense, so must the government submit

Supreme Court E-Library

independent evidence to prove beyond reasonable doubt all the elements — including the qualifying circumstances — of the crime of rape despite the appellant's admissions during his testimony or during pretrial.

The Case

For automatic review before this Court is the August 17, 2000 Decision[1] of the Regional Trial Court (RTC) of Calamba, Laguna (Branch 36) in Criminal Case Nos. 6586-99-C, 6587-99-C and 6588-99-C, convicting Genaro Biong of two (2) counts of qualified rape and sentencing him to death for each count. The dispositive portion of the Decision reads as follows:

"WHEREFORE, the Court finds accused Genaro Biong:

"a. In CC No. 6586-99-C, guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Art. 335 of the Revised Penal Code, as amended and is hereby sentenced to suffer the death penalty and all its accessory penalties under the law and to indemnify the victim the amount of ₱75,000.00 plus ₱30,000.00 as moral damages; and,

"b. In CC No. 6587-99-C, guilty beyond reasonable doubt of the crime of Rape defined and penalized under Art. 335 of the Revised Penal Code, as amended and is hereby sentenced to suffer the death penalty and all its accessory penalties under the law; and to indemnify the victim the amount of ₱75,000.00 plus ₱30,000.00 as moral damages; and,

"c) In CC No. 6588-99-C, not guilty for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt.

"The immediate transfer of the accused to the National Bilibid Prison is hereby ordered."[2]

Three (3) separate Informations, all dated April 21, 1999, charged appellant as follows:

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[1] *Rollo*, pp. 21–30. The Decision was penned by Judge Norberto Y. Geraldez.

[2] RTC Decision, pp. 9–10; *rollo*, pp. 29–30.

Supreme Court E-Library

Criminal Case No. 6586-99-C

"That on or about February 12, 1998, at Barangay Lingga, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd de[s]ign and [through] force and intimidation and with intent to satisfy his lust, did then and there [willfully], unlawfully and feloniously have carnal knowledge of his daughter one DINA T. BIONG, [3] 13 years old, against her will and consent."[4]

Criminal Case No. 6587-99-C

"That on or about August 12, 1998, at Barangay Lingga, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and [through] force and intimidation and with intent to satisfy his lust, did then and there [willfully], unlawfully and feloniously have carnal knowledge of his daughter one DINA BIONG *y* TERONES, 13 years old, against her will and consent."[5]

Criminal Case No. 6588-99-C

"That sometime in the month of July 1998, at [Barangay] Lingga, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and [through] force and intimidation and with intent to satisfy his lust, did then and there [willfully], unlawfully and feloniously have carnal knowledge of his daughter one DINA BIONG *y* TERONES, 13 years old, against her will and consent."[6]

During his arraignment on July 19, 1999, appellant, with the assistance of his counsel *de oficio*,[7] pleaded not guilty.[8] After trial on the merits, the RTC rendered the assailed Decision.

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[3] The Information in Criminal Case No. 6586-99-C did not include the victim's middle name.

[4] *Rollo*, p. 8.

[5] *Id.*, p. 9.

[6] *Id.*, p. 10.

[7] Atty. Arnold Punzalan.

[8] See Order dated July 19, 1999; records, Vol. I, p. 23.

Supreme Court E-Library

The Facts

Version of the Prosecution

The Office of the Solicitor General (OSG) narrates the prosecution's version of the factual antecedents as follows:

"In the evening of July 18, 1998, thirteen-year old [Dina] Biong was sleeping in her home in Barangay [Lingga], Calamba, Laguna, together with her mother and appellant — her father. Since their house was small and had only one room, they all slept in just one bed.

"While deep in her sleep, [Dina] was suddenly roused when she felt someone was touching her. When she turned her head looked who it was, she saw appellant caressing her body. Before Dina could move, appellant kissed her, mashed her breast and then started removing her clothes. Surprised, [Dina] struggled and pushed appellant. However, her effort proved futile. Appellant, took out a knife, thrust it on [Dina's] neck and laid on top of her. Pinning [Dina] with his body, appellant then forcibly removed her shorts and panty. Immediately appellant inserted his penis into [Dina's] vagina and thrust his buttocks back and forth. After satisfying his lust, appellant casually crawled back to the other side of the bed and lay beside [Dina's] mother. Too tired from work, [Dina's] mother did not notice what had happened. She was in deep sleep the whole night and woke up only the following morning. Afraid that appellant would inflict more harm on her, [Dina] just kept silent about everything.

