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In Criminal Case No. 4667-96-C, accused-appellant Felix J. Lopez is hereby found *GUILTY* of theft only and sentenced to a prison term of 4 years, 4 months and 1 day of *prision correccional*, as minimum, to 10 years, and 1 day of *prision mayor*, as maximum, and to pay the amount of ₱18,000 as reparation for the unrecovered stolen articles.

Costs *de oficio*.

SO ORDERED.

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

EN BANC

[G.R. No. 147606. January 14, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ROGELIO MIRANTE SR.,** *accused-appellant.*

SYNOPSIS

The Regional Trial Court found accused-appellant guilty of rape for sexually violating his fourteen-year old daughter Analyn Mirante and imposed upon him the penalty of death. In rendering judgment against appellant, the court *a quo* gave credence to the testimony of the victim and rejected his defense of denial and alibi. According to the trial court, Analyn's account of the sexual assault was given in a most straightforward, candid and convincing manner, thus leaving no room for doubt that she was in fact ravished by her own father.

Hence, this automatic review.

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Appellant assailed the credibility of the complainant. The Supreme Court has enunciated often enough to the point of triteness and satiety that minor discrepancies do not affect the essential integrity of the witness' testimony in its material whole; on the contrary, they strengthen its veracity, as they are badges of truth rather than *indicia* of falsehood. Appellant was positively and categorically pointed to by the victim as the man who sexually molested her. She could not have made a mistake in identifying her own father as her coital tormentor. This fact cannot simply be overturned by a mere blanket denial. The Court held that no child in her right mind would concoct a story of defloration against her own father and expose her whole family to the stigma and disgrace associated with incestuous rape if only to free herself from an overweening and strict parent who only happens to enforce parental guidance and discipline. Accordingly, the Court affirmed the conviction of appellant but only for simple rape punishable by *reclusion perpetua* in view of the failure of the prosecution to present any corroborative evidence as to the victim's age.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; MINOR DISCREPANCIES ON WITNESS' TESTIMONY STRENGTHEN VERACITY AS THEY ARE BADGES OF TRUTH RATHER THAN *INDICIA* OF FALSEHOOD.**— This Court has enunciated often enough to the point of triteness and satiety that minor discrepancies do not affect the essential integrity of the witness' testimony in its material whole; on the contrary, they strengthen its veracity, as they are badges of truth rather than *indicia* of falsehood. Indeed, the natural fickleness and frailty of human memory do not always allow precise recollection and impeccable narration of events especially coming from a minor who undergoes a harrowing and appalling experience.

2. **ID.; ID.; ID.; NO CHILD IN HER RIGHT MIND WOULD CONCOCT STORY OF DEFLORATION AGAINST OWN FATHER AND EXPOSE WHOLE FAMILY TO STIGMA AND DISGRACE ASSOCIATED WITH INCESTUOUS RAPE IF ONLY TO FREE HERSELF FROM OVERWEENING AND STRICT PARENT.**— The accused was positively and categorically pointed to by

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the victim as the man who sexually molested her. She could not have made a mistake in identifying her own father as her coital tormentor. This fact cannot simply be overturned by a mere blanket denial. Verily, no child in her right mind would concoct a story of defloration against her own father and expose her whole family to the stigma and disgrace associated with incestuous rape if only to free herself from an overweening and strict parent who only happens to enforce parental guidance and discipline.

3. CRIMINAL LAW; INCESTUOUS RAPE; DEATH PENALTY; IMPOSITION THEREOF UNWARRANTED WHERE PROSECUTION FAILED TO PROVE VICTIM'S MINORITY AT TIME OF COMMISSION OF CRIME; CASE AT BAR.— But for accused Rogelio to be convicted of qualified rape and sentenced to death, it must be established with certainty that Analyn was below eighteen (18) years of age or that she was a minor 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. However, no birth certificate or similar authentic document, *e.g.*, school records or baptismal certificate of Analyn was presented to prove her age. The uncertainty in proving the age of Analyn in view of the failure by the prosecution to present any corroborative evidence as to her age only warrants the conviction of the accused for simple rape, not for qualified rape. Hence, the penalty of death imposed by the trial court must be reduced to *reclusion perpetua.*

4. CIVIL LAW; DAMAGES; CIVIL INDEMNITY; AWARD THEREOF REDUCED TO ₱50,000.00 WHERE ACCUSED WAS FOUND LIABLE ONLY FOR SIMPLE RAPE.— The trial court ordered the accused to indemnify the victim in the amount of ₱75,000.00, which, although undenominated, presumably refers to the civil indemnity, and another ₱50,000.00 as moral damages. In view of the finding that the accused is liable only for simple rape, the amount of ₱75,000.00 as civil indemnity should be lowered to ₱50,000.00 in conformity with prevailing jurisprudence.

