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[G.R. No. 131516. March 5, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RONNIE RULLEPA** *y* **GUINTO,** *accused-appellant.*

SYNOPSIS

Ronnie Rullepa was accused of sexually assaulting 3-year old Cyra May Buenafe on November 17, 1995. During the trial, Cyra May narrated at the witness stand how the accused committed the dastardly act. Her testimony was corroborated by the findings of the examining physician that there were abrasions on the *labia minora*, which he opined could have been caused by friction with an erect penis. Accused, however, denied having anything to do with the abrasions found in the victim's genitalia, and claimed that prior to the alleged incident, Cyra May was already suffering from pain urinating. He surmised that she could have scratched herself which caused the abrasions. Finding for the prosecution, the trial court subsequently rendered judgment convicting the accused and accordingly sentenced him to death.

Hence, this automatic review.

In affirming the guilt of the appellant, the Supreme Court found the plain, matter-of-fact manner by which Cyra May described her abuse in the hands of the appellant an eloquent testament to the truth of her accusations. It cannot believe that a victim of Cyra May's age could concoct a tale of defloration, allow the examination of her private parts, and undergo the expense, trouble, inconvenience, not to mention the trauma of public trial. Thus, it accorded great weight to the assessment of the trial court regarding the competency and credibility of Cyra May as a witness. The Court further ruled that the crime committed by appellant was not merely acts of lasciviousness but statutory rape. The examining physician's finding of abrasions in the *labia minora*, which is "directly beneath the *labia majora*," proved that there was indeed penetration of the vagina, not just a mere rubbing or "scrubbing"

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of the penis against its surface. Nonetheless, the Court reduced the penalty to *reclusion perpetua* for failure of the prosecution to establish with moral certainty that the victim was below seven years old at the time of the commission of the offense.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; A VICTIM OF MINOR AGE WOULD NOT CONCOCT A TALE OF DEFLORATION, ALLOW THE EXAMINATION OF HER PRIVATE PARTS, AND UNDERGO THE EXPENSE, TROUBLE AND INCONVENIENCE, NOT TO MENTION THE TRAUMA OF PUBLIC TRIAL.**— Accused-appellant's suggestion that Cyra May merely imagined the things of which he is accused, perhaps getting the idea from television programs, is preposterous. It is true that "the ordinary child is a great weaver of romances,"' and her "imagination may induce (her) to relate something she has heard or read in a story as personal experience." But Cyra May's account is hardly the stuff of romance or fairy tales. Neither is it normal TV fare, if at all. This Court cannot believe that a victim of Cyra May's age could concoct a tale of defloration, allow the examination of her private parts, and undergo the expense, trouble, inconvenience, not to mention the trauma of public trial. Besides, her testimony is corroborated by the findings of Dr. Preyra that there were abrasions in her labia minora, which she opined, could have been caused by friction with an erect penis.

2. **ID.; ID.; ID.; NO MOTHER IN HER RIGHT MIND WOULD SUBJECT HER CHILD TO THE HUMILIATION, DISGRACE AND TRAUMA ATTENDANT TO A PROSECUTION FOR RAPE IF SHE WERE NOT MOTIVATED SOLELY BY THE DESIRE TO INCARCERATE THE PERSON RESPONSIBLE FOR THE CHILD'S DEFILEMENT.**— Accused-appellant's imputation of ill motive on the part of Gloria is puerile. No mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to a prosecution for rape if she were not motivated solely by the desire to incarcerate the person responsible for the child's defilement. Courts are seldom, if

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at all, convinced that a mother would stoop so low as to subject her daughter to physical hardship and shame concomitant to a rape prosecution just to assuage her own hurt feelings.

3. **CRIMINAL LAW; STATUTORY RAPE; INFLICTION OF FORCE IS IMMATERIAL.**— That the Medical-Legal Officer found "no external signs of recent application of any form of trauma at the time of the examination" does not preclude accused-appellant's conviction since the infliction of force is immaterial in statutory rape.

4. **ID.; ID.; ABRASIONS IN THE LABIA MINORA PROVED THAT THERE WAS PENETRATION OF THE VICTIM'S SEXUAL ORGAN; CASE AT BAR.**— Alternatively, accused-appellant prays that he be held liable for acts of lasciviousness instead of rape, apparently on the basis of the testimony of Cyra May, that he merely "scrubbed" his penis against her vagina: x x x. Dr. Preyra, however, found abrasions in the labia minora, which is "directly beneath the labia majora," proving that there was indeed penetration of the vagina, not just a mere rubbing or "scrubbing" of the penis against its surface. In fine, the crime committed by accused-appellant is not merely acts of lasciviousness but statutory rape.

5. **ID.; ID.; ELEMENTS.**— The two elements of statutory rape are (1) that the accused had carnal knowledge of a woman, and (2) that the woman is below twelve years of age. As shown in the previous discussion, the first element, carnal knowledge, had been established beyond reasonable doubt. The same is true with respect to the second element.

6. **ID.; ID.;QUALIFYING CIRCUMSTANCES; MINORITY OF VICTIM; MAY BE APPRECIATED AS AN ELEMENT OF THE OFFENSE OR AS A QUALIFYING CIRCUMSTANCE.**— The victim's age is relevant in rape cases since it may constitute an *element* of the offense. Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, provides: Art. 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances: x x x. 3. When the woman is under twelve years of age . . . x x x. The crime of rape shall be punished by *reclusion perpetua.* x x x.

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Furthermore, the victim's age may constitute a *qualifying circumstance*, warranting the imposition of the death sentence. The same Article states: The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant 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 with the third civil degree, or the common-law spouse of the parent of the victim. x x x. 4. when the victim is . . . a child *below seven (7) years* old. x x x.