"However, appellant did not stop. On August 12, 1999, appellant again unleashed his bestial desire upon his own daughter. In the same fashion, while [Dina] was sleeping, appellant began caressing and kissing her body. When [Dina] woke up, appellant immediately went on top of her, pinned her down and started removing her shorts and panty. Losing no time appellant then inserted his penis into [Dina's] vagina and commenced pumping through and through. After satisfying his lust, appellant again casually went to the other side of the bed and lay beside [Dina's] mother. As usual, [Dina's] mother, too tired from work and having a hearing problem, did not notice what had happened to her daughter.

"On February 17, 1999, after gaining enough courage and realizing the futility of her silence, [Dina] told her mother about the sexual abuses committed on her by appellant. Upon hearing this, [Dina's] mother immediately had her examined and filed a complaint against appellant.

Supreme Court E-Library

"The medico-legal genital examination on the victim conducted by Dra. Lorna P. Sta. Maria disclosed that [Dina's] hymen had healed lacerations at 7 and 11 o'clock positions with IE admitting one finger with ease."[9]

Version of the Defense

For his part, appellant relates his version of the facts in this manner:

"The defense presented the oral testimonies of Genaro Biong, Mary Jean Geronimo and Mrs. Damasa Terones.

"The first witness, Genaro Biong, is the accused. He testified that on July 19, 1998, he was at the house of his manager, Eddie Hernandez to repair the tricycle he was driving. After which, he proceeded to the house of his brother-in-law, Basil and stayed there until the next day because they had drinking spree. On August 12, 1998, he was plying his route after which, he proceeded to the house of Basil for a drinking session and he didn't [go] home the next day. On February 12, 1999, after plying his route he went home but nobody was at their house. His wife arrived at around 9:00 pm. And after a few minutes, his daughter arrived from the house of his sister. He went out to ply his route and went home the next morning. He denied the claim of his daughter that he was using *shabu*. He presented a Chemistry Report from the Regional Crime Laboratory Office 4 showing that he is negative for shabu in his blood. The only reason he can think of why his daughter filed the case was that his father-in-law has a grudge against him because he refused to live with his in-laws. His father-in-law wanted to take custody of his daughter.

"The second witness, Mary Jean Geronimo, is the forensic chemist who tested the accused for *shabu*. The counsel stipulated to the due execution of the findings conducted or contained in the Chemistry Report No. 4266-99 duly signed by the witness.

"The last witness, [Damasa] Terones is the mother of the alleged victim. She testified that they sleep and crammed together in one bed that it is natural that if someone moves his legs or hands or if it touches you, you would be awaken. She admitted that his husband is fond of drinking and he sometimes doesn't come home because of his drinking session with his friend. She said that during the three

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[9] Appellee's Brief, pp. 4–6; *rollo*, pp. 89–91. Citations omitted.

Supreme Court E-Library

(3) rape incidents, she was not awaken because she was tired."[10] (Citations omitted)

Ruling of the Trial Court

The trial court held that "Dina Biong testified in a straightforward, natural and candid manner. Although she was visibly under stress and almost continuously in tears, her testimony was clear. She was credible. Her testimony was convincing."

In brushing aside the alibi of appellant, the trial court found that he had failed to show the physical impossibility of his presence at the site of the crime. Further, his alibi was uncorroborated.

Hence, this automatic review.[11]

The Issues

Specifically, appellant assigns the following errors for our consideration:

"I

The lower court erred in convicting the accused-appellant of the crime of rape despite the blatant inconsistencies in the testimony of the alleged rape victim.

"II

The lower court erred in convicting the accused-appellant of the crime of rape, defined and penalized under Art. 335 of the Revised Penal Code, as amended, when his guilt was not proven beyond reasonable doubt."[12]

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[10] Appellant's Brief, pp. 5–6; *rollo*, pp. 54–55.

[11] This case was deemed submitted for resolution on September 28, 2001, upon receipt by this Court of appellant's Reply Brief. Earlier, the Court received Appellee's Brief signed by Assistant Solicitor General Carlos N. Ortega and Associate Solicitor Romeo S. Buenaventura of the Office of the Solicitor General. Appellant's Brief was filed on April 6, 2001 and was signed by Attys. Arceli A. Rubin, Marvin R. Osias and Ma. Vanessa B. Donato-Balmaceda of the Public Attorney's Office.

[12] Appellant's Brief, p. 1; *rollo*, p. 50. Original in upper case.

Supreme Court E-Library

In sum, the main issue is whether the prosecution's evidence sufficiently established appellant's guilt beyond reasonable doubt.

