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EN BANC

[G.R. No. 133227. October 10, 2002]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **CHITO P. UCAB,** *accused-appellant.*

SYNOPSIS

For sexually abusing his twelve-year old daughter Hanipi Ucab on two separate occasions, the Regional Trial Court of Mambajao, Camiguin, convicted accused-appellant of two counts of rape and twice sentenced him to death.

Hence, this automatic review.

Accused-appellant denied the charges against him. On the first charge of rape, which took place on March 28, 1997, appellant argued that he should be convicted of attempted rape only. He asserted that he merely bumped his private organ into that of his daughter's. On the second count of rape, which happened on April 28, 1997, appellant contended that his daughter concocted it to get back at him for chastising her.

The Supreme Court's review of the evidence convinced it with moral certainty that Hanipi was twice sexually violated by her father. The Court found her declarations on the stand worthy of credit. The young girl testified in a categorical, frank, spontaneous manner and remained consistent in recounting the material occurrences of the criminal incident. The rule is that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit. Moreover, the physical evidence corroborated Hanipi's rape. The medico-legal report showed the presence of dead sperm cells inside her vaginal canal. That they were dead is explained by the lapse of time, which transpired from the day of the rape to the day of the check-up. Hence, the Court held that when the victim's testimony of her violation is corroborated by the physician's findings of penetration, there was sufficient evidence to conclude the existence of the essential requisites of carnal knowledge. The

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Court also found the motive appellant imputed against his daughter as to why she charged him with so grave a crime too tenuous to merit attention. Consequently, the Court affirmed the decision of the trial court, but reduced the penalty to *reclusion perpetua* for failure of the prosecution to prove the victim's minority. Apart from the victim's stark testimony that she was only 12-years old at the time she was violated twice by her father, no independent proof was proffered by the prosecution to demonstrate with certainty Hanipi's true age.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; FACTUAL FINDINGS OF TRIAL COURTS;GENERALLY WILL NOT BE DISTURBED BY THE APPELLATE COURT; EXCEPTIONS.**— Well-entrenched is the rule that an appellate court will generally not disturb the assessment of the trial court on factual matters considering that the latter, as a trier of facts, is in a better position to appreciate the same. The only exceptions allowed are when the trial court has plainly overlooked certain facts of substance which, if considered, may affect the result of the case, or in instances where the evidence fails to support or substantiate the lower court's findings and conclusions, or where the disputed decision is based on a misapprehension of facts. This case does not fall under any of the exceptions.

2. **ID.; ID.; CREDIBILITY OF WITNESSES; RAPE VICTIM'S TESTIMONY MUST BE GIVEN FULL FAITH AND CREDIT WHERE THE SAME IS STRAIGHTFORWARD AND CANDID, UNSHAKEN BY RIGID CROSS-EXAMINATION AND UNFLAWED BY INCONSISTENCIES OR CONTRADICTIONS IN ITS MATERIAL POINTS.**— Our review of the evidence convinces us with moral certainty that Hanipi was twice sexually violated by her father. We find her declarations on the stand worthy of credit. The young girl testified in a categorical, frank, spontaneous manner and remained consistent in recounting the material occurrences of the criminal incident. The rule is that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.

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3. **ID.; ID.; PHYSICAL EVIDENCE; CORROBORATIVE EVIDENCE; PHYSICIAN'S FINDINGS OF PENETRATION CORROBORATED BY VICTIM'S TESTIMONY OF HER VIOLATION.**— The physical evidence corroborates Hanipi's rape. The medico-legal report showed the presence of dead sperm cells inside her vaginal canal. That they were dead is explained by the lapse of time which transpired from the day of the rape to the day of the check-up. When the victim's testimony of her violation is corroborated by the physician's findings of penetration, there is sufficient evidence to conclude the existence of the essential requisites of carnal knowledge. This should lay to rest any misgivings that the sexual congress was completed.

