Supreme Court E-Library

EN BANC

[G.R. No. 131636. March 5, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **ARTEMIO INVENCION** *y* **SORIANO,** *appellant.*

SYNOPSIS

For sexually violating his 16-year old daughter Cynthia P. Invencion, accused Artemio Invencion was charged, tried and subsequently found guilty of the crime of qualified rape and was sentenced to the penalty of death. In convicting accused, the Regional Trial Court of Tarlac found the prosecution's version more credible.

Hence, this automatic review.

The Supreme Court found no cogent reason to overturn the findings of the trial court on the culpability of the appellant. It held that the factual findings of the trial court especially on the credibility of the witnesses are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, or the carriage and mien. This rule, however, admits of exceptions, as where there exists a fact or circumstance of weight and influence that has been ignored or misconstrued by the court, or where the trial court has acted arbitrarily in its appreciation of the facts. The Court did not find any of these exceptions in this case. Nonetheless, it held that appellant can be convicted only of simple rape punishable by *reclusion perpetua*. It found that the allegation in the complaint regarding the victim's age was not clearly proved. No birth certificate or any similar authentic document was presented and offered in evidence to prove the victim's age. According to the Court, to justify the imposition of the death

Supreme Court E-Library

penalty in a rape committed by a father on her daughter, the minority of the victim and her relationship with the offender, which are special qualifying circumstances, must be alleged in the complaint or information and proved by the prosecution during the trial by the *quantum* of proof required for conviction.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FACTUAL FINDINGS OF TRIAL COURT WITH RESPECT THERETO ACCORDED GREAT WEIGHT AND RESPECT AND WILL NOT BE DISTURBED ON APPEAL; EXCEPTIONS NOT PRESENT IN CASE AT BAR.**— It is doctrinally settled that the factual findings of the trial court, especially on the credibility of the witnesses, are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, or the carriage and mien. This rule, however, admits of exceptions, as where there exists a fact or circumstance of weight and influence that has been ignored or misconstrued by the court, or where the trial court has acted arbitrarily in its appreciation of the facts. We do not find any of these exceptions in the case at bar.

2. **ID.; ID.; ID.; TESTIMONY OF WITNESS, ENTITLED TO FULL CREDENCE ABSENT EVIDENCE OF IMPROPER MOTIVE TO TESTIFY FALSELY AGAINST ACCUSED.**— The alleged ulterior motive of Elven in testifying against his father also deserves scant consideration. Such insinuation of ill-motive is too lame and flimsy. As observed by the OSG, Elven, who was of tender age, could not have subjected himself to the ordeal of a public trial had he not been compelled by a motive other than to bring to justice the despoiler of his sister's virtue. There is no indication that Elven testified because of

Supreme Court E-Library

anger or any ill-motive against his father, nor is there any showing that he was unduly pressured or influenced by his mother or by anyone to testify against his father. The rule is that where there is no evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full credence.

3. **ID.; ID.; ID.; MINOR INCONSISTENCIES; INCONSISTENCIES AND DISCREPANCIES AS TO MINOR MATTERS IRRELEVANT TO THE ELEMENTS OF THE CRIME NOT GROUNDS FOR ACQUITTAL.**— We find as inconsequential the alleged variance or difference in the time that the rape was committed, *i.e.,* during the night as testified to by Elven, or between 6:00 and 7:00 a.m. per the testimony of Eddie. The exact time or date of the commission of rape is not an element of the crime. What is decisive in a rape charge is that the commission of the rape by the accused has been sufficiently proved. Inconsistencies and discrepancies as to minor matters irrelevant to the elements of the crime cannot be considered grounds for acquittal. In this case, we believe that the crime of rape was, indeed, committed as testified to by Elven and Eddie.

4. **ID.; ID.; ID.; ID.; CREDIBILITY IS NOT IMPAIRED BY INCONSISTENCIES ON MINOR AND INSIGNIFICANT DETAILS.**— The alleged inconsistencies in the testimonies of both Elven and Gloria do not impair the credibility of these witnesses. We agree with the trial court that they are minor inconsistencies, which do not affect the credibility of the witnesses. We have held in a number of cases that inconsistencies in the testimonies of witnesses that refer to minor and insignificant details do not destroy the witnesses' credibility. On the contrary, they may even be considered badges of veracity or manifestations of truthfulness on the material points in the testimonies. What is important is that the testimonies agree on essential facts and substantially corroborate a consistent and coherent whole.

