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further scrutiny of the findings of fact made by trial courts.[38] Otherwise, we would convert this Court into a trier of facts.[39]

**WHEREFORE**, the instant petition is *DENIED*. The assailed decision of the respondent appellate court, which upheld the rulings and findings of the courts below, is *AFFIRMED*.

Costs against petitioners.

**SO ORDERED.**

*Bellosillo (Chairman), Austria-Martinez*, and *Tinga, JJ.*, concur.

*Callejo, Sr., J.*, no part.

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**EN BANC**

[G.R. No. 144428. August 6, 2003]

**PEOPLE OF THE PHILIPPINES**, *appellee, vs.* **JUAN M. ROSARIO**, *appellant*.

**SYNOPSIS**

Appellant was found guilty by the trial court of the crime of incestuous rape for sexually abusing his thirteen-year old daughter. He was sentenced to suffer the supreme penalty of death. Hence, this automatic review of the case.

The Supreme Court affirmed the trial court's decision finding that the prosecution has proved the guilt of the appellant beyond reasonable doubt. The victim testified in a straightforward, candid and convincing manner which left no room for doubt

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[38] *Id.* at 587 citing *Catapusan v. Court of Appeals*, G.R. No. 109262, 21 November 1996, 264 SCRA 534, 539.

[39] *Ibid.*

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that she was in fact ravished by her own father. Moreover, the Court held that testimonies of rape victims, especially child victims, are given full weight and credit. Youth and immaturity are generally badges of truth. Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.

The Court likewise ruled that the imposition of the death penalty upon appellant was justified by the concurrence of the minority of the victim and her relationship to appellant, which were alleged in the Information and sufficiently proven by the prosecution.

## SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TESTIMONIES OF RAPE VICTIMS, ARE GIVEN FULL WEIGHT AND CREDIT.** — [A] rape victim's testimony against her parent is entitled to great weight since Filipino children have a natural reverence and respect for their elders. These values are so deeply ingrained in Filipino families and it is unthinkable for a daughter to brazenly concoct a story of rape against her father, if such were not true.

2. **ID.; ID.; ID.; SETTLED IS THE RULE THAT TESTIMONIES OF RAPE VICTIMS, ESPECIALLY CHILD VICTIMS, ARE GIVEN FULL WEIGHT AND CREDIT.**— Settled is the rule that testimonies of rape victims, especially child victims, are given full weight and credit. In the present case, Vanessa was barely thirteen years old when she was raped. We have ruled that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Youth and immaturity are generally badges of truth. Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own

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degradation were it not to condemn an injustice and to have the offender apprehended and punished. The embarrassment and stigma of allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rule out the possibility of false accusations of rape.

3. **ID.; ID.; IDENTIFICATION OF ACCUSED; SHOWN BY FAMILIARITY OF WITNESS WITH THE ACCUSED.**— A person may be identified not only by his face or voice but also by his physique, as in this case. We have held that once a person has gained familiarity with another, identification is quite an easy task. Indeed, she could not have made a mistake in identifying her own father as her coital tormentor.

4. **ID.; ID.; DENIAL; CANNOT PREVAIL OVER POSITIVE DECLARATIONS OF VICTIM WHO CONVINCINGLY IDENTIFIED ACCUSED AS PERPETRATOR OF THE RAPE.**— [D]enial is an inherently weak defense and, unless supported by clear and convincing evidence, the same cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified the appellant as the defiler of her chastity. Between the positive declarations of a prosecution witness and the negative statements of the accused, the former deserve more credence.

5. **CIVIL LAW; DAMAGES; CIVIL INDEMNITY *EX DELICTO*, MORAL DAMAGES AND EXEMPLARY DAMAGES; AWARDED IN CASE AT BAR.**— Upon the finding of the fact of rape, the award of civil indemnity *ex delicto* becomes mandatory. If the supreme penalty of death is imposed, the indemnity of ₱75,000.00 is granted to the victim. In addition, she is entitled to the amount of ₱50,000.00 as moral damages, without need of proof, and another ₱25,000.00 as exemplary damages for each count of rape to set an example for the public good.

**APPEARANCES OF COUNSEL**

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

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## DECISION

***PER CURIAM*** :

A father who rapes his very own daughter desecrates not only her purity and her trust, but also the mores of society he is expected to uphold. By forcing his odious bestial instincts on his daughter, he loses all respect due him as a human being.