The Court's Ruling

Appellant's conviction should be affirmed, but the penalty must be reduced *to reclusion perpetua.*

Main Issue:

Sufficiency of the Prosecution's Evidence

At the outset we note that in Criminal Case No. 6586-99-C, the trial court acquitted appellant of rape that had allegedly taken place on February 12, 1998. Basic is the rule that an acquittal is immediately final upon its promulgation.[13] Hence, that case is no longer subject to our review. We will deal only with Criminal Case Nos. 6587-99-C and 6588-99-C.

Appellant argues that the prosecution failed to prove his guilt beyond reasonable doubt. The records, however, show otherwise. Private complainant testified as follows:

"Q Let's go to that incident that happened on July 19, 1998, what time did that rape incident happened?
A I don't know the time because it was night time, sir.

Q Where were you then?
A I was at home, sir.

Q What were you xxx doing just before you were raped?
A I was sleeping, sir.

Q Where were you then sleeping?
A In our house, sir.

Q In what part of your house?
A In a room, sir.

Q Did you have any companion in that room at that time?
A Yes, sir, the three of us with my mother.

Q When you say the three of us, to whom are you referring to?
A My father, sir.

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[13] *People v. Sison*, 105 Phil. 1249, January 30, 1959.

Supreme Court E-Library

Q Do you have any other siblings?
A None, sir.

Q How were you awakened?
A Because somebody was embracing me, sir.

Q After you sensed that somebody was embracing you, how did you respond?
A I was surprised, sir.

Q Why were you surprised?
May we move, your Honor that the answer of the witness be recorded in the vernacular.
A '*Dahil hindi ko po akalain na may mangyayari po sa akin.*'

Q Did you find out the identity of that person who was embracing you?
A Yes, sir.

Q Who is that person?
A Genaro Biong, sir.

Q Your father?
A Yes, sir.

xxx xxx xxx

Q After you were embraced by you father what else did he do?
A He was kissing me from my head up to my feet, sir.

Q What did you do when he did that?
A I was struggling, sir.

Q How did you struggle?
A I was pushing him away, sir.

Q Were you able to push him away?
A No, sir.

Q Why?
A Because he is heavy, sir.

xxx xxx xxx

Q Did you shout?
A No, sir.

Supreme Court E-Library

Q Why did you not shout?
A Because he has a knife, sir.

Q What kind of knife?
A It is big and broad, sir.

Q After he took off your shorts, what else did he remove?
A My panty, sir.

Q And what did you do while he was removing your panty?
A '*Nagpapapalag po.*'

Q After he removed your panty what else did he do?
A He touched my breast, sir.

Q Which breast?
A Both, sir.

Q And after he touched both your breasts what did he do next?
A He kissed me from my head to my feet, sir.

xxx xxx xxx

Q After he sucked your breast what did he do next?
A '*Ginalaw n'ya po ako.*'

Q When you said '*ginalaw n'ya po ako*' tell us exactly what did he do?
A He laid on top of me, sir.

Q What else did he do?

FISCAL:
(Witness at this point, your Honor cannot seem to give her answer.)

WITNESS:
A He inserted his penis to my vagina, sir.

FISCAL:
(Witness is crying when she was giving her answer.)

Q What were you doing at that point when he was sucking your breast?
A '*Nagpapalag po.*'

Q At that point that he penetrated you, what were you then doing?
A I was not able to move because he was lying on top of me, sir.

Supreme Court E-Library

xxx xxx xxx

Q You said you were again raped on August 12, 1998, what time did this happen?
A Night time also, sir.

Q Where did this happen?
A Also in our house, sir.

Q In what particular portion of your house?
A Also in the room, sir.

Q What were you doing just before you were raped?
A I was sleeping, sir.

Q And what roused you from your sleep?
A Because somebody is touching me, sir.

Q Were you able to recognize that person who was touching you?
A Yes, sir.

Q Whose that person?
A Genaro Biong, sir.

Q When you say that you were roused by that person who was touching you, tell us on what part of your body were you being touched?
A All of my body, sir.

Q How did you react?
A I was surprised, sir.

Q Where was your mother at that time?
A Also sleeping, sir.

Q After you were touched all over your body by your father, what else happened?
A He was kissing me from my head up to my feet, sir.

Q What were you wearing then?
A Long pants, sir.

Q What else?
A T-shirt, *sando* and panty, sir.

Q When your father was kissing you all over, can you tell us if you were then still dressed?
A None, sir.

Supreme Court E-Library

Q Who removed your clothes?
A Genaro Biong, sir.