5. **ID.; ID.; ID.; MOTIVE; NO MOTHER WOULD SUBJECT HER CHILD TO HUMILIATION, DISGRACE, AND TRAUMA IF SHE WERE NOT MOTIVATED SOLELY BY THE DESIRE TO HAVE THE PERSON RESPONSIBLE FOR HER CHILD'S DEFILEMENT INCARCERATED.**— The alleged ill-motives on the part of

Supreme Court E-Library

Gloria and Celestino were not sufficiently proved. Nothing in the records suggests any reason that would motivate Gloria to testify falsely against Artemio, who is the father of her other children. Moreover, we have repeatedly held that no mother would subject her child to the humiliation, disgrace, and trauma attendant to the prosecution for rape if she were not motivated solely by the desire to have the person responsible for her child's defilement incarcerated. As for Celestino, he testified that the lot where the hut stands is owned by his daughter Erlinda, and not by Artemio's mother. At any rate, even without Celestino's testimony, Artemio's conviction would stand.

6. **ID.; ID.; ADMISSIBILITY; DISQUALIFICATION BY REASON OF RELATIONSHIP; RULE ON FILIAL PRIVILEGE, MAY BE WAIVED.**— As to the competency of Elven to testify, we rule that such is not affected by Section 25, Rule 130 of the Rules of Court, otherwise known as the rule on "filial privilege." This rule is not strictly a rule on disqualification because a descendant is not incompetent or disqualified to testify against an ascendant. The rule refers to a privilege not to testify, which can be invoked or waived like other privileges. As correctly observed by the lower court, Elven was not compelled to testify against his father; he chose to waive that filial privilege when he voluntarily testified against Artemio. Elven declared that he was testifying as a witness against his father of his own accord and only "to tell the truth."

7. **ID.; ID.; PRESENTATION OF EVIDENCE; EXAMINATION OF WITNESSES; DIRECT EXAMINATION; LEADING QUESTIONS; ALLOWED WHEN WITNESS IS A CHILD OF TENDER YEARS.**— Neither can Artemio challenge the prosecution's act of propounding leading questions on Elven. Section 10(c) of Rule 132 of the Rules of Court expressly allows leading questions when the witness is a child of tender years like Elven.

8. **CRIMINAL LAW; RAPE; SPECIAL QUALIFYING CIRCUMSTANCES; MINORITY AND RELATIONSHIP, MUST BE BOTH ALLEGED AND PROVED TO WARRANT THE IMPOSITION OF DEATH PENALTY.**— To justify the imposition of the death penalty in a rape committed by a father on a daughter, the minority of the victim and her relationship with the offender, which are special qualifying circumstances,

Supreme Court E-Library

must be alleged in the complaint or information and proved by the prosecution during the trial by the quantum of proof required for conviction. Although the relationship of Cynthia with her father Artemio was alleged in the complaint and duly established by evidence during trial, the allegation in the complaint regarding her age was not clearly proved.

9. **ID.; ID.; ID.; APPRECIATION OF AGE EITHER AS AN ELEMENT OF THE CRIME OR AS A QUALIFYING CIRCUMSTANCE; GUIDELINES.**— In the very recent case of *People v. Pruna*, we set the guidelines in appreciating age either as an element of the crime or as a qualifying circumstance: 1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party. 2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age. 3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances: a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old; b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old; c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old. 4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused. 5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him. 6. The trial court should always make a categorical finding as to the age of the victim.

