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WHEREFORE, the Petition is hereby ***GRANTED***, and the assailed Resolutions ***REVERSED*** and ***SET ASIDE***. The case is ***REMANDED*** to the Court of Appeals, which is ***DIRECTED*** to consolidate BPI's case (CA-GR SP No. 59858) with Diar's (CA-GR SP No. 59093). No costs.

SO ORDERED.

Puno (Chairman), *Sandoval-Gutierrez, Corona,* and *Carpio Morales, JJ.,* concur.

EN BANC

[G.R. No. 147033. April 30, 2003.]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **MARIO UMAYAM,** *appellant.*

SYNOPSIS

For the repeated sexual abuses committed by accused Mario Umayam against his minor daughter, Dominga C. Umayam, he was convicted by the trial court of the crime of qualified rape and the penalty of death was imposed upon him. Hence, this automatic review.

The Court ruled that it is most unlikely for a young girl to impute the crime of rape to no less than a close relative and to face social humiliation therefor, if not to vindicate her honor. This point becomes even more pronounced in this case, in which private complainant is accusing her very own father of acts of savagery. It would take the most senseless kind of depravity for a daughter to fabricate a story that would send her father to death, only because he had scolded her or because they did not see eye to eye. A child, innocent and naïve to the ways of the world, is not likely to make an accusation of so serious a crime as incestuous rape if it was not the plain truth, or if her

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motive was not purely to bring the offender to justice. In the present case, private complainant was well aware that her father could face death if convicted of the crime with which he was charged.

However, the prosecution did not discharge the burden of proving with certainty the fact that the victim was under 18 years of age when the rape was committed. Since there is no acceptable proof as to her exact age, the penalty of death cannot be meted out on appellant. He must be held guilty only of simple, not qualified, rape; and sentenced to *reclusion perpetua*, not death.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; IN RAPE CASES, TESTIMONY OF PRIVATE COMPLAINANT MUST ALWAYS BE SCRUTINIZED WITH GREAT CAUTION; CASE AT BAR.** — This Court has consistently ruled that in view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the private complainant must always be scrutinized with great caution. In a prosecution for rape, credibility becomes the single most important issue. We therefore always subject a victim's testimony to careful scrutiny, so as to eradicate any doubt as to the complicity of the accused in the crime. With care and circumspection, we assessed the testimony of private complainant in the present case. Undoubtedly, it was positive, clear and convincing. Her narration could have been made only by someone subjected to a harrowing sexual assault.

2. **ID.; ID.; ID.; TESTIMONIES OF CHILD-VICTIMS OF RAPE ARE TO BE GIVEN FULL WEIGHT AND CREDENCE.** — We have on many occasions ruled that the testimonies of child-victims of rape are to be given full weight and credence. Here, private complainant vividly recalled details that a child could not have possibly concocted. It is highly improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man a crime so serious as rape, if what she claims is not true. Indeed, courts usually

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give greater weight to the testimony of the victim of a sexual assault, especially a minor. No woman, especially one so young, would concoct a tale of defloration; allow the examination of her private parts; and undergo the expense, the trouble and the inconvenience — not to mention the trauma of a public trial — if she is not motivated solely by the desire to have the culprit apprehended and punished. The embarrassment or stigma she suffers in allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rules out the possibility of a false accusation of rape.

3. **ID.; ID.; ID.; IN RAPE CASES, ACCUSED MAY BE CONVICTED ON THE BASIS OF THE TESTIMONY OF THE VICTIM.** — The court need only establish the credibility of the testimony of the victim. Thereafter, when she says she has been raped, she says in effect all that is necessary to prove that rape was committed. As long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof. Founded on reason and experience, this is a basic rule that becomes even more apparent when the victim is a minor. In fact, the application of this doctrine also becomes more compelling when the culprit is her close relative.

4. **ID.; ID.; ID.; YOUTH AND IMMATURITY CAN INDEED BE BADGES OF TRUTH.** — To be sure, the testimony of private complainant cannot be flawless or perfect in all aspects. But her account of the horrible ordeal she went through evinced sincerity and truthfulness. Youth and immaturity can indeed be badges of truth. What is even more important is that her narration of the incidents is straightforward, categorical and free of any serious contradiction. Besides, in assessing the testimony of the victim, it would be unfair to apply the standards used for adults. It should be viewed as a narration of a minor who barely understands sex and sexuality. Further, even if she was subjected to an exhausting cross-examination by the defense counsel, her story remained unchanging and consistent.

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5. ID.; ID.; ID.; CONCLUSIONS OF TRIAL COURTS ARE GENERALLY NOT DISTURBED BY APPELLATE COURTS. — Just the same, it is well-entrenched in our jurisdiction that the conclusions of trial courts on the credibility of witnesses and their testimonies are generally not disturbed by appellate courts. Having heard the witnesses themselves and observed their deportment and manner of testifying, trial courts are in a better position to decide the issue.

6. ID.; ID.; ID.; NOBODY CAN TELL HOW A VICTIM OF SEXUAL AGGRESSION IS SUPPOSED TO ACT OR BEHAVE AFTER HER ORDEAL. — The fact that private complainant slept after she was raped is not unusual or unnatural. Nobody can tell how a victim of sexual aggression is supposed to act or behave after her ordeal. As we have already ruled in the past, it would not be too farfetched to suppose that, out of fear or a desire to forget the horror just committed upon her chastity, she slept soundly thereafter.

7. ID.; ID.; ID.; COURT NEVER PRESCRIBED A UNIFORM MANNER OF BEHAVIOR DURING OR AFTER A RAPE INCIDENT. — Never has this Court prescribed a uniform manner of behavior during or after a rape incident. We have been categorical in declaring that "[t]he workings of a human mind placed under emotional stress are unpredictable and people react differently — some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion." Yet, it can never be argued that the ones who apparently welcome it are sexual victims any less than the others.

