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Costs *de oficio*.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna and *Tinga, JJ.*, concur.

Ynares-Santiago, J., on official leave.

Corona, J., is on leave.

EN BANC

[G.R. No. 138364. October 15, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **ROGELIO VILLANUEVA,** *appellant.*

SYNOPSIS

Appellant Rogelio Villanueva was found guilty by the trial court of raping his fifteen (15)-year old daughter and was sentenced to suffer the supreme penalty of death. On automatic review, appellant imputed grave error to the trial court in finding him guilty beyond reasonable doubt of rape defined and penalized under Art. 335 of The Revised Penal Code, as amended by RA 7659, and in imposing upon him the extreme penalty of death.

The Supreme Court affirmed appellant's conviction, but modified the death penalty imposed by the trial court by imposing the lesser penalty of *reclusion perpetua*. The Court found no independent evidence on record that could accurately show the age of the victim. The Court emphasized that failure to sufficiently establish the victim's age will bar any finding of rape in its qualified form. The Court then gave the benefit of the doubt to the appellant in view of the confusion as to the

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precise age of complainant. The Court found the established circumstantial evidence in the present case sufficient to justify appellant's conviction for the crime charged. The combination of the said circumstances established beyond moral certainty that complainant was raped while she was in a state of unconsciousness and that appellant was the one responsible for defiling her. The circumstances constitute an unbroken chain of events which inevitably points to appellant, to the exclusion of all others, as the guilty person, *i.e.*, they are consistent with each other, consistent with the hypothesis that appellant is guilty and at the same time inconsistent with any other hypothesis except that appellant is guilty.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; ASSESSMENT THEREOF IS BEST DISCHARGED BY TRIAL JUDGES.**— We affirm the conviction of appellant Rogelio Villanueva of raping his own daughter Reseilleta Villanueva, a minor of fifteen (15) years when the crime was committed. Well settled is the rule that assessment of credibility of witnesses is a function that is best discharged by trial judge whose conclusion thereon are accorded much weight and respect, and will not be disturbed on appeal unless a material or substantial fact has been overlooked or misappreciated which if properly taken into account could alter the outcome of the case. We are convinced that the trial judge prudently fulfilled his obligation as a trier and factual assessor of facts.

2. **ID.; ID.; ID.; NO ILL-MOTIVE ON THE PART OF THE WITNESSES TO FALSELY TESTIFY AGAINST THE ACCUSED; VICTIM'S MOTHER IS MOTIVATED BY A DESIRE TO HAVE THE PERSON RESPONSIBLE FOR THE DEFLORATION OF HER DAUGHTER APPREHENDED AND PUNISHED.**— No mother would instigate her daughter to file a complaint for rape out of sheer malice knowing that it would expose her own daughter to shame, humiliation and stigma concomitant to a rape, and could send the father of her children to the gallows. As we view it, Estelita was simply motivated by a desire to have the person responsible for the defloration of her daughter apprehended and punished.

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3. **ID.; ID.; WEIGHT AND SUFFICIENCY; CIRCUMSTANTIAL EVIDENCE; ESTABLISHED IN CASE AT BAR.**— At any rate, direct evidence of the commission of the crime is not the only matrix by which courts may draw their conclusions and findings of guilt. Where, as in this case, the victim could not testify on the actual commission of the rape because she was rendered unconscious at the time the crime was perpetrated, the court is allowed to rule on the bases of circumstantial evidence provided that (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived are proved; and, (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. The corollary rule is that the totality or the unbroken chain of the circumstances proved leads to no other logical conclusion than appellant's guilt. We find that the evidence for the prosecution sufficiently establish the following: *first*, appellant and Reseilleta were the only persons in the house at the time of the rape on 12 December 1996; *second*, he forcibly dragged Reseilleta from the kitchen to the living room; *third*, he commanded her to remove her panty although she refused; *fourth*, he poked a knife at her and forced her to lie down; *fifth*, he clubbed Reseilleta with an iron bar when she resisted and struggled to extricate herself from him; *sixth*, he punched Reseilleta in the stomach which rendered her unconscious; *seventh*, when she regained consciousness, she felt pain in her vagina which was already bleeding; and *eighth*, the medical examination conducted on Reseilleta two (2) months after the incident revealed lacerations in her vagina at 5 and 6 o'clock positions. The combination of these circumstances establishes beyond moral certainty that Reseilleta was raped while she was in a state of unconsciousness and that appellant was the one responsible for defiling her. These circumstances constitute an unbroken chain of events which inevitably points to appellant, to the exclusion of all others, as the guilty person, *i.e.*, they are consistent with each other, consistent with the hypothesis that appellant is guilty and at the same time inconsistent with any other hypothesis except that appellant is guilty.