4. **ID.; ID.; CREDIBILITY OF WITNESSES; DENIAL; A DAUGHTER'S UNWAVERING AND POSITIVE IDENTIFICATION OF HER FATHER AS HER DEFILER AND TORMENTOR MUST PREVAIL OVER THE LATTER'S SELF-SERVING AND UNCORROBORATED DEFENSE OF DENIAL; CASE AT BAR.**— Similarly unmeritorious is appellant's simple denial of the charge. To merit credibility, denial must be buttressed by strong evidence of non-culpability. Otherwise, the rule is that affirmative testimony prevails over it, especially when the declaration comes from the mouth of a credible witness. In short, appellant's defense of denial crumbles in the face of Hanipi's positive testimony identifying him, in a categorical manner, as the author of the unspeakable crime. A daughter's unwavering and positive identification of her father as her defiler and tormentor must prevail over the latter's sole defense of denial, the latter being flimsy, feeble, self-serving and uncorroborated.

5. **ID.; ID.; ID.; MOTIVE;EVEN WHEN CONSUMED WITH REVENGE, IT TAKES A CERTAIN AMOUNT OF PSYCHOLOGICAL DEPRAVITY FOR A YOUNG WOMAN TO FABRICATE A STORY OF RAPE IMPLICATING HER OWN FATHER.**— The motive appellant imputes against his daughter as to why she charges him with so grave a crime (*i.e.*, in order to get revenge for castigating her) is too tenuous to merit our attention. It is unbelievable that a young barrio lass would concoct a tale of defloration, much less against her very own father, publicly admit having been ravished and her honor tainted, allow the examination of her private parts and undergo

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all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and truly moved to protect and preserve her honor, as well as to obtain justice, for the wicked acts committed against her. Even when consumed with revenge, it takes a certain amount of psychological depravity for a young woman to fabricate a story which would put her own father in jail for the most part of his remaining life and drag herself and the rest of her family to a lifetime of shame.

6. **CRIMINAL LAW; RAPE; DEATH PENALTY; STRICTER STANDARD FOR PROVING RAPE VICTIM'S AGE IS REQUIRED; CASE AT BAR.**— Under Article 335 of the Revised Penal Code, as amended by Sec. 11 of R.A. No. 7659, rape is punished by death when "the victim is under eighteen years of age and the offender is a parent." In a long line of decisions, we have ruled that in cases were the death penalty is imposable, a stricter standard for proving the age of the victim in rape is required. We thus emphasized the need for independent proof of the age of the victim, aside from her testimonial evidence, even though her age is not contested by the defense.

7. **ID.; ID.; ID.; CANNOT BE IMPOSED WHERE PROSECUTION FAILED TO DEMONSTRATE WITH CERTAINTY THE VICTIM'S TRUE AGE.**— In the present case, apart from Hanipi's stark testimony that she was only 12 years old at the time she was violated twice by her father, no independent proof was proffered by the prosecution to demonstrate with certainty Hanipi's true age. It did not present her birth certificate, which is the best evidence of her age. Her mother was similarly not called to the stand so she could testify as to her age. On that score, the quantity and quality of proof of private complainant's age before us do not suffice to convince us that the appellant deserves the extreme penalty of death.

8. **CIVIL LAW; DAMAGES; AWARD OF CIVIL INDEMNITY; MORAL DAMAGES; AUTOMATICALLY AWARDED IN RAPE CASES WITHOUT NEED OF PLEADING OR PROOF OF THE BASIS THEREOF; EXEMPLARY DAMAGES; AWARDED TO DETER OTHER FATHERS WITH PERVERSE TENDENCIES OR ABERRANT SEXUAL**

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BEHAVIOR FROM SEXUALLY ABUSING THEIR OWN DAUGHTERS.— Be that as it may, a modification of the civil liability of the appellant is in order. Inasmuch as the rape in this case is not qualified by any of the circumstances under which the death penalty is to be imposed, the civil indemnity to be awarded should remain at ₱50,000.00 for each count. We deem it apt, however, to grant an additional award of ₱50,000.00 each for the two counts of rape as moral damages. Moral damages are automatically awarded in rape cases without need of pleading or proof of the basis thereof for it is assumed that the victim has suffered moral injuries entitling her to such an award. Lastly, appellant should pay to Hanipi the sum of ₱25,000.00 as exemplary damages to deter other fathers with perverse tendencies or aberrant sexual behavior from sexually abusing their own daughters.