Q When you say that your clothes were taken off, tell us were all your clothes and underwear taken off?
A No, sir.

Q Tell us, which apparel was removed from your body?
A My pants and panty, sir.

Q And who removed these?
A Genaro Biong, sir.

Q And how did he remove it?
A He took it off, sir.

Q What were you doing when he was removing your long pants and panty?
A I was lying down, sir.

Q Nothing else?
A I was struggling, sir.

Q Tell us, how did you struggle?
A I was pushing him away, sir.

Q Were you able to succeed in pushing him away?
A No, sir.

Q Why?
A Because he's heavy, sir.

Q And after he was able to remove your pants and panty, what did he do next?
A He laid on top of me, sir.

Q After he laid on top of you, what did he do next?
A He again inserted his penis to my vagina, sir.

Q What did you feel when he did that?
A It hurts, sir.

Q After he penetrated you, what else happened?
A He laid beside my mother, sir."[14]

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[14] TSN, August 25, 1999, pp. 5–13.

Supreme Court E-Library

The foregoing testimony indubitably shows that in advancing his libidinous pursuit, appellant not only used his moral ascendancy over his own daughter, but also employed intimidation. By threatening private complainant with a knife, he succeeded in having carnal knowledge of her. The element of rape — carnal knowledge through intimidation — was duly established.

Credibility of the Victim's Testimony

The trial court found the testimony of private complainant to be both credible and convincing. It is settled that the determination of the competence and the credibility of a witness rests primarily with the trial court,[15] because it has the unique position of observing the witness's deportment on the stand while testifying. Absent any substantial reason to justify the reversal of the assessments and conclusions of the trial court, the reviewing court is generally bound by the former's findings.[16] Moreover, in the case at bar, the victim's testimony is corroborated by the medical findings.

According to the Medico-Legal Certification,[17] the victim had lacerations on her hymen. Although not indispensable to a rape conviction, the findings in the report that point to sexual assault strengthen her claim that she was raped.

Appellant alleges inconsistencies in the testimony of private complainant that supposedly render it highly incredible. We have examined the records of the case, but found no significant inconsistencies in her testimony. The supposed contradictions refer to minor details that do not in any way affect or obscure her otherwise explicit account. To be sure, inconsistencies in the testimony of a rape victim are inconsequential when they refer to minor details that have nothing to do with the essential fact of the commission of the crime — carnal knowledge through force or intimidation.[18]

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[15] *People v. Tadeo*, GR Nos. 128884–85, December 3, 2001.

[16] *People v. Glabo*, GR No. 129248, December 7, 2001.

[17] Records, Vol. 1, p. 3.

[18] *People v. Cula*, 329 SCRA 101, March 28, 2000.

Supreme Court E-Library

When a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to constitute the commission of the crime.[19] No young woman would recklessly accuse her own father of so grave a crime, unless she has been truly aggrieved.[20] When her testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, it must be given full faith and credit.[21] In a rape case, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing and consistent with human nature and the normal course of things.[22]

The fact that the mother of private complainant was on the same bamboo bed when the rape was committed does not make the latter's claim any less credible. It was established that the mother was a deep sleeper; working as a laundrywoman, she was always tired at the end of the day. It was also established that she had hearing problems. The records further show that the accused used to sleep on the space between her and the victim. Hence, it is believable that the mother was unaware of and undisturbed by the bestial acts being done by the accused to their daughter.

We cannot fault private complainant for not shouting or trying to get help from her mother, though the latter was sleeping right there on the same bed while the incident was happening. Like any child raised in the traditional Filipino way, the victim was afraid of her father. This was evident from her own testimony when she said, "*Dahil isang tingin lang niya ay natatakot na ako.*"[23] It is understandable that the fear that gripped her cowed her into silence and prevented her from attempting to get help from her mother.

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[19] *People v. De los Reyes*, 327 SCRA 56, March 1, 2000.

[20] *People v. Mangila*, 325 SCRA 586, February 15, 2000.

[21] *People v. Gopio*, 346 SCRA 408, November 29, 2000.

[22] *People v. Flores*, 322 SCRA 779, January 20, 2000.

[23] TSN, August 25, 1999, p. 21.