4. **ID.; ID.; ALIBI; REJECTED; PHYSICAL IMPOSSIBILITY NOT ESTABLISHED.**— In the face of the positive testimony of Reseilleta who had no improper motive to testify falsely against him, appellant's alibi crumbles like a fortress of sand.

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For the defense of alibi to prosper, the accused must not only show that he was not present at the *locus criminis* at the time of the commission of the crime, but also that it was physically impossible for him to have been present at the scene of the crime at the time of its commission. Appellant testified that on 12 December 1996 he was working in a farm from six o'clock in the morning until sunset. However, he miserably failed to prove that the nature of his work at the farm, and the distance between the farm and his house, effectively prevented him from going home at lunch time to feast on his daughter's purity and innocence.

5. **ID.; CRIMINAL PROCEDURE; INFORMATION; NO LAW OR RULE PRESCRIBING A SPECIFIC LOCATION IN THE INFORMATION WHERE THE QUALIFYING CIRCUMSTANCES MUST "EXCLUSIVELY" BE ALLEGED BEFORE THEY COULD BE APPRECIATED AGAINST THE ACCUSED.**— There is no law or rule prescribing a specific location in the *Information* where the qualifying circumstances must "exclusively" be alleged before they could be appreciated against the accused. Nothing in Secs. 6 and 8 of Rule 110 mandates the material allegations should be stated in the body and not in the preamble or caption of the *Information*. Instead, both sections state that as long as the pertinent and significant allegations are enumerated in the *Information* it would be deemed sufficient in form and substance. We hold that it is irrelevant and immaterial whether the qualifying circumstance of relationship is mentioned in the opening paragraph of the *Information* or in the second paragraph which alleges the acts constituting the crime charged since either paragraph is an integral part of the *Information*. The preamble or opening paragraph should not be treated as a mere aggroupment of descriptive words and phrases. It is as much an essential part of the *Information* as the accusatory paragraph itself. The preamble in fact complements the accusatory paragraph which draws its strength from the preamble. It lays down the predicate for the charge in general terms; while the accusatory portion only provides the necessary details. The preamble and the accusatory paragraph, together, form a complete whole that gives sense and meaning to the indictment. Thus, any circumstance stated in the preamble (*i.e.*, minority, relationship) should also be considered as an allegation of such fact.

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6. **ID.; ID.; ID.; AS LONG AS THE QUALIFYING CIRCUMSTANCES ARE ADEQUATELY PLEADED WITHIN THE FOUR CORNERS OF THE CHARGE SHEET, THEY COULD NOT BE INVALIDATED BY THE FACT THAT THEY ARE FOUND ONLY IN THE INTRODUCTORY PARAGRAPH.**— Allegations of qualifying circumstances should not be declared insufficient merely by virtue of a perceived formal defect in their locations, which do not otherwise prejudice the substantial rights of the accused. As long as they are adequately pleaded within the four corners of the charge sheet, as in the instant case, they could not be invalidated by the fact that they are found only in the introductory paragraph. We fail to see how the relative positioning of the qualifying circumstances in an *Information* could possibly transgress the constitutional right of an accused to be informed of the nature and cause of accusation against him. All that this fundamental right signifies is that the accused should be given the necessary data as to why he is being prosecuted against. This is to enable him to intelligently prepare for his defense, and prevent surprises during the trial.