APPEARANCES OF COUNSEL

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

D E C I S I O N

PUNO, *J.:*

Before us on automatic review is the Decision of the Regional Trial Court of Mambajao, Camiguin, Branch 28, dated February 19, 1998, in Criminal Case No. 833, finding appellant Chito Ucab guilty of two counts of rape he allegedly committed against his 12-year old daughter, private complainant Hanipi Ucab. Appellant was twice sentenced to death.

A single Information, containing the charges for two counts of incestuous rape, was filed against the appellant. Its accusatory portion reads:

"That on or about the 28th day of March 1997 at 10:00 o'clock in the evening and again repeated on April 28, 1997 inside the house of the offended party in Kilaa, Alga, Catarman, Camiguin, within the jurisdiction of this Honorable Court, the abovenamed accused employing force and intimidation upon the victim, did then and there

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willfully, unlawfully and feloniously have sexual intercourse with Hanipi Ucab, his own daughter of 12 years old.

CONTRARY TO LAW."[1]

Despite the multiplicity of the charges in the Information, the appellant proceeded to plead not guilty and submitted himself to trial.

It appears from the evidence adduced by the prosecution that private complainant Hanipi Ucab is the eldest among the four children of appellant Chito Ucab and Corazon Amo. She was born on October 5, 1984 and was barely over the age of twelve when the first rape happened. The date was March 28, 1997. At about 10:00 in the evening, she was at home, sleeping. She was alone in bed as her brother Joffrey and sister Charry slept on the floor.[2] While she was in slumber, appellant knocked at the door and asked her to open it. Rising from her sleep, she followed her father's order. She noticed him finish the cigarette he was smoking. Thereafter, he approached her and started touching her breast and other parts of her body, including her private organ. He was only wearing his briefs. Appellant then held her two hands with his left hand while his right hand removed her panties. Her attempts to shout for help were smothered when he threatened to kill her and her younger siblings. Appellant mounted her as soon as he succeeded in removing her panties. She then felt appellant's erect penis penetrate her organ. This caused her so much pain, which was aggravated when he executed the push and pull movement. All along, Hanipi was pleading with her father not to abuse her. Her pleas were in vain, as her father, possessed by, and unable to control, his bestial desire, retorted "What will I do to you?"[3] He proceeded to suck her breast and her sexual organ. He reinserted his penis later and placed it on the top of her abdomen after discharging. His bestial desire satisfied, he stood up and lighted a cigarette. Hanipi

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[1] Information, Original Records, p. 13.

[2] Her other sister, Rutchie Mae, was a working student and living with Mrs. Alice Orcajo, a public school teacher.

[3] TSN, August 21, 1997, p. 9.

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was forced to bear the agony and trauma of the experience by herself as she was warned by her father not to tell anybody of the incident if she does not want to die. In the course of her testimony, she identified several pictures including that of their house[4] and of the bed[5] where the first incident of rape took place.

The second incident of rape happened a month later on April 28, 1997 in their farmhut near a brook, seven hundred meters away from their house. Hanipi, together with Joffrey and Charry, went to the hut to ask their father's permission to watch a betamax movie show in their neighbor's house. Appellant allowed her younger siblings to see the show, but ordered her to stay behind. She was then outside the farmhut, approximately four to five meters from it. Appellant ordered her to come inside. When she refused, he threatened to fire his slingshot at her. When she still disobeyed him, he approached and intimidated her with a *bolo*. Then, he pulled her inside the hut where he succeeded in satisfying his lust. Her attempts to resist were easily subdued. Appellant slapped her every time she moved.

