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The appellants are hereby ordered to pay in *solidum* to the victim Arnold Barcuma the amount of ₱25,000 as moral damages and ₱10,000 as temperate or moderate damages.

Costs *de oficio*.

**SO ORDERED.**

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

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**EN BANC**

[G.R. No. 149893. April 2, 2003]

**PEOPLE OF THE PHILIPPINES,** *plaintiff-appellee, vs.* **MELCHOR RABAGO,** *accused-appellant.*

**SYNOPSIS**

For the act of bestiality committed by accused Melchor Rabago against his thirteen-year old only daughter, Merliza Rabago, the trial court convicted him of the crime of rape and the penalty of death was imposed upon him. Hence, this automatic review.

The Court emphasized that the complainant was only fourteen years old when she testified. A young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out details of an assault on her dignity, cannot be so easily dismissed as a mere concoction. In the case at bar, the complainant remained steadfast throughout her entire testimony in the face of intense and lengthy interrogation. Moreover, the fact that, as shown by the records, she cried while on the witness stand, further bolstered the

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credibility of the rape charge. Accordingly, the decision of the court *a quo* was affirmed.

## SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; GUIDING PRINCIPLES IN REVIEW OF RAPE CASES.**— In reviewing rape cases, we are guided by the following principles: (1) to accuse a man of rape is easy but to disprove it is difficult although the accused may be innocent; (2) considering the nature of things, and that only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; (3) the evidence for the prosecution must stand or fall on its own merits and not be allowed to draw strength from the weakness of the evidence of the defense.

2. **ID.; ID.; CREDIBILITY OF WITNESSES; FINDINGS OF THE TRIAL COURT ARE GENERALLY ENTITLED TO GREAT WEIGHT.**— At the heart of almost all rape cases is the issue of credibility of the witnesses. And when credibility is in issue, it is well settled that we generally defer to the findings of the trial court. Having heard the witnesses themselves and observed their deportment during trial, the trial court is in a better position to decide the question.

3. **ID.; ID.; ID.; ID.; APPLIED IN CASE AT BAR.**— In the present case, we find no material discrepancy in the testimony of the complainant that would seriously taint her credibility and warrant a reversal of the trial court's findings. The complainant tearfully narrated her traumatic ordeal on that fateful night of January 13, 1999... The foregoing candid and direct account by the complainant strongly establishes, beyond doubt, the fact of rape and the identity of appellant as the perpetrator of the crime.

4. **ID.; ID.; ID.; YOUNG GIRL'S REVELATION CANNOT BE EASILY DISMISSED AS A MERE CONCOCTION.**— It bears emphasis that the complainant was only fourteen years old when she testified. A young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out details of an assault on her dignity, cannot be so easily dismissed as a mere concoction. In the case at bar, the complainant remained steadfast throughout

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her entire testimony in the face of intense and lengthy interrogation. Moreover, the fact that, as shown by the records, she cried while at the witness stand further bolsters the credibility of the rape charge.

5. **ID.; ID.; ID.; TESTIMONY OF A RAPE VICTIM AGAINST HER FATHER IS ENTITLED TO GREAT WEIGHT.**— [W]e take cognizance of our holding that the testimony of a rape victim against her father is entitled to great weight, since reverence and respect for elders is deeply ingrained in Filipino children and is also recognized by law. It is against human nature for a girl to fabricate a story that would expose herself as well as her family to a lifetime of dishonor, especially when her charge could mean the death of her own father.

6. **ID.; ID.; ID.; RAPE VICTIMS ARE NOT EXPECTED TO BE PRECISE IN RECOUNTING DETAILS OF A HARROWING EXPERIENCE.**— We note that the variances in the complainant's testimony as to the time of the rape are but minor inconsistencies. We have ruled on numerous occasions that minor inconsistencies in rape cases will not necessarily derail the testimony of the offended party, for rape victims cannot be expected to be precise in recounting the details of a clearly harrowing experience. As long as the testimony is consistent on material points, slightly conflicting statements will not undermine the witness' credibility nor the veracity of the testimony. Besides, specification of the exact time of the commission of rape is not important, as it is not an element of the crime.

