Supreme Court E-Library

EN BANC

[G.R. No. 144402. August 14, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **ROMEO ECLERA, SR.,** *appellant.*

SYNOPSIS

Appellant Romeo Eclera, Sr., was convicted of rape by the Regional Trial Court of Urdaneta City, Pangasinan. The complainant is appellant's 17-year-old daughter. He was sentenced to suffer the supreme penalty of death. On automatic review, appellant contended that the trial court erred in convicting him and according weight and credence to the testimony of private complainant despite its lack of credibility. Appellant assailed the credibility of complainant by presenting her professors who testified that they had already dropped complainant from their classes prior to September 22, 1999. Thus, complainant was lying when she testified that she came from school before the alleged rape incident. Appellant also assailed the credibility of his wife who testified for the prosecution. He argued that she is a battered wife, a victim of his physical abuse, thus, had a strong motive against him

The Supreme Court affirmed appellant's conviction. The Court found complainant's testimony positive, categorical and consistent. According to the Court, although two of complainant's professors testified that she was already dropped from their classes, it was not conclusive that she stopped schooling altogether. The certification issued by both professors that she had been dropped from their classes was not a certification from the school itself. It was not even signed by the dean or the registrar and thus, could not be taken as evidence that she had completely ceased attending school, that is, there must have been other subjects that she was still attending. The Court also ruled out the allegation of ulterior motive on the part of the complainant's mother. It stated that hatred cannot be considered sufficient motive to testify falsely to convict a person for a crime punishable by death, and no mother in her right mind would stoop so low as to subject her own daughter

Supreme Court E-Library

to the shame and stigma concomitant to rape proceedings merely to assuage her own vengeful feelings against her husband.

SYLLABUS

1. **CRIMINAL LAW; RAPE; ESTABLISHED IN CASE AT BAR.**— After a careful study of the records, we are convinced that the appellant is guilty of qualified rape. Article 335 of the Revised Penal Code, as amended by RA 7659, provides that rape maybe committed by having carnal knowledge of a woman through force and intimidation. In the case at bar, the prosecution was able to prove beyond reasonable doubt that appellant raped his daughter Riolyn by having carnal knowledge of her through force and intimidation. His denial cannot prevail over her positive and categorical testimony which the trial court found to be truthful.

2. **ID.; ID.; DEATH PENALTY; CORRECTLY IMPOSED BY THE TRIAL COURT.**— The trial court therefore correctly imposed the penalty under Section 11 of RA 7659, otherwise known as the Death Penalty Law which provides that death shall be imposed if the crime of rape is committed against a victim who is under 18 years of age and the offender is the parent of the victim. In the case at bar, the prosecution was able to establish the attendant circumstances of minority and relationship to warrant the imposition of death. At the time of the incident, Riolyn was only 17 years old, having been born on April 3, 1982. This was confirmed by her birth certificate presented by the prosecution as Exhibit "B". Furthermore, appellant himself testified that Riolyn was indeed his daughter.

3. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; COMPLAINANT'S TESTIMONY IS POSITIVE, CATEGORICAL AND CONSISTENT.**— Riolyn's testimony is positive, categorical and consistent. Although two of Riolyn's professors testified that she was already dropped from their classes, it was not conclusive that she stopped schooling altogether. The certification issued by both professors that she had been dropped from their classes was not a certification from the school itself. It was not even signed by the dean or the registrar and thus, could not be taken as evidence that she had completely ceased attending school, that is, there must have been other subjects that she was still attending. Moreover, the Court finds

Supreme Court E-Library

no discrepancy at all between Riolyn's complaint-affidavit and testimony in open court.

4. **ID.; ID.; ID.; HATRED IS NOT SUFFICIENT MOTIVE TO TESTIFY FALSELY AGAINST A PERSON WHO STANDS TO BE PUNISHED WITH DEATH IF CONVICTED.**— As correctly pointed out by the Solicitor General, hatred is not a sufficient motive to testify falsely against a person who stands to be punished with death if convicted. As we ruled in *People vs. Jose:* Accused-appellant also continues to rely upon his theory that the victim's mother has an ax to grind against him and this is the reason why she used her child as an instrument to pin the blame on him. x x x When this kind of argument was presented to the Court as early as in the case of *People vs. Villaroya,* we ruled that 'hatred cannot be considered sufficient motive to testify falsely to convict a person for a crime punishable by death. This Court has repeatedly ruled that no mother in her right mind would stoop so low as to subject her own daughter to the shame and stigma concomitant to rape proceedings merely to assuage her own vengeful feelings against her husband.