8. ID.; ID.; ID.; YOUNG GIRL CANNOT BE EXPECTED TO HAVE THE COURAGE AND THE MATURITY TO IMMEDIATELY REPORT A SEXUAL ASSAULT COMMITTED AGAINST HER. — Appellant also questions the behavior of private complainant, who did not immediately report the sexual abuse to the other members of her family — especially her mother — or to her teacher or the police authorities. We do not doubt that her failure to do so does not detract from her credibility. Her hesitation may be attributable to her age, the moral ascendancy of appellant and his threats against her. It is not unlikely that a minor would be intimidated into silence by the mildest threat against her life or the lives of other members of her family. A young girl,

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unlike a mature woman, cannot be expected to have the courage and the maturity to immediately report a sexual assault committed against her, especially when a death threat hangs over her head and those she loves. Neither do we accept appellant's arguments that the victim did not even inform her mother, who was beside her when the alleged abuse was taking place. The former's actions are understandable, considering that there were allegations that the latter was mentally ill.

9. ID.; ID.; ID.; REMINDERS TO FULLY UNDERSTAND HOW VICTIMS ACT AFTER AN ABUSE. — To understand fully how victims act after an abuse, we should be reminded that 1) different people react differently to a given type of situation, there being no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience; and 2) it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected from mature persons under similar circumstances.

10. ID.; ID.; ID.; DENIAL; CANNOT PREVAIL OVER CATEGORICAL AND CONSISTENT IDENTIFICATION BY THE VICTIM. — The Court notes that appellant relies merely on the defense of denial. Given private complainant's positive and unequivocal identification of him, his defense must perforce fail. Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over denial. Unless substantiated by clear and convincing proof, such defense is considered negative, self-serving, and undeserving of any weight in law.

11. ID.; ID.; ID.; MOST UNLIKELY FOR A YOUNG GIRL TO IMPUTE THE CRIME OF RAPE TO A CLOSE RELATIVE IF NOT TO VINDICATE HER HONOR; CASE AT BAR. — In this case, since there is no showing of any improper motive on the part of the victim to falsely testify against or implicate the accused in the commission of the crime, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence. Indeed, it is most unlikely for a young girl to impute the crime of rape to no less than a close relative and to face social humiliation therefor, if not to vindicate her honor. This point becomes even more pronounced in this case, in which private complainant is accusing her very own father of acts of savagery. It would

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take the most senseless kind of depravity for a daughter to fabricate a story that would send her father to death, only because he had scolded her or because they did not see eye to eye. A child, innocent and naive to the ways of the world, is not likely to make an accusation of so serious a crime as incestuous rape if it was not the plain truth, or if her motive was not purely to bring the offender to justice. In the present case, private complainant was well aware that her father could face death if convicted of the crime with which he was charged.

12. **ID.; ID.; ADMISSIBILITY; DOCUMENT NOT HAVING BEEN FORMALLY OFFERED COULD NOT BE CONSIDERED BY THE COURT.** — This Court notes, though, that an alleged photocopy of the victim's Certificate of Live Birth was attached to the records of this case upon appeal. Nonetheless, this document had not been offered during the trial. In fact, absolutely no mention had ever been made of it during the entire proceedings of the case. Not having been formally offered, it could not be considered by the Court. Neither the authenticity nor the genuineness of this photocopy was ever proved.

13. **CRIMINAL LAW; RAPE; NEED NOT BE COMMITTED IN AN ISOLATED PLACE.** — The fact that the mother, who was beside private complainant in bed during the rape, was not awakened is not improbable. It is a common judicial experience that rapists are not deterred from committing their odious act by the presence of people nearby. We have frequently held that rape is not impossible even if committed in the same room where the rapist's spouse or other family members are sleeping. It is neither impossible nor incredible for them to remain in deep slumber and not to be awakened while the sexual assault is being committed. Rape need not be committed in an isolated place. That there are other people sleeping in the same room will not guarantee that it cannot be committed. This observation is totally consistent with the fact that rape can be committed even in places where people congregate — in parks, within school premises, inside a house where there are other occupants, and even in the same room where other family members are sleeping. Lust is no respecter of time, place or kinship. There is no rule that rape can be committed only in seclusion.

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14. ID.;ID.; NEITHER VIRGINITY NOR FINDING OF FRESH VAGINAL LACERATIONS WOULD BE ESSENTIAL. — The finding of Dra. Lilian Bringas that the private organ of the victim showed no recent lacerations, but only old healed ones at the 3 and the 9 o'clock positions, cannot by itself be taken to mean necessarily that the latter had not been subjected to the crime charged. Neither virginity nor a finding of fresh vaginal lacerations would be essential to proving rape. Lacerations, whether healed or fresh, are physical evidence of forcible defloration. However, there can still be a finding of rape even if the medical examination shows no vaginal laceration at all. We also reiterate that existing rulings on rape do not require complete or full penetration of the victim's private organ. Neither is the rupture of the hymen necessary. Even the briefest of contacts, without laceration of the hymen, is deemed to be rape.

15. ID.; ID.; MEDICAL EXAMINATION OF THE VICTIM IS NOT INDISPENSABLE TO ITS PROSECUTION. — [I]n a long line of cases, this Court has consistently held that a medical examination of the victim is not indispensable to a prosecution for rape. It is merely corroborative in character and not indispensable. The accused may be convicted even solely on the basis of her testimony if credible, natural, convincing and consistent with human nature and the course of things.

16. ID.; ID.; FOR IMPOSITION OF DEATH PENALTY, THE AGE OF THE VICTIM AND HER RELATIONSHIP WITH THE OFFENDER MUST BE BOTH ALLEGED IN THE INFORMATION AND PROVEN DURING TRIAL. — In an incestuous rape, the age of the victim and her relationship with the offender must be both alleged in the information and proven beyond reasonable doubt during trial; otherwise, the death penalty cannot be imposed. These attendant circumstances — in the nature of qualifying circumstances — alter the nature of the crime of rape and increase the penalty.