7. **ID.; ID.; ID.; PHYSICAL EVIDENCE; VICTIM'S CLAIM OF RAPE IS CORROBORATED BY PHYSICAL FINDINGS OF PENETRATION.**— The complainant's testimony is, moreover, supported by the medical examination on the complainant conducted by a medico-legal officer ten days after the incident. The medical report showed healed lacerations in the complainant's hymen. Laceration, whether healed or fresh, is the best physical evidence of forcible defloration. It is settled that when the victim's claim of rape is corroborated by the physical findings of penetration, there exists sufficient basis for concluding that sexual intercourse did take place.

8. **ID.; ID.; DENIAL; DENIAL CANNOT STAND AGAINST THE POSITIVE IDENTIFICATION AND CATEGORICAL**

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**TESTIMONY OF A RAPE VICTIM.**— A plain denial, which is a negative self-serving evidence, cannot stand against the positive identification and categorical testimony of a rape victim. Hence appellant's weak defense of denial fails in light of the complainant's positive declarations.

9. **CRIMINAL LAW; RAPE; FORCE; ESTABLISHED IN CASE AT BAR.**— [I]n the instant case, the existence of intimidation need not be proven, as the prosecution's evidence sufficiently established the presence of force. Contrary to appellant's allegation that the complainant never resisted the sexual assault, the presence of force is unmistakably established, as shown by the complainant's unwavering stance during her cross-examination.... Clearly, the foregoing shows appellant's employment of force and violence to satiate his bestial lust. Also, in the complainant's direct examination, she testified that she tried to extricate herself from appellant, but he proved too strong for her. Hence, given the sufficient proof of the presence of force in the case at bar, the element of "force, threat *or* intimidation," as required by Article 266-A of the Revised Penal Code, is satisfactorily established. The rape charge thus stands without need of further proving the presence of intimidation.

10. **ID.; ID.; PENALTY; TO WARRANT IMPOSITION OF DEATH PENALTY, VICTIM'S MINORITY AND HER RELATIONSHIP TO THE OFFENDER MUST BE ALLEGED IN THE INFORMATION AND PROVEN DURING TRIAL.**— Paragraph 6 of Article 266-B of the Revised Penal Code, as amended, provides: "x x x The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances: 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim. x x x" Under this provision, both circumstances of the victim's minority and her relationship to the offender must be alleged in the information and proven during the trial to warrant the imposition of the death penalty.

11. **ID.; ID.; ID.; ID.; VICTIM'S MINORITY SUFFICIENTLY ESTABLISHED BY HER BIRTH CERTIFICATE; CASE AT BAR.**— The complainant's minority was not only confirmed by her mother and admitted by appellant in court, but was also

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established by her birth certificate issued by the Municipal Civil Registrar of Minglanilla, Cebu. Said document clearly states that the complainant was born on July 18, 1985. Indeed, as alleged in the information, at the time of the commission of the rape on January 13, 1999, the complainant was thirteen years old. Likewise, complainant's relationship to appellant was sufficiently proven by her birth certificate referring to appellant as the father. Appellant himself and his wife Esterlita expressly admitted this fact in their testimonies. Thus, the information correctly alleged that the complainant is appellant's own daughter.

12. **ID.; ID.; CIVIL LIABILITY; MORAL DAMAGES AND EXEMPLARY DAMAGES PRESENT IN CASE AT BAR.**— Anent the civil liability, in line with current jurisprudence, the amount of moral damages must be increased from ₱50,000.00 to ₱75,000.00, but the amount of exemplary damages should be reduced from ₱50,000.00 to ₱25,000.00.

**APPEARANCES OF COUNSEL**

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

**D E C I S I O N**

***PER CURIAM*:**

For automatic review by this Court is the decision[1] of the Regional Trial Court, Branch 15, of Cebu City, dated June 27, 2001, in Criminal Case No. CBU-50105, finding the appellant Melchor Rabago guilty beyond reasonable doubt of rape as follows:

WHEREFORE, in view of the foregoing, the court finds accused, Melchor Rabago *GUILTY* beyond reasonable doubt of the crime of rape as defined by Article 266-A and penalized by Article 266-B of the Revised Penal Code in relation to Republic Act 8353 and he is hereby sentenced to suffer the mandatory penalty of DEATH. The accused is further ordered to pay the victim, Merliza Rabago, the

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[1] Penned by Judge Fortunato M. De Gracia, Jr.