7. **ID.; ID.; ID.; IT WOULD BE INCONGROUS IF NOT ABSURD TO ASSUME THAT THE ACCUSED IN READING THE INFORMATION WOULD LIMIT HIMSELF TO THE ACCUSATORY PORTION AND TOTALLY DISREGARD THE REST OF THE CHARGED SHEET.**— Parenthetically, can it be tenably argued that simply because a qualifying circumstance was averred in the opening paragraph of the *Information*, the accused was not informed of this vital information which could aid him in his defense? Certainly not. It must be emphasized that in a typical *Information*, the preamble always precedes the accusatory portion. As such, it would be incongruous if not absurd to assume that the accused in reading the *Information* would limit himself to the accusatory portion and totally disregard the rest of the charge sheet. A cursory reading of the *Information* hereto fore recited readily reveals more than satisfactory compliance with the Rules, specifically Sec. 8, Rule 110, of the *2000 Revised Rules of Criminal Procedure*. Unquestionably, there is concurrence in the allegations of *relationship* and *minority* in the *Information*. Since the preamble or caption, in the case at bar, states that Rogelio Villanueva is "her father" (referring

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to Reseilleta), then it adequately informed the accused that his daughter was charging him of the acts contained in the succeeding paragraph. The qualifying circumstance of relationship must accordingly be appreciated against the appellant herein. No constitutional right of the appellant has been invaded or infringed, for he was properly apprised of the existence of this circumstance. Finally, were we to persist in the mistaken belief on the necessity of stating the qualifying circumstances strictly and exclusively in the accusatory paragraph of an *Information*, we would be placing premium on a highly technical and artificial rule of form, and completely sacrificing the substance, purpose and reason for the indictment. We believe that this requirement is without any corresponding benefit to the interest of justice. On the contrary, it is only bound to unduly burden our prosecutorial agencies and, worse, provide criminals with a convenient avenue to elude the punishment they truly deserve.

8. **CRIMINAL LAW; RAPE; LUST HAS NO REGARD FOR TIME AND PLACE.**— It is not at all impossible, nay, not even improbable, that such brutish act of a depraved man as appellant was actually committed in his residence. Lust, we have repeatedly noted, has no regard for time nor place. The fact that children gather at appellant's residence to play is no guarantee that rape cannot be perpetrated there. Indeed, there is no law or rule that rape can be committed only in seclusion. Rapes have been committed in many and different kinds of places, including those which most people would consider as inappropriate or as presenting a high risk of discovery.

9. **ID.; ID.; FAILURE TO SUFFICIENTLY ESTABLISH THE VICTIM'S AGE WILL BAR ANY FINDING OF RAPE IN ITS QUALIFIED FORM.**—We find no independent evidence on record that could accurately show the age of the victim. In the absence of adequate proof as to her exact age, the Court will consider only the qualifying circumstance of *relationship* between appellant and his victim. We have held that the *minority* of the victim must be proved with equal certainty and clearness as the crime itself. Failure to sufficiently establish the victim's age will bar any finding of rape in its qualified form. While it may be argued that the victim herein, in any case, was below eighteen (18) of age, nevertheless we give the benefit of the

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doubt to the appellant in view of the confusion as to the precise age of Reseilleta. Accordingly, the Court resolves to impose on appellant the lower penalty of *reclusion perpetua.*

APPEARANCES OF COUNSEL

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

D E C I S I O N

BELLOSILLO, *J.*:

On automatic review by law is the Decision of the court *a quo* in its Crim. Case No. 150 (97) finding appellant ROGELIO VILLANUEVA guilty of raping his fifteen (15)-year old daughter and accordingly sentencing him to death.[1]

Reseilleta Villanueva is the eldest of the daughters in a brood of nine (9) children. Her parents, the spouses Rogelio Villanueva, appellant herein, and Estelita Villanueva, could hardly afford to send their children to school due to extreme poverty. As a fisherman, appellant's meager income was insufficient to even provide for the basic necessities of life. To help support the family, Estelita left the family home in Talisay, Malusing, Sta. Cruz, Davao del Sur, to work as a laundrywoman-househelper in Camp Catitipan, Davao City.

On 12 December 1996, after taking lunch, appellant Rogelio Villanueva sent his daughters to do laundry in a nearby water pump. Reseilleta, then fifteen (15) years old, although prepared to help her younger sisters in their assigned task, was told to stay behind by appellant saying that her sisters could already take care of themselves.[2]

As soon as her sisters left, Reseilleta was dragged by her father from the kitchen to the living room. Gripped in fear, she

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[1] Decision penned by Judge Hilario I. Mapayo, RTC-Br. 19, Digos, Davao del Sur.

[2] TSN, 10 September 1997, p. 27.