Unable to bear the trauma of having her womanhood violated by her father himself, Hanipi related the sad ordeal to two of her closest friends, Michelle Caja and Cherry Joy Banaag, on May 2, 1997. Cherry Joy then informed her mother of the shocking story of Hanipi. In turn, Cherry Joy's mother told Hanipi's paternal grandmother about the incident.

Not surprisingly, Hanipi decided to leave their house. On May 4, 1997, she sought refuge in the house of Mrs. Alice Orcajo, the public school teacher with whom her other sister Rutchie Mae was staying with. Mrs. Orcajo brought her to the neighboring town of Sagay in the house of a certain Vallar family. Unfortunately, the Vallars would not accept the young girl because they were afraid of her father's violent tendencies. Mrs. Orcajo and Hanipi then returned to Catarman where they sought the

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[4] Exhibits A to A-3; Original Records, pp. 37-38.

[5] Exhibits A-4 to A-5; *id.*, p. 38.

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help of Evangeline Avendano. They proceeded to the Department of Social Welfare and Development (DSWD). The next day, May 5, 1997, Hanipi was spirited to the house of the *Hijas de Jesus* congregation. With the assistance of a nun named Sister Mary and Social Welfare Officer Emelie Salutan of the DSWD, Hanipi reported the sexual violations committed by her father against her to the police authorities at Catarman. She thereafter submitted herself to a medical examination conducted by Dr. Erwin Mondragon at the Camiguin Island Hospital. The test results, contained in a Medical Certificate,[6] revealed dead sperm cells in the vaginal canal of Hanipi.

Hanipi further disclosed that her mother works as a helper in a canteen in Manila, leaving her and her younger siblings to the care of their father in the family house at Kilaa. Her father works in his small farm, which does not make enough profit to sustain the whole family. Moreover, he does not work hard enough and would usually go home drunk. In this state of stupor, appellant would usually beat his children for no apparent reason. Hanipi stated that it is practically her mother who is the sole breadwinner in the family, regularly sending them one thousand pesos a month. She goes home to visit them from Manila only once a year. She would stay there for approximately a month, after which she goes back to her work in the big city. Usually, her arrival coincides with the Christmas season in December and she leaves by early February.

Appellant denied the accusations against him. As the lone witness for the defense, he claimed that on the night of the first incident, he slept in their house with his three children: Hanipi, Joffrey and Charry. They slept together side by side. To his left was Charry. Farther away was Hanipi. Joffrey stayed farthest from him. At various times that night, Charry screamed and complained that the thigh and leg of her sister would go on top of her. Despite being tired and weary from the day's work, he forced himself to rise just to remove the thigh and leg of Hanipi. This was repeated several times until Charry lost her

[6] Exhibit B; Original Records, p. 5.

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patience and transferred to the other side of her father. Charry slept on his right while beside him on his other side was Hanipi. Joffrey remained at Hanipi's left. They then resumed sleeping.

Not much time has gone by when he felt the weight of Hanipi's thigh resting on his body, with her leg immediately on top of his sex organ. He was then clad with only his briefs because he felt exceptionally warm that night. He removed the thigh and leg of his daughter and went back to sleep. This was repeated several times in the course of their sleep until it reached the point when he noticed that he became aroused from the sensation of Hanipi's thigh and leg coming into contact with his private organ. He tried to suppress his sexual urge but lost control of himself. He had an erection. He touched the thigh of his daughter, then directed his penis towards her vagina. Turning on his left side, he removed his briefs and pulled down her shortpants and underwear. In that position, he executed several push and pull movements, bumping his penis into her private part without penetrating the same. He had an orgasm but ejaculated only on the lower abdomen of his daughter. After which, he pulled back the shorts of his daughter. He thought she was asleep but was mistaken. When he observed that she was awake, he told her, "Ta, I'm sorry that I was able to do that because I cannot hold myself but I was very thankful that I was not able to consummate my act."[7] Hanipi replied, as if reassuring him, "You go back to sleep, nothing happened."[8]