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sum of ₱50,000.00 as moral damages, ₱75,000.00 as civil indemnity and ₱50,000.00 as exemplary damages.[2]

On March 30, 1999, appellant was charged under an information which states:

> That on the 13th day of January, 1999, at about 7:00 o'clock in the evening, at Sitio Lubas, Barangay Camp 7, Municipality of Minglanilla, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court; the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with his own daughter Merliza Rabago, a minor who is only thirteen (13) years old, against her will and consent.
>
> CONTRARY TO LAW.[3]

Upon his arraignment on July 13, 1999,[4] appellant, assisted by his counsel, Atty. Anacleto Debalucos, pleaded not guilty. After trial, the court *a quo* rendered the assailed decision.

The testimonies of three witnesses for the prosecution, namely the complainant Merliza Rabago, her mother Esterlita Rabago, and Dr. Daphne Rana, were presented to establish the following facts:

Merliza Rabago is the only daughter among the eight children of appellant Melchor Rabago and Esterlita Rabago.[5] On the date of the alleged rape, she was residing with her family in Lubas II, Campo 7, Minglanilla, Cebu.[6]

On January 13, 1999, at around 9:00 p.m., while sleeping on the floor of their house with her 4-month old brother, the

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[2] RTC Decision, p. 8; RTC Records, p. 108.

[3] *Rollo*, p. 8.

[4] Certificate of Arraignment, RTC Records, p. 17; Order, RTC Records, p. 18.

[5] TSN, November 10, 1999, p. 3; TSN, January 12, 2000, p. 13; TSN, March 26, 2001, p. 6.

[6] TSN, January 12, 2000, p. 15.

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complainant was awakened when appellant covered her mouth with his hands, undressed her, and took off her panty. Appellant touched her body starting from the neck, left breast, stomach area, going downwards to her thighs. Appellant, already naked then, rubbed his penis on the complainant's vagina. He raised her right leg and thereafter made a push-and-pull movement, with his penis inside her vagina.[7] The complainant struggled and tried to extricate herself, but appellant proved too strong for her.[8] She felt pain and noticed that blood dripped from her.[9] When appellant was through, he left to change. Upon returning, he threatened the complainant with a knife, telling her that he would kill her mother and her brothers if she reports to her mother what happened.[10]

On January 22, 1999, eight days after the incident, the complainant eventually told her mother what happened.[11] They immediately reported the occurrence to the Office of the Barangay Captain, which then reported the same to the police.[12] The next day, Merliza was examined by Dr. Nueva Tagaloguin, Medico-Legal Officer of Don Vicente Sotto Memorial Medical Center. The Medical Report indicated a healed laceration in Merliza's hymen at the 3 o'clock and 9 o'clock positions.[13]

The evidence for the defense is the lone testimony of appellant, who claims innocence of the accusation of his daughter against him. He testified that on January 13, 1999, he was working in his farm from morning until afternoon. He arrived home at 7:00 p.m. and ate supper with his wife and children at 9:00 p.m. At 10:00 p.m., he and his family all went to sleep on the

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[7] TSN, November 10, 1999, pp. 6-9; TSN, December 29, 1999, p. 5.

[8] TSN, November 10, 1999, p. 8.

[9] TSN, November 10, 1999, p. 9.

[10] TSN, November 10, 1999, p. 10; TSN, January 12, 2000, p. 7.

[11] TSN, November 10, 1999; p. 11, TSN, January 12, 2000, p. 16.

[12] TSN, November 10, 1999, p. 11; TSN, January 12, 2000, p. 4.

[13] RTC Records, pp. 6-8.

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floor of their one-room house. He denies having raped his daughter Merliza.[14]

The trial court gave credence to the young complainant's testimony, which it observed to be "sincere, straightforward and forthright." It ruled that the minor inconsistencies in her testimony such as the variances in the time of rape did not impair the veracity of her declarations. It upheld the evidence presented to prove the minority of the complainant and the latter's relationship to appellant. It dismissed appellant's bare denial as a mere afterthought, manifestly outweighed by the complainant's clear and positive testimony.[15]

In his lone assignment of error, appellant alleges that the trial court erred in finding him guilty beyond reasonable doubt of the crime of rape and in sentencing him to the penalty of death.[16]

In reviewing rape cases, we are guided by the following principles: (1) to accuse a man of rape is easy but to disprove it is difficult although the accused may be innocent; (2) considering the nature of things, and that only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; (3) the evidence for the prosecution must stand or fall on its own merits and not be allowed to draw strength from the weakness of the evidence of the defense.[17]

At the heart of almost all rape cases is the issue of credibility of the witnesses.[18] And when credibility is in issue, it is well settled that we generally defer to the findings of the trial court. Having heard the witnesses themselves and observed their

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[14] TSN, March 26, 2001, pp. 4-5.

[15] RTC Decision, pp. 7-8; RTC Records, pp. 107-108.

[16] Appellant's Brief, pp. 3-4; *rollo*, pp. 37-38.

[17] *People v. Lizada*, G.R. Nos. 143468-71, January 24, 2003, citing *People v. Sta. Ana*, 291 SCRA 188 (1998).

[18] *People v. Villanueva*, G.R. Nos. 146464-67, November 15, 2002.

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deportment during trial, the trial court is in a better position to decide the question.[19]

In the present case, we find no material discrepancy in the testimony of the complainant that would seriously taint her credibility and warrant a reversal of the trial court's findings. The complainant tearfully narrated her traumatic ordeal on that fateful night of January 13, 1999, as follows:

x x x x x x x x x

Q: You said you slept at about 7:00 o'clock in the evening of January 13, 1999, were you awaken[ed] [at] any time while you were [asleep]?

A: I was awaken[ed] at about 9:00 o'clock in the evening, when my father undressed me and then covered my mouth with his hands.

x x x x x x x x x

Q: Were you wearing your panty when you [went] to sleep that night?

A: Yes, [S]ir.

Q: What happened to your panty?

A: He removed it.

Q: After he undressed you by removing your panty and covering your mouth with his hands, what next did he do to you?

A: He kept on touching my body.

Q: What part of your body did he touch?

x x x x x x x x x

A: From the neck to the left breast going to the stomach and going down.

x x x x x x x x x

Q: After he touched your lower inner thigh, what happened next?

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[19] *People v. Manalo*, G.R. Nos. 144989-90, January 31, 2003.

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A: He was already naked during that time and then he rubbed his penis to my vagina. And then he raised my legs and [made] a push and pull movement.

Q: When the accused made the push and pull movement, where was his penis?

A: In my vagina.

Q: In which part of the vagina?

A: At the middle.

x x x x x x x x x

Q: How long did he make that push and pull motion with his penis inside the middle of your vagina?

A: About one hour.

Q: And during that time that he was making that push and pull motion, what did you do?

A: I struggled to extricate [myself] from him.

Q: Were you able to extricate yourself from him?

A: No, because he was very strong.

x x x x x x x x x

Q: When your father was pushing his penis at the middle of your vagina, what did you feel?

A: It was painful.

Q: And did you notice whether blood came out from your vagina?

A: Yes, [S]ir.

x x x x x x x x x

Q: After your father was through consummating the sexual intercourse with you, would you please tell the court what happened next?

A: He went inside the room[,] then changed and immediately removed the cloth which he tied to my mouth.

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Q: And then what happened after that?

A: When he returned, he threatened me with a knife and told me that [if] I will tell my mother, he will kill my brother and my mother.[20]

The foregoing candid and direct account by the complainant strongly establishes, beyond doubt, the fact of rape and the identity of appellant as the perpetrator of the crime.

It bears emphasis that the complainant was only fourteen years old when she testified. A young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out details of an assault on her dignity, cannot be so easily dismissed as a mere concoction.[21] In the case at bar, the complainant remained steadfast throughout her entire testimony in the face of intense and lengthy interrogation. Moreover, the fact that, as shown by the records, she cried while at the witness stand[22] further bolsters the credibility of the rape charge.[23]

Furthermore, we take cognizance of our holding that the testimony of a rape victim against her father is entitled to great weight, since reverence and respect for elders is deeply ingrained in Filipino children and is also recognized by law.[24] It is against human nature for a girl to fabricate a story that would expose herself as well as her family to a lifetime of dishonor, especially when her charge could mean the death of her own father.[25]

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[20] TSN, November 10, 1999, pp. 5-10.

[21] *People v. Plurad, et al.*, G.R. Nos. 138361-63, December 3, 2002, citing *People v. Nardo*, 353 SCRA 339 (2001).

[22] TSN, January 12, 2000, pp. 9-10.

[23] *People v. Ramos*, 296 SCRA 559 (1998).

[24] *People v. Calderon*, G.R. Nos. 145343-46, December 3, 2002, citing *People v. Docena*, 322 SCRA 820 (2000).

[25] *People v. Marahay*, G.R. Nos. 120625-29, January 28, 2003.

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We note that the variances in the complainant's testimony as to the time of the rape[26] are but minor inconsistencies. We have ruled on numerous occasions that minor inconsistencies in rape cases will not necessarily derail the testimony of the offended party, for rape victims cannot be expected to be precise in recounting the details of a clearly harrowing experience.[27] As long as the testimony is consistent on material points, slightly conflicting statements will not undermine the witness' credibility nor the veracity of the testimony.[28] Besides, specification of the exact time of the commission of rape is not important, as it is not an element of the crime.[29]

The complainant's testimony is, moreover, supported by the medical examination on the complainant conducted by a medico-legal officer ten days after the incident. The medical report showed healed lacerations in the complainant's hymen.[30] Laceration, whether healed or fresh, is the best physical evidence of forcible defloration.[31] It is settled that when the victim's claim of rape is corroborated by the physical findings of penetration, there exists sufficient basis for concluding that sexual intercourse did take place.[32]

Against the foregoing evidence of the prosecution, which the trial court found convincing beyond doubt, appellant interposed the defense of denial. His testimony stating that nothing out of the ordinary happened on January 13, 1999 was unsubstantiated by any independent evidence. A plain denial, which is a negative self-serving evidence, cannot stand against

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[26] TSN, January 12, 2000, pp. 5-6.

[27] *People v. Plurad, et al., supra*, citing *People v. Aguero, Jr.*, G.R. No. 139410, September 20, 2001.

[28] *People v. Emilio*, G.R. Nos. 144305-07, February 6, 2003.

[29] *Ibid.*

[30] See Note 13, *supra*.

[31] *People v. Montemayor*, G.R. Nos. 124474, 139972-78, January 28, 2003.

[32] *People v. Mendoza*, G.R. Nos. 143844-46, November 19, 2002.

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the positive identification and categorical testimony of a rape victim.[33] Hence appellant's weak defense of denial fails in light of the complainant's positive declarations.

In his brief,[34] appellant asserts that the prosecution failed to prove with sufficiency the existence of force, threat or intimidation, as required by the first paragraph of Article 266-A of the Revised Penal Code, as amended.[35]

Appellant, in the main, argues that he could not be convicted for rape as the prosecution fatally erred in not proving his moral ascendancy over the complainant, hence failing to prove the presence of intimidation. Appellant heavily relies on the case of *People v. Alberto Chua*,[36] where we said:

> The mere fact that appellant is her father and therefore exercises moral ascendancy over his daughter cannot *ipso facto* lead this Court to conclude that there was intimidation. There must be some evidence of the intimidation employed on the victim as to indubitably show how vitiated the victim's consent was to the violation of her womanhood.

Reliance on this case, however, is misplaced since the factual background of the present case differs from that of the said

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[33] *People v. Remoto*, 244 SCRA 506 (1995).

[34] Appellant's Brief, p. 4; *rollo*, p. 38.

[35] Art. 266-A. *Rape, When and How Committed* — Rape is committed

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x x x x x x

[36] G.R. No. 137841, October 1, 2001.

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decision. In *Chua*, there was the burden of proving the presence of intimidation to establish the crime of rape, as the complainant herself testified that no force or violence was employed by the accused. On the other hand, in the instant case, the existence of intimidation need not be proven, as the prosecution's evidence sufficiently established the presence of force.

Contrary to appellant's allegation that the complainant never resisted the sexual assault, the presence of force is unmistakably established, as shown by the complainant's unwavering stance during her cross-examination, thus:

Q: At that very moment when you noticed that somebody was touching you, you did not bother to shout?
A: No, because he held my neck and then covered my mouth.

Q: You did not also attempt to kick that somebody who allegedly raped you?
A: No Sir, but he held my hands and placed [them] at my back[,] and he also tied my feet.

Q: When somebody held your hands and also your feet, did you not bother to shout at that time considering that his hand was not covering your mouth [anymore]?
A: No more, because he tied my mouth with a rag.