17. ID.; ID.; MINORITY MUST BE PROVED WITH EQUAL CERTAINTY AND CLARITY AS THE CRIME ITSELF. — In the case before us, the age of private complainant was not proven beyond reasonable doubt. The Information alleged that on May 31, 1997, the date of the rape, she was fifteen (15) years old. We agree with appellant that her minority must be

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proved with equal certainty and clarity as the crime itself. Except for the bare, passing testimony of the victim that she was still a minor when the offense charged was committed, no other evidence was adduced by the prosecution to support this fact. Neither her obvious minority nor the absence of any contrary assertion from the defense, or even an admission by the appellant can exempt the prosecution from the requirement of proving it. Here, no certificate of live birth or baptismal certificate or school record was presented before the trial court to prove her age at the time of the crime.

18. **ID.; ID.; ID.; WHEN THE AGE OF THE VICTIM IS BETWEEN 13 AND 18 YEARS, NEITHER HER BARE TESTIMONY NOR THAT OF HER MOTHER WOULD SUFFICE TO PROVE HER AGE.** — Proof of age is critical, considering that private complainant was alleged to have been only three (3) years less than eighteen (18) at the time of the rape. When the alleged age of the victim at the time of the sexual assault is between 13 and 18 years, neither her bare testimony nor that of her mother would suffice to prove her age and consequently qualify the crime to justify the imposition of the death penalty. In this era of modernism and rapid growth, the victim's mere physical appearance is not enough to gauge her exact age. For the extreme penalty of death to be upheld, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime must be substantiated. The minority of the victim should be not only alleged, but likewise proved with equal certainty and clearness as the crime itself. Be it remembered that proof of the age of private complainant in the present case spells the difference between life and death.

19. **ID.; ID.; ID.; NOT ESTABLISHED IN CASE AT BAR.** — It is therefore evident that the prosecution did not discharge the burden of proving with certainty the fact that she was under 18 years of age when the rape was committed. Since there is no acceptable proof as to her exact age, the penalty of death cannot be meted out on appellant. He must be held guilty only of simple, not qualified, rape.

20. **ID.; ID.; CIVIL LIABILITY; ₱50,000 AS CIVIL INDEMNITY, ₱50,000 AS MORAL DAMAGES AND ₱25,000 AS EXEMPLARY DAMAGES AWARDED IN CASE AT BAR.** — As to civil liabilities, this Court has consistently ruled that upon a finding of the fact of rape, the award of civil indemnity

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ex delicto is mandatory. If the death penalty is imposed, the indemnity should be ₱75,000; otherwise, the victim is entitled to ₱50,000. An additional ₱50,000 should be awarded as moral damages. 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. Finally, exemplary damages in the amount of ₱25,000 should be awarded in view of the proven circumstance of father-daughter relationship. This award should serve to deter other fathers with perverse tendencies and aberrant sexual behavior from preying upon and sexually abusing their daughters.

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.*:

In incestuous rapes, the age of the victim and her relationship with the offender must be both alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed. These circumstances alter the nature of the crime and increase the penalty.

The Case

For automatic review before this Court is the January 31, 2001 Decision[1] of the Regional Trial Court (RTC) of Ilagan, Isabela (Branch 16) in Criminal Case No. 2825, finding Mario Umayam guilty beyond reasonable doubt of qualified rape. The dispositive portion of the Decision reads thus:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of rape, [the Court] hereby sentence[s him] to suffer the supreme penalty of *DEATH* and to indemnify the victim

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[1] Penned by Judge Isaac R. de Alban; *rollo*, pp. 14-18; records, pp. 153-157.

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Dominga C. Umayam of ₱75,000.00 plus the sum of ₱50,000.00 as moral damages and the sum of ₱50,000.00 as exemplary damages and to pay the costs."[2]

The January 16, 1998 Information[3] charged appellant as follows:

"That on or about the 31st day of May, 1997, and for sometimes prior thereto, in the [M]unicipality of Ilagan, [P]rovince of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd designs, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with his own daughter *DOMINGA C. UMAYAM*, a girl of 15 years of age and subjecting her to exploitation and sexual abuse, against her will and consent."[4]

When arraigned on April 1, 1998, appellant, with the assistance of his counsel *de oficio*,[5] pleaded not guilty.[6] After trial in due course, appellant was found guilty of qualified rape.

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General (OSG) summarized the prosecution's version of the facts in the following manner:

"1. Dominga C. Umayam, then fifteen years old, was barely eight (8) years old when her father, appellant Mario Umayam, started

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[2] RTC Decision, p. 5; *rollo*, p. 18; records, p. 157.

[3] *Rollo*, pp. 4-5; records, pp. 1-2. Signed by Fourth Assistant Provincial Prosecutor Reymundo L. Aumentado with the approval of Provincial Prosecutor Anthony A. Foz.

[4] *Rollo*, p. 4; records, p. 1.

[5] Atty. Dinahlyn S. Gelacio.

[6] Order dated April 1, 1998; records, p. 44.

[7] Appellee's Brief was signed by Assistant Solicitors General Carlos N. Ortega, and Antonio L. Villamor and Solicitor Vida G. San Vicente.

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sexually abusing her. The first sexual assault occurred in the 'sala' of their residence at Calamagui 2nd, Ilagan, Isabela, while she was sleeping. It was the day that her older sister Irma, who had passed away, was buried. Dominga was reportedly mentally retarded but she had the capacity to understand and recollect.

"2. Appellant repeatedly sexually abused his daughter. At the age of nine years, Dominga was again raped by appellant. The repeated sexual abuse continued for several years and took place in their residence in Calamagui, Ilagan, Isabela. During these rapes, appellant threatened to kill Dominga if she told anyone about the sexual assault. Dominga believed her father and did not report the rapes.