Appellant denounced the second rape as a lie. He alleged that the incident on April 28, 1997 is the result of his efforts to discipline the private complainant. He recalled Hanipi coming to their farmhut at about 6:00 in the evening. He confronted her for coming late. She said that she cleaned their house. He then asked her if it was true that she received five hundred pesos from their mother. Hanipi answered that she was under no obligation to tell him about the money. He then ordered her to prepare their supper. After they finished eating, Hanipi asked

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[7] TSN, December 9, 1997, p. 93.

[8] *Id.*, pp. 93-94.

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permission from him if she could go to their neighbor's house to watch a betamax movie. He refused having discovered that in the past, Hanipi, instead of going to their neighbor, would join her friends in disco dances in a neighboring *barangay*. The young girl murmured something, apparently, in defiance. This enraged him and to stop her from murmuring further, he got his slingshot and aimed it at her lips. The rubber of the slingshot, however, snapped, nearly hitting her on the lips. In frustration, he threw the weapon at her, which landed on her breast area. He then snatched the scabbard of his scythe and hit her with it. The girl ran to their other house. He never saw her again that night and only met her the next morning. For this reason, he scolded her. Thus, appellant insists, there was no rape that occurred the night of April 28, 1997. Asked for a reason why his daughter would charge him of such a serious offense, he could only surmise that she was mad at him for castigating her. After Hanipi left their house on May 4, 1997, he exerted all efforts to search for her. On May 9, 1997, he learned that she was under the care of the religious sisters of the *Hijas de Jesus* congregation. His attempts to contact the sisters failed.

After trial, the court *a quo* rendered a decision convicting the appellant of two counts of rape, the dispositive portion of which states:

"WHEREFORE, finding the accused Chito Ucab *y* Palamine guilty beyond reasonable doubt in both counts of rape charged in the information the court hereby strikes a verdict of conviction and hereby sentences him to suffer the supreme penalty of death in each of the said two counts of rape. He is further hereby ordered to indemnify Hanipi Ucab, the victim, in the amount of ₱50,000.00 in each count.

Let the entire original records of this case be transmitted to the Honorable Supreme Court for automatic review as provided for under the Constitution.

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SO ORDERED."[9]

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[9] Judgment, p. 13 ; *Rollo*, p. 28.

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The case is before us on automatic review. In his brief, appellant made a lone assignment of error, *viz.*: "The trial court erred in convicting the accused for two counts of rape and for penalizing him with the extreme penalty of death. "[10]

On the first charge of rape which took place on March 28, 1997, appellant, relying heavily on the case of *People v. Tolentino*,[11] argues that he should be convicted of attempted rape only. He claims that although he was not able to totally control himself and was compelled to release his pent-up sexual urges on his daughter that night, he did not consummate the act. He asserts that he merely bumped his private organ into that of his daughter's.

On the second count of rape, which happened on April 28, 1997, appellant contends that it was filed merely to firm up the first charge of rape. He added that Hanipi concocted it to get back at him for chastising her.

We sustain the trial court's verdict of conviction.

It bears emphasis, from the outset, that we find no cogent reason to disturb the findings of the lower court. Well-entrenched is the rule that an appellate court will generally not disturb the assessment of the trial court on factual matters considering that the latter, as a trier of facts, is in a better position to appreciate the same. The only exceptions allowed are when the trial court has plainly overlooked certain facts of substance which, if considered, may affect the result of the case, or in instances where the evidence fails to support or substantiate the lower court's findings and conclusions, or where the disputed decision is based on a misapprehension of facts. [12] This case does not fall under any of the exceptions.

Our review of the evidence convinces us with moral certainty that Hanipi was twice sexually violated by her father. We find

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[10] Brief for Accused-Appellant p. 1; *Rollo*, p. 52.