7. **ID.; ID.; ID.; ID.; ID.; GUIDELINES.**— Because of the seemingly conflicting decisions regarding the sufficiency of evidence of the victim's age in rape cases, this Court, in the recently decided case of *People v. Pruna*, established a set of guidelines in appreciating age as an element of the crime or as a qualifying circumstance, to wit: 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

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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.

8. **REMEDIAL LAW; EVIDENCE; JUDICIAL NOTICE; PROCESS BY WHICH TRIER OF FACTS JUDGES A PERSON'S AGE FROM HER APPEARANCE CANNOT BE CATEGORIZED AS JUDICIAL NOTICE.**— Judicial notice signifies that there are certain *"facta probanda,"* or propositions in a party's case, as to which he will not be required to offer evidence; these will be taken for true by the tribunal without the need of evidence. Judicial notice, however, is a phrase sometimes used in a loose way to cover some other judicial action. Certain rules of Evidence, usually known under other names, are frequently referred to in terms of judicial notice. The process by which the trier of facts judges a person's age from his or her appearance cannot be categorized as judicial notice. Judicial notice is based upon convenience and expediency for it would certainly be superfluous, inconvenient, and expensive both to parties and the court to require proof, in the ordinary way, of facts which are already known to courts. As *Tundag* puts it, it "is the cognizance of certain facts which judges may properly take and act on *without proof* because they already know them." Rule 129 of the Rules of Court, where the provisions governing judicial notice are found, is entitled "What Need Not Be Proved." When the trier of facts observes the appearance of a person to ascertain his or her age, he is not taking judicial notice of such fact; rather, he is conducting an *examination of the evidence,* the evidence being the appearance of the person. Such a process militates against the very concept of judicial notice, the object of which is to do away with the presentation of evidence.

9. **ID.;ID.; OBJECT EVIDENCE; PERSON'S APPEARANCE, WHERE RELEVANT, IS ADMISSIBLE AS OBJECT EVIDENCE IN DETERMINING HER AGE.**— This is not to say that the process is not sanctioned by the Rules of Court; on the contrary, it does. A person's appearance, where relevant, is admissible as object evidence, the same being addressed to the senses of the court.

10. **ID.; ID.; ID.; ID.; OUTWARD PHYSICAL APPEARANCE OF AN ALLEGED MINOR MAY BE CONSIDERED IN JUDGING HER AGE.**— A person's appearance, as evidence

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of age (for example, of infancy, *or of being under the age of consent to intercourse*), is usually regarded as relevant; and, if so, the tribunal may properly observe the person brought before it. Experience teaches that corporal appearances are approximately an index of the age of their bearer, particularly for the marked extremes of old age and youth. In every case such evidence should be accepted and weighed for what it may be in each case worth. In particular, the *outward physical* appearance of an alleged minor may be considered in judging his *age*; a contrary rule would for such an inference be pedantically over-cautious. Consequently, the jury or the court trying an issue of fact may be allowed to judge the age of persons in court by observation of such persons. The formal offer of the person as evidence is not necessary. The examination and cross-examination of a party before the jury are equivalent to exhibiting him before the jury and an offer of such person as an exhibit is properly refused.

11. **ID.; ID.; ID.; ID.; ID.; ID.; GUIDELINES.**— There can be no question, therefore, as to the admissibility of a person's appearance in determining his or her age. As to the weight to accord such appearance, especially in rape cases, Pruna laid down guideline no. 3, which is again reproduced hereunder: 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. Under the above guideline, the testimony of a relative with respect to the age of the victim is sufficient to constitute proof beyond reasonable doubt in cases (a), (b) and (c) above. In such cases, the disparity between the allegation and the proof of age is so great that the court can easily determine from the appearance of the victim

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the veracity of the testimony. The appearance corroborates the relative's testimony.

12. **ID.; ID.; ID.; ID.; MUST BE PROVED WITH EQUAL CERTAINTY AND CLEARNESS AS THE CRIME ITSELF.**— As the alleged age approaches the age sought to be proved, the person's appearance, as object evidence of her age, loses probative value. Doubt as to her true age -becomes greater and, following Agadas, *supra*, such doubt must be resolved in favor of the accused. This is because in the era of modernism and rapid growth, the victim's mere physical appearance is not enough to gauge her exact age. For the extreme penalty of death to be upheld, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime must be substantiated. Verily, the minority of the victim should be not only alleged but likewise proved with equal certainty and clearness as the crime itself. Be it remembered that the proof of the victim's age in the present case spells the difference between life and death.

13. **ID.; ID.; ID.; ID.; WHERE REASONABLE DOUBT AS TO THE TRUE AGE OF THE VICTIM EXISTS, APPEARANCE OF VICTIM, AS OBJECT EVIDENCE, CANNOT BE ACCORDED MUCH WEIGHT AND THE TESTIMONY OF THE MOTHER, BY ITSELF, INSUFFICIENT.**— In the present case, the prosecution did not offer the victim's certificate of live birth or similar authentic documents in evidence. The victim and her mother, however, testified that she was only three years old at the time of the rape. Because of the vast disparity between the alleged age (three years old) and the age sought to be proved (below twelve years), the trial court would have had no difficulty ascertaining the victim's age from her appearance. No reasonable doubt, therefore, exists that the second element of statutory rape, *i.e.*, that the victim was below twelve years of age at the time of the commission of the offense, is present. Whether the victim was below seven years old, however, is another matter. Here, reasonable doubt exists. A mature three and a half-year old can easily be mistaken for an underdeveloped seven-year old. The appearance of the victim, as object evidence, cannot be accorded much weight and, following *Pruna*, the testimony of the mother is, by itself, insufficient.