"3. The last rape occurred on May 31, 1997, at eight o'clock in the evening. Dominga was fourteen years old and a grade V pupil at the Ilagan South Central School at Ilagan, Isabela. That night, Dominga was sleeping on a wooden bed which she shared with her mentally ill mother, Brigida. They slept in a room where appellant, Dominga's Aunt Evelyn and Dominga's elder brother-Pascual also slept.

"4. Dominga was roused from her sleep when appellant took off her clothes, tickled her private parts and inserted his penis into her vagina. Appellant made a push-and-pull movement and stayed on top of Dominga for about ten minutes. After satisfying his lust, appellant went back to sleep. Dominga, who felt excruciating pain after being ravished, cried herself to sleep.

"5. Appellant's misdeeds were eventually discovered when Evelyn witnessed appellant kissing Dominga and mashing her breast. Evelyn, who was the wife of appellant's brother, reported the sexual abuse to another aunt of Dominga, Pacing, who went to the police authorities. Dominga was investigated by the police.

"6. On June 2, 1997, Dominga was examined by Dr. Lilian Bringas, the Chief of the Obstetrics Department of the Isabela Provincial Hospital in Ilagan, Isabela. The doctor found that Dominga had old healed lacerations at the three o'clock and nine o'clock positions and that an external force, such as the penetration of a male organ, masturbation and accident, could have caused the lacerations."[8] (Citations omitted)

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[8] Appellee's Brief, pp. 3-5; *rollo*, pp. 68-70.

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Version of the Defense

On the other hand, appellant's statement of facts is as follows:[9]

"Accused *Mario Umayam* on the other hand, vehemently denied the accusation. He averred that in the evening of May 31, 1997 he was at home with his wife Brigida, his sister Patty and Nida and his children Dominga and Pascual. He averred that he and Pascual slept together on a separate bed, while her daughter Dominga slept beside her mother in another bed.

"He averred that he did not rape her daughter on May 31, 1997 or in any occasion prior to the said date. Accused-appellant further declared, that his daughter filed the charges against him because he laid hands on her, when she insisted in going to Manila with her brother Pascual.

"*Leonida Sawadan* declared that she knows the accused being her elder brother as well as Brigida, the wife of his brother, and their children Dominga, and Pascual who are all living in their house at Calamagui 2nd, Ilagan, Isabela. In the early morning of May 31, 1997, Pascual Umayam arrived home from Manila after being away for 6 months. Dominga intimated to her brother Pascual, that she would go with him to Manila. However, his father Mario did not allow her to go, since her mother Brigida is mentally ill and that she could not leave her alone because of her condition. Furthermore she was still studying. Dominga was insistent, prompting her father Mario to slap her. Dominga cried, then left and went to her counsin's place. Dominga however came back in the afternoon when her father pacified her and asked for forgiveness. In the evening of May 31, 1997, Dominga slept in their house, and with her in the said room, which measures about 3x4 meters, were her parents and her brother Pascual. Witness Sawadan and her husband likewise slept in the adjoining room. She did not notice any unusual incident that happened during that night and until the following morning of June 1, 1997 at 7:00 o'clock when she went to her stall. In the afternoon of June 1, 1997, she came to know from her sister Paz Parungao that their cousin, Pacita Umayam had Dominga medically examined and that a case for rape is being lodged against their brother Mario. She further

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[9] Appellant's Brief was signed by Attys. Arceli A. Rubin, Amelia C. Garchitorena; Marvin R. Osias and Beatriz Teves-de Guzman of the Public Attorney's Office.

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declared that she does not know any reason why Dominga would charge her father Mario with a very serious offense. She has not heard of any complaint that Dominga Umayam was raped during the wake of her sister Irma, much less since the time Dominga was 8, 9, 10 and 14 years old and so on until May 31, 1997. This is the first time that she is giving information relative to the May 31, 1997 incident and she neither gave any statement to the police nor to the investigating fiscal. Because the accused is now in jail, she took custody of Brigida Umayam, the wife of the accused, she being a little bit mentally deranged, since she gave birth to private complainant Dominga."[10] (Citations omitted)

Ruling of the Trial Court

The RTC gave full weight and credit to the testimony of private complainant. It held that she "candidly, positively and categorically testified as to her harrowing experience at the hands of no less than her father."[11] The court *a quo* also ruled that she was "emphatic and categorical in pointing to [her] father Mario as her tormentor or as the very person who sexually molested her and against her will on the evening of May 31, 1997."[12] It did not believe his denial, which was unsubstantiated and inferior to her positive identification of him as the culprit.

Hence, this automatic review before us.[13]

Issues

In his Brief, appellant assigns the following alternative errors:

"I

"The Court *a quo* gravely erred in finding that the guilt of the accused-appellant for the crime of rape has been proven beyond reasonable doubt.

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[10] Appellant's Brief, pp. 5-6; *rollo*, pp. 33-34.

[11] RTC Decision, p. 3; *rollo*, p. 16; records, p. 155.

[12] *Id.*, pp. 3-4, 16-17 & 155-156.

[13] This case was deemed submitted for resolution on May 23, 2002, upon receipt by this Court of appellant's Reply Brief filed by the Public Attorney's Office. Earlier, appellant's Brief was received by the Court on September 25, 2001, while appellee's Brief was submitted on January 28, 2002.

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"II

"Assuming *arguendo* that the guilt of the accused-appellant has been proven beyond reasonable doubt, the court *a quo* erred in imposing the extreme penalty of death."[14]

The Court's Ruling

Appellant is guilty of simple, not qualified, rape; hence, the penalty should be reduced to *reclusion perpetua.*

First Issue:

Guilt Beyond Reasonable Doubt

Appellant faults the RTC for having accepted the testimony of private complainant with precipitate credulity. Describing her testimony as incredible and incoherent,[15] he argues that his conviction cannot be based on her mere say-so.