[11] 307 SCRA 485 (1999).

[12] *People vs. Limon*, 306 SCRA 367 (1999).

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her declarations on the stand worthy of credit. The young girl testified in a categorical, frank, spontaneous manner and remained consistent in recounting the material occurrences of the criminal incident. The rule is that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.[13] Enlightening are the following excerpts from her testimony:

"Prosecutor Vivares:

Q And what was he doing?
A He held my hand with his right hand and with the use of his left hand he pulled down my panties.

Q You told the court earlier that after he put off his cigarette he was about to touch your body, now, what part of your body did he touch at that time?
A He touched my breast and my organ.

Q Since he was touching your breast and your organ what was your reaction?
A I wanted to shout but he told me not to shout because he is ashamed with (*sic*) our neighbors and he even told me that if I will shout he will kill us all, including my mother.

Q So since according to you, you were threatened by him with that (*sic*) words, so what happened after that?
A I did not shout anymore because I am (*sic*) afraid that he will kill me.

Q Now, according to you he held your hand with his right hand and his left hand was removing your panties, what happened after that?
A *He mounted on top of me and I noticed that his organ was erected (sic) and that he was in (sic) push and pull action.*

Q Did you notice that his penis touched your private part?
A *Yes, sir, it was able to penetrate inside.*

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[13] *People v. Caratay*, 316 SCRA 251 (1999).

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Q How did you know that the penis of your father penetrated in your organ?
A I (*sic*) felt very painful.

Q Now, what else did he do to you aside from placing his penis inside your organ, what else did he do?

A I told him that: "Do not do it, Pa, because it is very painful.", and he said: "What will I do to you?", so he sucked my breast and also my organ and I did not move anymore because I'm (*sic*) afraid that he will slap me again.

Q Why do you say that he will slap you again, did he slap you already?
A Yes, sir, at the time I resented he slapped me.

Q Now you told the court that he sucked your breast and also he sucked your private part, what happened after that sucking?
A He again mounted on top of me and he again inserted inside my organ and when he already ejaculated he placed his organ on top of my abdomen.

Q Now, after he has done these to you, what did he do next?
A He stood up and then he lighted a cigarette and went outside.

Q What about you, what did you do?
A I cried because I wonder why he was able to do it to me when in fact he is my father.

Q Now, did you report this incident the following morning to anyone or to anybody?
A In the following morning I did not tell anybody because my father warned me not to tell anyone because he will kill me if I'll do so."[14]

The physical evidence corroborates Hanipi's rape. The medico-legal report showed the presence of dead sperm cells inside her vaginal canal. That they were dead is explained by the lapse of time which transpired from the day of the rape to the day of the check-up. When the victim's testimony of her violation is corroborated by the physician's findings of penetration, there

[14] TSN, August 21, 1997, pp. 7-9.

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is sufficient evidence to conclude the existence of the essential requisites of carnal knowledge.[15]

On the other hand, the arguments appellant advances are puerile. Appellant's reliance on the case of *People v. Tolentino* is totally out of fit. In said case, there was paucity of evidence that the slightest penetration ever took place; in the case at bar, the evidence of penetration is beyond doubt. We observed in *Tolentino* that the prosecution did not ask the victim appropriate questions to get more important details that would demonstrate that her assailant's penis reached the labia of the pudendum or the lips of her vagina. In the case at bar, Hanipi unequivocally stated that her father's penis penetrated the inside of her private organ.[16] This should lay to rest any misgivings that the sexual congress was completed.

Similarly unmeritorious is appellant's simple denial of the charge. To merit credibility, denial must be buttressed by strong evidence of non-culpability.[17] Otherwise, the rule is that affirmative testimony prevails over it, especially when the declaration comes from the mouth of a credible witness.[18] In short, appellant's defense of denial crumbles in the face of Hanipi's positive testimony identifying him, in a categorical manner, as the author of the unspeakable crime.[19] A daughter's unwavering and positive identification of her father as her defiler and tormentor must prevail over the latter's sole defense of denial, the latter being flimsy, feeble, self-serving and uncorroborated.[20]

The motive appellant imputes against his daughter as to why she charges him with so grave a crime (*i.e.*, in order to get revenge for castigating her) is too tenuous to merit our attention.