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APPEARANCES OF COUNSEL

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

D E C I S I O N

BELLOSILLO, *J.*:

The court *a quo* found ROGELIO MIRANTE SR. guilty of raping his fourteen (14)-year old daughter Analyn Mirante and sentenced him to death. It also ordered him to indemnify his victim the amount of ₱75,000.00 and ₱50,000.00 as moral damages, and to pay the costs.[1]

"He molested me everyday, except on Sundays when my mother was around."[2] This was the heartrending account of private complainant Analyn Mirante when she narrated to the court the sexual molestations she suffered in the hands of her lecherous father Rogelio Mirante Sr.

As narrated by Analyn, she first experienced her father's depravity when at around noon of 28 November 1998 he ordered her to enter the room and to take-off her clothes. Earlier, she noticed that he ordered her siblings Jovelyn (8), Renalyn (6) and brother Jason (2) to go to sleep. Sensing her father's lewd intentions, she started crying.

Now entrapped inside the room, Analyn first thought of fleeing but changed her mind when she saw the ominous figure of her father with a *bolo* on hand. Rogelio forcibly stripped her of her clothing, caressed her body with his lips and inserted his penis into her organ. She tried to free herself but her father was simply too strong for her. After satiating his lust, he wiped

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[1] Decision penned by Judge Jose C. Reyes, Jr., RTC-Br. 76, San Mateo, Rizal, Original Records, p. 125. Note that unlike the amount of ₱50,000.00 which is specified for moral damages, the ₱75,000.00 is not designated for what it is awarded.

[2] TSN, 11 August 1999, p. 20. See also Exh. "A", Original Records, p. 92.

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her private part and pressed her stomach which according to her was intended to thwart pregnancy.[3]

Analyn recounted that in the early morning of 25 February 1999 her mother Avelina, as usual, left for work leaving her behind in the house with her father and her two (2) sisters and a brother who were all much younger than she. At around noon, her father suddenly straddled her, repeatedly kissed her body including her most delicate parts, and penetrated her sexually. She pleaded to him to stop as she was hurting, but her entreaties proved futile as her father continued his pumping motion. Not content with his physical superiority, the accused threatened her with a knife if she would not stop resisting. She could only cry in pain and anguish. She recalled that some moments into the frenzy he withdrew his penis from her organ and ejaculated. She surmised that that was intended to prevent her from getting pregnant.

As early as 28 November 1998, Analyn already confided to her mother Avelina and older brother Rogelio Jr. the rape incidents but her mother remained unmoved, and worse, even sided with the accused and gave credence to his denials.

On a date she could no longer recall, Analyn was accompanied by her older brother to the police station where she was interviewed by Police Officer Morada so that the following day she was brought to a medical clinic for physical examination.

Analyn revealed on cross-examination that on various occasions her father would maltreat her younger brothers and sisters and break household furniture pieces and appliances whenever she would refuse to give in to his sexual advances. That was exactly what happened on 28 November 1998 when he again let loose his fury by throwing a number of household appliances and other items including two (2) television sets and a radio when Analyn refused to give in to his sexual importuning. On about five (5) different occasions, she reported the sexual molestations of her father to her mother but the

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[3] TSN, 11 August 1999, p. 5.

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latter not only would not believe her but also refused to take any step to help her.

Dr. Emmanuel Perez, medico-legal officer of the PNP Crime Laboratory, found the victim's genitalia to be "an elastic, fleshy type hymen with shallow healed lacerations at five and nine o'clock and deep healed lacerations at seven o'clock positions"[4] but found no injury on the extra-genital portion of her body.[5]

Seeking his exoneration, the accused interposed the defense of alibi and denial. His version was that at about seven o'clock in the morning of 27 February 1999 he left for his plantation about two hundred (200) meters from their house. When he returned at around seven o'clock in the evening, he caught Analyn kissing with her boyfriend Lando on the sofa. Seeing that one of his children was already crying, he ordered Analyn to pacify him but she took offense and irately muttered, "*dahil sa inyo wala akong kalayaan.*" Enraged by his daughter's discourteous remarks, he furiously broke the appliances that he could get his hands on. Thereafter, he gave Analyn ₱10.00 and dared her to call the police and put him in jail if she did not like his advice.