This Court has consistently ruled that in view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the private complainant must always be scrutinized with great caution. In a prosecution for rape, credibility becomes the single most important issue.[16]

We therefore always subject a victim's testimony to careful scrutiny, so as to eradicate any doubt as to the complicity of the accused in the crime. With care and circumspection, we assessed the testimony of private complainant in the present case. Undoubtedly, it was positive, clear and convincing. Her narration could have been made only by someone subjected to a harrowing sexual assault. She testified thus:

"Q Do you remember of any incident that happened on the night of May 31, 1997 while you were in your home at Calamagui 2nd, Ilagan, Isabela?

A Yes, sir.

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[14] Appellant's Brief, pp. 1-2; *rollo*, pp. 29-30. Original in upper case.

[15] *Id.*, pp. 8 & 36.

[16] *People v. Manayan*, 368 SCRA 300, October 25, 2001.

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Q What was that incident all about?
A My father undressed me, sir.

Q What were you wearing at the time when you were undressed by your father?
A Short pants.

Q Aside from your shorts, what else were you wearing?
A Panty, sir.

Q What else?
A I was wearing a T-shirt, sir.

Q When you were undressed by your father on the night of May 31, 1997, what were you doing at that time?
A I was crying, sir.

Q What I mean, what were you doing at that time? Were you sleeping or were you awake?
A I was sleeping, sir.

Q At what point of time were you awakened?
A When my father was removing my garments and he was about to insert his penis into my private part.

Q What was your father wearing at the time when he was undressing you?
A He was wearing short pants.

Q And after he undressed you, what did he do, if any?

A He inserted his penis into my private part.

Q Before he inserted his penis into your private part, what did he do first?
A He tickled my private part.

Q After he tickled your private part, what else did your father do?
A None, sir.

Q Did you not mention earlier that your father inserted his penis into your private part?
A Yes, sir.

Q Was he able to insert his penis into your private part?
A Yes, sir.

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Q And when your father was able to insert his penis into your private part, what did he do, if any?
A None, sir.

COURT:

Q What did you feel when he tickled your private part?
A It was painful, sir.

Q And how did you feel also when he inserted his penis into your private part?
A It was painful, sir.

xxx xxx xxx

PROSECUTOR AUMENTADO:

Q And for how long was his penis inserted into your private part?
A Ten (10) minutes, sir.

Q And while his penis was inserted into your private part, what was he doing, if any?
A None, sir.

Q Did he not move?
A He was moving.

Q What was he actually doing when you said he was moving when his penis was inserted into your private part?
A He was performing the coitus movement. (The witness demonstrating with her right hand the push and pull movements).

Q Are we made to understand that when he was performing the coitus movement, he was on top of you?
A Yes, sir.

Q And you said that he stayed on top of you for ten (10) minutes?
A Yes, sir.

Q After ten (10) minutes, what happened?
A None, sir, just like that.

Q What did your father do after ten (10) minutes?
A He just slept, sir.

Q How about you, what did you do?
A I just also slept, sir.

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Q Did you not shout for help?
A No, sir, I just cried and cried.

Q For how long were you crying on the night of May 31, 1997?
A Five (5) minutes, sir.

Q How about your mother, what was he doing at the time you were crying?
A She was sleeping, sir.

Q How about your aunt Evelyn, what was she doing at the time you were crying?
A None, sir.

Q Did you inform anyone about the incident?
A None, sir.

COURT;

Q Why?
A My father is going to hurt me, sir.

Q How do you know that your father is going to hurt you? Did he tell you that he was going to hurt you if you will report?
A Yes, sir.

PROSECUTOR AUMENTADO:

Q Exactly, how did he tell you?
A I am going to kill you once you will report this, he told me."[17]

We have on many occasions ruled that the testimonies of child-victims of rape are to be given full weight and credence.[18] Here, private complainant vividly recalled details that a child could not have possibly concocted. It is highly improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man a crime so serious as rape, if what she claims is not true.[19]

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[17] TSN, May 20, 1998, pp. 7-13.

[18] *People v. Deacosta*, 358 SCRA 249, May 28, 2001; *People v. Apostol*, 320 SCRA 327, December 9, 1999; *People v. Saban*, 319 SCRA 36, November 24, 1999.

[19] *People v. Manayan, supra.*

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Indeed, courts usually give greater weight to the testimony of the victim of a sexual assault, especially a minor.[20] No woman, especially one so young, would concoct a tale of defloration; allow the examination of her private parts; and undergo the expense, the trouble and the inconvenience — not to mention the trauma of a public trial — if she is not motivated solely by the desire to have the culprit apprehended and punished.[21] The embarrassment or stigma she suffers in allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rules out the possibility of a false accusation of rape.[22]

The court need only establish the credibility of the testimony of the victim. Thereafter, when she says she has been raped, she says in effect all that is necessary to prove that rape was committed.[23] As long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof[24] Founded on reason and experience,[25] this is a basic rule that becomes even more apparent when the victim is a minor.[26] In fact, the application of this doctrine also becomes more compelling when the culprit is her close relative.[27]

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[20] *People v. Galvez*, 365 SCRA 681, September 24, 2001; *People v. Makilang*, 368 SCRA 155, October 23, 2001.

[21] *People v. Galvez, supra*; *People v. Segui,* 346 SCRA 178, November 28, 2000; *People v. Adora*, 341 Phil. 441, July 14, 1997; *People v. Junio*, 237 SCRA 826, October 28, 1994; *People v. Lagrosa Jr.*, 230 SCRA 298, February 23, 1994.

[22] *People v. Pontilar Jr.*, 341 Phil. 333, July 11, 1997; *People v. Ramirez*, 334 Phil. 305, January 20, 1997.

[23] *People v. Mariño*, 352 SCRA 127, February 19, 2001; *People v. Balmoria*, 351 Phil. 188, March 20, 1998.

[24] *People v. Taño*, 331 SCRA 449, May 5, 2000; *People v. Ambray*, 363 Phil. 324, February 25, 1999; *People v. Garcia,* 346 Phil. 475, November 6, 1997; *People v. Abad,* 335 Phil. 712, February 13, 1997; *People v. Rosare*, 332 Phil. 435, November 19, 1996.