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14. CRIMINAL LAW; STATUTORY RAPE; DEATH PENALTY; CANNOT BE IMPOSED WHERE PROSECUTION FAILED TO ESTABLISH WITH MORAL CERTAINTY THAT THE VICTIM IS BELOW SEVEN YEARS OLD AT TIME OF COMMISSION OF THE OFFENSE.— As it has not been established with moral certainty that Cyra May was below seven years old at the time of the commission of the offense, accused-appellant cannot be sentenced to suffer the death penalty. Only the penalty of *reclusion perpetua* can be imposed upon him.

15. CIVIL LAW; DAMAGES; AWARD OF CIVIL INDEMNITY AND MORAL DAMAGES, PROPER IN CASE AT BAR.— In line with settled jurisprudence, the civil indemnity awarded by the trial court is increased to ₱50,000.00. In addition, Cyra May is entitled to an award of moral damages in the amount of ₱50,000.00.

APPEARANCES OF COUNSEL

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

D E C I S I O N

CARPIO MORALES, *J.*:

On complaint of Cyra May Francisco Buenafe, accused-appellant Ronnie Rullepa *y* Guinto was charged with Rape before the Regional Trial Court (RTC) of Quezon City allegedly committed as follows:

That on or about the 17th day of November, 1995, in Quezon City, Philippines, the said accused, by means of force and intimidation, to wit: by then and there willfully, unlawfully and feloniously removing her parity, kissing her lips and vagina and thereafter rubbing his penis and inserting the same to the inner portion of the vagina of the undersigned complainant, 3 years of age, a minor, against her will and without her consent.[1]

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[1] Records at 1.

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Arraigned on January 15, 1996, accused-appellant pleaded not guilty.[2]

From the testimonies of its witnesses, namely Cyra May,[3] her mother Gloria Francisco Buenafe, Dr. Cristina V. Preyra, and SPO4 Catherine Borda, the prosecution established the following facts:

On November 20, 1995, as Gloria was about to set the table for dinner at her house in Quezon City, Cyra May, then only three and a half years old, told her, "*Mama, si kuya Ronnie lagay niya titi niya at sinaksak sa puwit at sa bibig ko.*"

"*Kuya Ronnie*" is accused-appellant Ronnie Rullepa, the Buenafes' house boy, who was sometimes left with Cyra May at home.

Gloria asked Cyra May how many times accused-appellant did those things to her, to which she answered many times. Pursuing, Gloria asked Cyra May what else he did to her, and Cyra May indicated the room where accused-appellant slept and pointed at his pillow.

As on the night of November 20, 1995 accused-appellant was out with Gloria's husband Col. Buenafe,[4] she waited until their arrival at past 11:00 p.m. Gloria then sent accused-appellant out on an errand and informed her husband about their daughter's plaint. Buenafe thereupon talked to Cyra May who repeated what she had earlier told her mother Gloria.

When accused-appellant returned, Buenafe and Gloria verified from him whether what Cyra May had told them was true. Ronnie readily admitted doing those things but only once, at 4:00 p.m. of November 17, 1995 or three days earlier. Unable to contain her anger, Gloria slapped accused-appellant several times.

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[2] *Id.* at 12.

[3] Also appears in the records as Cyra "Mae."

[4] Col. Buenafe's first name is not indicated in the records.

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Since it was already midnight, the spouses waited until the following morning to bring accused-appellant to Camp Karingal where he admitted the imputations against him, on account of which he was detained. Gloria's sworn statement[5] was then taken.[6]

Recalling what accused-appellant did to her, Cyra May declared at the witness stand: "*Sinaksak nya ang titi sa pepe ko, sa puwit ko, at sa bunganga*," thus causing her pain and drawing her to cry. She added that accused-appellant did these to her twice in his bedroom.

Dr. Ma. Cristina V. Preyra, the Medico-Legal Officer and Chief of the Biological Science Branch of the Philippine National Police Crime Laboratory who examined Cyra May, came up with her report dated November 21, 1995,[7] containing the following findings and conclusions:

FINDINGS:

GENERAL AND EXTRA GENITAL:

Fairly developed, fairly nourished and coherent female child subject. Breasts are undeveloped. Abdomen is flat and soft.

GENITAL:

There is absence of pubic hair. Labia majora are full, convex and coaptated *with congested and abraded labia minora presenting in between*. On separating the same is disclosed an abraded posterior fourchette and an elastic, fleshy type intact hymen. External vaginal orifice does not admit the tip of the examining index finger.

x x x x x x x x x

CONCLUSION:

Subject is in virgin state physically.

There are no external signs of recent application of any form of trauma at the time of examination. (Emphasis supplied.)

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[5] Exhibit "A".

[6] TSN, May 20, 1996 at 5-11.

[7] Exhibit "C".

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By Dr. Preyra's explanation, the abrasions on the *labia minora* could have been caused by friction with an object, perhaps an erect penis. She doubted if riding on a bicycle had caused the injuries.[8]

The defense's sole witness was accused-appellant, who was 28 and single at the time he took the witness stand on June 9, 1997. He denied having anything to do with the abrasions found in Cyra May's genitalia, and claimed that prior to the alleged incident, he used to be ordered to buy medicine for Cyra May who had difficulty urinating. He further alleged that after he refused to answer Gloria's queries if her husband Buenafe, whom he usually accompanied whenever he went out of the house, was womanizing, Gloria would always find fault in him. He suggested that Gloria was behind the filing of the complaint. Thus:

q - According to them you caused the abrasions found in her genital?

a - That is not true, sir,

q - If that is not true, what is the truth?

a - As I have mentioned earlier that before I started working with the family I was sent to Crame to buy medicine for the daughter because she had difficulty in urinating.

q - Did you know why the child has difficulty in urinating?

a - No, I do not know, sir.

q - And how about the present complaint filed against you, the complaint filed by the mother of the victim?

a - I did not do it, sir.

q - What is the truth, what can you say about this present complaint filed against you?

a - As I said Mrs. Buenafe got mad at me because after I explained to her that I was going with her gusband (*sic*) to the children of the husband with a former marriage.[9]

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[8] TSN, March 13, 1997 at 4-11.