5. **ID.; ID.; TRIAL COURTS ARE IN THE BEST POSITION TO DECIDE QUESTIONS REGARDING CREDIBILITY OF WITNESSES.**— It is well-settled that the trial court is in the best position to decide the question of credibility of witnesses, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. Thus, its findings are given great weight and respect and will not be disturbed by the appellate courts. The Court finds it hard to believe that Riolyn would impute such a serious charge against her father who might be put to death if found guilty. The trial court repeatedly reminded complainant of the dire consequences of her charge against her father, yet Riolyn remained unwavering in her testimony

APPEARANCES OF COUNSEL

Solicitor General for plaintiff-appellee.
Jose Antonio M. Guillermo for accused-appellant.

Supreme Court E-Library

DECISION

***PER CURIAM*:**

This is an automatic review of the decision[1] of the Regional Trial Court, Branch 46, Urdaneta City, in Criminal Case No. U-10446 finding herein appellant Romeo Eclera, Sr. guilty beyond reasonable doubt of the crime of qualified rape and sentencing him to suffer the penalty of death.

The accusatory portion of the information filed by Assistant Provincial Prosecutor Emma Ines-Pajaras read as follows:

> That on or about September 22, 1999, in the afternoon, at Brgy. San Vicente West, Asingan, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threats and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with his own daughter, herein complainant Riolyn Eclera, a minor, 17 years old, against her will, to her damage and prejudice.
>
> CONTRARY to Art. 335, Revised Penal Code, as amended by Republic Act Nos. 7659 and 8353.[2]

Upon arraignment[3] on January 10, 2000, appellant Romeo Eclera, Sr., assisted by counsel, pleaded not guilty. Thereafter, trial on the merits ensued.

The prosecution presented three witnesses: Dr. Gloria Araos-Liberato, the medico-legal officer who examined the complainant; Rosalinda Eclera, mother of the complainant and wife of appellant; and complainant Riolyn Eclera. On the other hand, five witnesses testified for the defense: Florida Monce and Salome Tiong, professors of complainant Riolyn at the Pangasinan State University (PSU); Teresita Mamalio, a social worker of the Department of Social Welfare and Development (DSWD), Asingan Branch; SPO3 Fausto Marzan, PNP Asingan; and appellant Romeo Eclera, Sr.

---

[1] Penned by Judge Modesto C. Juanson.

[2] *Rollo*, p. 10.

[3] Records, p. 35.

Supreme Court E-Library

As testified to by prosecution witnesses, the facts of the case are as follows:

Complainant Riolyn is the sixth child of appellant Romeo Eclera, Sr. and Rosalinda Eclera, who were married sometime in 1974. At the time of the rape, Riolyn was a 17-year-old, first year college student at the PSU in Asingan, Pangasinan.

On September 22, 1999, at around 4:00 p.m., Riolyn arrived home from school and went straight to her room to change her clothes. As she was dressing up, her father, herein appellant, entered her room. He approached her from behind, touched her breasts and kissed her lips. Then, he forced her to lie down on the floor and mounted her. Appellant pinned both hands of the victim with one hand while his other hand raised her shirt and removed her shorts and underwear. Appellant then pulled down his pants and underwear to his knees and caressed his penis before partially penetrating Riolyn. She felt pain in her vagina. Appellant made a push and pull movement for about two minutes. Then, Riolyn felt a hot substance come out of his penis into her vagina. At this point, she kicked appellant, causing him to loosen his hold on her. Riolyn hurriedly put on her clothes, ran to the rice field where her mother Rosalinda was working and reported the incident to her.[4]

When confronted by his wife Rosalinda about the incident, appellant denied having raped Riolyn. He even beat up Rosalinda and threatened to kill her and Riolyn if they ever report the matter to the police.[5]

The following day, September 23, 1999, Rosalinda went to the DSWD, Asingan Branch, and reported the incident to Teresa Mamalio, a social worker. However, Mamalio advised Rosalinda to go to DSWD, Urayong, Bauang, La Union Branch, as she was also scared of appellant, who was at that time a *barangay* captain of San Vicente West, Asingan, Pangasinan.

---

[4] TSN, February 3, 2000, pp. 6-11; TSN, February 9, 2000, p. 17.

[5] TSN, February 2, 2000, pp. 6-7.

