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(1) *MURDER* in Criminal Case No. 97-2158-MK and accordingly sentenced to *reclusion perpetua*; and

(2) *HOMICIDE* in Criminal Case No. 97-2159-MK and sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* medium, as maximum.

Appellant is also ordered to pay the heirs of each victim the amount of ₱50,000.00 as civil indemnity and another sum of ₱50,000.00 as moral damages, together with the costs.

SO ORDERED.

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

Austria-Martinez, J., on official leave.

EN BANC

[G.R. Nos. 143760-63. June 23, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ROMEO MANLUCTAO** *y* **BLANCO** *alias* **"TATA,"** *accused-appellant.*

SYNOPSIS

Before the Supreme Court is an automatic review of the decision of the Regional Trial Court of Dagupan City finding herein accused-appellant guilty of four counts of qualified rape committed against her daughter Marcelina Manluctao and imposing upon him in each count the penalty of death. Appellant contended that the trial court erred in imposing the death penalty

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considering that the qualifying circumstances of relationship and minority were not alleged in the four informations.

The Supreme Court agreed with the trial court's findings that appellant sexually abused his daughter on four different occasions. According to the Court, it is highly improbable for a young girl with no record of sexual perversity to file charges of serial rape against her very own father, which are so humiliating not only to herself, but also to her family, if said charges were untrue. However, the Court modified appellant's conviction to four counts of simple rape punishable by *reclusion perpetua*. It found that in all four indictments, there was no specific allegation of the qualifying circumstances of the minority of the victim and her relation to the accused. According to the Court, the failure to allege the fact of relationship between the accused and the victim in the information for rape is fatal and, consequently, bars conviction of its qualified form, which is punishable by death. Qualifying circumstances must be properly pleaded in the indictment in order not to violate the constitutional right of the accused to be properly informed of the nature and cause of the accusations against him.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; AUTOMATIC REVIEW; REVIEWING COURT HAS A DUTY TO CORRECT ERRORS AS IT MAY FIND IN THE LOWER COURT'S JUDGMENT, REGARDLESS OF WHETHER IT IS ASSIGNED AS AN ERROR OR NOT.**— The issue presented concerns the propriety of the death penalty imposed by the trial court upon appellant in each of the four (4) counts of rape. However, priorly we must also inquire if the guilt of the appellant has been sufficiently proved beyond reasonable doubt in every case. Then the propriety of every death sentence imposed upon appellant must also be scrutinized. For an appeal or automatic review in a criminal proceeding throws the whole case open for review, and it is the duty of the reviewing court to correct errors as it may find in the lower court's judgment, regardless of whether it is assigned as an error or not.

2. **ID.; EVIDENCE; CREDIBILITY OF WITNESSES; RAPE VICTIM'S TESTIMONY IS CREDIBLE WHERE SHE HAS ABSOLUTELY NO MOTIVE TO INCRIMINATE AND**

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TESTIFY FALSELY AGAINST THE ACCUSED.— Incestuous rape is a psycho-social deviance that inflicts stigma, not only on the victim but on the entire family as well. It is, therefore, highly improbable for a young girl with no record of sexual perversity to file charges of serial rape against her very own father, which are so humiliating not only to herself, but also to her family, if said charges were untrue. Hence, a rape victim's testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify falsely against the accused and provided said testimony is candid, spontaneous, and straightforward.

3. **ID.; ID.; ID.; RAPE VICTIM'S TESTIMONY ALONE IS SUFFICIENT BASIS FOR ACCUSED'S PROSECUTION AND CONVICTION, IF CREDIBLE AND SINCERE.**— In these cases, the trial court gave full credence to complainant's testimony. We find on record that in three of the four cases, *i.e.*, Criminal Cases Nos. 2000-0125-D, 2000-0126-D, and 2000-0128-D, private complainant testified as to the sexual abuses she suffered at appellant's hands in a clear, detailed, and categorical manner. Private complainant reveals in her testimony how her chastity was defiled by appellant. Her willingness to face police investigation and undergo a humiliating public trial speaks eloquently to the truth of her complaints. As previously held by this Court, a rape victim's testimony against her father is entitled to much credibility since respect for elders is deeply ingrained in Filipino children and is even recognized by law. Thus, we agree with the trial court that the private complainant's testimony alone, having satisfied the test of credibility and sincerity, is sufficient basis for appellant's prosecution and conviction in Criminal Cases Nos. 2000-0125-D, 2000-0126-D, and 2000-0128-D. A person accused of a crime may be convicted, not on the number of witnesses against him, but on the credibility of even one witness who is able to prove his guilt beyond a shadow of doubt.