Q: You did not also attempt even to wiggle your body so as to awaken your brothers and also your mother at that time?
A: I was not able to move[,] Sir[,] because he pinned me in the corner of our house.[37]

Clearly, the foregoing shows appellant's employment of force and violence to satiate his bestial lust. Also, in the complainant's direct examination, she testified that she tried to extricate herself from appellant, but he proved too strong for her.[38] Hence, given the sufficient proof of the presence of force in the case at bar, the element of "force, threat or intimidation," as required by Article 266-A of the Revised Penal Code, is satisfactorily

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[37] TSN, December 29, 1999, p. 5.

[38] See Note 8, *supra*.

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established. The rape charge thus stands without need of further proving the presence of intimidation.

Having established the fact of carnal knowledge through force, we now proceed to determine the proper penalty. Paragraph 6 of Article 266-B of the Revised Penal Code, as amended, provides:

x x x x x x x x x

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

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

x x x x x x x x x

Under this provision, both circumstances of the victim's minority and her relationship to the offender must be alleged in the information and proven during the trial to warrant the imposition of the death penalty.[39]

The complainant's minority was not only confirmed by her mother[40] and admitted by appellant in court,[41] but was also established by her birth certificate[42] issued by the Municipal Civil Registrar of Minglanilla, Cebu. Said document clearly states that the complainant was born on July 18, 1985. Indeed, as alleged in the information, at the time of the commission of the rape on January 13, 1999, the complainant was thirteen years old.

Likewise, complainant's relationship to appellant was sufficiently proven by her birth certificate referring to appellant

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[39] See Note 25, *supra*.

[40] TSN, January 12, 2000, p. 13.

[41] TSN, March 26, 2001, p. 6.

[42] RTC Records, Exhibit "B", p. 50.

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as the father.[43] Appellant himself[44] and his wife Esterlita[45] expressly admitted this fact in their testimonies. Thus, the information correctly alleged that the complainant is appellant's own daughter.

There being proof beyond reasonable doubt that appellant committed the crime as charged, we have no choice but to affirm his conviction.

Three members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray*[46] that R.A. No. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.

Anent the civil liability, in line with current jurisprudence, the amount of moral damages must be increased from ₱50,000.00 to ₱75,000.00,[47] but the amount of exemplary damages should be reduced from ₱50,000.00 to ₱25,000.00.[48]

**WHEREFORE**, the decision of the court *a quo* finding appellant Melchor Rabago guilty beyond reasonable doubt of rape and sentencing him to suffer the mandatory penalty of death and to pay the victim Merliza Rabago the sum of ₱75,000.00 as civil indemnity is *AFFIRMED*, with the *MODIFICATION* that the award of moral damages is increased to ₱75,000.00 and the award of exemplary damages is reduced to ₱25,000.00. Costs *de oficio*.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of Republic Act No. 7659, upon the finality of this Decision, let the records of this case be forthwith

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[43] *Ibid.*

[44] See Note 41, *supra*.

[45] See Note 40, *supra*.

[46] 267 SCRA 682 (1997).

[47] *People v. Soriano*, G.R. Nos. 142779-95, August 29, 2002.

[48] *People v. Catubig*, 363 SCRA 621 (2001).

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forwarded to the Office of the President of the Philippines for possible exercise of the pardoning power.

**SO ORDERED.**

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

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**THIRD DIVISION**

[A.C. No. 4958. April 3, 2003]

**FIDEL D. AQUINO,** *complainant, vs.* **Atty. OSCAR MANESE,** *respondent.*

**SYNOPSIS**

Fidel D. Aquino charged Atty. Oscar Manese with falsification of public document for preparing and notarizing a Deed of Absolute Sale dated September 15, 1994 which could not have been executed and sworn to by Lilia D. Cardona as one of the vendors because she died four years earlier. In his comment, respondent asserted that complainant has no personality to complain and as a Notary Public, he is not expected to personally know every person who goes to him for notarization of documents. When this case was referred to the Integrated Bar of the Philippines (IBP), respondent, despite notice, failed to appear at any scheduled hearings. Consequently, the IBP Board of Governors adopted the Investigating Commissioner's finding that respondent was gravely remiss in his obligation as Notary Public, but modified the Commissioner's recommendation and recommended that respondent's commission as notary public be suspended with disqualification for appointment as notary public for a period of two years.