Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff-Appellee,*	**G.R. No. 179031**
	Present:
- versus -	CARPIO, *Chairperson,* BRION, DEL CASTILLO, PEREZ, *and* PERLAS-BERNABE, *JJ.*
BENJAMIN SORIA y GOMEZ, *Accused-Appellant.*	Promulgated: NOV 14 2012

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DECISION

DEL CASTILLO, *J.*:

This case involves a father's detestable act of abusing his daughter through rape by sexual assault.

Factual Antecedents

Accused-appellant Benjamin Soria *y* Gomez (appellant) seeks a review of the December 29, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01442 which affirmed with modification the June 30, 2005 Judgment[2] of the Regional Trial Court (RTC) of Quezon City, Branch 94, in Criminal Case No. Q-01-98692. Said RTC Judgment found appellant guilty beyond reasonable

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[1] CA *rollo*, pp. 83-96; penned by Associate Justice Vicente Q. Roxas and concurred in by Associate Justices Josefina Guevara Salonga and Apolinario D. Bruselas, Jr.

[2] Records, pp. 76-81; penned by Judge Romeo F. Zamora.

doubt of the crime of rape committed against his daughter "AAA",[3] as described in an Information,[4] the relevant portion of which reads:

> That on or about the 26th day of February, 2000, in Quezon City, Philippines, the said accused, who is the father of private complainant "AAA", did then and there willfully, unlawfully, and feloniously with force and intimidation commit an act of sexual assault upon the person of one "AAA", a minor, 7 years of age[,] by then and there inserting his penis into [the] genital of said complainant, all against her will and consent, which act debases, degrades, or demeans the intrinsic worth and dignity of said "AAA", as a human being, in violation of said law.
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> CONTRARY TO LAW.[5]

Appellant pleaded not guilty to the crime charged. Pre-trial and trial thereafter ensued.

Version of the Prosecution

On February 26, 2000, "AAA" and her siblings enjoyed the spaghetti their father (appellant) brought home for merienda. After eating, "AAA" went to the bedroom to rest. Thereafter, appellant also entered the room and positioned himself on top of "AAA", took off her clothes and inserted his penis into her vagina. "AAA" felt intense pain from her breast down to her vagina and thus told her father that it was painful. At that point, appellant apologized to his daughter, stood up, and left the room. This whole incident was witnessed by "AAA's" brother, "BBB".

The pain persisted until "AAA's" vagina started to bleed. She thus told her aunt about it and they proceeded to a hospital for treatment. Her mother was also

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3 "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures for Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 5, 2004." *People v. Dumadag*, G.R. No.176740, June 22, 2011, 652 SCRA 535, 538-539.

4 Records, p. 1.

5 Id.

immediately informed of her ordeal. Subsequently, "AAA" was taken into the custody of the Department of Social Welfare and Development.

On March 15, 2000, Medico-Legal Officer Francisco A. Supe, Jr., M.D. (Dr. Supe) examined "AAA", which examination yielded the following results:

> GENERAL AND EXTRA-GENITAL: Fairly developed, fairly nourished and coherent female child. Breasts are undeveloped. Abdomen is flat and soft.
>
> GENITAL: There is absent growth of pubic hair. Labia majora are full, convex, and coaptated with light brown labia minora presenting in between. On separating the same, disclosed an elastic, fleshy type, hyperemic and intact hymen. Posterior fourchette is sharp.
>
> CONCLUSION: The subject is in virgin state physically. There are no external signs of application of any form of physical trauma.[6]

Version of the Defense

Appellant admitted that he was at home on the day and time of "AAA's" alleged rape but denied committing the same. Instead, he claimed that the filing of the rape case against him was instigated by his wife, whom he confronted about her illicit affair with a man residing in their community. According to appellant, he could not have molested "AAA" because he treated her well. In fact, he was the only one sending his children to school since his wife already neglected them and seldom comes home.