10. **ID.; ID.; ID.; DEATH PENALTY CANNOT BE IMPOSED ABSENT SUFFICIENT PROOF OF VICTIM'S MINORITY;**

Supreme Court E-Library

CASE AT BAR.— In the present case, no birth certificate or any similar authentic document was presented and offered in evidence to prove Cynthia's age. The statement in the medical certificate showing Cynthia's age is not proof thereof, since a medical certificate does not authenticate the date of birth of the victim. Moreover, pursuant to *Pruna,* Gloria's testimony regarding Cynthia's age was insufficient, since Cynthia was alleged to be 16 years old already at the time of the rape and what is sought to be proved is that she was then 18 years old. Moreover, the trial court did not even make a categorical finding on Cynthia's minority. Finally, the silence of Artemio or his failure to object to the testimonial evidence regarding Cynthia's age could not be taken against him. It must be stressed that the severity of death penalty, especially its irreversible and final nature once carried out, makes the decision-making process in capital offenses aptly subject to the most exacting rules of procedure and evidence. Accordingly, in the absence of sufficient proof of Cynthia's minority, Artemio cannot be convicted of qualified rape and sentenced to suffer the death penalty. He should only be convicted of simple rape and meted the penalty of *reclusion perpetua.*

11. **ID.; ID.; CIVIL INDEMNITY; AWARD THEREOF IS MANDATORY UPON FINDING OF THE FACT OF RAPE; MORAL AND EXEMPLARY DAMAGES; AWARDED IN CASE AT BAR.** — As regards the civil liability of Artemio, the awards of moral damages in the amount of ₱50,000 and exemplary damages in the amount of ₱25,000 are insufficient. Civil indemnity, which is mandatory upon the finding of the fact of rape, should also be awarded. In simple rape, the civil indemnity for the victim shall not be less than ₱50,000.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Isabelo C. Salamida for accused-appellant.

Supreme Court E-Library

DECISION

DAVIDE, JR., C.J.:

Before us for automatic review[1] is the Decision[2] dated 22 September 1997 of the Regional Trial Court of Tarlac, Tarlac, Branch 65, in Criminal Case No. 9375, finding accused-appellant Artemio Invencion *y* Soriano guilty beyond reasonable doubt of the crime of rape committed against his 16 year-old daughter Cynthia P. Invencion, and sentencing him to suffer the penalty of death and to pay Cynthia the sum of ₱50,000 as moral damages and ₱25,000 as exemplary damages, as well as the costs of suit.

Artemio was charged before the Regional Trial Court of Tarlac with thirteen counts of rape in separate complaints docketed as Criminal Cases Nos. 9363 to 9375, all dated 17 October 1996. The cases were consolidated and jointly tried. At his arraignment Artemio entered a plea of not guilty in each case.

The witnesses presented by the prosecution in its evidence in chief were Elven Invencion, Eddie Sicat, Gloria Pagala, Dr. Rosario Fider, and Atty. Florencio Canlas. Presented as rebuttal witnesses were Gloria Pagala and Celestino Navarro.

Elven Invencion, an 8-year-old grade two pupil of Sapang Tagalog Elementary School in Tarlac, Tarlac, testified that he is a half-brother of Cynthia and son of Artemio with his second common-law wife. Sometime before the end of the school year in 1996, while he was sleeping in one room with his father Artemio, Cynthia, and two other younger brothers, he was awakened by Cynthia's loud cries. Looking towards her, he saw his father on top of Cynthia, doing a pumping motion. After about two minutes, his father put on his short pants.[3]

---

[1] Pursuant to Article 47 of the Revised Penal Code, as amended by R.A. No. 7659.

[2] Per Judge Angel J. Parazo. Original Record (OR), 147-156; *Rollo*, 29-38.

[3] TSN, 8 April 1997, 7-10.

Supreme Court E-Library

Elven further declared that Artemio was a very strict and cruel father and a drunkard. He angrily prohibited Cynthia from entertaining any of her suitors. Whenever he was drunk, he would maul Elven and quarrel with his stepfather, Celestino Navarro.[4]

Eddie Sicat, a 40-year-old farmer and neighbor of Artemio in Barangay Sapang Tagalog, Tarlac, Tarlac, testified that on the second week of March 1996, between 6:00 and 7:00 a.m., while he was passing by the house of Artemio on his way to the field to catch fish, he heard somebody crying. He then peeped through a small opening in the destroyed, portion of the *sawali* wall of Artemio's house. He saw Cynthia lying on her back and crying, while her father was on top of her, doing a pumping motion. Eddie observed them for about fifteen seconds, and then he left and proceeded to the field to catch fish.[5] He reported what he had witnessed to Artemio's stepfather, Celestino, later that morning.[6]