4. **ID.; ID.; ID.; TESTIMONY MUST BE CONSIDERED AND CALIBRATED IN ITS ENTIRETY INCLUSIVE AND NOT BY TRUNCATED OR ISOLATED PASSAGES THEREOF.**— The Court, however, finds that on record the elements of rape on August 12, 1997, have been sufficiently established. The gravamen of the offense of rape is carnal knowledge of a woman against her will or without her consent. In Criminal Case No.

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2000-0127-D, the victim testified that appellant abused her on said date, thus: x x x. From her testimony, it is clear that what was meant by "abused" is the pattern of unconsented sexual abuses against the victim by appellant. It is established jurisprudence that testimony must be considered and calibrated in its entirety inclusive and not by truncated or isolated passages thereof. Due consideration must be accorded to all the questions propounded to the witness and her answers thereto. The whole impression or effect of what had been said or done must be considered and not individual words or phrases alone.

5. **ID.; ID.; ID.; WHEN A GIRL SAYS SHE HAS BEEN RAPED, SHE SAYS IN EFFECT ALL THAT IS NECESSARY TO SHOW THAT RAPE WAS INDEED COMMITTED.**— Moreover, rape is a painful experience which is oftentimes not remembered in detail. Just as well-settled is the rule that what is important is the victim's testimony that the accused sexually abused her. Significantly, the victim shed tears while testifying on her third complaint against her own father. The crying of a victim on the witness stand is evidence of the truth of the rape charges, for the display of such emotions indicates the pain that she feels as she recounts the details of her sordid experience. Given the proof of two prior abuses against her, there is reason to hold in this instance that when a girl says she has been raped, she says in effect all that is necessary to show that rape was indeed committed, for a daughter especially of tender age would not accuse her own father of such a heinous crime as rape had she really not been aggrieved.

6. **CRIMINAL LAW; QUALIFIED RAPE; FAILURE TO SPECIFICALLY ALLEGE THE MINORITY OF THE VICTIM AND HER RELATION TO THE ACCUSED IS FATAL.**— This Court has consistently ruled that both the age of the offended party and her relationship with the accused must be alleged in the information and positively proved before the death penalty can be properly imposed. Stated otherwise, the failure to allege the fact of relationship between the accused and the victim in the information for rape is fatal and consequently, bars conviction of its qualified form which is punishable by death. Qualifying circumstances must be properly pleaded in the indictment in order not to violate the constitutional right of the accused to be properly informed of the nature and cause of the accusations against him. In all four indictments in

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this case, there was no specific allegation of the qualifying circumstances of the minority of the victim and her relation to the accused, thus, he can only be convicted of that offense, simple rape, for which the imposable penalty is *reclusion perpetua* and not death.

7. **CIVIL LAW; DAMAGES; AWARD OF MORAL DAMAGES AND CIVIL INDEMNITY; EXEMPLARY DAMAGES; AWARDED TO DETER FATHERS WITH PERVERSE TENDENCIES OR ABERRANT SEXUAL BEHAVIOR FROM TAKING ADVANTAGE OF THEIR OWN DAUGHTERS.**— As to appellant's civil liability, we find modifications are in order. The trial court ordered appellant to pay the victim ₱200,000.00 as moral damages. In addition, when the penalty imposed is *reclusion perpetua*, civil indemnity in the sum of ₱50,000.00 for each count of rape is proper. Further, we must also award ₱25,000.00 as exemplary damages in each count, in order to deter fathers with perverse tendencies or aberrant sexual behavior from taking advantage of their own daughters.

APPEARANCES OF COUNSEL

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

DECISION

QUISUMBING, *J.*:

For automatic review is the decision[1] of the Regional Trial Court (RTC) of Dagupan City, Branch 43, dated June 9, 2000, in Criminal Cases Nos. 2000-0125-D, 2000-0126-D, 2000-0127-D, and 2000-0128-D, finding appellant Romeo Manluctao *y* Blanco a.k.a. "Tata" guilty of four (4) counts of qualified rape and imposing upon him in each count the penalty of death. Before us, appellant prays that he be found guilty of simple rape only and his punishment be accordingly reduced to *reclusion perpetua*.

[1] Records, Crim. Case No. 2000-0125-D, pp. 63-72.