Ruling of the Regional Trial Court

On June 30, 2005, the trial court rendered its Judgment[7] finding appellant guilty beyond reasonable doubt of the crime of rape against "AAA", his daughter of minor age, as charged in the Information. It ruled that the lack of tenacious resistance on the part of "AAA" is immaterial considering that appellant's moral

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6 Id. at 4.
7 Id. at 76-81.

ascendancy and influence over her substitute for violence and intimidation.[8] It also held that his wife could not have instigated the filing of the rape case since as the mother of "AAA", it would not be natural for her to use her child as a tool to exact revenge especially if it will result in her embarrassment and stigma.[9] The trial court gave credence to the testimony of "AAA" and her positive identification of appellant as her rapist, and rejected the latter's defense of denial. The dispositive portion of the Judgment reads as follows:

> WHEREFORE, premises considered, judgment is hereby rendered finding the herein accused, BENJAMIN SORIA Y GOMEZ – GUILTY beyond reasonable doubt of the crime as charged and sentences him to suffer the supreme penalty of DEATH and to indemnify the offended party the amount of ₱75,000.00[,] to pay moral damages in the amount of ₱50,000.00[,] and the amount of ₱25,000.00 as exemplary damages to deter other fathers with perverse proclivities for aberrant sexual behavior for sexually abusing their own daughters.
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> SO ORDERED.[10]

Ruling of the Court of Appeals

In its Decision[11] dated December 29, 2006, the CA found partial merit in the appeal. While the appellate court was convinced that appellant raped "AAA", it nevertheless noted the prosecution's failure to present her birth certificate as competent proof of her minority. Thus, the CA concluded that the crime committed by appellant against his daughter was only simple rape and accordingly modified the penalty imposed by the trial court from death to *reclusion perpetua* and reduced the civil indemnity awarded from ₱75,000.00 to ₱50,000.00. The dispositive portion of the appellate court's Decision reads as follows:

> **WHEREFORE,** premises considered, [the] appeal is hereby **GRANTED** and the June 30, 2005 Decision of the Regional Trial Court of Quezon City, Branch 94, in Criminal Case No. Q-01-98692, is hereby **MODIFIED,** in that, the penalty imposed is reduced to *reclusion perpetua*

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8 Id. at 79.
9 Id. at 79-80.
10 Id. at 81.
11 CA *rollo*, pp. 83-96.

> instead of death and the civil indemnity to be paid by the offender to the victim is hereby reduced to the amount of ₱50,000.00 instead of ₱75,000.00 pursuant to prevailing jurisprudence as explained in this decision.
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> Pursuant to Section 13(c), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, this judgment of the Court of Appeals may be appealed to the Supreme Court by notice of appeal filed with the Clerk of Court of the Court of Appeals.
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> **SO ORDERED**.[12]

Still insisting on his innocence, appellant comes to this Court through this appeal.

Assignment of Errors

Appellant adopts the same assignment of errors he raised before the appellate court, *viz*:

> I. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME OF RAPE DESPITE THE FAILURE OF THE PROSECUTION TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE X X X.
>
> II. ASSUMING ARGUENDO THAT THE ACCUSED IS GUILTY OF THE CRIME CHARGED, THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY UPON HIM.[13]

Appellant asserts that he should be acquitted of the crime of rape since there is no evidence that would establish the fact of sexual intercourse. Aside from the prosecution's failure to prove penile contact, "AAA's" testimony was also wanting in details as to how he took off her underwear or whether she saw his penis during the incident despite leading questions propounded on the matter by the prosecution. The medical report even revealed that "AAA's" hymen remained intact and that there were no notable lacerations or external physical injuries

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12 Id. at 95-96.
13 Id. at 21.

thereon. Appellant therefore surmises that his wife merely instigated "AAA" to file this baseless rape case against him in retaliation for his act of confronting her about her illicit relationship with a neighbor.

Our Ruling

The appeal lacks merit.

The crime of rape under Article 266-A of the Revised Penal Code (RPC).

Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997, classified the crime of rape as a crime against persons. It also amended Article 335 of the RPC and incorporated therein Article 266-A which reads:

> Article 266-A. *Rape, When and How Committed.* – Rape is committed –
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> 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
>
> a) Through force, threat or intimidation;
> b) When the offended party is deprived of reason or is otherwise unconscious,
> c) By means of fraudulent machination or grave abuse of authority;
> d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present;
>
> 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Thus, rape can now be committed either through sexual intercourse or by sexual assault. Rape under paragraph 1 of the above-cited article is referred to as rape through sexual intercourse. Carnal knowledge is the central element and it must be proven beyond reasonable doubt.[14] It is commonly denominated as

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[14] *People v. Brioso*, G.R. No. 182517, March 13, 2009, 581 SCRA 485, 493.