[25] *People v. Taño, supra*.

[26] *People v. Lachica*, GR No. 143677, May 9, 2002.

[27] *People v. Tabion*, 317 SCRA 126, October 20, 1999; *People v. Burce*, 336 Phil. 283, March 7, 1997.

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To be sure, the testimony of private complainant cannot be flawless or perfect in all aspects. But her account of the horrible ordeal she went through evinced sincerity and truthfulness. Youth and immaturity can indeed be badges of truth.[28] What is even more important is that her narration of the incidents is straightforward, categorical and free of any serious contradiction.

Besides, in assessing the testimony of the victim, it would be unfair to apply the standards used for adults.[29] It should be viewed as a narration of a minor who barely understands sex and sexuality.[30] Further, even if she was subjected to an exhausting cross-examination by the defense counsel, her story remained unchanging and consistent.

Just the same, it is well-entrenched in our jurisdiction that the conclusions of trial courts on the credibilities of witnesses and their testimonies are generally not disturbed by appellate courts. Having heard the witnesses themselves and observed their deportment and manner of testifying, trial courts are in a better position to decide the issue.[31]

Said the RTC:

"Dominga Umayam candidly, positively and categorically testified as to her harrowing experience at the hands of no less than her father. She was so emphatic and categorical in pointing to his father Mario as her tormentor or as the very person who sexually molested her and against her will on the evening of May 31, 1997.

"Careful perusal of the records shows that the victim candidly and honestly answered the questions propounded to her. To the mind of this court, simple direct and positive answers would undoubtedly

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[28] *People v. Lalingjaman*, 364 SCRA 535, September 6, 2001; *People v. Nardo*, 353 SCRA 339, March 1, 2001.

[29] *People v. Gonzales*, GR No. 140676, July 31, 2002; *People v. Asuncion*, 364 SCRA 703, September 7, 2001.

[30] *People v. Gonzales, supra.*

[31] *People v. Plana*, GR No. 128285, November 27, 2001; *People v. Villanos*, 337 SCRA 78, August 1, 2000; *People v. De Guzman*, 333 SCRA 269, June 8, 2000; *People v. Palma*, 367 Phil. 736, June 17, 1999.

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denote sincerity and frankness. Hence, her testimony must be given full weight and credence.[32]

Appellant then argues that the actuations of the victim clearly negate the allegation of rape. He asks: "Had it been true that private complainant was subjected to sexual abuse, why did she return to sleep, as if nothing horrendous happened?"[33]

The fact that private complainant slept after she was raped is not unusual or unnatural. Nobody can tell how a victim of sexual aggression is supposed to act or behave after her ordeal. As we have already ruled in the past, it would not be too farfetched to suppose that, out of fear or a desire to forget the horror just committed upon her chastity, she slept soundly thereafter.[34]

Appellant also questions the behavior of private complainant, who did not immediately report the sexual abuse to the other members of her family — especially her mother — or to her teacher or the police authorities. We do not doubt that her failure to do so does not detract from her credibility. Her hesitation may be attributable to her age, the moral ascendancy of appellant and his threats against her.[35] It is not unlikely that a minor would be intimidated into silence by the mildest threat against her life or the lives of other members of her family.[36] A young girl, unlike a mature woman, cannot be expected to have the courage and the maturity to immediately report a sexual assault committed against her, especially when a death threat hangs over her head and those she loves.[37]

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[32] RTC Decision, pp. 3-4; *rollo*, pp. 16-17; records, pp. 155-156.

[33] Appellant's Brief, p. 9; *rollo*, p. 37.

[34] *People v. Quezada*, GR Nos. 135557-58, January 30, 2002; *People v. Labayne*, 357 SCRA 184, April 20, 2001.

[35] *People v. Quezada, supra*; *People v. Villanos, supra*; *People v. Emocling*, 357 Phil. 893, October 7, 1998; *People v. Antipona*, 274 SCRA 328, June 19, 1997; *People v. Abad, supra*.

[36] *People v. Ibay*, 233 SCRA 15, June 8, 1994.

[37] *People v. Olivar*, 215 SCRA 759, November 13, 1992.

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Neither do we accept appellant's argument that the victim did not even inform her mother, who was beside her when the alleged abuse was taking place. The former's actions are understandable, considering that there were allegations that the latter was mentally ill.

To understand fully how victims act after an abuse, we should be reminded that 1) different people react differently to a given type of situation, there being no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience;[38] and 2) it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected from mature persons under similar circumstances.[39]

The fact that the mother, who was beside private complainant in bed during the rape, was not awakened is not improbable. It is a common judicial experience that rapists are not deterred from committing their odious act by the presence of people nearby.[40] We have frequently held that rape is not impossible even if committed in the same room where the rapist's spouse or other family members are sleeping.[41] It is neither impossible nor incredible for them to remain in deep slumber and not to be awakened while the sexual assault is being committed.

Rape need not be committed in an isolated place.[42] That there are other people sleeping in the same room will not guarantee that it cannot be committed.[43] This observation is totally consistent with the fact that rape can be committed even in places where people congregate — in parks, within school premises, inside a

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[38] *People v. Villanos, supra*; *People v. Palma, supra.*

[39] *People v. Villanos, supra; People v. Sta. Ana*, 353 Phil. 388, June 26, 1998; *People v. Tadulan*, 337 Phil. 685, April 15, 1997.

[40] *People v. Rebato*, 358 SCRA 230, May 24, 2001; *People v. Ramos*, 357 Phil. 559, September 25, 1998.

[41] *Ibid.*

[42] *People v. Catoltol Sr.*, 332 Phil. 883, November 28, 1996.

[43] *Ibid.*

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house where there are other occupants, and even in the same room where other family members are sleeping.[44] Lust is no respecter of time, place or kinship.[45] There is no rule that rape can be committed only in seclusion.[46]

Appellant then harps on the lack of any overt form of resistance to the sexual assault on the part of the victim. He argues that she should have at least touched or reached for her mother to awaken the latter. In fact, the girl did not even bother to shout despite the fact that her mouth was left uncovered.

We do not subscribe to appellant's suppositions. Never has this Court prescribed a uniform manner of behavior during or after a rape incident. We have been categorical in declaring that "[t]he workings of a human mind placed under emotional stress are unpredictable and people react differently — some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion."[47] Yet, it can never be argued that the ones who apparently welcome it are sexual victims any less than the others.[48]

Appellant then avers that the physical evidence found by the chief[49] of the Obstetrics Department of the Isabela Provincial Hospital belies the assertion of private complainant that she was abused on the evening of May 31, 1997. Appellant centers his argument on the finding that she had only healed lacerations.

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[44] *People v. Tabangay*, 334 SCRA 575, June 29, 2000; *People v. Silvano*, 368 Phil. 676, June 29, 1999; *People v. Escala*, 354 Phil. 46, July 8, 1998.

[45] *People v. Lagarto*, 326 SCRA 693, February 29, 2000; *People v. San Juan*, 337 Phil. 375, April 4, 1997; *People v. Alimon*, 327 Phil. 447, June 28, 1996.

[46] *People v. Sangil Sr.*, 342 Phil. 499, July 31, 1997; *People v. Leoterio*, 332 Phil. 668, November 21, 1996; *People v. Talaboc*, 326 Phil. 451, April 23, 1996.

[47] *People v. Peñero*, 342 Phil. 531, 536, July 31, 1997, per Romero, *J.*

[48] *People v. Ibay, supra*:

[49] Dra. Lilian Bringas.

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The finding of Dra. Lilian Bringas that the private organ of the victim showed no recent lacerations, but only old healed ones at the 3 and the 9 o'clock positions,[50] cannot by itself be taken to mean necessarily that the latter had not been subjected to the crime charged. Neither virginity nor a finding of fresh vaginal lacerations would be essential to proving rape.[51] Lacerations, whether healed or fresh, are physical evidence of forcible defloration.[52] However, there can still be a finding of rape even if the medical examination shows no vaginal laceration at all.[53]

Further, in a long line of cases, this Court has consistently held that a medical examination of the victim is not indispensable to a prosecution for rape.[54] It is merely corroborative in character and not indispensable. The accused may be convicted even solely on the basis of her testimony if credible, natural, convincing and consistent with human nature and the course of things.[55]

We also reiterate that existing rulings on rape do not require complete or full penetration of the victim's private organ. Neither is the rupture of the hymen necessary. Even the briefest of contacts, without laceration of the hymen, is deemed to be rape.[56]

Finally, appellant argues that private complainant was "not prompted by a desire to tell the truth, but by hatred and contempt

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[50] Exhibit "C"; records, p. 23.

[51] *People v. Salvador*, GR No. 142873, July 9, 2002; *People v. Diola*, GR No. 136137, December 11, 2001.

[52] *People v. Gabon*, 369 SCRA 160, November 16, 2001; *People v. Acala*, 307 SCRA 330 May 19, 1999.

[53] *People v. Agustin, supra; People v. Sapurco*, 315 Phil. 561, July 3, 1995.

[54] *People v. Dawisan*, 365 SCRA 138, September 13, 2001; *People v. Ferrer*, 362 SCRA 778, August 14, 2001; *People v. Logmao*, 362 SCRA 105, July 31, 2001.

[55] *People v. Diola, supra; People v. Garigadi*, 317 SCRA 399, October 26, 1999; *People v. Rabosa*, 339 Phil. 339, June 9, 1997.

[56] *People v. Dimapilis*, 360 Phil. 466, December 17, 1998.

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for her father for interfering with her fervent desire to go to Manila."[57]

Such an argument was easily dismissed by the RTC as follows:

"Accused would make us believe that he was charged of rape by his daughter because she was mad at him for slapping her and for not having allowed her to go to Manila. Such an excuse, to the mind of this court, is too lame to be legally accepted as true. On the contrary and taking into account the father and daughter relationship between the accused and complainant, this court is of the firm belief that the latter has no plausible reason to fabricate a story of rape against her own father, file a complaint in the instant case, and expose herself to the public ridicule if not ignominy of having to denounce the accused, her own father, about the sexual abuse done to her, if in truth she was not raped."[58]

The Court notes that appellant relies merely on the defense of denial. Given private complainant's positive and unequivocal identification of him, his defense must perforce fail. Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over denial. Unless substantiated by clear and convincing proof, such defense is considered negative, self-serving, and undeserving of any weight in law.[59]

In this case, since there is no showing of any improper motive on the part of the victim to falsely testify against or implicate the accused in the commission of the crime, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence.[60] Indeed, it is most unlikely for a young girl to impute the crime of rape to no less than a close relative and to face social humiliation therefor, if not to vindicate her honor.[61]

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[57] Appellant's Brief, p. 17; *rollo*, p. 45.

[58] RTC Decision, p. 4; *rollo*, p. 17; records, p. 156.

[59] *People v. Jose*, 324 SCRA 196, January 31, 2000; citing *People v. Villablanca*, 316 SCRA 13, October 1, 1999.

[60] *People v. Banela*, 361 Phil. 61, January 18, 1999.

[61] *People v. Namayan*, 316 Phil. 795, July 18, 1995.

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This point becomes even more pronounced in this case, in which private complainant is accusing her very own father of acts of savagery. It would take the most senseless kind of depravity for a daughter to fabricate a story that would send her father to death, only because he had scolded her or because they did not see eye to eye.[62] A child, innocent and naive to the ways of the world, is not likely to make an accusation of so serious a crime as incestuous rape if it was not the plain truth, or if her motive was not purely to bring the offender to justice.[63] In the present case, private complainant was well aware that her father could face death if convicted of the crime with which he was charged.[64]

Second Issue:
Proper Penalty

However, we agree with appellant that the RTC erred in imposing the death penalty.

Article 266-B of the Revised Penal Code states:

"xxx xxx xxx

"The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

"1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim."

In an incestuous rape, the age of the victim and her relationship with the offender must be both alleged in the information and proven beyond reasonable doubt during trial; otherwise, the

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[62] *People v. Dogaojo*, GR Nos. 137834-40, December 3, 2001; *People v. Alvero*, 329 SCRA 737, April 5, 2000.

[63] *People v. Marcellana*, GR Nos. 137401-03, February 6, 2002; *People v. Balas*, GR No. 138838, December 11, 2001; *People v. Degala*, 411 Phil. 650, June 20, 2001; *People v. Nuñez*, 369 Phil. 422, July 8, 1999.

[64] TSN, May 20, 1998, pp. 43-44.

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death penalty cannot be imposed.[65] These attendant circumstances — in the nature of qualifying circumstances — alter the nature of the crime of rape and increase the penalty.[66]

In the case before us, the age of private complainant was not proven beyond reasonable doubt. The Information alleged that on May 31, 1997, the date of the rape, she was fifteen (15) years old. We agree with appellant that her minority must be proved with equal certainty and clarity as the crime itself.[67] Except for the bare, passing testimony of the victim that she was still a minor when the offense charged was committed, no other evidence was adduced by the prosecution to support this fact. Neither her obvious minority nor the absence of any contrary assertion from the defense,[68] or even an admission by the appellant can exempt the prosecution from the requirement of proving it. Here, no certificate of live birth or baptismal certificate or school record[69] was presented before the trial court to prove her age at the time of the crime.

This Court notes, though, that an alleged photocopy of the victim's Certificate of Live Birth[70] was attached to the records of this case upon appeal. Nonetheless, this document had not

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[65] *People v. Padilla*, 355 SCRA 741, March 30, 2001; *People v. Bayya*, 327 SCRA 771, March 10, 2000; *People v. Tundag*, 342 SCRA 704, October 12, 2000; *People v. Lasola*, 318 SCRA 241, November 17, 1999; *People v. Maglente*, 366 Phil. 221, April 30, 1999; *People v. Ilao*, 357 Phil. 656, September 29, 1998; *People v. Ramos, supra.*

[66] *People v. Musa*, GR No. 143703, November 29, 2001; *People v. Dela Peña*, 354 SCRA 186, March 12, 2001; *People v. Ferolino*, 329 SCRA 719, April 5, 2000.

[67] *People v. Alvarado*, GR No. 145730, March 19, 2002; *People v. Quezada, supra; People v. Rodriguez, supra; People v. Lorica*, GR No. 135863, November 22, 2001; *People v. Lalingjaman, supra.*

[68] *People v. Tundag, supra; People v. Javier*, 311 SCRA 122, July 26, 1999.

[69] *People v. Baniqued*, GR No. 139384, December 11, 2001; *People v. Virrey*, 368 SCRA 623, November 14, 2001; *People v. Rivera*, 362 SCRA 153, July 31, 2001; *People v. Liban*, 345 SCRA 453, November 22, 2000; *People v. Tabanggay, supra.*

[70] Records, p. 29.

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been offered during the trial. In fact, absolutely no mention had ever been made of it during the entire proceedings of the case. Not having been formally offered, it could not be considered by the Court.[71] Neither the authenticity nor the genuineness of this photocopy was ever proved.

Proof of age is critical, considering that private complainant was alleged to have been only three (3) years less than eighteen (18) at the time of the rape. When the alleged age of the victim at the time of the sexual assault is between 13 and 18 years, neither her bare testimony nor that of her mother would suffice to prove her age and consequently qualify the crime to justify the imposition of the death penalty.[72]

In this era of modernism and rapid growth, the victim's mere physical appearance is not enough to gauge her exact age. For the extreme penalty of death to be upheld, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime must be substantiated. The minority of the victim should be not only alleged, but likewise proved with equal certainty and clearness as the crime itself.[73] Be it remembered that proof of the age of private complainant in the present case spells the difference between life and death.

It is therefore evident that the prosecution did not discharge the burden of proving with certainty the fact that she was under 18 years of age when the rape was committed. Since there is no acceptable proof as to her exact age, the penalty of death cannot be meted out on appellant. He must be held guilty only of simple, not qualified, rape.

As to civil liabilities, this Court has consistently ruled that upon a finding of the fact of rape, the award of civil indemnity

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[71] §34, Rule 132, Rules on Evidence.

[72] *People v. Bawang*, 342 SCRA 147, October 5, 2000; *People v. Tabanggay, supra; People v. Tipay*, 329 SCRA 52, March 28, 2000; *People v. Cula*, 329 SCRA 101, March 28, 2000; *People v. Brigildo*, 323 SCRA 631, January 28, 2000.

[73] *People v. Galeno*, 359 SCRA 180, June 20, 2001.

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ex delicto is mandatory.[74] If the death penalty is imposed, the indemnity should be ₱75,000; otherwise, the victim is entitled to ₱50,000.[75] An additional ₱50,000 should be awarded as moral damages. 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.[76] Finally, exemplary damages in the amount of ₱25,000 should be awarded in view of the proven circumstance of father-daughter relationship. This award should serve to deter other fathers with perverse tendencies and aberrant sexual behavior from preying upon and sexually abusing their daughters.[77]

WHEREFORE, the appealed Decision is hereby ***AFFIRMED*** with the ***MODIFICATION*** that appellant is found guilty of simple, not qualified rape; and is sentenced to *reclusion perpetua*, not death. He is further ***ORDERED*** to pay private complainant ₱50,000 as indemnity *ex delicto*, another ₱50,000 as moral damages, and ₱25,000 as exemplary damages. 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.

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

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

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

[77] *People v. Catubig*, 363 SCRA 621, August 23, 2001; *People v. Rodriguez, supra; People v. Lorica, supra*; *People v. Docena*, 322 SCRA 820, January 20, 2000.