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The Office of the Provincial Prosecutor of Pangasinan charged appellant of raping Marcelina Manluctao, appellant's own daughter, on October 15 and 22, 1996, August 12, 1997, and October 15, 1999. Except for the dates of the commission of the rapes, the four (4) charge sheets against appellant were identically worded, thus:

> That on or about [date][2] at Brgy. Ventinilla, Municipality of Sta. Barbara, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with MARCELINA MANLUCTAO, against her will and without her consent to her damage and prejudice.
>
> CONTRARY to Art. 335 of the Revised Penal Code.[3]

When arraigned in *Pangalatoc* (dialect) which he both spoke and understood, appellant with assistance of counsel *de oficio* pleaded guilty to all four charges of rape. The trial court then informed him that by pleading guilty to the indictments, the proper penalty provided for by law could be imposed upon him. Appellant then affirmed his plea of guilty on the condition that the penalty to be imposed in each case should not be capital punishment. At this juncture, appellant's counsel moved that the previous plea entered by appellant be withdrawn and appellant be re-arraigned. The trial court granted said motion.[4]

On re-arraignment, appellant with the assistance of counsel again pleaded guilty to all the charges.[5]

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[2] 15 October 1996 for Crim. Case No. 2000-0125-D; 22 October 1996 for Crim. Case No. 2000-0126-D; 2 August 1997 for Crim. Case No. 2000-0127-D; and 15 October 1999 for Crim. Case No. 2000-0128-D.

[3] See Records, Crim. Case No. 2000-0125-D, p. 8; Records, Crim. Case No. 2000-0126-D, p. 1; Records, Crim. Case No. 2000-0127-D, p. 1; and Records, Crim. Case No. 2000-0128-D, p. 1.

[4] TSN, 15 March 2000, pp. 2-4.

[5] Records, Crim. Case No. 2000-0125-D, pp. 24-25.

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Pre-trial of all four cases was then held, during which the following facts were admitted by the defense, to wit: (1) the identity of the appellant; (2) the minority of the victim; (3) that the victim gave birth to a baby girl named Evangeline Manluctao, who at that time was already three (3) years old; and (4) that appellant was the father of the victim.[6]

After the conclusion of pre-trial, the prosecution then adduced its evidence. But when the turn of the defense came, the defense chose not to present any evidence.

As succinctly summarized by the Office of the Solicitor General (OSG) in its brief for the appellee, the prosecution version of the incidents is as follows:

The first incident occurred on October 15, 1996. Marcelina Manluctao, then thirteen (13) years old, was in their house in Brgy. Ventinilla, Sta. Barbara, Pangasinan, with appellant who is her father, and her brothers and sisters. Appellant ordered her siblings to go out of their house. Once they left, he told Marcelina to go to her room upstairs. When she was already in her room, he kissed her on her face down to her neck and removed her clothings (sic). He touched her private parts. After undressing himself, he inserted his penis into Marcelina's vagina, making push and pull movements. She cried. She resisted her father in vain as he was carrying a knife at that time. He also told her not to tell anyone, otherwise he would stab her with the knife. His lust satiated, he dressed up and went out of their house. Marcelina also dressed up and did not tell anybody about it out of fear that appellant might make good his threat.

Appellant committed the second rape on October 22, 1996. While Marcelina was at home with appellant and her siblings, he ordered the latter to go out of their house. Her mother was out at that time. The incident happened in [the] same room of appellant. He kissed her on the face and breasts, held them and mashed her private parts. After undressing himself and Marcelina, he inserted his penis into her vagina and executed the push-pull movement. Again, she tried to resist but appellant aimed his knife at her. Before dressing up, she noticed a white liquid in her private parts.

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[6] *Id.* at 33.

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The third incident supposedly happened on August 12, 1997. She had just given birth to her child by appellant. Marcelina did not give any particulars regarding the said abuse.

Marcelina was molested again on October 15, 1999. She was working as a househelp[er] at the house of Betty Luna when she was summoned by appellant to come to their house. When she arrived home, her siblings were again ordered by appellant to leave their house. He started kissing her and removed their clothes. Subsequently, he inserted his penis into her vagina and made the push-pull movement. She likewise noticed the whitish substance as before. Her mother was also out at that time.[7]

On June 9, 2000, the trial court promulgated its judgment of conviction in all four (4) cases, the decretal part of which reads:

WHEREFORE, by virtue of accused's judicial confession of GUILT, the Court finds him guilty beyond reasonable doubt for the felony of RAPE as amended by R.A. 7659 and R.A. No. 8353 on four (4) counts and in conformity with law and appreciating the attendant aggravating qualifying circumstance of:

> *"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"*

the Court hereby sentences accused ROMEO MANLUCTAO to suffer the CAPITAL penalty of DEATH in each of the four cases.

The accused is ordered to pay the minor-victim the amount of ₱200,000 as moral damages and costs.

Let the complete records of the above cases be forwarded to the Honorable Supreme Court for automatic review.

The Bureau of Jail Management and Penology, Dagupan City District Office is ordered to commit the person of the accused to the National Penitentiary, Muntinlupa, Metro Manila immediately without any unnecessary delay.

SO ORDERED.[8]

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[7] *Rollo*, pp. 109-111.

[8] *Supra*, note 5 at 71-72.

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Hence, this automatic review, wherein appellant raises a lone error:

THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY DESPITE THE ABSENCE OF ANY QUALIFYING CIRCUMSTANCE IN THE INFORMATIONS.[9]

The issue presented concerns the propriety of the death penalty imposed by the trial court upon appellant in each of the four (4) counts of rape. However, priorly we must also inquire if the guilt of the appellant has been sufficiently proved beyond reasonable doubt in every case. Then the propriety of every death sentence imposed upon appellant must also be scrutinized. For an appeal or automatic review in a criminal proceeding throws the whole case open for review, and it is the duty of the reviewing court to correct errors as it may find in the lower court's judgment, regardless of whether it is assigned as an error or not.[10]

Incestuous rape is a psycho-social deviance that inflicts stigma, not only on the victim but on the entire family as well.[11] It is, therefore, highly improbable for a young girl with no record of sexual perversity to file charges of serial rape against her very own father, which are so humiliating not only to herself, but also to her family, if said charges were untrue. Hence, a rape victim's testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify falsely against the accused[12] and provided said testimony is candid, spontaneous, and straightforward.[13]

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[9] *Rollo*, p. 43.

[10] *People v. Calayca*, 361 Phil. 138, 154 (1999) and cases cited therein.

[11] *People v. Rodavia*, G.R. Nos. 133008-24, 6 February 2002, p. 19 citing *People v. Burce*, G.R. Nos. 108604-10, 7 March 1997, 269 SCRA 293, 311.

[12] *People v. Dela Cruz*, G.R. No. 135022, 11 July 2002, p. 12 citing *People v. Arofo*, G.R. No. 139433, 11 April 2002, p. 6; *People v. Baloloy*, G.R. No. 140740, 12 April 2002, p. 12.

[13] *People v. Obquia*, G.R. No. 143716, 5 April 2002, p. 10.

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In these cases, the trial court gave full credence to complainant's testimony. We find on record that in three of the four cases, *i.e.,* Criminal Cases Nos. 2000-0125-D, 2000-0126-D, and 2000-0128-D, private complainant testified as to the sexual abuses she suffered at appellant's hands in a clear, detailed, and categorical manner. Private complainant reveals in her testimony how her chastity was defiled by appellant. Her willingness to face police investigation and undergo a humiliating public trial speaks eloquently to the truth of her complaints. As previously held by this Court, a rape victim's testimony against her father is entitled to much credibility since respect for elders is deeply ingrained in Filipino children and is even recognized by law.[14] Thus, we agree with the trial court that the private complainant's testimony alone, having satisfied the test of credibility and sincerity, is sufficient basis for appellant's prosecution and conviction[15] in Criminal Cases Nos. 2000-0125-D, 2000-0126-D, and 2000-0128-D. A person accused of a crime may be convicted, not on the number of witnesses against him, but on the credibility of even one witness who is able to prove his guilt beyond a shadow of doubt.[16]

While the OSG concedes that in the three other cases under review evidence sufficiently supports the conviction of appellant, the OSG contends that in Criminal Case No. 2000-0127-D, the prosecution failed to prove sufficiently appellant's guilt. The OSG calls our attention to the fact that the private complainant merely testified that appellant abused her on August 12, 1997, without giving further details as to the alleged ravishment. The OSG argues that appellant's conviction in this particular case cannot be made to rest solely on his plea of guilt.

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[14] *People v. Dela Cerna,* G.R. Nos. 136899-904, 9 October 2002, p. 14; *People v. Docena*, G.R. Nos. 131894-98, 20 January 2000, 322 SCRA 820, 830.