[9] TSN, June 6, 1997 at 6-7.

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Finding for the prosecution, Branch 96 of the Quezon City RTC rendered judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused RONNIE RULLEPA *y* GUINTO guilty beyond reasonable doubt of *rape*, and he is accordingly sentenced to *death*.

The accused is ordered to pay CYRA MAE BUENAFE the amount of ₱40,000.00 as *civil indemnity*.

Costs to be paid by the accused.[10] (Italics in the original.)

Hence, this automatic review, accused-appellant assigning the following errors to the trial court:

I

THE COURT *A QUO* ERRED *IN CONSIDERING AS ADMISSIBLE IN EVIDENCE THE ACCUSED-APPELLANT'S ADMISSION.*

II

THE COURT *A QUO* ERRED ON (sic) RULING THAT THE *ACCUSED-APPELLANT'S SILENCE DURING TRIAL AMOUNTED TO AN IMPLIED ADMISSION OF GUILT.*

III

THE COURT *A QUO* ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

IV

THE COURT *A QUO* GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH UPON THE ACCUSED-APPELLANT.[11] (Italics supplied.)

Accused-appellant assails the crediting by the trial court, as the following portion of its decision shows, of his admission to Gloria of having sexually assaulted Cyra May:

In addition, the mother asserted that Rullepa had admitted Cyra Ma[y]'s complaint during the confrontation in the house. Indeed,

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[10] Records at 104.

[11] *Rollo* at 49-50.

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according to the mother, the admission was even expressly *qualified* by Rullepa's insistence that he had committed the sexual assault *only once,* specifying the time thereof as 4:00 *pm* of November 17, 1995. That qualification proved that the admission was voluntary and true. An uncoerced and truthful admission like this should be absolutely admissible and competent.

x x x x x x x x x

Remarkably, the admission was not denied by the accused during trial despite his freedom to deny it if untrue. Hence, the admission became conclusive upon him.[12] (Italics supplied.)

To accused-appellant, the statements attributed to him are inadmissible since they were made out of fear, having been elicited only after Cyra May's parents "bullied and questioned him." He thus submits that it was error for the trial court to take his failure to deny the statements during the trial as an admission of guilt.

Accused-appellant's submission does not persuade. The trial court considered his admission merely as an *additional* ground to convince itself of his culpability. Even if such admission, as well as the implication of his failure to deny the same, were disregarded, the evidence suffices to establish his guilt beyond reasonable doubt.

The plain, matter-of-fact manner by which Cyra May described her abuse in the hands of her *Kuya* Ronnie is an eloquent testament to the truth of her accusations. Thus she testified on direct examination:

q - Do you recall if Ronnie Rullepa did anything to you?

a - Yes, sir.

q - What did he do to you?

a - "*Sinaksak nya ang titi sa pepe ko, sa puwit ko, at sa bunganga*"

q - How many times did he do that to you?

a - Twice, sir.

[12] Records at 103.

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x x x x x x x x x

q - Do you remember when he did these things to you?

a - *Opo.*

q - When was that?

a - When my mother was asleep, he put — he removed my panty and inserted his penis inside my vagina, my anus and my mouth, sir.

x x x x x x x x x

q - After your Kuya Ronnie did those things to you what did you feel?

a - "*Sabi nya ganito* (Witness putting her finger in her lips) *Nasaktan po ako at umiyak po ako.*"

q - Did you cry because of hurt?

a - Yes.

q - What part of your body hurt?

a - "*Pepe ko po.*" When I went to the bathroom to urinate, I felt pain in my organ, sir.[13]

Cyra May reiterated her testimony during cross-examination, providing more revolting details of her ordeal:

q - So, you said that *Kuya* Ronnie did something to you what did he do to you on November 17, 1995?

a - "*Sinaksak nga yong titi nya.*" He inserted his penis to my organ and to my mouth, sir.

x x x x x x x x x

q - When you said that your *kuya* Ronnie inserted his penis into your organ, into your mouth, and into your anus, would you describe what — his penis?

a - It is a round object, sir.

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[13] TSN, November 15, 1996 at 5-8.

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Court:

Is this *titi* of your *kuya* Ronnie a part of his body?

a - *Opo.*

q - Was that in the head of kuya Ronnie?

a - No, sir.

q - Which part of his body that *titi* located?

(Witness pointing to her groin area)

Court:

Continue

x x x x x x x x x

q - Why were you in that room?

a - *Gusto nya po matulog ako sa kuwarto niya.*

q - When you were in that room, what did Kuya Ronnie do to you?

a - "*Hinubo po niya ang panty ko.*"

q - And after he remove your panty, what did *Kuya* Ronnie do, what did he do to you?

a - He inserted his penis to my organ, sir.

q - Why did kuya Ronnie, was kuya Ronnie already naked or he was already wearing any clothing?

a - Still had his clothing on, sir.

q - So, where did his penis, *saan lumabas ang penis ni Kuya Ronnie*?

a - *Dito po*, (Witness referring or pointing to her groin area)

x x x x x x x x x

q - So, that's the — and at the time, you did not cry and you did not shout for help?

a - *Sabi nya po*, not to make any noise because my mother might be roused from sleep.