"organ rape" or "penile rape"[15] and must be attended by any of the circumstances enumerated in subparagraphs (a) to (d) of paragraph 1.

On the other hand, rape under paragraph 2 of Article 266-A is commonly known as rape by sexual assault. The perpetrator, under any of the attendant circumstances mentioned in paragraph 1, commits this kind of rape by inserting his penis into another person's mouth or anal orifice, or any instrument or object into the genital or anal orifice of another person. It is also called "instrument or object rape", also "gender-free rape".[16]

The Information did not specify whether the crime of rape was committed through sexual intercourse or by sexual assault.

The Information in this case did not specify with certainty whether appellant committed the rape through sexual intercourse under paragraph 1 of Article 266-A, or rape by sexual assault as described in paragraph 2 thereof. The Information stated that appellant inserted his penis into the genital of "AAA," which constituted rape by sexual intercourse under the first paragraph of Article 266-A. At the same time, the Information alleged that appellant used force and intimidation to commit an act of sexual assault. While these allegations cause ambiguity, they only pertain to the mode or manner of how the rape was committed and the same do not invalidate the Information or result in the automatic dismissal of the case. "[W]here an offense may be committed in any of the different modes and the offense is alleged to have been committed in two or more modes specified, the indictment is sufficient, notwithstanding the fact that the different means of committing the same offense are prohibited by separate sections of the statute. The allegation in the information of the various ways of committing the offense should be regarded as a description of only one offense and the information is not thereby rendered defective on the ground of

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15 *People v. Abulon*, G.R. No. 174473, August 17, 2007, 530 SCRA 675, 702.
16 Id.

multifariousness."[17] Any objection from the appellant with respect to the Information is held to have been waived failing any effort to oppose the same before trial.[18] He therefore can be convicted of rape through sexual intercourse or rape by sexual assault, depending on the evidence adduced during trial.

The findings of the RTC and the CA on the credibility of "AAA" deserve respect and great weight.

Both the trial court and the CA held that "AAA" was a credible witness. They ruled that her testimony deserved credence and is sufficient evidence that she was raped by appellant. We find no cogent reason to overturn these findings.

It would be highly inconceivable for "AAA" to impute to her own father the crime of raping her unless the imputation is true.[19] In fact, it takes "a certain amount of psychological depravity for a young woman to concoct a story which would put her own father [in] jail for the rest of his remaining life and drag the rest of the family including herself to a lifetime of shame"[20] unless the imputation is true.

When a rape victim's testimony on the manner she was defiled is "straightforward and candid, and is corroborated by the medical findings of the examining physician [as in this case], the same is sufficient to support a conviction for rape."[21]

Appellant is guilty of rape by sexual assault and not through sexual intercourse.

The trial court's conviction of the appellant was for rape through sexual

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17 *Jurado v. Suy Yan*, 148 Phil. 677, 686 (1971).
18 *Provincial Fiscal of Nueva Ecija v. Court of First Instance of Nueva Ecija*, 79 Phil. 165, 168 (1947).
19 *People v. Felan*, G.R. No. 176631, February 2, 2011, 641 SCRA 449, 453-454.
20 Id. at 453-454, citing *People v. Javier*, 370 Phil. 128, 139 (1999).
21 *People v. Sumingwa*, G.R. No. 183619, October 13, 2009, 603 SCRA 638, 652.

intercourse under paragraph 1(a) of Article 266-A. The CA sustained the trial court's finding that appellant had sexual intercourse with "AAA" against her will.

