

## EN BANC

[ **G.R. No. 167955 (Formerly G.R. No. 151275),  
September 30, 2009** ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARMANDO  
PADILLA Y NICOLAS, APPELLANT.**

### D E C I S I O N

**PERALTA, J.:**

For review is the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated February 23, 2005 in CA-G.R. CR-H.C. No. 00571 which affirmed, with modification, the Decision of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 15, in Criminal Case No. 166-M-96,<sup>[2]</sup> finding appellant Armando Padilla y Nicolas guilty beyond reasonable doubt of the crime of Statutory Rape and sentencing him to suffer the penalty of Death. The CA found appellant guilty of Qualified Rape and likewise imposed on him the penalty of Death. It reduced the awards for civil indemnity from P100,000.00 to P75,000.00 and exemplary damages from P50,000.00 to P25,000.00. In addition, the CA awarded moral damages in the amount of P50,000.00.

Consistent with the Court's decision in *People v. Cabalquinto*,<sup>[3]</sup> the real name of the rape victim in this case is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

The facts of the case, as established by the prosecution, are as follows:

Around 9 o'clock in the evening of February 22, 1994, AAA was inside their house located at Marilao, Bulacan.<sup>[4]</sup> With her were her father, herein appellant, her two older brothers and her sister BBB.<sup>[5]</sup> She was then staying in one of the rooms because she was suffering from asthma and was taking medicine through the help of her sister, BBB.<sup>[6]</sup> On the other hand, her brothers were already asleep in another room.<sup>[7]</sup> After AAA took her medicine, appellant told BBB to sleep outside the room where AAA was staying.<sup>[8]</sup> When BBB went outside, appellant turned off the light and proceeded to their kitchen.<sup>[9]</sup> Thereafter, appellant returned to the room where AAA was staying.<sup>[10]</sup> He then took off AAA's clothes and also removed his.<sup>[11]</sup> He went on top of AAA and tried to insert his penis into her vagina.<sup>[12]</sup> AAA resisted but appellant held her hands and boxed her left thigh twice.<sup>[13]</sup> She was then rendered weak enabling appellant to successfully insert his organ inside her vagina.<sup>[14]</sup> AAA felt pain, after which her vagina bled.<sup>[15]</sup> While appellant's penis was inside her vagina, he made push and pull movements.<sup>[16]</sup> She pleaded with appellant to stop but to no avail.<sup>[17]</sup> It was in the course of her struggle against appellant's advances

that she called on her sister for help.<sup>[18]</sup> Thereafter, she felt something come out of his penis.<sup>[19]</sup> Appellant withdrew his penis from her vagina but remained on top of her and even began touching her breast.<sup>[20]</sup> It was during that compromising position that BBB entered the room and saw them.<sup>[21]</sup> Appellant immediately gathered his clothes and went to the comfort room.<sup>[22]</sup> Thereafter, AAA cried while BBB handed her clothes to her.<sup>[23]</sup> They then slept beside each other.<sup>[24]</sup>

AAA did not complain nor tell her brothers about her ordeal because she was afraid as she was threatened by appellant that he will hurt them and burn their house if she relates the incident to them.<sup>[25]</sup> It was only in October 1995 that she was able to tell her aunt about her experience in the hands of appellant.<sup>[26]</sup> Subsequently, her aunt accompanied her to the office of the National Bureau of Investigation (NBI) where they filed a complaint against appellant.<sup>[27]</sup>

On February 1, 1996, an Information<sup>[28]</sup> was filed against appellant charging him before the RTC of Malolos, Bulacan with the crime of statutory rape, the accusatory portion of which reads:

That on or about the 22<sup>nd</sup> day of February, 1994 in the Municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs have carnal knowledge of said AAA, a minor who is 11 years old, against her will.

All contrary to law with an aggravating circumstance that the accused is the legitimate father of AAA.<sup>[29]</sup>

On arraignment, appellant pleaded not guilty.<sup>[30]</sup> Pre-trial conference followed.<sup>[31]</sup> Thereafter, trial ensued.

On November 5, 2001, the RTC rendered its Decision,<sup>[32]</sup> the dispositive portion of which is as follows:

WHEREFORE, the Court finds the accused Armando Padilla y Nicolas GUILTY beyond reasonable doubt of the crime of Statutory Rape described and penalized under Article 335 of the Revised Penal Code and Republic Act 7659 otherwise referred to as the Death Penalty Law, and hereby sentences him the capital penalty of DEATH.

The accused is likewise ordered to indemnify the offended party AAA damages in the amount of P100,000.00 and to pay exemplary damages in the amount of P50,000.00 to deter other sex perverts from sexually assaulting hapless and innocent girls especially their kin.

In passing, Justice Vicente Abad Santos once remarked - there should be a special place in hell for child molesters. The accused deserves a deeper pit because the child he molested was his own daughter. More than

anyone else, it was he to whom the child would have looked up for the protection of her chastity. He cynically betrayed that faith with his unnatural lechery.

SO ORDERED.<sup>[33]</sup>

In an Order<sup>[34]</sup> dated November 6, 2001, the RTC directed the transmittal of the entire records of the case to this Court and likewise ordered the commitment of the accused to the National Penitentiary in Muntinlupa.