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q - How long was *kuya* Ronnie did that to you?

a - *Matagal po.*

q - After kuya Ronnie scrub his penis to your vagina, what other things did he do?

a - After that he inserted his penis to my mouth, and to my anus, sir.

q - You did not complain and you did not shout?

a - I cried, sir.[14]

Accused-appellant draws attention to the statement of Cyra May that he was not in the house on November 17 (1995), as reflected in the following transcript of her testimony:

q - Is it not a fact that you said a while ago that when your father leaves the house, he [was] usually accompanied by your *kuya* Ronnie?

a - *Opo.*

q - Why is it that Kuya Ronnie was in the house when your father left the house at that time, on November 17?

a - He was with *Kuya* Ronnie, sir.

q - So, it is not correct that *kuya* Ronnie did something to you because your *kuya* Ronnie [was] always with your Papa?

a - Yes, sir.[15]

The above-quoted testimony of Cyra May does not indicate the time when her father Col. Buenafe left their house on November 17, 1995 with accused-appellant and, thus, does not preclude accused-appellant's commission of rape on the same date. In any event, a young child is vulnerable to suggestion, hence, her affirmative response to the defense counsel's above-quoted *leading* questions.

As for the variance in the claim regarding when Gloria was informed of the rape, Gloria having testified that she learned of

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[14] TSN, January 7, 1997 at 7-10.

at 6.

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it on November 20, 1995[16] while Cyra May said that immediately after the incident, she awakened her mother who was in the adjacent room and reported it:[17] This is a minor matter that does not detract from Cyra May's categorical, material testimony that accused-appellant inserted his penis into her vagina.

Accused-appellant goes on to contend that Cyra May was coached, citing the following portion of her testimony:

q - "*Yong sinabi mong sinira nya ang buhay mo*," where did you get that phrase?

a - It was the word of my Mama, sir.[18]

On the contrary, the foregoing testimony indicates that Cyra May was really narrating the truth, that of hearing her mother utter "*sinira niya ang buhay mo*."

Accused-appellant's suggestion that Cyra May merely imagined the things of which he is accused, perhaps getting the idea from television programs, is preposterous. It is true that "the ordinary child is a great weaver of romances,"' and her "imagination may induce (her) to relate something she has heard or read in a story as personal experience."[19] But Cyra May's account is hardly the stuff of romance or fairy tales. Neither is it normal TV fare, if at all.

This Court cannot believe that a victim of Cyra May's age could concoct a tale of defloration, allow the examination of her private parts, and undergo the expense, trouble, inconvenience, not to mention the trauma of public trial."[20]

Besides, her testimony is corroborated by the findings of Dr. Preyra that there were abrasions in her *labia minora*, which she opined, could have been caused by friction with an erect penis.

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[16] TSN, May 20, 1996 at 6.

[17] TSN, January 7, 1997 at 11-12.

[18] *Id.* at 14.

[19] SALONGA, J.R., *PHILIPPINE LAW ON EVIDENCE* (3rd ED.) 193.

[20] *People v. Baygar*, 318 SCRA 358 (1999).

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This Court thus accords great weight to the following assessment of the trial court regarding the competency and credibility of Cyra May as a witness:

> Her very tender age notwithstanding, Cyra Ma(y) nonetheless appeared to possess the necessary intelligence and perceptiveness sufficient to invest her with the competence to testify about her experience. She might have been an impressionable child — as all others of her age are — but her narration of *Kuya* Ronnie's placing his "*titi*" in her "*pepe*" was certainly one which could not be considered as a common child's tale. Her responses during the examination of counsel and of the Court established her consciousness of the *distinction* between *good* and *bad*, which rendered inconceivable for her to describe a "bad" act of the accused unless it really happened to her. Needless to state, she described the act of the accused as bad. Her demeanor as a witness — manifested during trial by her unhesitant, spontaneous, and plain responses to questions — further enhanced her claim to credit and trustworthiness.[21] (Italics in the original.)

In a futile attempt at exculpation, accused-appellant claims that even before the alleged incident Cyra May was already suffering from pain in urinating. He surmises that she could have scratched herself which caused the abrasions. Dr. Preyra, however, was quick to rule out this possibility. She stated categorically that that part of the female organ is very sensitive and rubbing or scratching it is painful.[22] The abrasions could not, therefore, have been self-inflicted.

That the Medical-Legal Officer found "no external signs of recent application of any form of trauma at the time of the examination" does not preclude accused-appellant's conviction since the infliction of force is immaterial in statutory rape.[23]

More. That Cyra May suffered pain in her vagina but not in her anus despite her testimony that accused-appellant inserted his penis in both orifices does not diminish her credibility. It is

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[21] Records at 100.

[22] TSN, March 13, 1997 at 10.

[23] *People v. Samodio*, G.R. Nos. 134139-40, February 15, 2002.

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possible that accused-appellant's penis failed to penetrate her anus as deeply as it did her vagina, the former being more resistant to extreme forces than the latter.

Accused-appellant's imputation of ill motive on the part of Gloria is puerile. No mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to a prosecution for rape if she were not motivated solely by the desire to incarcerate the person responsible for the child's defilement.[24] Courts are seldom, if at all, convinced that a mother would stoop so low as to subject her daughter to physical hardship and shame concomitant to a rape prosecution just to assuage her own hurt feelings.[25]

Alternatively, accused-appellant prays that he be held liable for acts of lasciviousness instead of rape, apparently on the basis of the following testimony of Cyra May, quoted *verbatim*, that he merely "scrubbed" his penis against her vagina:

q - Is it not a fact that kuya Ronnie just made some scrubbed his penis into your vagina?

a - Yes, Sir.

q - And when — he did not actually penetrated your vagina?

a - Yes, sir.[26]

Dr. Preyra, however, found abrasions in the *labia minora*, which is "directly beneath the *labia majora*,"[27] proving that there was indeed penetration of the vagina, not just a mere rubbing or "scrubbing" of the penis against its surface.