Before us for automatic review is the Decision[1] dated June 26, 2000, of the Regional Trial Court, Branch 57, San Carlos City, in Criminal Case No. SCC-3281, finding Juan M. Rosario, appellant, guilty of the crime of rape and imposing upon him the supreme penalty of death.

The Information[2] against appellant reads:

"That on or about the 8th day of April, 2000, at around 1:00 o'clock in the morning at Lucban, San Carlos City, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, by means of violence, force and intimidation and with lewd design, did then and there, willfully, unlawfully and feloniously, have sexual intercourse with the offended party Vanessa Q. Rosario, *13 years old daughter of the accused* against her will and consent.

"Contrary to Article 335 of the Revised Penal code."

Upon arraignment, appellant pleaded "not guilty"[3] and trial on the merits ensued. The prosecution presented three witnesses, namely: Vanessa Q. Rosario, the victim; Dr. Maria Salome G. Romero, who examined the victim; and Virgie Manzon, the victim's aunt.

The evidence for the prosecution reveals that Vanessa was born on September 4, 1986 to appellant and Letecia Quitaleg-Rosario.[4] They live in Lucban, San Carlos City. On April 8,

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[1] Penned by Judge Bienvenido R. Estrada.

[2] Records, Vol. I at 1.

[3] *Id.* at 11.

[4] Exhibit "B", Vanessa's Certificate of Live Birth, Records, Vol. I at 27 and Vol. II at 3–4.

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2000, at around 1:00 o'clock in the morning, while Vanessa was sleeping in her room, she was suddenly roused from sleep by the weight of appellant on top of her. She was shocked and felt she had no more panty. Then she felt pain in her private part as he inserted his penis in her vagina. Despite her plea for him to stop, he continued molesting her until he was able to satisfy his savage urge.[5]

After that harrowing incident, appellant left and returned to the master's bedroom as she heard the closing of the door. She then wore her panty, rushed to her grandmother who was sleeping upstairs and told her she was raped by her father. Upon her grandmother's instruction, she went to the house of her aunt Virgie Manzon, a high school teacher, who accompanied her to the police and later, to the Pangasinan Provincial Hospital for medical examination.[6]

Dr. Maria Salome G. Romero, senior resident of the Obstetrics-Gynecology Department of the Pangasinan Provincial Hospital in Bolingit, San Carlos City, testified that she physically examined the victim on April 8, 2000, at 4:00 o'clock in the morning. She confirmed the Medico-Legal Certificate[7] she issued on April 8, 2000 stating that the victim's hymen has old partial lacerations at 6:00 o'clock, 9:00 o'clock and 3:00 o'clock positions which could have been caused by an injury previously sustained by the victim or by the insertion of a man's private part. She also disclosed that sperm cells were present in the victim's vaginal canal.[8]

Appellant vehemently denied that he raped his own daughter. He testified that in the evening of April 7, 2000, he was in his house at Lucban Street, San Carlos City. He and his wife slept at around 10:30 or 11:30 o'clock in the evening in their bedroom. Then at around 12:30 midnight, he heard barking of the dogs,

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[5] TSN, May 4, 2000 at 3–5.

[6] *Id.* at 6–8.

[7] Exhibit "D", Records, Vol. I at 25.

[8] TSN, May 2, 2000 at 3–4.

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so he went out and focused his flashlight at the gate. He did not see anybody but the dogs continued barking. Thereafter, he went back to his bedroom and slept. He was awakened again at 4:00 o'clock in the morning when his daughter Odessa entered their bedroom and asked him about the whereabouts of his other daughter Vanessa and Jenny, adopted daughter of appellant's mother.[9] He went to Vanessa's room but she was not there. So he told Odessa that probably Vanessa might have already opened the store as it was Saturday. He went back to sleep but was awakened again by Odessa, informing him that the policemen and his brother-in-law, Robert Fernandez, were looking for him. They brought him to the police headquarters and informed him that her daughter Vanessa charged him with rape. He denied the accusation and explained that he whipped his daughter as she was hardheaded,[10] the reason why she denounced him.

On cross-examination, he admitted that while he was in jail, he wrote a letter[11] to his mother asking for forgiveness, thus:

*"NANAY,*

*NAY, PARANG AWA NYO NA, PATAWARIN NYO AKO, AT AKOY LULUHOD SA INYO NA HIHINGI NG PATAWAD. WAG NYO SANANG MAWASAK AT MAGKALAYO KAMI NG PAMILYA KO AT ANAK PLS! LANG NAY, PARANG AWA NYO LANG ALANG-ALA SA MGA APO NYO. BIGYAN NYO AKO NG ISA PANG PAGKAKATAON UPANG MAG-BAGONG BUHAY. NAY WALA AKONG IBANG IPINAGDARASAL KUNG HINDI KAYO NA SANAY PATAWARIN NYO AKO. HINDI PA HULI ANG LAHAT.*

*PLS LANG NAY, LULUHOD AKONG HIHINGI NG TAWAD SA INYO.*

*NAY, PUNTAHAN NYO AKO RITO NGAYON ARAW NA ITO PARANG AWA NYO NA AT NALALAPIT NA ANG PAGHUSGA AKIN NG HUKOM. NAY WAG NYO SANA AKONG BIGUIN SA HINIHILING KONG ITO.*

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[9] TSN, May 10, 2000 at 4.

[10] *Id.* at 3–5.

[11] Exhibit "E", Records, Vol. I at 37.

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*PLS. NAY PATAWARIN NYO AKO SA LAHAT NG KASALANAN KO*

*PLS! PUNTAHAN NYO AKO RITO. PLS! LANG NAY.*

*PARANG AWA NYO NA.*

*MAHAL KITA NAY.*

*BOY*"[12]

On June 26, 2000, the trial court rendered its Decision convicting the appellant of incestuous rape under Article 335 of the Revised Penal Code. The dispositive portion reads:

"WHEREFORE, the Court finds the accused Juan Rosario guilty beyond reasonable doubt of incestuous rape under Article 335 of the Revised Penal Code as mandated by Sec. 11 of R.A. No. 7659 and hereby imposes upon him the supreme penalty of death by lethal injection and shall indemnify his daughter Vanessa Rosario, the victim herein, ₱75,000.00 as civil indemnity, ₱25,000.00 as moral damages. ₱25,000.00 as exemplary damages and to pay the costs.

"SO ORDERED."[13]

Hence, this appeal based on the following lone assignment of error:

"THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH BEYOND REASONABLE DOUBT THAT HE WAS INDEED THE PERPETRATOR OF THE CRIME CHARGED."[14]

Appellant argues that during the alleged incident, the place was dark, hence, Vanessa could not have recognized and identified the rapist. She pointed to him as the perpetrator because she heard the sound of the door of his bedroom closing after the rapist left her room.

The Solicitor General counters that the victim was able to recognize the appellant as the rapist since he is her father. Besides,

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[12] *Id.*

[13] Records Vol. I at 51.

[14] *Rollo*. Appellant's Brief at 1.

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the criminal act took sometime, affording her ample opportunity to identify him. Clearly, the fact that she heard the door to her parents' room closed after the incident is not the only basis why she was able to recognize appellant.

After a careful evaluation of the parties' evidence, we affirm the trial court's finding that the prosecution has proved the guilt of appellant beyond reasonable doubt. Vanessa testified in a straightforward, candid and convincing manner which leaves no room for doubt that she was in fact ravished by her own father, thus:

"PROS. TAMINAYA

Q Sometime in the evening of April 7, 2000 where did you sleep?

A In my room, sir.

Q Do you have a companion?

A None, sir.

Q Now, when you slept on the night of April 7, 2000 alone in your room, on the early dawn of April 8 at around 1:00 o'clock in the morning, can you remember of any unusual incident that happened?

A Yes, sir.

Q What is that unusual incident?

A *I was raped by my father, sir.*

Q How were you able to feel that you were raped?

A While I was asleep, and when I woke up, I felt that there was somebody on top of me and I also felt that I have no more panty at that time, sir.

Q When you felt that something heavy on top of you and that you have no more panty, what else did you feel?

A I felt pain in my private part, sir.

Q What did you feel that caused the pain in your private part?

A *Because my father inserted his penis on my vagina, sir.*

Q *What did you tell your father when you felt that he inserted his penis in your vagina?*

A *I told him, stop it, stop it father, because it's painful, sir.*

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Q *What did your father tell you when you told him about it to stop because it is painful?*
A *None, sir, he just struck me on my thigh.*
Q *After your father struck you on your thigh what did your father do?*
A *He went on until his sperm cell came out, sir.*
Q What did you feel when the sperm cell was released by your father?
A It was sticky.
Q *After the release of the sperm cell by your father, what did your father do?*
A *He left my room and went back to my parents' room, sir.*
Q *How did you come to know that your father proceeded to the room of your mother?*
A *Because of the sound of their door, sir.*
Q What did you do when your father left you?
A I wore my panty and I rushed to my grandmother, sir.
Q What is the name of your grandmother?
A Ibay, sir.
Q Where is the room of your grandmother?
A Upstairs, sir.
Q What did you tell your grandmother?
A *I told her that my father raped me, sir.*
Q What did your grandmother tell you?
A That I will go to my aunt, sir.[15]

x x x x x x x x x

Q When you reached the front of the house of your aunt at Barangay Quezon, what did you do?
A I reported to her, sir.
Q What did you report to your aunt?
A *That I was raped by my father, sir.*

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[15] TSN, May 4, 2000 at 4–9.

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Q What did your aunt Virgie tell you?
A That we will report the incident to the police authorities, sir.
Q You want to tell the Honorable Court that it was on the same early dawn of April 8, 2000 that you and your aunt reported to the police what your father did to you?
A Yes, sir.
Q So you and your aunt were the ones who reported the matter to the police?
A Yes, sir.[16]

x x x x x x x x x

Q After reporting to the police that you were raped by your father, where did you proceed?
A In the hospital, sir.
Q You want to tell the Honorable Court that Provincial Hospital in San Carlos City in Bolingit?
A Yes, sir.
Q What did they do there to you?
A They examined me, sir.

x x x x x x x x x[17]

*Q If your father, whom you claimed you asked him to stop but still insisted in raping you until his sperm cell was released is now in the Court room, will you be able to identify him?*
*A Yes, sir.*
*Q Will you kindly stand up and point to him.*

*INTERPRETER*

*Witness pointed to Juan Rosario, the accused.*

PROS TAMINAYA

Q Now that you claimed that you were raped by your own father, what do you want to happen to your father?
A What ever will be done to him, let it be, sir.

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[16] *Id.*, at 7.
[17] *Id.* at 8.

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Q You want your father to be incarcerated the whole of his life?

A Yes, sir.

Q Why?

A Because what he did to me is wrong, sir.

Q Will you kindly repeat that wrongful act of your father?

A *He raped me, sir.*"[18]

The above testimony vividly describes Vanessa's traumatic experience in the hands of her own father. We reiterate that a rape victim's testimony against her parent is entitled to great weight since Filipino children have a natural reverence and respect for their elders. These values are so deeply ingrained in Filipino families and it is unthinkable for a daughter to brazenly concoct a story of rape against her father, if such were not true.[19]

Moreover, settled is the rule that testimonies of rape victims, especially child victims, are given full weight and credit.[20] In the present case, Vanessa was barely thirteen years old when she was raped. We have ruled that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed.[21] Youth and immaturity are generally badges of truth.[22] Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an

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[18] *Id.* at 9.

[19] *People vs. Panganiban*, G.R. Nos. 138439–41, June 25, 2001, 359 SCRA 509.

[20] *Id.*

[21] *Id.*, citing *People vs. Mariño*, G.R. No. 132550, February 19, 2001, 352 SCRA 127.

[22] *Id.*, citing *People vs. Nardo*, G.R. No. 133888, March 1, 2001, 353 SCRA 339.

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injustice and to have the offender apprehended and punished.[23] The embarrassment and stigma of allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rule out the possibility of false accusations of rape.[24]

Besides, the victim's testimony in the present case is corroborated by the findings of Dr. Romero that there were partial lacerations in her hymen at 6:00 o'clock, 9:00 o'clock and 3:00 o'clock positions which could have been caused by an insertion of the private part of a man; and that there were sperm cells in her vaginal canal.

While it may be true that it was dark at that time, however, Vanessa could very well identify the appellant as the culprit. It is important to note that they and the rest of the family have been living together in just one roof. Thus, she is so familiar with him. A person may be identified not only by his face or voice but also by his physique, as in this case. We have held that once a person has gained familiarity with another, identification is quite an easy task.[25] Indeed, she could not have made a mistake in identifying her own father as her coital tormentor. This fact cannot simply be overturned by appellant's mere denial which was not supported by any evidence. We have consistently held that denial is an inherently weak defense and, unless supported by clear and convincing evidence, the same cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified the appellant as the defiler of her chastity.[26] Between the positive

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[23] *Supra*, citing *People vs. Adora*, G.R. Nos. 116528-31, July 14, 1997, 275 SCRA 441.

[24] *Id.*, citing *People vs. Pontilar, Jr.*, G.R. No. 104865, July 11, 1997, 275 SCRA 338.

[25] *People vs. Cañete*, G.R. No. 142930, March 28, 2003, citing *People vs. Reyes*, 309 SCRA 622.

[26] *People vs. Lalingjaman*, G.R. No. 132714, September 6, 2001, 364 SCRA 536.

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declarations of a prosecution witness and the negative statements of the accused, the former deserve more credence.[27]

We are not convinced that the victim filed the complaint against her father because he whipped her. It would take the most senseless kind of depravity for a young daughter to fabricate a story which would send her father to death only because he disciplined her. Verily, no child in her right mind would concoct a story of defloration against her own father and expose her whole family to the stigma and disgrace associated with incestuous rape, if only to free herself from an overweening and strict parent who only happens to enforce parental guidance and discipline.[28]

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, provides:

"Art. 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances

1. By using force or intimidation;

2. When the woman is deprived of reason or otherwise unconscious; and

3. When the woman is under twelve years of age or is demented.

x x x x x x x x x

"The death penalty shall be imposed if the crime of rape is committed with any of the following attendant 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-law spouse of the parent of the victim."

The Certificate of Live Birth, marked as Exhibit "B"[29] for the prosecution, clearly shows that Vanessa was born on

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[27] *People vs. Bares,* G.R. Nos. 137762-65, March 27, 2001, 355 SCRA 435.

[28] *Id.*

[29] Records, Vol. I at 27 and Vol. II at 3–4.

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September 4, 1986. She was thus only thirteen (13) years old when she was raped by her father on April 8, 2000. Likewise, there is no doubt that appellant is her biological father. Aside from the entry[30] in the said Certificate of Live Birth attesting to such fact, appellant himself admitted in open court that he is the father of the victim, thus:

x x x x x x x x x

"A I went to *my daughter Vanessa's room* but she was not there and so I told Odessa that probably since it was a Saturday she might have already opened the stall, sir.

Q What did you do after you found out that *your daughter Vanessa* was not at her room?

A I went back to sleep, sir.[31]

x x x x x x x x x

A Yes, sir the policeman on my back told me that *my daughter* Vanessa has a complaint that I raped her but I told him that I have nothing to do with that because I was asleep, sir.

x x x x x x x x x[32]

A They asked me if I raped *my daughter* and that they brought me inside the cell, sir.

Q What time were you brought in at the police headquarters?

A Around 4:30 to 5:00 o'clock, sir.

Q What date was that?

A April 8, dawn, sir,

Q Mr. witness you are being charged of a serious crime of rape, what can you say about the charged?

A Probably because I whipped *my daughter,* sir."[33] (italics supplied)

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[30] Exhibit "B-2", Records, Vol. I at 26.

[31] *Supra.*

[32] *Id.*

[33] *Id.*

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Clearly, the concurrence of the minority of Vanessa and her relationship to appellant, alleged in the Information and sufficiently proved by the prosecution, justifies the imposition of the death penalty upon him.

Upon the finding of the fact of rape, the award of civil indemnity *ex delicto* becomes mandatory. If the supreme penalty of death is imposed, the indemnity of ₱75,000.00 is granted to the victim. In addition, she is entitled to the amount of ₱50,000.00 as moral damages, without need of proof, and another ₱25,000.00 as exemplary damages for each count of rape to set an example for the public good.[34]

Three (3) members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* that R.A. No. 7659, insofar as it prescribes the penalty of death is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.

**WHEREFORE**, the appealed decision finding appellant Juan Rosario *GUILTY* beyond reasonable doubt of the crime of rape and imposing upon him the penalty of *DEATH* is *AFFIRMED* with *MODIFICATION* in the sense that appellant is ordered to pay the victim, Vanessa Rosario, ₱50,000.00 as moral damages, instead of ₱25,000.00 as adjudged by the trial court.

Let the records of this case, upon finality of this Decision, be forwarded to the Office of the President for the possible exercise of her pardoning power pursuant to Article 83 of the Revised Penal Code, as amended by Section 25 of RA 7659.

Costs *de officio*.

**SO ORDERED.**

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

*Callejo, Sr., J.,* on leave.

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[34] *People vs. Solmoro, Jr.*, G.R. Nos. 139187-94, November 27, 2002.