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asked him what he was going to do to her. Without answering, appellant told her simply to remove her panty. When she refused, he poked a knife at her and forced her to lie down.[3] Reseilleta resisted and tried to free herself from her father's hold, but he grabbed an iron bar and struck her at the back twice, then punched her in the abdomen. As a result of the blows, she fainted.[4]

When Reseilleta regained her consciousness, she felt pains on her bleeding genitalia.[5] Fearing that it would not be the last of her father's sexual assault, he having molested her several times in the past,[6] she fled to her maternal uncle's house in Jade Valley, Buhangin, Davao City.

Meanwhile, appellant vented his satyric desires on another daughter Mary Joy, younger sister of Reseilleta. After he attempted to sexually abuse her twice,[7] Mary Joy ran away from home and went to her Aunt Adela Benzillo where she sought refuge. Mary Joy recounted her ordeal to Aunt Adela who immediately accompanied her to her mother Estelita in Davao City.

Mary Joy narrated to Estelita how appellant almost ravished her. She told her mother about her father's remarks that "you're not like your sister, if I tell her to bend over she would bend over, or lie down if I told her to lie down."[8] This made Estelita suspicious that something must have happened to Reseilleta too. So Estelita lost no time in going to Jade Valley bringing Mary Joy along with her. Estelita's suspicions were confirmed when Reseilleta told her that her father raped her.

On 17 February 1997, accompanied by her mother Estelita and sister Mary Joy, Reseilleta went to the Sta. Cruz Municipal

[3] *Id.*, p. 28.

[4] *Id.*, p. 24.

[5] *Id.*, p. 17.

[6] *Id.*, pp. 6, 8-9.

[7] TSN, 6 January 1998, pp. 6-7.

[8] See Decision of the Trial Court, p. 4; *Rollo*, p. 14.

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Police Station in Davao del Sur and reported the sexual assault on her by her father. Reseilleta and Estelita likewise executed sworn statements at the police station.[9] They then proceeded to the Municipal Trial Court of Sta. Cruz, Davao del Sur, where Reseilleta formally lodged her complaint for rape against appellant.[10] Complainant was physically examined on the same day by Dr. Johannelda J. Diaz, Medical Health Officer IV, Municipal Health Office of Sta. Cruz. Dr. Diaz's findings were —

Extra-genital injuries present: (+) healed scar, (L) anterior iliac region (+) burn scar, healed, (R) thigh antero-lateral aspect, upper third

Genital exam: Pubic hair coarse, centrally distributed

Labia majora: coaptated

Hymen: thick; with old, healed laceration at 5 & 6 o'clock positions.[11]

Appellant denied the accusations against him. He claimed that on the alleged date of the rape he was in a farm from 6:00 o'clock in the morning until sundown and that when he arrived home his daughters told him that Reseilleta, as usual, went out with her friends. He further alleged that he could not have raped Reseilleta considering that many children in the neighborhood used to play in their house. Appellant likewise accused his wife Estelita of instigating the rape charge to thwart his plan of filing criminal charges of abandonment against her.

On 12 January 1999 the trial court convicted appellant Rogelio Villanueva of rape qualified by the *minority* of the victim and her *relationship* with appellant as father and daughter, and sentenced him to death under Sec. 11, RA 7659, amending Art. 335, of *The Revised Penal Code*.

In this automatic review mandated by law, appellant imputes grave error to the trial court (a) in finding him guilty beyond

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[9] Exhs. "A" and "E"; Records, pp. 2-3.

[10] Exh. "C"; *id.*, p. 1.

[11] Exh. "B"; *id.*, p. 5.

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reasonable doubt of rape defined and penalized under Art. 335 of *The Revised Penal Code*, as amended by RA 7659; and, (b) in imposing upon him the extreme penalty of death.

We affirm the conviction of appellant Rogelio Villanueva of raping his own daughter Reseilleta Villanueva, a minor of fifteen (15) years when the crime was committed. Well settled is the rule that assessment of credibility of witnesses is a function that is best discharged by trial judge whose conclusions thereon are accorded much weight and respect, and will not be disturbed on appeal unless a material or substantial fact has been overlooked or misappreciated which if properly taken into account could alter the outcome of the case.[12] We are convinced that the trial judge prudently fulfilled his obligation as a trier and factual assessor of facts.

Appellant capitalizes much on Reseilleta's testimony that she was unconscious during the rape —

Q: And after you were boxed in the abdomen, you felt (*sic*) unconscious?

A: Yes, then he removed my clothings.

Q: He removed your clothings after you felt (*sic*) unconscious?