In fine, the crime committed by accused-appellant is not merely acts of lasciviousness but statutory rape.

The two elements of statutory rape are (1) that the accused had carnal knowledge of a woman, and (2) that the woman is

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[24] *People v. Perez*, 319 SCRA 622 (1999).

[25] *People v. Marcelo*, 305 SCRA 105 (1999).

[26] TSN, January 7, 1997 at 11.

[27] *People v. Marcelo, supra*, Note 25.

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below twelve years of age.[28] As shown in the previous discussion, the first element, carnal knowledge, had been established beyond reasonable doubt. The same is true with respect to the second element.

The victim's age is relevant in rape cases since it may constitute an *element* of the offense. Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,[29] provides:

> Art. 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> x x x x x x x x x.
>
> 3. When the woman is *under twelve years of age* x x x
>
> x x x x x x x x x.
>
> The crime of rape shall be punished by *reclusion perpetua.*
>
> x x x x x x x x x.

Furthermore, the victim's age may constitute a *qualifying circumstance*, warranting the imposition of the death sentence. The same Article states:

> The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant 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 with the third civil degree, or the common-law spouse of the parent of the victim:
>
> x x x x x x x x x.
>
> 4. when the victim is x x x a child *below seven (7) years* old.
>
> x x x x x x x x x.

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[28] *People v. Bato*, 325 SCRA 671 (2000).

[29] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES.

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Because of the seemingly conflicting decisions regarding the sufficiency of evidence of the victim's age in rape cases, this Court, in the recently decided case of *People v. Pruna*,[30] established a set of guidelines in appreciating age as an element of the crime or as a qualifying circumstance, to wit:

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.

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

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

Applying the foregoing guidelines, this Court in the *Pruna* case held that the therein accused-appellant could only be sentenced to suffer the penalty of *reclusion perpetua* since:

> x x x no birth certificate or any similar authentic document, such as a baptismal certificate of LIZETTE, was presented to prove her age. . . . .
>
> x x x x x x x x x.
>
> However, the Medico-Legal Report relied upon by the trial court does not in any way prove the age of LIZETTE, for there is nothing therein which even mentions her age. Only testimonial evidence was presented to establish LIZETTE's age. Her mother, Jacqueline, testified (that the victim was three years old at the time of the commission of the crime).
>
> x x x x x x x x x
>
> Likewise, LIZETTE testified on 20 November 1996, or almost two years after the incident, that she was 5 years old. However, when the defense counsel asked her how old she was on 3 January 1995, or at the time of the rape, she replied that she was 5 years old. Upon further question as to the date she was born, she could not answer.
>
> For *PRUNA* to be convicted of rape in its qualified form and meted the supreme penalty of death, it must be established with certainty that LIZETTE was below 7 years old at the time of the commission of the crime. It must be stressed that the severity of the 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.
>
> In view of the uncertainty of LIZETTE's exact age, corroborative evidence such as her birth certificate, baptismal certificate or any other authentic document should be introduced in evidence in order that the qualifying circumstance of "below seven (7) years old" is appreciated against the appellant. The lack of objection on the part of the defense as to her age did not excuse the prosecution from discharging its burden. That the defense invoked LIZETTE's tender age for purposes of questioning her competency to testify is not necessarily an admission that she was below 7 years of age when

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PRUNA raped her on 3 January 1995. Such being the case, *PRUNA* cannot be convicted of qualified rape, and hence the death penalty cannot be imposed on him.

However, conformably with no. 3 (b) of the foregoing guidelines, the testimony of LIZETTE's mother that she was 3 years old at the time of the commission of the crime is sufficient for purposes of holding *PRUNA* liable for statutory rape, or rape of a girl below 12 years of age. Under the second paragraph of Article 335, as amended by R.A. No. 7659, in relation to no. 3 of the first paragraph thereof, having carnal knowledge of a woman under 12 years of age is punishable by *reclusion perpetua*. Thus, the penalty to be imposed on PRUNA should be *reclusion perpetua*, and not death penalty. (Italics in the original.)

Several cases[31] suggest that courts may take "judicial notice" of the appearance of the victim in determining her age. For example, the Court, in *People v. Tipay*,[32] qualified the ruling in *People v. Javier*,[33] which required the presentation of the birth certificate to prove the rape victim's age, with the following pronouncement:

This does not mean, however, that the presentation of the certificate of birth is at all times necessary to prove minority. *The minority of a victim of tender age who may be below the age of ten is quite manifest and the court can take judicial notice thereof. The crucial years pertain to the ages of fifteen to seventeen where minority may seem to be dubitable due to one's physical appearance.* In this situation, the prosecution has the burden of proving with certainty the fact that the victim was under 18 years of age when the rape was committed in order to justify the imposition of the death penalty under the above-cited provision. (Italics supplied.)

On the other hand, a handful of cases[34] holds that courts, without the requisite hearing prescribed by Section 3, Rule 129

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[31] *Vide People v. Bali-balita*, 340 SCRA 450 (2000); *People v. Rivera*, 362 SCRA 153 (2001); *People v. Abaño*, G.R. No. 142728, January 23, 2002.

[32] 329 SCRA 52 (2000).

[33] 311 SCRA 122 (1999).

[34] *Vide People v. Tundag*, 342 SCRA 704 (2000); *People v. Liban*, 345 SCRA 453 (2000); *People v. Lachica*, G.R. No. 143677, May 9, 2002.

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of the Rules of Court,[35] cannot take judicial notice of the victim's age.

Judicial notice signifies that there are certain "*facta probanda*," or propositions in a party's case, as to which he will not be required to offer evidence; these will be taken for true by the tribunal without the need of evidence.[36] Judicial notice, however, is a phrase sometimes used in a loose way to cover some other judicial action. Certain rules of Evidence, usually known under other names, are frequently referred to in terms of judicial notice.[37]

The process by which the trier of facts judges a person's age from his or her appearance cannot be categorized as judicial notice. Judicial notice is based upon convenience and expediency for it would certainly be superfluous, inconvenient, and expensive both to parties and the court to require proof, in the ordinary way, of facts which are already known to courts.[38] As *Tundag* puts it, it "is the cognizance of certain facts which judges may properly take and act on *without proof* because they already know them." Rule 129 of the Rules of Court, where the provisions governing judicial notice are found, is entitled "What Need Not Be Proved." When the trier of facts observes the appearance of a person to ascertain his or her age, he is not taking judicial notice of such fact; rather, he is conducting an *examination of the evidence*, the evidence being the appearance of the person.

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[35] SEC. 3. *Judicial notice, when hearing necessary.* — During the trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon.

After the trial, and before judgment or an appeal, the proper court, on its own initiative or on request of a party, may take judicial notice of any matter and allow the parties to be heard thereon if such matter is decisive of a material issue in the case.

[36] 9 WIGMORE, J. H., *A TREATISE ON THE ANGLO-AMERICAN SYSTEM OF EVIDENCE IN TRIALS AT COMMON LAW* (3rd ED.) §2565.

[37] *Id.* at §2566.

[38] 5 MORAN M.V., *COMMENTS ON THE RULES OF COURT* (1980 ED.) 38.

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Such a process militates against the very concept of judicial notice, the object of which is to do away with the presentation of evidence.

This is not to say that the process is not sanctioned by the Rules of Court; on the contrary, it does. A person's appearance, where relevant, is admissible as object evidence, the same being addressed to the senses of the court. Section 1, Rule 130 provides:

SECTION 1. *Object as evidence.* — Objects as evidence are those addressed to the senses of the court. When an object is relevant to the fact in issue, it may be exhibited to, examined or viewed by the court.

"To be sure," one author writes, "this practice of inspection by the court of objects, things or *persons* relevant to the fact in dispute, has its roots in ancient judicial procedure."[39] The author proceeds to quote from another authority:

"Nothing is older or commoner in the administration of law in all countries than the submission to the senses of the tribunal itself, whether judge or jury, of objects which furnish evidence. The view of the land by the jury, in real actions, of a wound by the judge where mayhem was alleged, *and of the person of one alleged to be an infant, in order to fix his age,* the inspection and comparison of seals, the examination of writings, to determine, whether they are (')blemished,(') the implements with which a crime was committed or of a person alleged, in a bastardy proceeding, to be the child of another, are few illustrations of what may be found abundantly in our own legal records and textbooks for seven centuries past."[40] (Italics supplied.)

A person's *appearance*, as evidence of age (for example, of infancy, *or of being under the age of consent to intercourse*), is usually regarded as relevant; and, if so, the tribunal may properly observe the person brought before it.[41] Experience

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[39] SALONGA, *supra*, NOTE 19, AT 89.

[40] *Ibid.* citing THAYER, *CASES ON EVIDENCE* (2nd) 720.

[41] 4 WIGMORE AT §1154.

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teaches that corporal appearances are approximately an index of the *age* of their bearer, particularly for the marked extremes of old age and youth. In every case such evidence should be accepted and weighed for what it may be in each case worth. In particular, the *outward physica*l appearance of an alleged minor may be considered in judging his age; a contrary rule would for such an inference be pedantically over-cautious.[42] Consequently, the jury or the court trying an issue of fact may be allowed to judge the age of persons in court by observation of such persons.[43] The formal offer of the person as evidence is not necessary. The examination and cross-examination of a party before the jury are equivalent to exhibiting him before the jury and an offer of such person as an exhibit is properly refused.[44]

This Court itself has sanctioned the determination of an alien's age from his appearance. In *Braca v. Collector of Customs*,[45] this Court ruled that:

> The customs authorities may also determine from the personal appearance of the immigrant what his age is. The person of a Chinese alien seeking admission into the Philippine Islands is evidence in an investigation by the board of special inquiry to determine his right to enter; and such body may take into consideration his appearance to determine or assist in determining his age and a finding that the applicant is not a minor based upon such appearance is not without evidence to support it.

This Court has also implicitly recognized the same process in a criminal case. Thus, in *United States v. Agadas*,[46] this Court held:

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[42] 2 WIGMORE AT §222, cited in *People v Montalvo* (482 P. 2d 205), *Watson v. State* (140 N.E.2d 109), and *State v. Fries* (17 N.W.2d 578).

[43] 32 C.J.S. Evidence §609.

[44] *Ibid.*, cited in *Watson v. State, supra,* Note 42.

[45] 36 Phil. 930 (1917). *Vide* also *Tan Beko vs. Insular Collector of Customs*, 26 Phil. 254 (1913); *Lim Cheng vs. Collector of Customs*, 42 Phil. 876 (1920).

[46] 36 Phil. 246 (1917).