Supreme Court E-Library

Thus, Rosalinda brought Riolyn and her four daughters to the DSWD in La Union. They reported the matter to Maricel Seria, also a social worker, but it was only a month later or on October 25, 1999, when Riolyn executed a complaint-affidavit against appellant. Upon the execution of her complaint-affidavit, Riolyn was examined at the Asingan Community Hospital by Dr. Gloria Araos-Liberato whose findings were as follows:

A. *External Findings:*

1. No evident signs of extragenital physical injuries noted on the body of the subject at the time of examination.

B. *Internal Findings:*

1. Healed incomplete hymenal laceration at 9:00, 3:00 and 7:30 o'clock position.[6]

For his defense, appellant interposed denial. He testified that, on the day of the alleged rape incident, he was at the house of Vice Mayor Piso who invited him and a certain Barangay Captain Cloma to dine and drink. He stayed at the Vice Mayor's house in Asingan until past 4:00 p.m. Thereafter, he passed by the house of an Iglesia ni Cristo minister because a deacon requested him to come in connection with a complaint filed by his wife Rosalinda. When he arrived home at past 5:00 p.m., his wife Rosalinda and children Gemini, April Joy, Mahalia, Angelica, Riolyn and Romeo, Jr. were all inside the house watching television.

To corroborate his testimony, appellant presented a neighbor, Josefina Gromio, who testified that her house was only about two arms' length away from the Eclera house. The whole day of the incident, she was at home, tending to her *sari-sari* store in front of her house. She saw appellant arrive around 5:00 p.m. and a few minutes later, come to her store to buy a cigarette. She also disclosed that Rosalinda and Riolyn never went to the ricefield and just stayed in their house all day.[7]

---

[6] Records, p. 13.

[7] TSN, May 24, 2000, pp. 3–6.

Supreme Court E-Library

Appellant assailed the credibility of Riolyn by presenting her teachers, Florida Monce and Salome Tiong, who testified that they had already dropped Riolyn from their classes prior to September 22, 1999. Thus, Riolyn was lying when she testified that she came from school before the alleged rape incident.

Appellant also assailed the credibility of his wife Rosalinda and argued that her motive in testifying against him was to get back at him for maltreating her. To prove his point, he presented SPO3 Fausto Marzan who testified that, on September 23, 1999, the day after the alleged rape incident, Rosalinda reported to the police that her husband mauled her but failed to mention the alleged rape of Riolyn.

On June 19, 2000, the trial court rendered its decision, the dispositive portion of which read:

WHEREFORE, JUDGMENT is hereby rendered, CONVICTING ROMEO ECLERA, SR. of Rape aggravated by relationship between father and daughter aged below 18 years old and the court sentences ROMEO ECLERA, SR. to suffer the penalty of DEATH to be implemented in the manner as provided for by law; the accused is likewise ordered to indemnify Riolyn Eclera the sum of ₱75,000.00 for moral damages and another sum of ₱50,000.00 as exemplary damages without any subsidiary imprisonment.

The Branch Clerk of Court of this court is hereby ordered to prepare the *mittimus* and to transmit the whole records of this case to the Supreme Court of the Philippines for automatic review immediately.

The Warden, Bureau of Jail Management and Penology (BJMP), Urdaneta District Jail, Urdaneta City, Pangasinan, is hereby ordered to deliver the living body of Romeo Eclera, Sr. to the National Bilibid Prisons, Muntinlupa City, immediately upon receipt of this Decision.

SO ORDERED.[8]

In his Brief, appellant assigns the following errors:

---

[8] *Rollo*, p. 24.

Supreme Court E-Library

I

THE LOWER COURT ERRED IN ACCORDING WEIGHT AND CREDENCE TO THE, TESTIMONY OF THE PRIVATE COMPLAINANT DESPITE ITS LACK OF CREDIBILITY.

II

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT.[9]

The Solicitor General recommends that the decision of the trial court be affirmed, the same being in accordance with law and the evidence on record, subject, however, to a modification on the award for exemplary damages which should be decreased from ₱50,000 to ₱25,000 pursuant to prevailing jurisprudence.

After a careful study of the records, we are convinced that the appellant is guilty of qualified rape.

Article 335 of the Revised Penal Code, as amended by RA 7659, provides that rape maybe committed by having carnal knowledge of a woman through force and intimidation. In the case at bar, the prosecution was able to prove beyond reasonable doubt that appellant raped his daughter Riolyn by having carnal knowledge of her through force and intimidation. His denial cannot prevail over her positive and categorical testimony[10] which the trial court found to be truthful:

FISCAL TOMBOC: In what particular part of your house were you when you were changing your clothes then?

A In my room, sir.

Q While you were changing your clothes in your room, was there any incident that happened?

A There was, sir.

Q What was that?

---

[9] *Rollo*, p 57.

[10] *People vs. Cambi*, 333 SCRA 615 [2000].

Supreme Court E-Library

A My father entered the room, sir.

Q When your father entered the room, what did he do?

A He went at my back and he held my breast and kissed my lips.

Q So when your father went at your back, held your breast, kissed your lips, what happened next?

A He pushed me on the cement, sir.

Q What is this cement you are referring to?

COURT: You are referring to the flooring?

A Yes, sir.

FISCAL TOMBOC: What part of the house is that flooring?

A In my room, sir.

Q So, he pushed you to the cemented flooring of the room?

A Yes, sir.

Q So at that time when your father pushed you to the cemented flooring of the room, what was your position when he pushed you to the cemented flooring?

A I was able to lie down on the cemented flooring, sir.

Q After that when you were made to lie down on that cemented flooring by your father, what else happened?

A He held both of my hands, raised my shirt and lowered my shorts together with my panty.

COURT: How can he do that when he was holding both of your hands?

A Because he went on top of me, sir.

Q He held both of your hands?

A Yes, sir.

Q After holding both of your hands, what else did he do?

A He removed his pants, sir.

Supreme Court E-Library

Q On you?

A He forced his organ to insert (*sic*) in my vagina.

Q Not yet. You said a while ago, he held both of your hands and then he raised, what did he raise on your body?

A My shirt, sir.

Q Up to what part of your body?

A Up to here, sir (witness demonstrating up to her shoulder above her breast).

Q What else did he do after raising your shirt?

A He lowered my short and panty, sir.

COURT: Go ahead Fiscal.

FISCAL TOMBOC: After your father raised your shirt and lowered your short and panty, what did he do next, Madam Witness?

A He forced to insert (*sic*) his penis in my vagina, sir.

Q Madam Witness, what was your father wearing at that time when he raised your shirt and lowered your short and panty?

A He was wearing pants, sir.

COURT: When he inserted his organ to your organ, what was he wearing?

A None, sir.

Q You mean he was naked?

A His brief was lowered, sir (witness demonstrating up to above her knees).

FISCAL TOMBOC: May I proceed, your Honor.

COURT: Go ahead.

FISCAL TOMBOC: At the time when your father forced to insert (*sic*) his penis to your vagina, was your father able to insert his penis to your vagina?

A Yes, sir.

Supreme Court E-Library

Q What did you feel at that time when your father forcibly inserted his penis to your vagina?

A I felt pain, sir.

Q On what part of your body did you feel pain?

A In my vagina, sir.

COURT: What did your father do after inserting his penis to your vagina?

A He made a push and pull, sir.

COURT: Go ahead Fiscal.

FISCAL BONDOC: Can you estimate how long did your father make that push and pull movement?

A Yes, sir.

Q Will you please inform the Honorable Court your estimate how long did he do that push and pull movement?

A About two minutes, sir.

Q So, after your father had done that push and pull movement for two minutes, what happened after that?

A I felt a hot substance that came out, sir.

COURT: You said hot substance came out, where did it come out?

A From my father, sir.

Q From what part of the body of your father did you feel that hot substance coming out?

A From his penis, sir.

COURT: Go ahead.

FISCAL TOMBOC: In what part of your body were you able to feel that hot substance that came out from the penis of your father?

A In my vagina, sir.

Q After feeling that hot substance that came out from the penis of your father, what else happened?

A I kicked him, sir.

Supreme Court E-Library

Q In what part of the body of your father did you kick him?

A In his penis, sir.

Q So what happened to your father when you were able to kick him, Madam Witness?

A He was hurt, sir.

Q What did you do then when you were able to kick your father?

A I put on my clothes and then I ran away, sir.

Q When you ran away, where did you go?

A I ran towards where my mother was in the ricefield, sir.[11]

Her testimony on cross-examination was also positive, categorical and consistent with her earlier testimony:

Q Considering your height and your age, you are still young at 17 years old, did you not struggle against your father who is small in statue (*sic*) so that you can free yourself in (*sic*) his clutches at that time?

A I fought him back, sir.

Q And you fought hard?

A I kicked him, sir.

Q And despite your kicking him he was not able to loosen his hold on you?

A No, sir.

Q You said that at that time you were then only two in the house, your sisters are (*sic*) in the school and nevertheless you shouted but nobody heard your shout because of the heavy rain, do you affirm that?

A Yes, sir.

Q Was he already able to take your clothes off before you shouted?

A Not yet, sir.

---

[11] TSN, February 3, 2000, pp. 6-11.

Supreme Court E-Library

Q You mean to say when you shouted you were still fully dressed?

A Yes, sir.

Q Were you not able to escape (*sic*) him by pushing him?

A No, sir, because the hold was tight.

Q You said the hold was tight, was he holding your both hands at that time?

A Yes, sir.

Q How did he remove your clothes then when he was holding your hands as you were struggling according to you?

A When he was on top of me, he tried to remove my clothes.

Q So you were still fully clothed when he pushed you down the cemented floor, according to your direct-examination?

A Yes, sir.

Q And when he pushed you down, he used his two hands?

A Yes, sir.

Q And you were still struggling?

A Yes, sir.

Q And that was the time when he pulled off your clothes?

A When I was pushed and I was able to lie down the cemented floor, he went on top of me and removed my dress.

Q You mean you were still fully dressed after he pushed you down to the cemented floor?

A My upper dress was still on but it was already raised.

Q What was your wearing apparel that time?

A Blouse, sir.

Q About your lower garments?

A Shorts, sir.

Supreme Court E-Library

Q Was he able to remove your blouse when you were already pushed down to the floor by your father?

A He did not remove actually, but he raised it, sir.

Q What did he do with your lower apparel, your shorts?

A He lowered it, sir.

Q When he removed your blouse, removed your shorts, in fact including your panty, by what means did he use in removing your blouse, your shorts and your panty when he was already on top of you?

A He forced it, sir.

Q How?

A He was mad, sir.

Q Did he use his hands in removing your blouse, your shorts, your panty when he was on top of you?

A Yes, sir.

Q As he was doing that with his hands, did you not struggle or at least pushed him?

A I was kicking him, sir.

Q As he was removing your T-shirt, your shorts and your panty you were already kicking him while he was on top of you, is that what you want the Court to believe?

A Yes, sir, I was kicking him.

Q What was the wearing apparel of your father at that time?

A T-shirt and long pants, sir.

Q Maong pants?

A Khaki, sir.

Q Do you know if he has a belt?

A None, sir.

Q So when your father was on top of you, he used his hands in removing your blouse, your shorts and panty, he also used his hands in removing his shirt and long pants, is that what you want the court to believe?

Supreme Court E-Library

A One hand was used in removing, sir.

Q About the other hand, what was it doing?

A The other hand was holding one of my hands, sir.

Q Your other hand was free?

A Both of my hands were held by one hand of my father, sir.

Q You mean to say is, that while your father was on top of you fully dressed, he was holding both of your hands with his hand while his other hand was removing your blouse, your shorts and panty together with his shirt and long pants, is that what you want the Court to believe?

A Yes, sir, his hand which is free was the . . . same hand which he used to remove my shorts and also the same hand which he used in removing his pants.

Q After he has removed your shorts and panty and he has undressed yourself, that was the time when according to you in paragraph 3 of your affidavit-complaint and I quote: "He pushed me on the floor, he forcibly lied down on top of my body as he was holding my hands tightly. He forcibly pulled on my short and panty as he was able to touch and caress his penis to my vagina. He was not able to penetrate totally his penis to my vagina since I was able to kick him," do you still affirm this statement of yours?

A I only kicked him when I felt something painful, sir.

Q What I am asking you is, if you affirm this paragraph 3 of your Affidavit-Complaint which you executed under oath and verified under oath?

A Yes, sir.

Q And the next paragraph of your Affidavit-Complaint and I quote: "My father was hurt when I kicked him, I took the advantage to stand up and immediately fixed my clothes while running away from my father," do you still affirm this statement of yours?

A Yes, sir.

Supreme Court E-Library

Q In this Affidavit-Complaint of yours you never mentioned about feeling something hot coming from the penis of your father as you stated in your direct-examination?

FISCAL TOMBOC: Objection, your Honor, he said in the direct-examination that she felt something hot.

ATTY. GUILLERMO: In this Affidavit-Complaint of yours, paragraph 3, which we quoted which you affirmed, you said that your father's penis did not totally penetrate your vagina, but in your direct examination you mentioned that you even felt that there was a hot fluid coming from the penis of your father and that was the time when you kicked him, which is correct now?

A I affirm that there was little penetration, sir.

Q So it is not true that you even felt something hot or hot fluid coming from your father's penis at that time?

A It is true sir that there is only a little penetration.

Q About the hot fluid?

A I felt hot substance coming from the penis of my father, sir.

Q Was that the first time that you ever felt hot fluid coming from a male organ entering your vagina at the time this alleged rape was committed, it was only a slight penetration?

A Yes, sir.

Q You never had any experience of any sexual intercourse with anyone where your vagina was totally penetrated?

A None, sir.

Q Before this incident you never had any injury in your vagina caused by a deep penetrating penis, that is what you want the court to believe?

A Yes, sir.

Q So after all, Madam Witness, you were able to escape from your father by kicking him?

A Yes, sir.

Supreme Court E-Library

Q And when you kicked him, he was even thrown away by the force of your kick that is why you were able to run away?

A Yes, sir.

Q And you said, however, that you have been kicking your father from the time your father took hold of you?

A Yes, sir.

Q And even when he went on top of you removing your clothes you kicked him several times?

A Yes, sir.

Q And even, as you stated in your affidavit-complaint, "he touch and caress his penis to your vagina," you were still kicking him?

A Yes, sir.

Q And it was only when he was able to slightly penetrate his penis to your vagina when you were able to kick him and he was thrown away and you were able to run away?

A Yes, sir.[12]

Riolyn's testimony was corroborated by Dr. Araos-Liberato's medical report stating that the healed incomplete lacerations in Riolyn's vagina could have been inflicted more than a month before her medical examination. This physical finding was consistent with Riolyn's testimony that she was raped by appellant on September 22, 1999, which was more than a month before her physical examination by Dr. Araos-Liberato on October 26, 1999.

Appellant tries to assail the credibility of Riolyn. There being no other witness to the rape, the conviction of appellant indeed hinges on her credibility. He argues that Riolyn should not be believed because she is a liar. She testified that, on the day of the alleged rape, she came from school but this was belied by her teachers who testified that they had already dropped her from their classes as early as September 1, 1999. Also, there was a discrepancy between her complaint-affidavit and her testimony in open court. Appellant points out that, in her affidavit, Riolyn stated that the

---

[12] TSN, February 9, 2000, pp. 14–21.

Supreme Court E-Library

appellant was not able to penetrate her since she was able to kick him. But, during the trial, she testified that appellant was able to penetrate her.

The Court is not convinced. Riolyn's testimony is positive, categorical and consistent. Although two of Riolyn's professors testified that she was already dropped from their classes, it was not conclusive that she stopped schooling altogether. The certification[13] issued by both professors that she had been dropped from their classes was not a certification from the school itself. It was not even signed by the dean or the registrar and thus, could not be taken as evidence that she had completely ceased attending school, that is, there must have been other subjects that she was still attending.

Moreover, the Court finds no discrepancy at all between Riolyn's complaint-affidavit and testimony in open court. Appellant took things out of context to create the alleged discrepancy which the Solicitor General, in his Brief, ably refuted, thus:

Item number three (3) of the Affidavit-Complaint dated October 25, 1999 (not October 5, 1999 as stated by appellant in his Brief) of Riolyn Eclera reads:

> 3. *He pushed me on the floor, he forcibly lied (sic) down on top of my body as he was holding my hands tightly. He forcibly pulled down my short and panty as he was able to touch and caress his penis to my vagina.* ***He was not able to penetrate totally his penis to my vagina since I was able to kicked him*** *(p. 10, Record; italics supplied)*

On the other hand, pertinent portions of Riolyn Eclera's court testimony reads:

> COURT: You said your father made a push and pull movement, when your father made that push and pull movement, was his penis inside your vagina?
>
> A Yes, Sir.

---

[13] Records, p. 83.

Supreme Court E-Library

COURT: Go ahead.

ATTY. GUILLERMO: His entire penis was inside your vagina when he was making that push and pull movement for two minutes?

A No, Sir.

Q What do you mean by no?

A *His penis penetrated slightly in my vagina* when he made the push and pull movement.

Q Did you feel hurt?

A Yes, Sir.

Q There was pain in your vagina while your father was making push and pull movement?

A Yes, Sir.

Q *It was during that time when the penis was inside your vagina which was not fully penetrated when you said you felt something hot coming out from his penis?*

A *Yes, Sir.*

Q And that he has already been doing that for two minutes when that fluid came out?

A Yes, Sir.

Q And that was the time when you said you kicked him?

A Yes, sir. (pp. 20–21, TSN, February 3, 2000; italics supplied)

Plainly, there is no inconsistency between Riolyn Eclera's affidavit-complaint, and her court testimony. On the contrary, Riolyn Eclera remained consistent in her declaration that appellant succeeded in penetrating her albeit not completely.

Penetration of a woman's sex organ is not an element of the crime of rape [*People vs. Sagun*, 303 SCRA 382, 396 (1999)] because the mere touching by the *male organ or instrument of sex of the* labia of the pudendum of the woman's private parts is sufficient to consummate rape [*People vs. Mahinay*, 302 SCRA 455, 479 (1999)].[14]

---

[14] Appellee's Brief, *Rollo*, pp. 95-98.

Supreme Court E-Library

Besides, it is well-settled that the trial court is in the best position to decide the question of credibility of witnesses, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[15] Thus, its findings are given great weight and respect and will not be disturbed by the appellate courts.[16]

The Court finds it hard to believe that Riolyn would impute such a serious charge against her father who might be put to death if found guilty. The trial court repeatedly reminded complainant of the dire consequences of her charge against her father, yet Riolyn remained unwavering in her testimony:

COURT:

Q So your father is sending you to school, provided you with clothing, provided your expenses for school, sometimes kind to you and to your brothers and sisters, why would you be filing this case against your father, the Court is telling you that if the Court will convict your father of the crime you charged against him, the sentence is death, are you aware of that?

A Yes, sir.

Q That your father will be executed if ever the Court finds that he is guilty of the crime charged against him, he will die because of your complaint, are you aware of that?

A I know that, sir.

Q Despite that knowledge that your father will die (because) if the Court finds your complaint valid, you still want to pursue your case against your father?

A Yes, sir.

Q You mean to say what you have stated before the Court is the truth?

A Yes, sir.

[15] *People vs. Tolibas*, 325 SCRA 453 [2000].

[16] *People vs. Baybado*, 335 SCRA 712 [2000].

Supreme Court E-Library

Q Why is it that deep inside you you are angry and hate your father, why?

A Because I can remember the doings that my father had done to us, sir.

Q But that was only on one occasion, will you not pass the fact that your father has been kind to you once a while, he sent you to school, he took care of you will you not think of the good things he had done to you?

A I know that, sir.

Q But despite what your father had done to you, you still want to pursue your case?

A Yes, sir.

ATTY. GUILLERMO: Is it not a fact that you were persuaded to file this case by your mother the reason that you have known that your mother has been maltreated, battered by your father for many many years?

A No, sir.

Q Is it not a fact that you are a witness to this incident, battering and beating of your mother by your father, the accused in this case?

A Yes, sir.[17]

Appellant also attempts to discredit his wife Rosalinda. He argues that she is a battered wife, a victim of his physical abuse. Thus, she had a strong motive to charge appellant with the crime. Furthermore, he claims that, in her affidavit dated October 25, 1999, Rosalinda stated that appellant merely inserted his fingers in his daughter's vagina.

As correctly pointed out by the Solicitor General, hatred is not a sufficient motive to testify falsely against a person who stands to be punished with death if convicted. As we ruled in *People vs. Jose*:[18]

---

[17] TSN, February 9, 2000, pp. 8-10.

[18] 307 SCRA 571, 578 [1999].

Supreme Court E-Library

Accused-appellant also continues to rely upon his theory that the victim's mother has an ax to grind against him and this is the reason why she used her child as an instrument to pin the blame on him. x x x When this kind of argument was presented to the Court as early as in the case of *People vs. Villaroya*,[19] we ruled that 'hatred cannot be considered sufficient motive to testify falsely to convict a person for a crime punishable by death.

This Court has repeatedly ruled that no mother in her right mind would stoop so low as to subject her own daughter to the shame and stigma concomitant to rape proceedings merely to assuage her own vengeful feelings against her husband.[20]

At any rate, the Court cannot find Rosalinda's affidavit, dated October 25, 1999, in the records. We quote the explanation of the Solicitor General regarding this point:

Appellant also points to an alleged inconsistency between Rosalinda Eclera's affidavit-complaint and her testimony. According to appellant, the said affidavit-complaint merely states that Riolyn Eclera was almost raped and that appellant inserted his fingers to his daughter's vagina while her court declaration was that appellant raped Riolyn Eclera (p. 7, Appellant's Brief).

The claim is misleading.

The record of this case made available to the Office of the Solicitor General reveals that there is no such Affidavit-Complaint dated October 25, 1999, purportedly executed by Rosalinda Eclera in connection with this case. What is extant in the record is an Affidavit dated October 23, 1999 executed by Rosalinda Eclera which was subscribed and sworn to before Judge Hilarion A. Suller.

Even a cursory reading of the same affidavit, however, reveals that nothing is mentioned therein by Rosalinda Eclera that "Riolyn Eclera was almost raped and that appellant inserted his fingers to his daughter (*sic*) vagina."

---

[19] 101 Phil. 1061 [1957].

[20] *People vs. Tabinggay*, 339 SCRA 575 [2000]; *People vs. Brandares*, 311 SCRA 159 [1999]; *People vs. Gecomo*, 259 SCRA 82 [1998].

Supreme Court E-Library

For clarity, the complete text of Roalinda (*sic*) Eclera's Affidavit dated October 23, 1999 is quoted hereunder:

1. That I am the wife of Romeo Eclera who is presently accused of the crime of Rape for several counts pending before the 7th MCTC, Asingan-San Miguel, Pangasinan;
2. That when we filed a case, we were threatened by my husband Romeo Eclera and for many times he used to point his 45 caliber gun against all of us;
3. That he has in his possession at least five (5) firearms namely, one 45 caliber, one 38 caliber revolver, one grenade, one armalite and one shotgun which he keeps sometimes in our house, the other he keeps in (*sic*) his friends and neighbors in the community;
4. That because of the threats that we received from him I respectfully pray to this Honorable Court to issue a search warrant before something untoward will happen to us (p. 14, Record).