[15] See *People v. Cristobal*, G.R. No. 144161, 12 March 2002, p. 13.

[16] *People v. Caliso*, G.R. Nos. 131475-76, 14 October 2002, p. 11; *People v. Toquero,* G.R. No. 127650, 25 August 2000, 339 SCRA 69, 75.

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The Court, however, finds that on record the elements of rape on August 12, 1997, have been sufficiently established. The gravamen of the offense of rape is carnal knowledge of a woman against her will or without her consent.[17] In Criminal Case No. 2000-0127-D, the victim testified that appellant abused her on said date, thus:

PROS. MANAOIS:

Q: To refresh your mind, you said that the first date was on October 15, 1996 and the second time was October 22, 1996, when was the next time or third time?
A: That was August 12, 1997 when I have just given birth, sir.

Q: What [was] that date again when you gave birth to your child Evangeline?
A: August 2, 1997, sir.

Q: And you are now telling us your father *abused* you after ten (10) days [from] giving birth that is August 12, 1997?
A: Yes, sir.

Q: Where did you give birth?
A: In our house, sir.

Q: You are referring to your house in Brgy. Ventinilla?
A: Yes, sir.

Q: After giving birth on August 2, 1997 where did you stay?
A: In Villasis, Pangasinan, sir.

Q: How about on August 12, 1997, where were you?
A: I was in our house, sir.

Q: In Ventinilla, Sta. Barbara, Pangasinan?
A: Yes, sir.

PROS. MANAOIS:

May we place on record that *the witness is now shedding tears*.[18] (Italics supplied.)

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[17] *People v. Anggit*, G.R. No. 133582, 27 September 2002, p. 11; *People v. Portugal*, G.R. No. 143030, 12 March 2002, p. 7.

[18] TSN, 4 May 2000, pp. 19-20.

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From her testimony, it is clear that what was meant by "abused" is the pattern of unconsented sexual abuses against the victim by appellant. It is established jurisprudence that testimony must be considered and calibrated in its entirety inclusive and not by truncated or isolated passages thereof.[19] Due consideration must be accorded to all the questions propounded to the witness and her answers thereto. The whole impression or effect of what had been said or done must be considered and not individual words or phrases alone. Moreover, rape is a painful experience which is oftentimes not remembered in detail.[20] Just as well-settled is the rule that what is important is the victim's testimony that the accused sexually abused her.[21] Significantly, the victim shed tears while testifying on her third complaint against her own father.[22] The crying of a victim on the witness stand is evidence of the truth of the rape charges, for the display of such emotions indicates the pain that she feels as she recounts the details of her sordid experience.[23] Given the proof of two prior abuses against her, there is reason to hold in this instance that when a girl says she has been raped, she says in effect all that is necessary to show that rape was indeed committed,[24] for a daughter especially of tender age would not accuse her own father of such a heinous crime as rape had she really not been aggrieved.[25]

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[19] *People v. Abalde*, G.R. No. 123113, 31 March 2000, 329 SCRA 418, 431.

[20] *People v. Luna*, G.R. No. 135241, 22 January 2003, pp. 20-21.

[21] *People v. Perez*, G.R. No. 118332, 26 March 1997, 270 SCRA 526, 533.

[22] TSN, 4 May 2000, p. 20.

[23] *People v. Manlod*, G.R. Nos. 142901-02, 23 July 2002, p. 11 citing *People v. Quilatan*, G.R. No. 132725, 28 September 2000, 341 SCRA 247, 253; *People v. Villanos*, G.R. No. 126648, 1 August 2000, 337 SCRA 78, 87; and *People v. Sancha*, G.R. Nos. 131818-19, 3 February 2000, 324 SCRA 646, 663.

[24] *People v. Emocling*, G.R. No. 119592, 7 October 1998, 297 SCRA 214, 225-226.

[25] *People v. Nuñez*, G.R. No. 128875, 8 July 1999, 310 SCRA 168, 179.

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But did the trial court correctly impose on appellant the death penalty?

Appellant contends that the trial court erred in imposing the death penalty considering that the qualifying circumstances under Republic Act No. 7659 that appellant was the victim's father and that the victim was a minor were not alleged in the four informations. He adds that even assuming he did carry a deadly weapon at the time he committed the rapes, the court could not appreciate this aggravating circumstance, as the use of a deadly weapon is likewise a qualifying circumstance that needs to be alleged in the indictments. Appellant submits that to convict him of qualified rape when the qualifying circumstances of minority, relationship, and use of a deadly weapon were not properly alleged in the information is not only contrary to prevailing jurisprudence, but is also violative of his constitutional right to due process.