A: Yes, I was already unconscious.

Q: You were already unconscious when you clothings and panty were already taken off?

A: Yes.

Q: When you regained consciousness, you said, your panty were (*sic*) bloodied, is that correct?

A: Yes.

Q: And it was still intact in your private parts, is that correct?

A: (no answer).

Q: It was you who removed your panty?

A: No, sir.

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[12] See *People v. Perez*, G.R. Nos. 124366-67, 19 May 1999, 307 SCRA 276.

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Q: Who removed your panty?

A: My father, sir.

Q: Your father removed it when you were unconscious is that what you mean?

A: Yes, sir.[13]

Appellant contends that if Reseilleta was unconscious she would be incapable of knowing or remembering what transpired. Hence, her assertion that he removed her clothes and thereafter had sexual intercourse with her is highly suspect.

We disagree. Primarily, it bears noting that Reseilleta was only a little over sixteen (16)-year old *barrio* lass at the time she testified on 10 September 1997, uneducated and unaccustomed to court proceedings. As aptly observed by the trial court —

> In assessing the probative value of the testimonies of the victim Reseilleta and her sister, 10-year old Mary Joy, we took note of their cultural and educational and social background and experiences. The two girls come from a family of simple folks in a remote *barangay* of a remote municipality. By their testimony and that of their father, the accused, they were not able to go to school because of adverse situations that beset the family. As a matter of fact, Reseilleta, at 18 years of age, does not even know how to write her name.[14]

Naive and unsophisticated as she was, Reseilleta could not be expected to give flawless answers to all the questions propounded to her. More importantly, it must be stressed that the above-quoted testimony must be taken as the *logical conclusion* of Reseilleta that it was appellant who removed her clothes. *Before she lost consciousness following her father's brutal assault on her with an iron bar after she refused to remove her panty, she was still wearing her clothes and panty and appellant was the only one who was with her at that time.*

At any rate, direct evidence of the commission of the crime is not the only matrix by which courts may draw their conclusions

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[13] TSN, 10 September 1997, pp. 25-26.

[14] *Rollo*, p. 17.

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and findings of guilt. Where, as in this case, the victim could not testify on the actual commission of the rape because she was rendered unconscious at the time the crime was perpetrated, the court is allowed to rule on the basis of circumstantial evidence provided that (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived are proved; and, (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[15] The corollary rule is that the totality or the unbroken chain of the circumstances proved leads to no other logical conclusion than appellant's guilt.[16]

We find that the evidence for the prosecution sufficiently establish the following: *first*, appellant and Reseilleta were the only persons in the house at the time of the rape on 12 December 1996; *second*, he forcibly dragged Reseilleta from the kitchen to the living room; *third*, he commanded her to remove her panty although she refused; *fourth*, he poked a knife at her and forced her to lie down; *fifth*, he clubbed Reseilleta with an iron bar when she resisted and struggled to extricate herself from him; *sixth*, he punched Reseilleta in the stomach which rendered her unconscious; *seventh*, when she regained consciousness, she felt pain in her vagina which was already bleeding; and *eighth*, the medical examination conducted on Reseilleta two (2) months after the incident revealed lacerations in her vagina at 5 and 6 o'clock positions.

The combination of these circumstances establishes beyond moral certainty that Reseilleta was raped while she was in a state of unconsciousness and that appellant was the one responsible for defiling her. These circumstances constitute an unbroken chain of events which inevitably points to appellant, to the exclusion of all others, as the guilty person, *i.e.*, they are consistent with each other, consistent with the hypothesis that appellant is

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[15] Rule 133, Sec. 4, Revised Rules of Court.

[16] See *People v. Tolentino*, G.R. Nos. 139834, 19 February 2001, 352 SCRA 228; *People v. Gargar, et al.*, G.R. Nos. 110029-30, 29 December 1998, 300 SCRA 542.

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guilty and at the same time inconsistent with any other hypothesis except that appellant is guilty.[17]

Appellant insists however that he could not have raped Reseilleta because children from their neighborhood usually converged at their residence to play.