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Rosario Sabacahan testified that he was 17 years of age; that he had never purchased a *cedula*; and that he was going to purchase a cedula the following January. Thereupon the court asked this defendant these questions: "You are a pretty big boy for seventeen." Answer: "I cannot tell exactly because I do not remember when I was born, but 17 years is my guess." Court: "If you are going to take advantage of that excuse, you had better get some positive evidence to that effect." Answer: "I do not remember, as I already stated on what date and in what year I was born." The court, in determining the question of the age of the defendant, Rosario Sabacahan, said:

> "The defendant, Rosario Sabacahan, testified that he thought that he was about 17 years of age, but *judging by his appearance* he is a youth 18 or 19 years old. He has shown that he has no positive information on the subject and no effort was made by the defense to prove the fact that he is entitled to the mitigating circumstance of Article 9, paragraph 2, of the Penal Code, which fact it is held to be incumbent upon the defense to establish by satisfactory evidence in order to enable the court to give an accused person the benefit of the mitigating circumstance."

In *United States vs. Estavillo and Perez* (10 Off. Gaz., 1984) Estavillo testified, when the case was tried in the court below, that he then was only 16 years of age. There was no other testimony in the record with reference to his age. But the trial judge said: "The accused Estavillo, notwithstanding his testimony giving his age as 16 years, is, as a matter of fact, not less than 20." This court, in passing upon the age of Estavillo, held:

> "We presume that the trial court reached this conclusion with reference to the age of Estavillo from the latter's personal appearance. There is no proof in the record, as we have said, which even tends to establish the assertion that this appellant understated his age. * * * It is true that the trial court had an opportunity to note the personal appearance of Estavillo for the purpose of determining his age, and by so doing reached the conclusion that he was at least 20, just two years over 18. This appellant testified that he was only 16, and this testimony stands uncontradicted. Taking into consideration the marked difference in the penalties to be imposed upon that age, we must, therefore, conclude (resolving all doubts in favor of the appellants) that the appellants' ages were 16 and 14 respectively."

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While it is true that in the instant case Rosario testified that he was 17 years of age, yet the trial court reached the conclusion, judging from the personal appearance of Rosario, that "he is a youth 18 or 19 years old." Applying the rule enunciated in the case just cited, we must conclude that there exists a reasonable doubt, at least, with reference to the question whether Rosario was, in fact 18 years of age at the time the robbery was committed. This doubt must be resolved in favor of the defendant, and he is, therefore, sentenced to six months of *arresto mayor* in lieu of six years ten months and one day of *presidio mayor*. x x x

There can be no question, therefore, as to the *admissibility* of a person's appearance in determining his or her age. As to the *weight* to accord such appearance, especially in rape cases, Pruna laid down guideline no. 3, which is again reproduced hereunder:

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.

Under the above guideline, the testimony of a relative with respect to the age of the victim is sufficient to constitute proof beyond reasonable doubt in cases (a), (b) and (c) above. In such cases, the disparity between the allegation and the proof of age is so great that the court can easily determine from the appearance of the victim the veracity of the testimony. The appearance corroborates the relative's testimony.

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As the alleged age approaches the age sought to be proved, the person's appearance, as object evidence of her age, loses probative value. Doubt as to her true age becomes greater and, following *Agadas, supra*, such doubt must be resolved in favor of the accused.

This is because in the era of modernism and rapid growth, the victim's mere physical appearance is not enough to gauge her exact age. For the extreme penalty of death to be upheld, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime must be substantiated. Verily, the minority of the victim should be not only alleged but likewise proved with equal certainty and clearness as the crime itself. Be it remembered that the proof of the victim's age in the present case spells the difference between life and death.[47]

In the present case, the prosecution did not offer the victim's certificate of live birth or similar authentic documents in evidence. The victim and her mother, however, testified that she was only three years old at the time of the rape. Cyra May's testimony goes:

q - Your name is Cyra Mae is that correct?

a - Yes, sir.

q - And you are 3 years old?

a - Yes, sir.[48]

That of her mother goes:

Q How old was your daughter when there things happened?

A 3 and ½ years old.

Q When was she born?

A In Manila, May 10, 1992.[49]

Because of the vast disparity between the alleged age (three years old) and the age sought to be proved (below twelve years),

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[47] *People v. Quezada*, G.R. No. 135551-58, January 30, 2002.

[48] TSN, January 7, 1997 at 4.

[49] TSN, May 20, 1996 at 11.

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the trial court would have had no difficulty ascertaining the victim's age from her appearance. No reasonable doubt, therefore, exists that the second element of statutory rape, *i.e.*, that the victim was below twelve years of age at the time of the commission of the offense, is present.

Whether the victim was below seven years old, however, is another matter. Here, reasonable doubt exists. A mature three and a half-year old can easily be mistaken for an underdeveloped seven-year old. The appearance of the victim, as object evidence, cannot be accorded much weight and, following Pruna, the testimony of the mother is, by itself, insufficient.

As it has not been established with moral certainty that Cyra May was below seven years old at the time of the commission of the offense, accused-appellant cannot be sentenced to suffer the death penalty. Only the penalty of *reclusion perpetua* can be imposed upon him.

In line with settled jurisprudence, the civil indemnity awarded by the trial court is increased to ₱50,000.00. In addition, Cyra May is entitled to an award of moral damages in the amount of ₱50,000.00.[50]

WHEREFORE, the Decision of the Regional Trial Court of Quezon City, Branch 96, is *AFFIRMED* with *MODIFICATION*. Accused-appellant Ronnie Rullepa *y* Guinto is found *GUILTY* of Statutory Rape, defined and punished by Article 335 (3) of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay private complainant, Cyra May Buenafe *y* Francisco, the amount of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

SO ORDERED.

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

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

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[50] *People v. Rafales*, 323 SCRA 13 (2000).