Supreme Court E-Library

The trial court was correct in brushing aside appellant's defense of denial and alibi, which was uncorroborated and unsubstantiated by clear and convincing evidence. It aptly explained:

"xxx For *alibi* xxx to prosper, the defense must be able to show that the accused could not have been physically present at the [site] of the crime, or its immediate vicinity, during the time of its commission. In these cases[,] the house of the accused's brother-in-law where the accused claimed to be at the time of the incidents of rape on July 19, 1998 and August 12, 1998 was about 30 minutes drive from the place of the incident. Moreover, the accused did not even present his brother-in-law Basil, at least to corroborate his testimony. The Hon. Supreme Court in the case of *People vs. Rene Henson,* [stated] that alibi cannot stand against the positive identification of the accused made by the victim. Accordingly, his defense of alibi must necessarily fail."[24]

Proper Penalty

To warrant the imposition of the death penalty, the prosecution must allege in the Information and establish beyond reasonable doubt the minority of the victim as well as her relationship with the accused.[25]

In the instant case, the records show that appellant admitted during the pretrial that private complainant was his daughter, and that she was born on August 12, 1985. After getting that admission, the prosecution did not present any more evidence to prove her minority. In *People v. Javier,* we stressed that the prosecution must present independent proof of the victim's age, even though it has not been contested by the defense. "The minority of the victim must be proved with equal certainty and clearness as the crime itself."[26]

Just as the prosecution is still required to present evidence to prove the guilt of the accused beyond reasonable doubt despite a guilty plea in a capital offense, so must the government submit

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[24] Assailed Decision, p. 8; *rollo*, p. 28. Citations omitted.

[25] *People v. Liban*, 345 SCRA 453, November 22, 2000.

[26] *People v. Tundag*, 342 SCRA 704, 719, October 12, 2000, per Quisumbing,

Supreme Court E-Library

independent evidence to prove beyond reasonable doubt all the elements — including the qualifying circumstances — of the crime of rape despite the appellant's admissions during his testimony or during pretrial. After all, qualifying circumstances alter the nature and the gravity of the crime and increases the penalty to death.

By itself, appellant's admission falls short of proof beyond reasonable doubt. Considering the irreversible and final nature of the penalty of death once carried out, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime will suffice for the Court to uphold such extreme penalty.

With respect to damages, this Court has consistently held that, upon a finding of the fact of rape, the award of civil indemnity *ex delicto* is mandatory.[27] If the death penalty is imposed, the indemnity should be ₱75,000; otherwise, the victim is entitled to ₱50,000 for each rape incident.[28] The additional amount of ₱50,000 should also be awarded as moral damages for each case at bar. Moral damages are automatically granted in rape cases without need of further proof other than the commission of the crime, because it is assumed that a rape victim has actually suffered moral injuries entitling her to such an award.[29] Further, exemplary damages should be awarded because of the duly established circumstance of relationship.[30]

WHEREFORE, the automatically appealed Decision in Criminal Case Nos. 6587-99-C and 6588-99-C is hereby ***AFFIRMED*** with the ***MODIFICATION*** that appellant is found guilty of simple, not qualified, rape; and is sentenced to *reclusion perpetua*, not death. For each count of rape, the amount of civil indemnity

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[27] *People v. Tagud, Sr.*, GR No. 140733, January 30, 2002.

[28] *People v. Agravante*, GR Nos. 137297 & 138547–48, December 11, 2001; *People v. Lor*, 361 SCRA 402, July 19, 2001.

[29] *People v. Agravante, supra*; *People v. Lor, supra*; *People v. Prades*, 355 Phil. 150, July 30, 1998.

[30] *People v. Catubig*, 363 SCRA 621, August 23, 2001.

Supreme Court E-Library

ex delicto is reduced to ₱50,000, moral damages is increased to ₱50,000, and exemplary damages is further awarded in the sum of ₱25,000.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C .J ., Bellosillo, Puno, Vitug, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and *Azcuna, JJ.,* concur.

EN BANC

[G.R. No. 146099. April 30, 2003.]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **JIMMEL SANIDAD, PONCE MANUEL alias PAMBONG, JOHN DOE (at large) and PETER DOE (at large),** *accused.* **JIMMEL SANIDAD and PONCE MANUEL *alias* PAMBONG,** *appellants.*

SYNOPSIS

Appellants were convicted of the complex crime of murder of one Rolando Tugadi and of multiple attempted murder of the passengers of the jeepney they ambushed and were sentenced to death. The Supreme Court upheld their conviction on appeal, ruling: that the trial court's findings on the witnesses' credibility are generally upheld on appeal; that the supposed inconsistent and inaccurate details in the testimonies of prosecution witnesses were relatively trivial; that crime victims cannot be expected to recall with exact precision the minutiae of the incident; that surviving passengers positively identified appellants as the malefactors; and that fear of reprisal or the individual manner by which individuals react when confronted by a gruesome event as to place the viewer in a state of shock for