We are not persuaded. It is not at all impossible, nay, not even improbable, that such brutish act of a depraved man as appellant was actually committed in his residence. Lust, we have repeatedly noted, has no regard for time nor place. The fact that children gather at appellant's residence to play is no guarantee that rape cannot be perpetrated there. Indeed, there is no law or rule that rape can be committed only in seclusion. Rapes have been committed in many and different kinds of places, including those which most people would consider as inappropriate or as presenting a high risk of discovery.[18]

Appellant's suggestion that Reseilleta concocted the rape charge against him upon the instigation of her mother Estelita deserves scant consideration. No mother would instigate her daughter to file a complaint for rape out of sheer malice knowing that it would expose her own daughter to shame, humiliation and stigma concomitant to a rape, and could send the father of her children to the gallows.[19] As we view it, Estelita was simply motivated by a desire to have the person responsible for the defloration of her daughter apprehended and punished.

In the face of the positive testimony of Reseilleta who had no improper motive to testify falsely against him, appellant's alibi crumbles like a fortress of sand. For the defense of alibi to prosper, the accused must not only show that he was not present at the *locus criminis* at the time of the commission of the crime, but also that it was physically impossible for him to have been present at the scene of the crime at the time of its

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[17] *People v. Diaz*, G.R. No. 117323, 4 October 1996, 262 SCRA 723.

[18] *People v. Mitra*, G.R. No. 130669, 27 March 2000, 328 SCRA 774.

[19] See *People v. Ariola*, G.R. Nos. 142602-05, 3 October 2001, 366 SCRA 539; *People v. Escober*, G.R. No. 122180, 6 November 1997, 281 SCRA 498.

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commission.[20] Appellant testified that on 12 December 1996 he was working in a farm from six o'clock in the morning until sunset. However, he miserably failed to prove that the nature of his work at the farm, and the distance between the farm and his house, effectively prevented him from going home at lunch time to feast on his daughter's purity and innocence.

Appellant posits that in the event he is found guilty he should be convicted only of simple rape, and not qualified rape. He argues that the Information against him failed to allege the *qualifying circumstance of relationship* between him and Reseilleta.

We disagree. The qualifying circumstance of *relationship* of the accused to the victim being father and daughter is so alleged in the Information. The cases of *People v. Bali-balita*[21] and *People v. Rodriguez*,[22] are no longer controlling. The time has come for us to revisit and reexamine the wisdom of these rulings lest blind acquiescence, persistent application and the passage of time may validate what appears to us now as an unsound procedural doctrine that cannot be justified even under the hallowed ground of *stare decisis*.

For a better perspective, we reproduce the *Information* subject of the instant case —

The Undersigned Prosecutor, at the instance of the offended party, Reseilleta C. Villanueva, accuses Rogelio Villanueva, ***her father,*** *of the crime of Rape under Article 335 of the Revised Penal Code, in relation to Republic Act No. 7659, committed as follows:*

That on or about the 12th day of December 1996 at Sitio Malusing Talisay, Barangay Zone I, Sta. Cruz, Davao del Sur and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs armed with an iron bar, struck for several times and boxed Reseilleta C. Villanueva, hitting her at the back portion of her body and abdomen causing her to lose her consciousness did then and there willfully, unlawfully and

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[20] *People v. Villanos*, G.R. No. 126648, 1 August 2000, 337 SCRA 78, 88.

[21] G.R. No. 134266, 15 September 2000, 340 SCRA 450.

[22] G.R. No. 138987, 6 February 2002.

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feloniously have carnal knowledge of the offended party, ***a minor,*** *against her will, and to her damage and prejudice* (emphasis supplied).

There is no law or rule prescribing a specific location in the *Information* where the qualifying circumstances must "exclusively" be alleged before they could be appreciated against the accused. Section 6, Rule 110, of the *2000 Revised Rules of Criminal Procedure* requires, without more —

Sec. 6. Sufficiency of complaint or information. — A complaint or information is sufficient if it states the name of the accused, the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When the offense is committed by more than one person, all of them shall be included in the complaint or information.

While Sec. 8, Rule 110, of the same Rules states —

Sec. 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the facts or omissions constituting the offense, and ***specify its qualifying and aggravating circumstances****. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it* (emphasis supplied).

Nothing in Secs. 6 and 8 of Rule 110 mandates that material allegations should be stated in the body and not in the preamble or caption of the *Information*. Instead, both sections state that as long as the pertinent and significant allegations are enumerated in the *Information* it would be deemed sufficient in form and substance. We hold that it is irrelevant and immaterial whether the qualifying circumstance of relationship is mentioned in the opening paragraph of the *Information* or in the second paragraph which alleges the acts constituting the crime charged since either paragraph is an integral part of the *Information*.