When the commotion subsided, according to him, he returned to his plantation and stayed there in his hut for the night. When he returned to the house the following morning, he was surprised to find police officers inside their house. He was even more stunned when they arrested him for allegedly raping his daughter. When asked for the possible reason why his daughter would impute such a grave accusation against him, he could only guess that Analyn regarded him as "*malupit*" or a cruel father who would scold and punish his children for the slightest infraction. He insisted that his daughter was recalcitrant and hardheaded, and had the habit of cursing him whenever he would give her some advice.

After trial, the court *a quo* found the accused guilty of raping his daughter Analyn on 27 February 1999, and imposed upon

[4] TSN, 18 February 2000, p. 5.

[5] *Id.*, pp. 5-6.

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him the maximum penalty of death. The trial court gave credence to the testimony of Analyn; on the other hand, it did not believe that the alleged resentment of the victim towards her father for being a strict disciplinarian was sufficient enough to cause her to fabricate the very serious charge of incestuous rape against him. If Analyn was only concerned with her freedom, she could easily have run away from home. Indeed, his bare denials could not overturn her positive testimony.

In his brief, the accused bemoans his conviction despite a number of inconsistent statements made by the private complainant which, in his view, demean her credibility and shore up his assertion that the alleged victim cried rape if only to gain her freedom to live with her boyfriend. He draws our attention to her statement on direct examination that her younger sisters and brother were ordered by their father to sleep which apparently contradicts her statement on cross-examination that they were asked instead by the accused to play outside the house.[6]

We are not persuaded. This Court has enunciated often enough to the point of triteness and satiety that minor discrepancies do not affect the essential integrity of the witness' testimony in its material whole; on the contrary, they strengthen its veracity, as they are badges of truth rather than *indicia* of falsehood. Indeed, the natural fickleness and frailty of human memory do not always allow precise recollection and impeccable narration of events especially coming from a minor who undergoes a harrowing and appalling experience.

The accused was positively and categorically pointed to by the victim as the man who sexually molested her. She could not have made a mistake in identifying her own father as her coital tormentor. This fact cannot simply be overturned by a mere blanket denial. Verily, no child in her right mind would concoct a story of defloration against her own father and expose her whole family to the stigma and disgrace associated with incestuous rape if only to free herself from an overweening

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[6] *Rollo*, p. 50.

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and strict parent who only happens to enforce parental guidance and discipline.

According to the trial court, Analyn's account of the sexual assault was given in a most straightforward, candid and convincing manner thus leaving no room for doubt that she was in fact ravished by her own father. Consider the following narration[7] —

Q: Will you kindly inform this Hon. Court how did your father abuse you that day of February 25, 1999, according to you?

A: He placed his body on my stomach and then he kissed me sir.

Q: And then?

A: He also kissed the lower part of my body, sir.

Q: And then?

A: He kissed me repeatedly, sir.

Q: And then?

A: Sometimes he wanted to kiss my lips but I cover(ed) them with my hand, sir.

Q: And then, what else transpired?

A: Sometimes I cry (sic) because it was painful and I told him I do (sic) not like it, sir.

Q: What was that painful that you felt pain?

A: Whenever he inserts his private part into my private part, sir.

Q: Did he insert his private part into your private part that day, February 25, 1999?

A: Yes, sir.

But for accused Rogelio to be convicted of qualified rape and sentenced to death, it must be established with certainty that Analyn was below eighteen (18) years of age or that she

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[7] TSN, 11 August 1999, pp. 6-7.

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was a minor 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.[8] However, no birth certificate or similar authentic document, *e.g.*, school records or baptismal certificate of Analyn was presented to prove her age.

The uncertainty in proving the age of Analyn in view of the failure by the prosecution to present any corroborative evidence as to her age only warrants the conviction of the accused for simple rape, not for qualified rape. Hence, the penalty of death imposed by the trial court must be reduced to *reclusion perpetua.*

The trial court ordered the accused to indemnify the victim in the amount of ₱75,000.00, which, although undenominated, presumably refers to the civil indemnity, and another ₱50,000.00 as moral damages.

In view of the finding that the accused is liable only for simple rape, the amount of ₱75,000.00 as civil indemnity should be lowered to ₱50,000.00 in conformity with prevailing jurisprudence.

WHEREFORE, the Decision of the Regional Trial Court, Branch 76, San Mateo, Rizal, is *MODIFIED*. Accused ROGELIO MIRANTE SR. is held guilty of simple rape instead, and not qualified rape, and is sentenced to the lower penalty of *reclusion perpetua* and ordered to pay the victim Analyn Mirante ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. Costs *de oficio*.

SO ORDERED.

Davide, Jr., C.J., 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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[8] *People v. Manuel Pruna*, G.R. No. 138471, 10 October 2002 citing *People v. Liban*, G.R. Nos. 136247 and 138330, 22 November 2000, 345 SCRA 453.