Gloria Pagala, the mother of Cynthia and former common-law wife of Artemio, testified that she and Artemio started living together in Guimba, Nueva Ecija, in February 1969. Out of their common-law relationship, they had six children, one of whom was Cynthia. In March 1982, she and Artemio parted ways permanently. Later, Gloria and her children lived in Pura, Tarlac. When Artemio's mother died sometime in 1996, Cynthia lived with Artemio in a small one-room dwelling owned by Celestino and located in *Barangay* Sapang Tagalog, Tarlac, Tarlac.[7] On 30 August 1996, her son Novelito told her that Cynthia was pregnant. Gloria then went to the house of Artemio and asked Cynthia about her condition. The latter confessed that she had been sexually abused by her father. Gloria then went to the office of the National Bureau of Investigation (NBI)

---

[4] *Id.*, 10-11; TSN, 15 April 1997, 2.

[5] TSN, 7 May 1997, 4-10.

[6] *Id.*, 19-20.

[7] TSN, 15 April 1997, 6-13.

Supreme Court E-Library

in Tarlac and reported what Artemio had done to their daughter Cynthia.[8]

Dr. Rosario Fider of Tarlac Próvincial Hospital testified that she examined Cynthia on 16 September 1996. She found Cynthia to be five to six months pregnant and to have incomplete, healed hymenal lacerations at 3, 5, 8 o'clock positions, which could have been caused by sexual intercourse or any foreign body inserted in her private part.[9]

Atty. Florencio Canlas, an NBI agent, testified that on 18 September 1996, Cynthia, accompanied by her mother, complained before him and NBI Supervising Agent Rolando Vergara that she was raped by her father Artemio. She then executed a written statement,[10] which she subscribed and sworn to before Atty. Canlas.[11]

The defense did not present Artemio as a witness. Instead, his counsel *de parte*, Atty. Isabelo Salamida, took the witness stand and testified for the defense. He declared that on 24 June 1997 (the same day when he testified before the court), between 10:45 and 11:00 a.m., he and his secretary went to the house of Artemio in Barangay Sapang Tagalog, The hut was made of *sawali*. Its door was padlocked, and its windows were shut. When he went around the house and tried to peep through the old *sawali* walls on the front and left and right sides of the hut, he could not see anything inside the room where Artemio and his children used to sleep. Although it was then about noontime, it was dark inside.[12] Atty. Salamida then concluded that prosecution witness Eddie Sicat was not telling the truth when he declared having seen what Artemio did to Cynthia when he peeped through a small opening in the *sawali* wall of the house in the early morning sometime on the second week of March 1996.

---

[8] *Id.*, 9-12; *Sinumpaang Salaysay*, OR, 6.

[9] TSN, 15 May 1997, 4-5; Exhibit "B", OR, 126.

[10] Exhibit "A", OR, 8-9.

[11] TSN, 21 May 1997, 3-5.

[12] TSN, 24 June 1997, 4-7.

Supreme Court E-Library

On rebuttal, Gloria Pagala testified that the house where Artemio used to live was a small hut with some destroyed portions in its *sawali* walls. When she went there to visit her children sometime in December 1995, there was a hole in front and at the sidewall of the hut facing a vacant lot where people passed by to fish in a nearby brook.[13] When she went to the place again sometime in September 1996 after she was informed of Cynthia's pregnancy, she noticed that the destroyed portions of the hut's *sawali* walls were not yet repaired.[14]

The second rebuttal witness Celestino Navarro, stepfather of Artemio, testified that he is the owner of the small house where Artemio and his children used to reside. At the time that Artemio and his children, including Cynthia, were living in that house, the hut's old *sawali* walls had some small holes in them, thus confirming the testimony of Eddie Sicat. After Artemio was arrested on the basis of Cynthia's complaint before the NBI, Celestino made some repairs in the hut by, among other things, placing galvanized iron sheets to cover the holes at the destroyed portions of the *sawali* walls. Thereafter, a person named Alvin occupied the house.[15]

In its Decision of 22 September 1997, the trial court convicted Artemio in Criminal Case No. 9375. It, however, acquitted him in all the other twelve cases for lack of evidence.