For appellee, the OSG joins appellant's contention. The OSG submits that it would be a denial of the right to due process, if an accused is charged with simple rape, on which he is arraigned, but then be convicted of qualified rape punishable by death.

Both appellant's and appellee's submissions are well taken.

This Court has consistently ruled that both the age of the offended party and her relationship with the accused must be alleged in the information and positively proved before the death penalty can be properly imposed.[26] Stated otherwise, the failure to allege the fact of relationship between the accused and the victim in the information for rape is fatal and consequently, bars conviction of its qualified form which is

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[26] *People v. Patanayan, Jr.*, G.R. Nos. 141189-202, 23 July 2002, p. 25 citing *People v. Esureña*, G.R. No. 142727, 23 January 2002, pp. 4-5. See also *People v. Gianan*, G.R. Nos. 135288-93, 15 September 2000, 340 SCRA 477, 494; *People v. Teves*, G.R. No. 128839, 20 July 1999, 310 SCRA 788, 806-807; *People v. Ramos*, G.R. No. 129439, 25 September 1998, 296 SCRA 559, 575; *People v. Ilao*, G.R. No. 129529, 29 September 1998, 296 SCRA 658, 672.

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punishable by death. Qualifying circumstances must be properly pleaded in the indictment in order not to violate the constitutional right of the accused to be properly informed of the nature and cause of the accusations against him.[27] In all four indictments in this case, there was no specific allegation of the qualifying circumstances of the minority of the victim and her relation to the accused, thus, he can only be convicted of that offense, simple rape,[28] for which the imposable penalty is *reclusion perpetua* and not death.

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[27] *People v. Gabiana*, G.R. No. 123543, 23 August 2000, 338 SCRA 562, 571.

[28] Pursuant to Art. 335 of the Revised Penal Code, as amended by Republic Act No. 7659 as to Criminal Cases Nos. 2000-0125-D, 2000-0126-D, and Criminal Case No. 2000-0127-D where the rapes complained of occurred on October 15, 1996, October 22, 1996, and August 12, 1997, respectively; and pursuant to Art. 266-A of Republic Act No. 8353, which took effect on October 22, 1997 with respect to Criminal Case No. 2000-0128-D, which was committed on October 15, 1999, after the effectivity of Rep. Act 8353. Thus —

ART. 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

1. *By using force or intimidation*;

2. When the woman is deprived of reason or otherwise unconscious; and

3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

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 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.

ART. 266-B. *Penalties.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*. (Italics supplied)

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In fine, we are in agreement with appellant and the Solicitor General that the trial court erred in meting out the death penalty upon appellant. Taking into account the offense committed, which is only simple rape, in each case the penalty should be reduced accordingly to *reclusion perpetua*.

As to appellant's civil liability, we find modifications are in order. The trial court ordered appellant to pay the victim ₱200,000.00 as moral damages. In addition, when the penalty imposed is *reclusion perpetua*, civil indemnity in the sum of ₱50,000.00 for each count of rape is proper.[29] Further, we must also award ₱25,000.00 as exemplary damages in each count, in order to deter fathers with perverse tendencies or aberrant sexual behavior from taking advantage of their own daughters.[30]

WHEREFORE, the decision of the Regional Trial Court of Dagupan City, Branch 43 in Criminal Cases Nos. 2000-0125-D, 2000-0126-D, Criminal Case No. 2000-0127-D and 2000-0128-D is *AFFIRMED* with *MODIFICATION*. Appellant Romeo Manluctao *y* Blanco is found *GUILTY* of four (4) counts of simple rape. Accordingly, the death sentence imposed on appellant by the trial court for each count is hereby *REDUCED* to *reclusion perpetua*. Appellant is ordered to pay the victim, Marcelina Manluctao, ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages for each count of rape.

Costs *de oficio*.

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

Austria-Martinez, J., on official leave.

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[29] *People v. Rizaldo*, G.R. No. 140638, 14 October 2002, p. 11 citing *People v. Bernaldez*, G.R. Nos. 132779-82, 19 January 2000, 322 SCRA 462, 473.

[30] *People v. Tupaz*, G.R. No. 136141, 9 October 2002, p. 12.