In determining whether appellant is indeed guilty of rape through sexual intercourse under paragraph 1 of Article 266-A, it is essential to establish beyond reasonable doubt that he had carnal knowledge of "AAA". There must be proof that his penis touched the labia of "AAA" or slid into her female organ, and not merely stroked the external surface thereof, to ensure his conviction of rape by sexual intercourse.[22]

We reviewed the testimony of "AAA" and found nothing therein that would show that she was raped through sexual intercourse. While "AAA" categorically stated that she felt something inserted into her vagina, her testimony was sorely lacking in important details that would convince us with certainty that it was indeed the penis of appellant that was placed into her vagina.

When "AAA" was placed on the witness stand, she narrated that:

Q - The earlier statement which you made when you said that you wanted to explain something about your father, is that true?
A - Yes, sir.

Q - So, you said that you wanted to explain something about your father, what was that?
A - What he did, sir.

Q - What [was] that?
A - I was raped, sir.

Q - What did he do when you said he raped you?
A - He laid on top of me, sir.[23]

x x x x

Q - So when you said he laid on top of you, did you feel anything? Did you feel any pain in any part of your body?
A - Yes, sir.

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22 *People v. Brioso*, supra note 14 at 495.
23 Records, unpaginated; TSN, February 10, 2003, pp. 3-4.

Q - In what part of your body did you feel pain?
A - I felt pain in my breast and my stomach.

Q - What about your private part?
A - Yes, sir.

Q - Did you know why your stomach as well as your body and your private part hurt or become painful?
A - I don't know, sir.

Q - Did you feel something inserted [into] your private part?
A - Yes, sir.

Q - What is that, if you know?
A - The bird of my papa.

Q - Why did you know that?
A - Because my brother, "BBB", told me.

Q - Why? Was "BBB", your brother, present when your father was on top of you?
A - Yes, sir.

Q - Why do you know that he was there?
A - He told me so, sir.

Q - Who?
A - "BBB".

Q - Okay, when you felt pain as something was inserted [into] your private part, what did you say to your father?
A - He left the room.

Q - Before he went away and left?
A - It was painful, sir.

Q - And what was the answer of your father?
A - He said sorry, sir.

Q - How long was he or how long were you in that position, you [were] lying down and your father was on top of you?
A - I do not know, sir.[24]

x x x x

Q - Earlier, you were making reference to your father whom you said abused you. I am asking you now to tell us if your father is around?
A - Yes, sir.

Q - Will you please point x x x to him?
A - Yes, sir. (Witness pointing to a man who is wearing yellow t-shirt and maong pants who when asked identified himself as Benjamin Soria.)

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[24] Id., id. at 4-5. Emphases supplied.

Q - Is he the same person who according to you laid on top of you and inserted something [into] your vagina or private part?
A - Yes, sir.[25]

It is evident from the testimony of "AAA" that she was unsure whether it was indeed appellant's penis which touched her labia and entered her organ since she was pinned down by the latter's weight, her father having positioned himself on top of her while she was lying on her back. "AAA" stated that she only knew that it was the "bird" of her father which was inserted into her vagina after being told by her brother "BBB". Clearly, "AAA" has no personal knowledge that it was appellant's penis which touched her labia and inserted into her vagina. Hence, it would be erroneous to conclude that there was penile contact based solely on the declaration of "AAA's" brother, "BBB", which declaration was hearsay due to "BBB's" failure to testify. Based on the foregoing, it was an error on the part of the RTC and the CA to conclude that appellant raped "AAA" through sexual intercourse.

Instead, we find appellant guilty of rape by sexual assault. It cannot be denied that appellant inserted an object into "AAA's" female organ. "AAA" categorically testified that appellant inserted something into her vagina. She claimed to have suffered tremendous pain during the insertion. The insertion even caused her vagina to bleed necessitating her examination at the hospital. Both the trial court and the CA found "AAA's" testimony to be credible. We find no compelling reason not to lend credence to the same.

This defilement constitutes rape under paragraph 2 of Article 266-A of the RPC, which provides that rape by sexual assault is committed "[b]y any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting x x x any instrument or object, into the genital or anal orifice of another person."

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[25] Id., id. at 8.