In his Appellant's Brief, Artemio contends that the trial court erred in

I

. . . BELIEVING THE TESTIMONIES OF THE PROSECUTION WITNESSES;

II

. . . NOT DISMISSING THIS CASE FOR FAILURE OF THE PROSECUTION TO PROVE [HIS] GUILT . . . BEYOND REASONABLE DOUBT.

---

[13] TSN, 5 August 1997, 8.

[14] *Id.*, 12.

[15] TSN, 7 August 1997, 4-6.

Supreme Court E-Library

Artemio attacks the competency and credibility of Elven as a witness. He argues that Elven, as his son, should have been disqualified as a witness against him under Section 20(c), Rule 130 of the Rules of Court.[16] Besides, Elven's testimony appears not to be his but what the prosecution wanted him to say, as the questions asked were mostly leading questions. Moreover, Elven had ill-motive in testifying against him, as he (Artemio) was cruel to him.

In another attempt to cast doubt on the credibility of the prosecution witnesses, Artemio points to the following inconsistencies in their testimonies: (1) as to the time of the commission of the crime, Elven testified having seen Artemio on top of his sister *one night* in March 1996, while Eddie Sicat testified having seen them in the same position *between 6:00 and 7:00 a.m.* in the second week of March 1996; (2) as to the residence of Cynthia in 1996, Gloria testified that the former was living with her in Guimba from November 1995 to September 1996, while Elven and Eddie declared that she was in Sapang Tagalog in March 1996; and (3) as to the residence of Artemio, Jr., Gloria stated that he was living with the appellant, but later she declared that he was living with her in Pura.

Artemio also argues that since his house had no electricity and was dark even at daytime, it was impossible for Elven and Eddie to see him allegedly doing pumping motion on top of Cynthia. In his Reply Brief, he likewise urges us to disregard the testimonies of rebuttal witnesses Celestino and Gloria. According to him, Celestino had an ax to grind against him (Artemio) because he had been badgering Celestino for his share of the lot where the hut stands, which was owned by Artemio's deceased mother. On the other hand, Gloria wanted to get rid of Artemio because she was already cohabiting with another man.

In the Appellee's Brief, the Office of the Solicitor General (OSG) prays for the affirmation of Artemio's conviction and sentence, but recommends that a civil indemnity in the amount

---

[16] Section 25, Rule 130, 1991 Rules on Evidence.

Supreme Court E-Library

of ₱75,000 be awarded in addition to the awards of moral and exemplary damages.

We find no cogent reason to overturn the findings of the trial court on the culpability of Artemio.

It is doctrinally settled that the factual findings of the trial court, especially on the credibility of the witnesses, are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, or the carriage and mien.[17] This rule, however, admits of exceptions, as where there exists a fact or circumstance of weight and influence that has been ignored or misconstrued by the court, or where the trial court has acted arbitrarily in its appreciation of the facts.[18] We do not find any of these exceptions in the case at bar.

As to the competency of Elven to testify, we rule that such is not affected by Section 25, Rule 130 of the Rules of Court,[19] otherwise known as the rule on "filial privilege." This rule is not strictly a rule on disqualification because a descendant is not incompetent or disqualified to testify against an ascendant.[20] The rule refers to a privilege not to testify, which can be invoked or waived like other privileges. As correctly observed by the

---

[17] *People v. Bertulfo*, G.R. No. 143790, 7 May 2002, citing *People v. Abella*, 339 SCRA 129, 144-145 [2000].

[18] *Id.*, citing *People v. Quejada*, 223 SCRA 77 [1993].

[19] SEC. 25. *Parental and filial privilege.* — No person may be compelled to testify against his parents, other direct ascendants, children or other direct descendants.

[20] See 2 FLORENZ REGALADO, *REMEDIAL LAW COMPENDIUM* 583 (7th rev. ed. 1995).

Supreme Court E-Library

lower court, Elven was not compelled to testify against his father; he chose to waive that filial privilege when he voluntarily testified against Artemio. Elven declared that he was testifying as a witness against his father of his own accord and only "to tell the truth."[21]

Neither can Artemio challenge the prosecution's act of propounding leading questions on Elven. Section 10(c) of Rule 132 of the Rules of Court[22] expressly allows leading questions when the witness is a child of tender years like Elven.

The alleged ulterior motive of Elven in testifying against his father also deserves scant consideration. Such insinuation of ill-motive is too lame and flimsy. As observed by the OSG, Elven, who was of tender age, could not have subjected himself to the ordeal of a public trial had he not been compelled by a motive other than to bring to justice the despoiler of his sister's virtue. There is no indication that Elven testified because of anger or any ill-motive against his father, nor is there any showing that he was unduly pressured or influenced by his mother or by anyone to testify against his father. The rule is that where there is no evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full credence.[23]

We find as inconsequential the alleged variance or difference in the time that the rape was committed, *i.e.*, during the night as testified to by Elven, or between 6:00 and 7:00 a.m. per the testimony of Eddie. The exact time or date of the commission of rape is not an element of the crime. What is decisive in a rape charge is that the commission of the rape by the accused has been sufficiently proved. Inconsistencies and discrepancies

---

[21] TSN, 8 April 1997, 5.

[22] SEC. 10. *Leading and misleading questions.* — A question which suggests to the witness the answer which the examining party desires is a leading question. It is not allowed, except:

. . . . . .

(c) When there is difficulty in getting direct and intelligible answers from a witness who is ignorant, or a child of tender years, or is a feeble mind, or a deaf-mute. . . .

[23] *People v. Ramos*, 312 SCRA 137, 148 [1999].

Supreme Court E-Library

as to minor matters irrelevant to the elements of the crime cannot be considered grounds for acquittal.[24] In this case, we believe that the crime of rape was, indeed, committed as testified to by Elven and Eddie.

The alleged inconsistencies in the testimonies of both Elven and Gloria do not impair the credibility of these witnesses. We agree with the trial court that they are minor inconsistencies, which do not affect the credibility of the witnesses. We have held in a number of cases that inconsistencies in the testimonies of witnesses that refer to minor and insignificant details do not destroy the witnesses' credibility.[25] On the contrary, they may even be considered badges of veracity or manifestations of truthfulness on the material points in the testimonies. What is important is that the testimonies agree on essential facts and substantially corroborate a consistent and coherent whole.[26]

Artemio's allegation that it was impossible for both Elven and Eddie to have seen and witnessed the crime because the room was dark even at daytime was convincingly disputed by rebuttal witnesses Gloria Pagala and Celestino Navarro. Furthermore, as observed by the OSG, even if the hut was without electricity, Elven could not have been mistaken in his identification of Artemio because he had known the latter for a long time. Moreover, Elven was at the time only two meters away from Cynthia and Artemio. Even without sufficient illumination, Elven, who was jostled out of his sleep by Cynthia's loud cry, could observe the pumping motion made by his father.[27]

The alleged ill-motives on the part of Gloria and Celestino were not sufficiently proved. Nothing in the records suggests any reason that would motivate Gloria to testify falsely against

---

[24] *People v. Matugas*, G.R. Nos. 139698-726, 20 February 2002. See also *People v. Alba*, 305 SCRA 811 [1999]; *People v. Montejo*, 355 SCRA 210, 226 [2001].

[25] *People v. Palomar*, 278 SCRA 114, 147 [1997].

[26] *People v. Gaspar*, 318 SCRA 649, 671 [1999].

[27] See Appellant's Brief, 14.

Supreme Court E-Library

Artemio, who is the father of her other children. Moreover, we have repeatedly held that no mother would subject her child to the humiliation, disgrace, and trauma attendant to the prosecution for rape if she were not motivated solely by the desire to have the person responsible for her child's defilement incarcerated.[28] As for Celestino, he testified that the lot where the hut stands is owned by his daughter Erlinda, and not by Artemio's mother.[29] At any rate, even without Celestino's testimony, Artemio's conviction would stand.

The remaining issue for our resolution is the correctness of the penalty of death imposed by the trial court. The death penalty was imposed because of the trial court's appreciation of the special qualifying circumstances that Artemio is the father of the victim and the latter was less than 18 years old at the time the crime was committed.

Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, which is the governing law in this case, pertinently reads:

> Article 335. When and how rape is committed. —
>
> The crime of rape shall be punished by *reclusion perpetua.*
>
> The death penalty shall also be imposed if the crime of rape is committed with any of the following 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.

To justify the imposition of the death penalty in a rape committed by a father on a daughter, the minority of the victim and her relationship with the offender, which are special qualifying circumstances, must be alleged in the complaint or information

---

[28] *People v. Oliva*, 282 SCRA 470, 482 [1997]. See also *People v. Sanchez*, 250 SCRA 14, 27 [1995]; *People v. Dela Cruz* 251 SCRA 77, 85 [1995]; *People v. Alimon,* 257 SCRA 658, 676 [1996].

[29] TSN, 7 August 1997, 7-8.

Supreme Court E-Library

and proved by the prosecution during the trial by the quantum of proof required for conviction. The accusatory portion of the complaint in Criminal Case No. 9375 reads as follows:

> That on or about the month of March 1996 at Sapang Tagalog, Municipality of Tarlac, Province of Tarlac, Philippines, and within the jurisdiction of this Honorable Court, the said accused Artemio S. Invencion did then and there willfully, unlawfully and feloniously by using force and intimidation have carnal knowledge of his daughter Cynthia P. Invencion who was sixteen (16) years old, in their house.
>
> CONTRARY TO LAW.[30]

Although the relationship of Cynthia with her father Artemio was alleged in the complaint and duly established by evidence during trial, the allegation in the complaint regarding her age was not clearly proved.

In the very recent case of *People v. Pruna*,[31] we set the guidelines in appreciating age either as an element of the crime or as a qualifying circumstance:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
2. In the absence of a certificate of live birth; similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

---

[30] *Rollo*, 17.

[31] G.R. No. 138471, 10 October 2002.

Supreme Court E-Library

a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.

In the present case, no birth certificate or any similar authentic document was presented and offered in evidence to prove Cynthia's age. The statement in the medical certificate showing Cynthia's age is not proof thereof, since a medical certificate does not authenticate the date of birth of the victim. Moreover, pursuant to *Pruna*, Gloria's testimony regarding Cynthia's age was insufficient, since Cynthia was alleged to be 16 years old already at the time of the rape and what is sought to be proved is that she was then 18 years old. Moreover, the trial court did not even make a categorical finding on Cynthia's minority. Finally, the silence of Artemio or his failure to object to the testimonial evidence regarding Cynthia's age could not be taken against him.

It must be stressed that the severity of death penalty, especially its irreversible and final nature once carried out, makes the decision-making process in capital offenses aptly subject to the

Supreme Court E-Library

most exacting rules of procedure and evidence.[32] Accordingly, in the absence of sufficient proof of Cynthia's minority, Artemio cannot be convicted of qualified rape and sentenced to suffer the death penalty. He should only be convicted of simple rape and meted the penalty of *reclusion perpetua*.

As regards the civil liability of Artemio, the awards of moral damages in the amount of ₱50,000 and exemplary damages in the amount of ₱25,000 are insufficient. Civil indemnity, which is mandatory upon the finding of the fact of rape,[33] should also be awarded. In simple rape, the civil indemnity for the victim shall not be less than ₱50,000.

WHEREFORE, the decision of the Regional Trial Court, Branch 65, Tarlac, Tarlac, in Criminal Case No. 9375 is hereby *AFFIRMED* with the modification that that accused Artemio Invencion *y* Soriano is held guilty beyond reasonable doubt as principal of the crime of simple rape, and is sentenced to suffer the penalty of *reclusion perpetua* and to pay the victim Cynthia Invencion the sums of ₱50,000 as indemnity; ₱50,000 as moral damages; and ₱25,000 as exemplary damages.

Costs *de oficio*.

SO ORDERED.

Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Jr. and *Azcuna, JJ.*, concur.

Ynarez-Santiago, J., on leave.

Corona, J., on leave.

---

[32] *People v. Pruna, supra*, citing *People v. Liban*, 345 SCRA 453 [2000].

[33] *People v. Rebato*, 358 SCRA 230, 238 [2001]; *People v. Panganiban*, 359 SCRA 509, 524 [2001].