Pursuant to the Court's pronouncement in *People v. Mateo*,<sup>[35]</sup> which modified the provisions of the Rules of Court insofar as they provide for direct appeals from the RTC to this Court in cases where the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment, the case was referred to the CA for appropriate action and disposition.<sup>[36]</sup>

After a review of the case, the CA affirmed, with modification, the decision of the RTC convicting the appellant. The dispositive portion of the CA Decision reads, thus:

WHEREFORE, premises considered, the appealed judgment dated November 5, 2001 of the Regional Trial Court of Malolos, Bulacan, Branch 15 in Criminal Case No. 166-M-96 finding Armando Padilla y Nicolas guilty of Qualified Rape and sentencing him to suffer the supreme penalty of DEATH is hereby AFFIRMED with the MODIFICATION that he is ordered to pay the victim the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

In accordance with A.M. No. 00-5-03-SC which took effect on October 15, 2004, amending Section 13, Rule 124 of the Revised Rules of Criminal Procedure, let the entire records of this case be elevated to the Supreme Court for review.

Costs against the accused-appellant.

SO ORDERED.<sup>[37]</sup>

The case was then elevated to this Court for review.

In a Resolution<sup>[38]</sup> dated July 19, 2005, the parties were required to simultaneously submit their respective supplemental briefs if they so desire. However, both parties manifested that they are not filing their supplemental briefs as their positions in the present case had been thoroughly expounded in their respective appeal briefs which were forwarded to the CA. Thereafter, the case was deemed submitted for deliberation.

Appellant assigned the following assignment of errors in his Brief:

APPLYING THE *PRUNA* GUIDELINES, THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY ON ACCUSED-APPELLANT CONSIDERING THE PROSECUTION'S FAILURE TO SUFFICIENTLY PROVE THE MINORITY OF THE COMPLAINANT AND HER RELATIONSHIP WITH THE ACCUSED.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE PROSECUTION HAD PROVEN BEYOND REASONABLE DOUBT ACCUSED-APPELLANT'S GUILT FOR QUALIFIED RAPE.

THE TRIAL COURT GRAVELY ERRED IN AWARDING DAMAGES TO THE PRIVATE COMPLAINANT.<sup>[39]</sup>

As to the first assigned error, appellant avers that the death penalty may not be imposed because the qualifying circumstances of minority and relationship were not properly alleged and proved by the prosecution.

The Court agrees in part.

The first issue is whether or not the qualifying circumstances of minority and relationship were properly alleged by the prosecution.

It is clear from the Information that AAA was alleged to be a minor who was aged eleven (11) at the time of the commission of the crime and that the accused is her father. Contrary to the prosecution's asseveration, it does not matter that the private complainant's relationship with the accused was denominated as an "aggravating circumstance" and not as a "special qualifying circumstance."

The Court has repeatedly held, even after the amendments to the Rules of Criminal Procedure took effect,<sup>[40]</sup> that qualifying circumstances need not be preceded by descriptive words such as "qualifying" or "qualified by" to properly qualify an offense.<sup>[41]</sup> The Court has repeatedly qualified cases of rape where the twin circumstances of minority and relationship have been specifically alleged in the Information even without the use of the descriptive words "qualifying" or "qualified by."<sup>[42]</sup> In the instant case, the fact that AAA's relationship with appellant was described as "aggravating" instead of "qualifying" does not take the Information out of the purview of Article 335 of the Revised Penal Code (RPC), as amended by Section 11 of Republic Act No. 7659 (RA 7659),<sup>[43]</sup> which was the prevailing law at the time of the commission of the offense. Article 335 does not use the words "qualifying" or "aggravating" in enumerating the circumstances that qualify rape so as to make it a heinous crime punishable by death. It merely refers to the enumerated circumstances as "attendant circumstances." The specific allegation of the attendant circumstances in the Information, coupled with the designation of the offense and a statement of the acts constituting the offense as required in Sections 8<sup>[44]</sup> and 9<sup>[45]</sup> of Rule 110, are sufficient to warn appellant that the crime charged is qualified rape punishable by death.

In the present case, the attendant circumstances of minority and relationship were specifically alleged in the Information. These allegations are sufficient to qualify the offense of rape.

The next question to be resolved is whether the prosecution was able to prove appellant's relationship with AAA as well as the latter's minority.

As to AAA's relationship with appellant, the Court agrees that the prosecution was able to prove it beyond reasonable doubt. The Information alleged that appellant is the father of AAA. Appellant, in turn, admitted during trial that AAA is her daughter. [46] Under prevailing jurisprudence, admission in open court of relationship has been held to be sufficient and, hence, conclusive to prove relationship with the victim. [47]

However, with respect to AAA's minority, the settled rule is that there must be independent evidence proving the age of the victim, other than the testimonies of the prosecution witnesses and the absence of denial by appellant. [48] The victim's original or duly certified birth certificate, baptismal certificate or school records would suffice as competent evidence of her age. [49] In the instant case, aside from the testimonies of prosecution witnesses, coupled with appellant's absence of denial, no independent substantial evidence was presented to prove the age of AAA. Neither was it shown by the prosecution that the said documents had been lost, destroyed, unavailable or were otherwise totally absent.

Anent appellant's failure to object to the testimony of AAA, regarding her age, the Court has held that the failure of the accused to object to the testimonial evidence regarding the rape victim's age shall not be taken against him. [50] Even the appellant's implied admission of the victim's age, in the absence of any supporting independent evidence, may not be considered sufficient to prove her age. In *People v. Biong*, [51] the appellant testified as to the exact date when her daughter, the complainant, was born. However, the Court held that appellant's testimony falls short of the quantum of proof required to establish her age. As the qualifying circumstance of minority alters the nature of the crime of rape and increases the penalty thereof, it must be proved with equal certainty and clearness as the crime itself. [52] In the present case, the Court agrees with appellant that the prosecution failed to discharge this burden.

Coming to the second assigned error, appellant questions the credibility of the victim, AAA, arguing that his constitutional right to be presumed innocent should take precedence over the unfounded claim of AAA that he raped her.

It is settled that to determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. [53]

Accordingly, in resolving rape cases, primordial consideration is given to the credibility of the victim's testimony. [54] The settled rule is that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record