Moreover, Dr. Supe corroborated her testimony as follows:

> Q - Doctor, with respect to Exhibit A, the Medico-Legal Report pertaining to the entry [into] the genital, which reads: On separating the hymen, disclosed [was] an elastic, fleshy type, hyperemic and intact hymen. Will you please tell us, Doctor, what is this hyperemic hymen?
> A - Hyperemic hymen, sir, means that at the time of examination, I found out that it was reddish in color.
>
> Q - Considering the age of the child or the patient, the victim whom you examined at that time [who] was about 6 years old, will you be able to tell us, Doctor, what could have caused this kind of injury, because this is an injury to the hymen?
> A - Hyperemic, sir, is observed whenever there is friction applied to an area, such as in the form of scratching.
>
> Q - What about insertion of object, would this result into hyperemic hymen?
> A - If the object is being rubbed, sir, there is a possibility.
>
> Q - A finger will produce this kind of injury?
> A - Possible, sir.[26]

According to Dr. Supe, it is possible that "AAA's" hyperemic hymen may be the result of the insertion of a finger or object. While Dr. Supe said that the injury could also be attributed to scratching, "AAA's" testimony is bereft of any showing that she scratched her genital organ thus causing the reddening. Appellant would also want to make it appear that the injury of "AAA" was the result of friction from playing or riding a bicycle since the doctor testified that this was also possible. However, there is likewise no evidence that friction was applied on "AAA's" female organ when she played hide and seek with her playmates or that she actually rode a bicycle. On the other hand, "AAA" was categorical in stating that in the afternoon of February 26, 2000, appellant removed her clothes, laid on top of her, and that she felt something being inserted into her vagina and that thereafter she experienced pain in her genitals. The foregoing thus proved that appellant inserted an object into "AAA's" vagina against her will and without consent. Simply put, appellant committed the crime of rape by sexual assault.

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[26] Id.; TSN, July 30, 2002, p. 5.

The following are the elements of rape by sexual assault:

(1) That the offender commits an act of sexual assault;

(2) That the act of sexual assault is *committed by* any of the following means:

(a) By inserting his penis into another person's mouth or anal orifice; or
(b) By inserting any instrument or object into the genital or anal orifice of another person;

(3) That the act of sexual assault is accomplished under any of the following circumstances:

(a) By using force and intimidation;
(b) When the woman is deprived of reason or otherwise unconscious; or
(c) By means of fraudulent machination or grave abuse of authority; or
(d) When the woman is under 12 years of age or demented.[27]

In the instant case, it was clearly established that appellant committed an act of sexual assault on "AAA" by inserting an instrument or object into her genital. We find it inconsequential that "AAA" could not specifically identify the particular instrument or object that was inserted into her genital. What is important and relevant is that indeed something was inserted into her vagina. To require "AAA" to identify the instrument or object that was inserted into her vagina would be contrary to the fundamental tenets of due process. It would be akin to requiring "AAA" to establish something that is not even required by law. [Moreover, it might create problems later on in the application of the law if the victim is blind or otherwise unconscious.] Moreover, the prosecution satisfactorily established that appellant accomplished the act of sexual assault through his moral ascendancy and influence over "AAA" which substituted for violence and intimidation. Thus, there is no doubt that appellant raped "AAA" by sexual assault.

Appellant's contentions are untenable.

The failure of "AAA" to mention that her panty was removed prior to the rape does not preclude sexual assault. We cannot likewise give credence to the

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[27] Reyes, Luis B., The Revised Penal Code, Book Two, Seventeenth Edition, p. 557.

assertion of appellant that the crime of rape was negated by the medical findings of an intact hymen or absence of lacerations in the vagina of "AAA". Hymenal rupture, vaginal laceration or genital injury is not indispensable because the same is not an element of the crime of rape.[28] "An intact hymen does not negate a finding that the victim was raped."[29] Here, the finding of reddish discoloration of the hymen of "AAA" during her medical examination and the intense pain she felt in her vagina during and after the sexual assault sufficiently corroborated her testimony that she was raped.