The preamble or opening paragraph should not be treated as a mere aggroupment of descriptive words and phrases. It is as much an essential part as the *Information* as the accusatory

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paragraph itself. The preamble in fact complements the accusatory paragraph which draws its strength from the preamble. It lays down the predicate for the charge in general terms; while the accusatory portion only provides the necessary details. The preamble and the accusatory paragraph, together, form a complete whole that gives sense and meaning to the indictment. Thus, any circumstance stated in the preamble (*i.e.*, minority, relationship) should also be considered as an allegation of such fact.

Significantly, the *name of the accused* is set forth, not in the body of the *Information*, but only in the opening paragraph. The *name of the accused* is a fundamental element of every *Information* and is crucial to its validity. If the preamble can validly contain such an essential element as the name of the accused, there appears to be no logical reason why it cannot likewise contain the equally essential allegations on the qualifying circumstances.

Moreover, the opening paragraph bears the operative word "*accuses*," which sets in motion the constitutional process of notification, and formally makes the person being charged with the commission of the offense an accused. Verily, without the opening paragraph, the accusatory portion would be nothing but a useless and miserably incomplete narration of facts, and the entire *Information* would be a functionally sterile charge sheet; thus, making it impossible for the state to prove its case.

The information sheet must be considered, not by sections or parts, but as one whole document serving one purpose, *i.e.*, to inform the accused why the full panoply of state authority is being marshalled against him. Our task is not to determine whether allegations in an indictment could have been more artfully and exactly written, but solely to ensure that the constitutional requirement of notice has been fulfilled. Accordingly, the sufficiency of the allegations of qualifying circumstances therein must be judged objectively, and measured by practical considerations. Allegations of qualifying circumstances should not be declared insufficient merely by virtue of a perceived formal defect in their locations, which do not otherwise prejudice

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the substantial rights of the accused. As long as they are adequately pleaded within the four corners of the charge sheet, as in the instant case, they could not be invalidated by the fact that they are found only in the introductory paragraph.

We fail to see how the relative positioning of the qualifying circumstances in an *Information* could possibly transgress the constitutional right of an accused to be informed of the nature and cause of accusation against him. All that this fundamental right signifies is that the accused should be given the necessary data as to why he is being prosecuted against. This is to enable him to intelligently prepare for his defense, and prevent surprises during the trial.

Parenthetically, can it be tenably argued that simply because a qualifying circumstance was averred in the opening paragraph of the *Information*, the accused was not informed of this vital *information* which could aid him in his defense? Certainly not. It must be emphasized that in a typical *Information*, the preamble always precedes the accusatory portion. As such, it would be incongruous if not absurd to assume that the accused in reading the *Information* would limit himself to the accusatory portion and totally disregard the rest of the charge sheet.

A cursory reading of the *Information* heretofore recited readily reveals more than, satisfactory compliance with the Rules, specifically Sec. 8, Rule 110, of the *2000 Revised Rules of Criminal Procedure*. Unquestionably, there is concurrence in the allegations of *relationship* and *minority* in the *Information*. Since the preamble or caption, in the case at bar, states that Rogelio Villanueva is "her father" (referring to Reseilleta), then it adequately informed the accused that his daughter was charging him of the acts contained in the succeeding paragraph. The qualifying circumstance of relationship must accordingly be appreciated against the appellant herein. No constitutional right of the appellant has been invaded or infringed, for he was properly apprised of the existence of this circumstance.

Finally, were we to persist in the mistaken belief on the necessity of stating the qualifying circumstances strictly and exclusively in the accusatory paragraph of an *Information*, we would be

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placing premium on a highly technical and artificial rule of form, and completely sacrificing the substance, purpose and reason for the indictment. We believe that this requirement is without any corresponding benefit to the interest of justice. On the contrary, it is only bound to unduly burden our prosecutorial agencies and, worse, provide criminals with a convenient avenue to elude the punishment they truly deserve.

In light of the foregoing, our rulings in *People v. Bali-balita, People v. Rodriguez* and companion cases, insofar as they are inconsistent with this pronouncement, are modified or overturned for obvious reasons. At any rate, the crime in the instant case was committed before the *Bali-Balita* and *Rodriguez* cases were promulgated.