It is noted, however, that during her cross-examination, Rosalinda Eclera identified an affidavit-complaint, the date of which was not even mentioned, which she purportedly signed. Assuming, that this is the same Affidavit dated October 25, 1999 allegedly executed by Rosalinda Eclera and, it in fact exists, the same, however, cannot dent the prosecution's evidence. To be sure, the victim referred to therein is one April Joy who is also a daughter of appellant Rosalinda Eclera, not Riolyn who is the private complainant in this case.[21]

The Solicitor General's finding was supported by Rosalinda's testimony during her cross-examination:

ATTY. GUILLERMO:

Q That was the only thing that you reported to the DSWD, Urayong, Bauang, La Union?

A Many more, sir.

---

[21] *Supra* note 11 at 105-108.

Supreme Court E-Library

Q What more did you report?

A In connection with the smashing (*sic*) of the breast to (*sic*) one of my daughters and also reported that I was beaten by my husband, and inserting his finger to the vagina.

Q Did you also report that to Theresa Mamalio DSWD, Asingan, Pangasinan?

A No, sir.

Q Why did you not report the other things that your husband allegedly do to your two daughters and to you?

A I was rushing that time because I was afraid my husband might see me in that office.

xxx xxx xxx

ATTY. GUILLERMO:

Q What is the name of your daughter?

A Mahalia.

Q How about the other daughter who according to you was sexually abused by your husband by inserting his finger to her vagina?

A April Joy.

Q You already knew of this allegedly (*sic*) incident on September 22, 1999?

A Yes I knew that already.

Q Why did you not state that to Theresa Mamalio?

A I also told a part but not the entire.

Q On direct examination a while ago you said that it was Riolyn only who reported to you the alleged rape on September 22, 1999 who are the other children of yours who were allegedly abused by your husband prior to September 22, 1999?

A On September 21, 1999 April Joy did not report what happened to her while Mahalia only revealed what happened to her at Urayong, Bauang, La Union at DSWD Office.

Supreme Court E-Library

Q You mean to say it was only in Urayong, Bauang, La Union when you were there when the two of your daughters told you what happened to them?

A It was only Mahalia who reported what happened to her at Urayong, Bauang, La Union while April Joy reported to me what happened to her on September 21, 1999.[22]

The trial court therefore correctly imposed the penalty under Section 11 of RA 7659, otherwise known as the Death Penalty Law which provides that death shall be imposed if the crime of rape is committed against a victim who is under 18 years of age and the offender is the parent of the victim. In the case at bar, the prosecution was able to establish the attendant circumstances of minority and relationship to warrant the imposition of death. At the time of the incident, Riolyn was only 17 years old, having been born on April 3, 1982. This was confirmed by her birth certificate presented by the prosecution as Exhibit "B".[23] Furthermore, appellant himself testified[24] that Riolyn was indeed his daughter.

Complainant Riolyn is furthermore entitled to civil indemnity of ₱75,000 inasmuch as the rape was qualified by the aggravating circumstances of minority and relationship. Moral damages of ₱50,000 is also awarded for the reason that rape victims are entitled to moral damages without need of proof, in addition to civil indemnity.[25] Likewise, we agree with the Solicitor General that an additional award of ₱25,000 as exemplary damages must also be given to complainant in consonance with prevailing jurisprudence.[26]

Three members of the Court maintain their position that RA 7659, insofar as it prescribes the death penalty, is unconstitutional.

---

[22] TSN, February 2, 2000, pp. 14-15.

[23] Records, p. 12.

[24] TSN, May 24, 2000, p. 6.

[25] *People vs. Tagaylo*, 345 SCRA 284 [2000]; *People vs. Bawang*, 342 SCRA 147 [2000].

[26] *People vs. Palermo*, G.R. No. 120630, June 28, 2001.

Supreme Court E-Library

Nevertheless, they submit to the ruling of the Court, by a majority vote, that the law is constitutional and that the death penalty should accordingly be imposed.

WHEREFORE, the decision of the Regional Trial Court of Urdaneta City, Branch 46, in Criminal Case No. U-10446 convicting herein appellant Romeo Eclera, Sr. of the crime of qualified rape and sentencing him to death is hereby *AFFIRMED*, with the *MODIFICATION* that appellant shall pay the complainant, Riolyn Eclera, the sums of ₱75,000 as civil indemnity, ₱50,000 as moral damages and ₱25,000 as exemplary damages.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of RA 7659, upon finality of this decision, let the records of this case be forwarded to the Office of the President for a possible exercise of executive clemency.

Costs *de oficio*.

SO ORDERED.

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

Callejo, Sr., J., on leave.