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[15] *People v. Oarga*, 259 SCRA 90 (1996).

[16] TSN, August 27, 1997, p. 8.

[17] *People v. Burce*, 269 SCRA 293 (1997).

[18] *People v. Balmoria*, 287 SCRA 687 (1998).

[19] See *People v. Arillas*, 333 SCRA 765 (2000).

[20] *People v. Gomez*, 251 SCRA 455 (1995).

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It is unbelievable that a young barrio lass would concoct a tale of defloration, much less against her very own father, publicly admit having been ravished and her honor tainted, allow the examination of her private parts and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and truly moved to protect and preserve her honor, as well as to obtain justice, for the wicked acts committed against her. [21] Even when consumed with revenge, it takes a certain amount of psychological depravity for a young woman to fabricate a story which would put her own father in jail for the most part of his remaining life and drag herself and the rest of her family to a lifetime of shame.[22]

Withal, all is not lost for the appellant. Under Article 335 of the Revised Penal Code, as amended by Sec. 11 of R.A. No. 7659, rape is punished by death when "the victim is under eighteen years of age and the offender is a parent." In a long line of decisions, we have ruled that in cases were the death penalty is imposable, a stricter standard for proving the age of the victim in rape is required. We thus emphasized the need for independent proof of the age of the victim, aside from her testimonial evidence, even though her age is not contested by the defense.[23]

In the present case, apart from Hanipi's stark testimony that she was only 12 years old at the time she was violated twice by her father, no independent proof was proffered by the prosecution to demonstrate with certainty Hanipi's true age. It did not present her birth certificate, which is the best evidence of her age. Her mother was similarly not called to the stand so she could testify as to her age. On that score, the quantity and quality of proof of private complainant's age before us do not suffice to convince us that the appellant deserves the extreme penalty of death.[24]

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[21] *People v. Quinanola*, 306 SCRA 710 (1999).

[22] *People v. Sandico*, 307 SCRA 204 (1999)

[23] *People v. Dizon*, 356 SCRA 69 (2001).

[24] See *People v. De los Santos*, 355 SCRA 301 (2001).

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Be that as it may, a modification of the civil liability of the appellant is in order. Inasmuch as the rape in this case is not qualified by any of the circumstances under which the death penalty is to be imposed, the civil indemnity to be awarded should remain at ₱50,000.00 for each count. We deem it apt, however, to grant an additional award of ₱50,000.00 each for the two counts of rape as moral damages. Moral damages are automatically awarded in rape cases without need of pleading or proof of the basis thereof[25] for it is assumed that the victim has suffered moral injuries entitling her to such an award.[26] Lastly, appellant should pay to Hanipi the sum of ₱25,000.00 as exemplary damages[27] to deter other fathers with perverse tendencies or aberrant sexual behavior from sexually abusing their own daughters.[28]

IN VIEW WHEREOF, the Decision of the Regional Trial Court in Criminal Case No. 833 is *AFFIRMED* with *MODIFICATION.* Appellant Chito Ucab is found Guilty beyond reasonable doubt of two counts of simple rape, and is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count. He is also adjudged to pay private complainant Hanipi Ucab the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱25,000.00 as exemplary damages for each of the rapes.

SO ORDERED.

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

Bellosillo, Mendoza, Quisumbing, Ynares-Santiago, Carpio and Austria-Martinez, JJ., on official leave.

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[25] *People v. Banela*, 301 SCRA 84 (1999).

[26] *People v. Alba*, 305 SCRA 811 (1999).

[27] See *People v. Dizon, supra.*

[28] *People v. Guiwan*, 331 SCRA 70 (2000).