Under Art. 335 of *The Revised Penal Code*, as amended by RA 7659, the death penalty is imposed for the crime of rape if "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."

Fortunately for appellant, he would be spared this extreme punishment. The *minority* of the victim and her *relationship* to the offender constitute special qualifying circumstances, which must both be sufficiently alleged and *proved*. While the *relationship* between appellant and Reseilleta was adequately established during the trial by the admission of no less than appellant himself, the prosecution evidence is quite anemic to prove the *minority* of the victim.

A careful reading of the records would show a perceivable variance as to age, *i.e.*, whether the victim was fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age at the time of the commission of the offense. *First*, the victim testified that she was born on 15 March 1981, yet at the time she was raped on 12 December 1996 she claimed that she was only fourteen (14) years old, instead of fifteen (15) years old;[23] *second*, Estelita Villanueva, mother of the victim, confirmed on the witness

[23] TSN, 10 September 1997, p. 7.

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stand that Reseilleta was eighteen (18) years old at the time she testified on 6 January 1998 or a little over one (1) year after the rape, which means that Reseilleta was seventeen (17) years old, not fourteen (14), nor fifteen (15), nor sixteen (16) years of age, at the time of the rape;[24] *third*, the trial court held that the victim was "fourteen (14) years old at the time of the incident;"[25] and *fourth*, the medical report of Dr. Diaz on Reseilleta Villanueva, *Exh. "B,"* shows an entry that the victim was born on 15 March 1979, which makes her seventeen (17) years old when she was raped on 12 December 1996.

Verily, we find no independent evidence on record that could accurately show the age of the victim. In the absence of adequate proof as to her exact age, the Court will consider only the qualifying circumstance of *relationship* between appellant and his victim. We have held that the *minority* of the victim must be proved with equal certainty and clearness as the crime itself. Failure to sufficiently establish the victim's age will bar any finding of rape in its qualified form. While it may be argued that the victim herein, in any case, was below eighteen (18) of age, nevertheless we give the benefit of the doubt to the appellant in view of the confusion as to the precise age of Reseilleta. Accordingly, the Court resolves to impose on appellant the lower penalty of *reclusion perpetua*.[26]

In accordance with the prevailing jurisprudence, the award of ₱50,000.00 as civil indemnity in favor of the victim is in order.[27] In addition, the award of ₱50,000.00 as moral damages is justified, conformably with our pronouncement in *People v. Pagsanjan*.[28]

WHEREFORE, the Decision appealed from is *AFFIRMED*, subject to the *MODIFICATION* that appellant ROGELIO VILLANUEVA is found guilty of simple rape and is sentenced

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[24] TSN, 6 January 1998, pp. 19–20.

[25] *Rollo*, p. 19.

[26] See *People v. Sabalan*, G.R. No. 134529, 26 February 2001, 352 SCRA 701.

[27] *People v. Biong*, G.R. Nos. 144445-47, 30 April 2003.

[28] G.R. No. 139694, 27 December 2002.

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to *reclusion perpetua*. He is further ordered to pay his victim Reseilleta Villanueva the amount of ₱50,000.00 as civil indemnity, and another ₱50,000.00 as moral damages, with costs against appellant.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna and *Tinga, JJ.*, concur.

Ynares-Santiago and Corona, JJ., are on leave.

FIRST DIVISION

[G.R. No. 142381. October 15, 2003]

PHILIPPINE BLOOMING MILLS, INC., and ALFREDO CHING, *petitioners, vs.* **COURT OF APPEALS and TRADERS ROYAL BANK,** *respondents.*

SYNOPSIS

The Court of Appeals affirmed with modification the Decision rendered by Branch 113 of the Regional Trial Court of Pasay City declaring petitioner Alfredo Ching liable to respondent Traders Royal Bank (TRB) for the payment of the credit accommodations extended to Philippine Blooming Mills, Inc. According to the trial court, the liability of Ching as a surety attaches independently from his capacity as a stockholder of the Philippine Blooming Mills. Under the Deed of Suretyship, petitioner Ching unconditionally agreed to assume PBM's liability to respondent bank in the event PBM defaulted in the payment of the said obligation in addition to whatever penalties, expenses and bank charges that may occur by reason of default. The appellate court affirmed with modification the judgment of the trial court. The modification is with respect to the amount