Likewise undeserving of credence is appellant's contention that his wife merely instigated "AAA" to file the charge of rape against him in retaliation for his having confronted her about her illicit affair with another man. This imputation of ill motive is flimsy considering that it is unnatural for appellant's wife to stoop so low as to subject her own daughter to the hardships and shame concomitant with a prosecution for rape, just to assuage her hurt feelings.[30] It is also improbable for appellant's wife to have dared encourage their daughter "AAA" to publicly expose the dishonor of the family unless the rape was indeed committed.[31]

Penalty

Under Article 266-B of the RPC, the penalty for rape by sexual assault is *prision mayor*. However, the penalty is increased to *reclusion temporal* "if the rape is committed by any of the 10 aggravating/qualifying circumstances mentioned in this article". The Information alleged the qualifying circumstances of relationship and minority. It was alleged that appellant is the father of "AAA". During the pre-trial conference, the parties stipulated that "AAA" is the daughter of appellant.[32] During trial, appellant admitted his filial bond with "AAA".[33]

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28 *People v. Valenzuela*, G.R. No. 182057, February 6, 2009, 578 SCRA 157, 169-170.
29 *People v. Tampos*, 455 Phil. 844, 858 (2003).
30 *People v. Palgan*, G.R. No. 186234, December 21, 2009, 608 SCRA 725, 731.
31 Id. at 731-732.
32 Records, p. 14.
33 Id.; TSN, October 22, 2003, p. 3.

"[A]dmission in open court of relationship has been held to be sufficient and, hence, conclusive to prove relationship with the victim."[34]

With respect to minority, however, the Information described "AAA" as a 7-year old daughter of appellant. While this also became the subject of stipulation during the pre-trial conference, same is insufficient evidence of "AAA's" age. Her minority must be "proved conclusively and indubitably as the crime itself".[35] "[T]here must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused."[36] Documents such as her original or duly certified birth certificate, baptismal certificate or school records would suffice as competent evidence of her age.[37] Here, there was nothing on record to prove the minority of "AAA" other than her testimony, appellant's absence of denial, and their pre-trial stipulation.[38] The prosecution also failed to establish that the documents referred to above were lost, destroyed, unavailable or otherwise totally absent.[39]

It is settled that "when either one of the qualifying circumstances of relationship and minority is omitted or lacking, that which is pleaded in the information and proved by the evidence may be considered as an aggravating circumstance."[40] As such, appellant's relationship with "AAA" may be considered as an aggravating circumstance.

In view of these, the imposable penalty is *reclusion temporal* which ranges from twelve (12) years and one (1) day to twenty (20) years. Applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor* which ranges from six (6) years and one (1) day to twelve (12) years. Hence, a

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34 *People v. Padilla*, G.R. No. 167955, September 30, 2009, 601 SCRA 385, 397.
35 *People v. Albalate, Jr.*, G.R. No. 174480, December 18, 2009, 608 SCRA 535, 546, citing *People v. Manalili*, G.R. No. 184598, June 23, 2009, 590 SCRA 695, 716.
36 Id., citing *People v. Tabanggay*, 390 Phil. 67, 91 (2000).
37 *People v. Padilla*, supra at 397-398.
38 Id. at 398.
39 Id.
40 *People v. Hermocilla*, G.R. No. 175830, July 10, 2007, 527 SCRA 296, 304-305, citing *People v. Esperanza*, 453 Phil. 54, 75-76 (2003).

penalty of twelve (12) years of *prision mayor*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, is imposed upon appellant.

Damages

In line with prevailing jurisprudence, the awards of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱25,000.00 as exemplary damages are each modified to ₱30,000.00.[41] "AAA" is also entitled to an interest on all the amounts of damages awarded at the legal rate of 6% *per annum* from the date of finality of this judgment until fully paid.[42]

WHEREFORE, the December 29, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01442 is **AFFIRMED with MODIFICATIONS**. Accused-appellant Benjamin Soria *y* Gomez is found guilty beyond reasonable doubt of the crime of rape by sexual assault and is sentenced to suffer the penalty of twelve (12) years of *prision mayor*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum. He is also ordered to pay "AAA" the amounts of ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages. "AAA" is entitled to an interest on all damages awarded at the legal rate of 6% *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

[41] *People v. Alfonso*, G.R. No. 182094, August 18, 2010, 628 SCRA 431, 452.
[42] *People v. Flores*, G.R. No. 177355, December 15, 2010, 638 SCRA 631, 643.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

I dissent:

ARTURO D. BRION
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice