



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,      G.R. No. 262520  
Plaintiff-appellee,

Present:

-versus-

LEONEN, J., Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., JJ.

XXX,<sup>1</sup>  
Accused-appellant.

Promulgated:  
NOV 13 2023

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DECISION

LEONEN, J.:

Proper allegation in the Information and sufficient proof during trial of the victim's minority and relationship to the accused aggravate the crime committed to qualified rape.

This Court resolves an Appeal<sup>2</sup> from the Court of Appeals' Decision,<sup>3</sup> which affirmed with modifications the Joint Decision<sup>4</sup> of the Regional Trial Court convicting XXX of five counts of acts of lasciviousness and one count of rape.

<sup>1</sup> In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 9262, the names of offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>2</sup> *Rolla*, pp. 3-4.

<sup>3</sup> *Id.* at 9-32. The August 24, 2021 Decision in CA-G.R. CR-HC No. 13198 was penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Victoria Isabel A. Paredes and Alfredo D. Ampuan of the Sixteenth Division of the Court of Appeals, Manila.

<sup>4</sup> *Id.* at 34-51. The April 2, 2019 Joint Decision in Crim. Case Nos. 2445 to 2450 was penned by Executive Judge Bernardo R. Jimenez, Jr. of [REDACTED], Regional Trial Court, [REDACTED], Sorsogon.

XXX was initially charged with four counts of acts of lasciviousness, one count of attempted rape and one count of consummated rape against the child of his common-law wife in six separate Informations, the accusatory portions of which read:

*Criminal Case No. 2445*  
*For: Acts of Lasciviousness*

That sometime in September 1996, at [REDACTED], Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the live-in partner of the victim's mother, by taking advantage of his authority, influence and moral ascendancy as a common law spouse of the mother of AAA, a minor, 14 years old, did then and there, willfully, unlawfully and feloniously, with lewd designs, commit act of lasciviousness upon said AAA, by grabbing the victim by the head, kissing her in the mouth, which act likewise constitute child abuse as it debases, degrades and demeans the dignity of the victim as a child, causing emotional and psychological trauma, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

*Criminal Case No. 2446*  
*For: Acts of Lasciviousness*

That on or about the 17th day of October 1996, at more or less 4:30 o'clock [sic] in the afternoon, at [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the live-in partner of the victim's mother, by taking advantage of his authority, influence and moral ascendancy as a common law spouse of the mother of AAA, a minor, 14 years old, did then and there, willfully, unlawfully and feloniously, with lewd designs, commit act of lasciviousness upon said AAA, by kissing the victim in the mouth, pull her and lay her on a bed, fondle her teats and kiss her breast, which act likewise constitute child abuse as it debases, degrades and demeans the dignity of the victim as a child, causing emotional and psychological trauma, against her will and without her consent, to her damage and prejudice

CONTRARY TO LAW.

*Criminal Case No. 2447*  
*For: Acts of Lasciviousness*

That on or about the 18th day of October 1996, at more or less 4:30 o'clock [sic] in the afternoon, at [REDACTED], Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the live-in partner of the victim's mother, by taking advantage of his authority, influence and moral ascendancy as a common law spouse of the mother of AAA, a minor, 14 years old, did then and there, willfully, unlawfully and feloniously, with lewd designs, commit act of lasciviousness upon said

AAA, by kissing the victim in the mouth, pull her and lay her on a bed, fondle her teats and kiss her breast, which act likewise constitute child abuse as it debases, degrades and demeans the dignity of the victim as a child, causing emotional and psychological trauma, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

*Criminal Case No. 2448*  
*For: Acts of Lasciviousness*

That sometime in the early months of 1999, at [REDACTED], Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the live-in partner of the victim's mother, by taking advantage of his authority, influence and moral ascendancy as a common law spouse of the mother of AAA, a minor, 17 years old, did then and there, wil[l]fully, unlawfully and feloniously, with lewd designs, commit act of lasciviousness upon said AAA, by repeatedly caressing/fondling the breast of the victim and whisper in her ear lascivious words, such as "kayos kita" (let me fuck you), which act likewise constitute child abuse as it debases, degrades and demeans the dignity of the victim as a child, causing emotional and psychological trauma, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

*Criminal Case No. 2449*  
*For: Rape*

That on or about the 13th day of August 1999, at more or less 11:30 in the evening, at [REDACTED], Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, and by taking advantage of his influence, moral ascendancy being the common law spouse of the victim's mother, did then and there, willfully, unlawfully and feloniously, had carnal knowledge with one AAA, a 17 year-old minor, thereby consummating the crime of Rape under RA 8353, which act likewise constitute child abuse and exploitation as it debases, degrades and demeans the dignity of the victim as a child and a person thereby causing psychological trauma, to her damage and prejudice.

CONTRARY TO LAW.

*Criminal Case No. 2450*  
*For: Attempted Rape*

That on or about the 2nd day of August 1999, at more or less 11:30 in the evening, at [REDACTED], Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, and by taking advantage of his influence, moral ascendancy being the common law spouse of the victim's mother, did then and there, willfully, unlawfully and feloniously attempt to have carnal knowledge of AAA, a 17 year-old minor, by removing the victim's clothes

and lay on top of the victim, thus commences [sic] the commission of the crime of Rape directly by overt acts but did not perform all the acts of execution which should have produced the crime of Rape by reason or causes other than his own spontaneous desistance, that is the victim's loud weeping, which act likewise constitute[s] child abuse as it debases, degrades and demeans the dignity of the victim as a child, causing psychological trauma, to her damage and prejudice.

CONTRARY TO LAW.<sup>5</sup>

Upon arraignment on August 6, 2015, XXX pleaded not guilty to the charges.<sup>6</sup> During pre-trial, both the prosecution and the defense stipulated on the following facts: (a) the identities of the accused and the victim; (b) that BBB is the mother of AAA and the common-law wife of XXX since 1995; (c) since 1995, XXX, BBB, and BBB's children were living together in one house at [REDACTED], Sorsogon; and (d) there is no medical certificate of the victim in these cases.<sup>7</sup>

During trial, the prosecution presented AAA, her sister CCC, and Atty. Roberto Labitag as its witnesses, while the defense presented XXX, Cosme Ibarientos, Jr. (Cosme), and BBB, AAA's mother.<sup>8</sup>

According to AAA, who was already working as a police officer when she testified in trial, sometime in 1995, XXX, the leader of the group, [REDACTED], moved into their house in [REDACTED], Sorsogon, to cohabit with BBB. As members of the group, AAA, BBB, her grandmother, and her siblings were taught to obey XXX, whom they referred to as teacher and lord, otherwise, God will be angry at them.<sup>9</sup> Later, XXX convinced BBB to allow the members of their religious group to stay on their land to build houses and a *kamalig* as a place for the group to gather for bible study.<sup>10</sup>

Sometime in September 1996, AAA, then 14 years old, arrived home early from school and saw XXX alone in the house. As a sign of respect to elders, she kissed him on the cheek, but he grabbed her, kissed her on the mouth and tried to insert his tongue into her mouth. AAA did not tell anyone about the incident because XXX threatened her that the spirit of God inside him would get angry at her.<sup>11</sup>

On October 17, 1996, at 4:30 p.m., after AAA arrived from school, XXX grabbed her towards her sibling's room and laid her on the bed. He kissed her on the mouth and neck, rolled up her dress, then mashed and kissed

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<sup>5</sup> *Id.* at 35-37.

<sup>6</sup> *Id.* at 37.

<sup>7</sup> *Id.* at 13.

<sup>8</sup> *Id.* at 38.

<sup>9</sup> *Id.* at 39.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

her breasts. Afterwards, he told her not to tell anyone or the spirit inside him would be angry, and that there was nothing wrong with what he did.<sup>12</sup>

On October 18, 1996, at about 4:30 p.m., while AAA's mother and siblings were out of the house, XXX again molested her by kissing her mouth and breasts.<sup>13</sup> Because of her fear of condemnation for being evil and unworthy, and because their townmates looked down on their family for being members of the [REDACTED], she did not reveal to anyone what happened.<sup>14</sup>

In 1999, because then 17-year-old AAA could not pursue college due to lack of funds, she was left at home with XXX, where her mother asked her to remove XXX's gray hair.<sup>15</sup> However, XXX fondled her breasts while she was plucking his hair and he looked at her angrily whenever she resisted.<sup>16</sup> AAA likewise recalled that whenever she fetched XXX in the *kamalig* for dinner, XXX placed his hand on her and whispered "*kayus kita, kayus kita,*" which means "*let us fuck, let us fuck.*"<sup>17</sup> XXX further told her that her mother would become weak and must be replaced, because the spirit wanted an heir.<sup>18</sup> Suspecting XXX's malicious intent, AAA surrendered her virginity to her then boyfriend, Cosme, making XXX furious.<sup>19</sup>

On August 2, 1999, XXX went to AAA's room and told her to take off her clothes.<sup>20</sup> When she refused, XXX removed her clothes, inspected her vagina by placing his hands on top of her thighs and directed her not to move because he would heal her.<sup>21</sup> With the use of his fingers, XXX separated the lips of AAA's vagina, but AAA immediately resisted.<sup>22</sup> Thus, XXX scolded her, telling her that she was "hard-headed," and that "men will fall in line to desire you but would not take you seriously."<sup>23</sup>

On the night of August 13, 1999, XXX told AAA that he would cure her of her non-virgin state. He further said that AAA's mother knew of his proposition and submitted her for a healing session inside AAA's bedroom.<sup>24</sup> XXX informed AAA that non-virgins will soon be separated from the virgins, and if she will not accede to what he would do to her, she will be put to shame in the congregation.<sup>25</sup> In her room, XXX uttered words AAA cannot understand, undressed AAA, removed his own pants, went on top of her and

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 14.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 40.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 40-41.

<sup>25</sup> *Id.* at 40.

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inserted his penis inside her vagina.<sup>26</sup> AAA resisted but XXX was too strong for her, prompting her to do nothing but cry.<sup>27</sup>

AAA confided the rape incident to her aunt EEE, but her aunt convinced her not to report the incident because it would only bring shame to the family.<sup>28</sup> Years later, AAA decided to file criminal charges against XXX upon learning that CCC was similarly molested by XXX.<sup>29</sup>

CCC corroborated AAA's testimony and testified that XXX also did the same thing to her, but she was not able to file a complaint anymore since she went to work in Taiwan.<sup>30</sup> Atty. Roberto Labitag, AAA's counsel, testified that an offer of compromise was made by XXX through Atty. Cyril Oropesa to AAA, which the latter rejected.<sup>31</sup>

For his defense, XXX admitted being the leader of the religious group, [REDACTED], and admitted living with BBB and her family.<sup>32</sup> However, he denied the accusations against him.<sup>33</sup> He argued that it was impossible for him to commit the alleged crimes without being noticed by anyone, because there were at least 20 houses from the highway to AAA's house, about five houses from the *kamalig* to AAA's house, and there were many of them living under the same roof.<sup>34</sup> He claimed that AAA's grandmother told him that her grandchildren will withdraw the criminal cases on three conditions: he would separate from BBB; he would return the bicycle store he was tending; and the people who built their houses on their lot would pay the value of the land occupied by them.<sup>35</sup> XXX further claimed that he left Sorsogon to live in [REDACTED], Manila with BBB, because of death threats against him.<sup>36</sup>

Cosme testified that he was AAA's boyfriend sometime from 1998 to 1999. While he was in a relationship with AAA, he noticed that AAA and XXX treated each other as father and daughter. Also, he claimed that AAA never told him anything against XXX.<sup>37</sup>

Finally, BBB, AAA's mother, admitted that she is the live-in partner of XXX and that she learned about the alleged incidents only in 2004 when her children were no longer living with her.<sup>38</sup> She, however, claimed that she did

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<sup>26</sup> *Id.* at 41.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 41–42.

<sup>33</sup> *Id.* at 42.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 43.

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not notice anything evil happening in their house when they were all still living together.<sup>39</sup> Upon confrontation, she claimed that XXX only denied the accusations made against him.<sup>40</sup>

In its April 2, 2019 Joint Decision,<sup>41</sup> the Regional Trial Court found XXX guilty of the crime of rape and five counts of acts of lasciviousness. The dispositive portion of the Decision reads:

**WHEREFORE**, in the light of the foregoing, judgment is hereby rendered finding the accused [XXX] guilty beyond reasonable doubt of five counts of acts of lasciviousness and one consummated rape, and sentencing him:

For Criminal Cases Nos. 2445, 2446, 2447, 2448 & 2450 to suffer an indeterminate penalty of six (6) months of *arresto mayor* as minimum to six (6) years of *prision correccional* as maximum for each case;

For Criminal Case No. 2449 to suffer the penalty of *reclusion perpetua* together with the *accessory penalty*.

The sentence of the accused shall be served by him simultaneously and the period of his detention shall be credited in full in the service of his sentence.

The accused is further ordered to indemnify the private complainant the amounts of [PHP] 75,000.00 as civil indemnity; [PHP] 75,000.00 as moral damages and [PHP] 75,000.00 as exemplary damages for each case.

**SO ORDERED.**<sup>42</sup>

The trial court observed that although AAA was already a 33-year-old police officer when she testified on the sexual offenses committed by XXX against her when she was still 14 and 17 years old, she nevertheless testified in a clear, straightforward and convincing manner in narrating the agonizing experiences XXX put her through.<sup>43</sup> The trial court further observed that during her testimony, AAA cried a lot while she recalled the actions committed by XXX, whom she considered her stepfather, spiritual leader, and founder of their group, the [REDACTED].<sup>44</sup> The trial court thus held that AAA's categorical testimony should be given greater weight than XXX's self-serving denial and escape to Manila, which are indicative of his guilt.<sup>45</sup>

However, for Criminal Case No. 2450, the trial court found that XXX can only be adjudged to have committed the lesser offense of acts of lasciviousness, not attempted rape, because when XXX inspected AAA's

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 34-51.

<sup>42</sup> *Id.* at 50-51.

<sup>43</sup> *Id.* at 45.

<sup>44</sup> *Id.* at 46.

<sup>45</sup> *Id.* at 49.

vagina by parting the lips of her organ with his fingers, she immediately held his hands and stood up, preventing anything from happening.<sup>46</sup>

Aggrieved, XXX appealed before the Court of Appeals.

In its August 24, 2021 Decision,<sup>47</sup> the Court of Appeals affirmed XXX's conviction but modified the nomenclature of the committed crime, as follows:

**WHEREFORE**, the present appeal is **DENIED**. The appealed Joint Decision is hereby **AFFIRMED with MODIFICATIONS**:

1. In Criminal Case No. 2449, accused-appellant's conviction, the penalty of imprisonment imposed on accused-appellant and all the damages awarded by the court a quo in favour of private complainant are upheld. Interest at the rate of six percent (6%) per annum shall be applied to the award of civil indemnity, moral damages and exemplary damages from the finality of this judgment until fully paid in aforesaid case.

2. In Criminal Case Nos. 2445, 2446, 2447, 2448 and 2450, We find accused-appellant **GUILTY** beyond reasonable doubt of five (5) counts of Lascivious Conduct under Section 5(b) of RA 7610. Accordingly, he is sentenced to suffer the penalty of imprisonment for an indeterminate period of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal*, as maximum, for each count of the aforesaid crime, and is ordered to pay private complainant the amounts of [PHP] 50,000.00 as civil indemnity, [PHP] 50,000.00 as moral damages, and [PHP] 50,000.00 as exemplary damages, with legal interest of six percent (6%) *per annum* imposed on all monetary awards from the date of finality of this Decision until full payment, for each count of aforesaid crime.

SO ORDERED.<sup>48</sup>

The Court of Appeals held that the prosecution successfully established the commission of rape when XXX used his moral influence and ascendancy in persuading AAA to undergo a healing session with him as a ploy to have carnal knowledge of her.<sup>49</sup> The Court of Appeals further held that XXX's plain denial of the accusations cannot prevail against the credibility of the victim's testimony and her positive identification of XXX as the offender.<sup>50</sup>

The Court of Appeals likewise found no reason to overturn the trial court's finding of credibility on the part of AAA in narrating the incidents of XXX's lascivious conduct.<sup>51</sup> However, it found the need to change the nomenclature of the crime in Criminal Case Nos. 2445, 2446, 2447, 2448 and

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<sup>46</sup> *Id.* at 50.

<sup>47</sup> *Id.* at 9-32.

<sup>48</sup> *Id.* at 30-31.

<sup>49</sup> *Id.* at 19.

<sup>50</sup> *Id.* at 23.

<sup>51</sup> *Id.* at 25.

2450 into “lascivious conduct” under Section 5(b) of Republic Act No. 7610 in line with the guidelines set in *People v. Tulagan*.<sup>52</sup> The Court of Appeals held that all the elements of lascivious conduct under Republic Act No. 7610, Section 5(b) have been sufficiently established.<sup>53</sup> It further upheld the trial court’s finding of convicting XXX with lascivious conduct instead of attempted rape in Criminal Case No. 2450 based on the variance doctrine.<sup>54</sup>

In a January 18, 2023 Resolution, this Court noted the records forwarded by the Court of Appeals, informed the parties that they may file their supplemental briefs, if they so desire, within 30 days from notice, and required the Bureau of Corrections to confirm XXX’s confinement.

The Public Attorney’s Office, on behalf of accused-appellant, filed a February 21, 2023 Manifestation adopting its Accused-Appellant’s Brief and Reply Brief filed before the Court of Appeals. The Office of the Solicitor General, on behalf of plaintiff-appellee, filed a similar Manifestation on March 8, 2023, adopting its Brief for the Plaintiff-Appellee filed before the Court of Appeals.

The sole issue for this Court’s resolution is whether accused-appellant XXX is guilty beyond reasonable doubt of five counts of lascivious conduct under Section 5(b) of Republic Act No. 7610 and one count of rape.

This Court dismisses the Appeal and affirms XXX’s conviction.

Rape and qualified rape are defined in Article 266-A, paragraph 1, and Article 266-B, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353 or the Anti-Rape Law of 1997, as follows:

Article 266-A. *Rape: When and How Committed*. — Rape is Committed

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 otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- 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

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 27.

<sup>54</sup> *Id.*

penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Article 266-B. *Penalty.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

....

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim[.]

Rape under Article 266-A is committed by a man having carnal knowledge of a woman through force or intimidation. However, when rape is committed by close kin, like the victim's father, stepfather, uncle, or the common-law spouse of the victim's mother, moral influence or ascendancy substitutes for force or intimidation.<sup>55</sup>

Here, we find that the prosecution successfully established the commission of the crime of rape.

Based on AAA's clear and unequivocal testimony, accused-appellant, the common-law spouse of AAA's mother and the spiritual leader of the religious group that they were members of, had carnal knowledge of plaintiff-appellee on August 13, 1999, when she was still 17 years old. Accused-appellant used his moral influence and ascendancy in persuading private complainant to undergo a "healing session" with him, which turned out to be a ploy to consummate the crime of rape:

Q: Before midnight of August 13, 1999, what if any, did your mother do to you?

A: She told me to submit for a healing session to the spirit that enters the person of XXX.

....

Q: And thereafter, what happened?

A: She told me to go inside the room and told XXX about it.

Q: And what, if any, did XXX do when you were already inside the bedroom?

A: That August 13, he was uttering words which I could not understand.

Q: And what was your reaction to the words that you did not understand?

A: I was not saying anything and then he told me to undress.

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<sup>55</sup> *People v. XXX*, 867 Phil. 362, 375 (2019) [Per J. A. Reyes, Jr., Second Division]; *Ramilo v. People*, 852 Phil. 471, 493 (2019) [Per J. Peralta, Third Division].

Q: Did you obey?

A: No, sir

Q: Why did you not obey?

A: Because I do not want him to do what he wanted to do.

Q: What else did XXX do to you that very night?

A: First, he uttered prayers over me and told me to undress. When I did not obey, what he did was to undress me.

Q: Having undressed you, what else did XXX do to you?

A: He removed his short pants, he caused me to lie down, and then he went on top of me and I resisted by sort of pushing him but he was so strong that I could not extricate myself from him. And then I felt his organ already inside my organ and I just continued crying.<sup>56</sup>

There is no reason to disturb the trial court and the Court of Appeals' assessment of AAA's credibility based on the consistent finding that she made a candid, convincing and straightforward testimony of the commission of rape by accused-appellant. The trial court considered the following circumstances in finding AAA's testimony credible:

As noted by the court, when the private complainant testified about the incidents of lascivious conduct and sexual molestation committed against her by the accused, she is already 33 years old. In fact, she is already a police officer assigned at PNP Provincial Station in the Province of Masbate. She admitted that she was with the team who conducted project "*Manhunt Charlie*" that apprehended the accused who was then in the company of her mother particularly, at the intersection of Sto. Niño, Marikina City, in front of McDonald store. Private complainant was the one who identified the accused that led to his arrest on July 13, 2015.

While the private complainant testified several years after the subject incidents in 1996 and 1999, the court observed that she was straightforward, clear and convincing in declaring the agonizing experiences that she had suffered in the hands of the accused when she was then a minor. She lucidly testified and recalled her harrowing experiences in open court despite the lapse of time.

Verily, no person such as the private complainant would be capable of concocting such a [sic] grand tales if the same were not true. Besides, the court does not see any reason at all why she would fabricate a story against the accused and for her to undergo the embarrassment, stress of public trial and to testify on details of her ordeal were it not to condemn an injustice committed against her womanhood considering that she is already a full grown accomplished woman as a peace officer. Her testimony, truly, deserve[s] full faith and credence.

The court also observed that in between her testimony, she had cried a lot, as she recalled the dastardly acts committed against her by the accused

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<sup>56</sup> CA Rollo, pp. 100-101.

whom she considered her step-father, spiritual leader and founder of their group “ [REDACTED] ”.<sup>57</sup>

The trial court’s factual findings and the evaluation of witnesses’ credibility are binding and entitled to great respect before this Court, especially when affirmed by the Court of Appeals, unless clearly shown and proven that a substantial fact or circumstance was overlooked, misconstrued, misapprehended, or misapplied.<sup>58</sup> Particularly, trial courts are in the best position to assess and determine the credibility of the witnesses’ testimony since these observed the witness’ body language, gestures, and overall manner of testifying.<sup>59</sup>

Accused-appellant, however, argues that the lack of other evidence or witnesses to corroborate AAA’s testimony casts doubt on his guilt, and further, AAA’s delay in reporting the incidents destroys her credibility.

Three principles guide us in reviewing decisions for convictions of rape: “(1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme 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.”<sup>60</sup>

Contrary to the accused’s contention, conviction for rape may be done based solely on the credible testimony of the victim.<sup>61</sup>

In rape cases, the conviction of the accused rests heavily on the credibility of the victim. Hence, the strict mandate that all courts must examine thoroughly the testimony of the offended party. While the accused in a rape case may be convicted solely on the testimony of the complaining witness, courts are, nonetheless, duty-bound to establish that their reliance on the victim’s testimony is justified. If the testimony of the complainant meets the test of credibility, the accused may be convicted on the basis thereof.<sup>62</sup>

<sup>57</sup> *Rollo*, pp. 45–46.

<sup>58</sup> *People v. Salen, Jr.*, G.R. No. 231013, January 29, 2020 [Per J. Leonen, Third Division]; *Ramilo v. People*, 852 Phil. 471, 494 (2019) [Per J. Peralta, Third Division]; *People v. Divinagracia, Sr.*, 814 Phil. 730, 751 (2017) [Per J. Leonen, Second Division].

<sup>59</sup> *People v. Fornillos*, G.R. No. 231991, January 27, 2020 [Per J. Perlas-Bernabe, Second Division]; *People v. Corpuz*, 517 Phil. 622, 633 (2006) [*Per Curiam, En Banc*].

<sup>60</sup> *People v. Corpuz*, 517 Phil. 622, 632 (2006) [*Per Curiam, En Banc*].

<sup>61</sup> *People v. Salen, Jr.*, G.R. No. 231013, January 29, 2020 [Per J. Leonen, Third Division]; *People v. Orita*, 262 Phil 963, 978 (1990) [Per J. Medialdea, First Division].

<sup>62</sup> *Pendoy v. Court of Appeals*, 853 Phil. 242, 259 (2019) [Per J. Peralta, Third Division].

In a rape case, a medical certificate is only considered as “corroborative and is not an indispensable element in the prosecution of this case.”<sup>63</sup>

Furthermore, a delay in reporting a rape incident does not mean that the rape accusation is baseless or fabricated, as the delay here could be attributed to AAA’s tender age and fear that reporting what happened to her would only bring shame to their family, as her aunt told her.

Rape victims, after their harrowing experience, cannot be expected to act within reason or within society’s expectations of conduct.<sup>64</sup> Thus, the delay in reporting the rape incident does not affect the truthfulness of the charge:

To begin with, there is no such thing as a typical reaction or norm of behavior among rape victims. The workings of the human mind when placed under emotional stress is unpredictable. Some victims may shout, some may faint, while others may be shocked into insensibility. Not every victim can be expected to act with reason or conformably with the usual expectation of mankind. Certainly, it is unfair to expect and demand a rational reaction or a standard behavioral response from AAA, who was confronted with such startling and traumatic experience....

Furthermore, AAA's credibility is not affected by her delay in reporting the rape incident.

In *People v. Gersamio* and *People v. Velasco*, the Court emphasized that the victim's failure to report the rape to other persons does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Delay in prosecuting the offense is not an indication of a fabricated charge, and does not necessarily cast doubt on the credibility of the victim. This especially holds true if the victim faces the threat of physical violence. Unfortunately for the victim, pain and ignominy are better than risking having the offender make good his threats of retaliation.<sup>65</sup> (Citations omitted)

This has been further explained in *People v. Sumayod*:<sup>66</sup>

It has long been established that a victim's failure to struggle or resist an attack on his or her person does not, in any way, deteriorate his or her credibility. This Court has ruled that physical resistance need not be established to prove the commission of a rape or sexual assault, as the very nature of the crime entails the use of intimidation and fear that may paralyze a victim and force him or her to submit to the assailant. Furthermore, different people have varying reactions during moments of trauma; more so, a six (6)-year old child being attacked by people whom she believed to be her protectors. In *Perez v. People*, this Court emphasized the reaction of a minor when faced with an event so traumatizing:

<sup>63</sup> *People v. Orita*, 262 Phil 963, 978-979 (1990) [Per J. Medialdea, First Division].

<sup>64</sup> *Pendoy v. Court of Appeals*, 853 Phil. 242, 262 (2019) [Per J. Peralta, Third Division].

<sup>65</sup> *People v. XXX*, 867 Phil. 362, 379-380 (2019) [Per J. A. Reyes, Jr., Second Division].

<sup>66</sup> G.R. No. 230626, March 9, 2020 [Per J. Leonen, Third Division].

Behavioral psychology teaches us that, even among adults, people react to similar situations differently, and there is no standard form of human behavioral response when one is confronted with a startling or frightful experience. Let it be underscored that these cases involve victims of tender years, and with their simple, unsophisticated minds, they must not have fully understood and realized at first the repercussions of the contemptible nature of the acts committed against them. This Court has repeatedly stated that no standard form of behavior could be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult.

It must be emphasized that a six-year-old child cannot be expected to react similarly as an adult, given her limited understanding of the evils of this world and the desires of men who have no bounds.

...

The fact that it took private complainant more than three (3) months to report the incidents of assault on her does not affect her credibility in the slightest. She was left under accused-appellant Eliseo's care, lived in his house for months, and depended on him for the basic necessities of life. The moral ascendancy accused-appellant Eliseo had over her is enough to explain why she neither resisted the abuse as it was happening nor reported it afterwards for fear of being deprived of food, water, or a roof over her head.<sup>67</sup> (Citations omitted)

This Court, however, modifies the rape committed by accused-appellant to qualified rape. Rape is qualified when committed by a common-law spouse of the victim's parent, as in this case:

Rape is qualified and punished with death when committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent. However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim's over 12 years but under 18 years of age and her relationship with him. The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances. As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.<sup>68</sup>

Here, the Information sufficiently alleges the minority of AAA as a "17-year-old minor" and the relationship with the accused-appellant as being the "common-law spouse of the victim's mother." The circumstance of minority

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<sup>67</sup> *Id.*

<sup>68</sup> *People v. Arcillas*, 692 Phil. 40, 52 (2012) [Per J. Bersamin, First Division].

has been duly established by the birth certificate of AAA as presented during trial, while the circumstance of relationship has been stipulated during pre-trial by the parties and admitted by the defense, consequently establishing that the rape committed by accused-appellant is qualified rape. As to the amount of damages, this Court deems it proper to adjust the award of damages in accordance with *People v. Jugueta*.<sup>69</sup> Thus, accused-appellant is ordered to pay AAA the amounts of PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages.<sup>70</sup>

For Criminal Case Nos. 2445, 2446, 2447, 2448 and 2450, this Court agrees with the Court of Appeals that accused-appellant should be convicted for lascivious conduct under Section 5(b) of Republic Act No. 7610.

In *People v. Tulagan*,<sup>71</sup> this Court prescribes the guidelines in the proper designation of acts constituting sexual assault and the imposable penalty depending on the age of the victim, thus:

In *People v. Caoili*, We prescribed the following guidelines in designating or charging the proper offense in case lascivious conduct is committed under Section 5 (b) of R.A. No. 7610, and in determining the imposable penalty:

1. The age of the victim is taken into consideration in designating or charging the offense, and in determining the imposable penalty.
2. If the victim is under twelve (12) years of age, the nomenclature of the crime should be "Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of R.A. No. 7610." Pursuant to the second proviso in Section 5(b) of R.A. No. 7610, the imposable penalty is reclusion temporal in its medium period.
3. If the victim is exactly twelve (12) years of age, or more than twelve (12) but below eighteen (18) years of age, or is eighteen (18) years old or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as "Lascivious Conduct under Section 5(b) of R.A. No. 7610," and the imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*.

Based on the *Caoili* guidelines, it is only when the victim of the lascivious conduct is 18 years old and above that such crime would be designated as "Acts of Lasciviousness under Article 336 of the RPC" with the imposable penalty of *prision correccional*.

Considering the development of the crime of sexual assault from a mere "crime against chastity" in the form of acts of lasciviousness to a

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<sup>69</sup> 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

<sup>70</sup> *Id.* at 850.

<sup>71</sup> 849 Phil. 197 (2019) [Per J. Peralta, *En Banc*].

"crime against persons" akin to rape, as well as the rulings in *Dimakuta* and *Caoili*. We hold that if the acts constituting sexual assault are committed against a victim under 12 years of age or is demented, the nomenclature of the offense should now be "Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5 (b) of R.A. No. 7610" and no longer "Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610," because sexual assault as a form of acts of lasciviousness is no longer covered by Article 336 but by Article 266-A (2) of the RPC, as amended by R.A. No. 8353. Nevertheless, the impossible penalty is still *reclusion temporal* in its medium period, and not *prision mayor*.

Whereas if the victim is 12 years old and under 18 years old, or 18 years old and above under special circumstances, the nomenclature of the crime should be "Lascivious Conduct under Section 5 (b) of R.A. No. 7610" with the impossible penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, but it should not make any reference to the provisions of the RPC. It is only when the victim of the sexual assault is 18 years old and above, and not demented, that the crime should be called as "Sexual Assault under paragraph 2, Article 266-A of the RPC" with the impossible penalty of *prision mayor*.<sup>72</sup> (Citations omitted)

Accordingly, Section 5(b) of Republic Act No. 7610 provides:

Section 5. *Child Prostitution and Other Sexual Abuse*. — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to *reclusion perpetua* shall be imposed upon the following:

....

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period[.]

The prosecution must establish the following elements to sustain a conviction under Section 5(b) of Republic Act No. 7610: (1) the accused commits an act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child, whether male or female, is below 18 years of age.<sup>73</sup>

<sup>72</sup> *Id.* at 228–229.

<sup>73</sup> *People v. XXX*, 867 Phil. 362, 381 (2019) [Per J. A. Reyes, Jr., Second Division].

“Lascivious conduct,” as defined in the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, Section 2(h), is the “intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person[.]”

Here, the prosecution sufficiently established the presence of all the elements of lascivious conduct under Section 5(b) of Republic Act No. 7610. As duly found by the trial court and affirmed by the Court of Appeals, AAA positively and categorically stated that accused-appellant committed lascivious or lewd conduct against her when she was only 14 and 17 years old, in five separate incidents: (1) by grabbing her, kissing her on the mouth and trying to insert his tongue into her mouth; (2) by kissing her on the mouth and neck, rolling up her dress, then mashing and kissing her breasts; (3) by kissing her mouth and breasts; (4) by fondling her breasts; and (5) by using his fingers in separating the lips of her vagina. Thus, we agree with the Court of Appeals in finding accused-appellant guilty of five counts of lascivious conduct under Section 5(b) of Republic Act No. 7610.

Accused-appellant’s self-serving and unsubstantiated defense of denial fail against AAA’s positive identification of the accused and straightforward narration of the commission of the crimes of rape and lascivious conduct. It is well-settled that the negative defense of denial, if unsubstantiated by clear and convincing evidence, is insufficient to overcome the categorical and affirmative statements of a credible witness, without any ill motive.<sup>74</sup>

Thus, for using his moral ascendancy and influence in having carnal knowledge with AAA, the child of his common-law spouse, when she was still a minor, accused-appellant is guilty of one count of qualified rape under Article 266-A, paragraph 1, and Article 266-B, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353. Also, using his moral ascendancy and influence to commit lascivious or lewd conduct against AAA when she was only 14 years old and 17 years old in five separate incidents, accused-appellant is guilty of five counts of lascivious conduct under Section 5(b) of Republic Act No. 7610.

**ACCORDINGLY**, this Court **DENIES** the Appeal. The August 24, 2021 Decision of the Court of Appeals in CA-G.R. CR-HC No. 13198 is **AFFIRMED** with **MODIFICATIONS**, as follows:

- (1) In Criminal Case No. 2449, this Court finds accused-appellant **XXX GUILTY** beyond reasonable doubt of one count of qualified

<sup>74</sup> *People v. Tulagan*, 849 Phil. 197, 219 (2019) [Per J. Peralta, *En Banc*].

rape defined and penalized under Article 266-A and Article 266-B of the Revised Penal Code, as amended, and hereby sentences him to suffer *reclusion perpetua* without eligibility for parole under Republic Act No. 9346. He is **ORDERED** to **PAY** AAA the following amounts for the commission of the crime of qualified rape: (a) PHP 100,000.00 as civil indemnity; (b) PHP 100,000.00 as moral damages; and (c) PHP 100,000.00 as exemplary damages;

- (2) In Criminal Case Nos. 2445, 2446, 2447, 2448 and 2450, this Court finds accused-appellant XXX **GUILTY** beyond reasonable doubt of five counts of lascivious conduct under Section 5(b) of Republic Act No. 7610 and is sentenced to suffer the penalty of imprisonment for an indeterminate period of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal*, as maximum, for each count. He is **ORDERED** to **PAY** AAA the following amounts for each count of lascivious conduct: (a) PHP 50,000.00 as civil indemnity; (b) PHP 50,000.00 as moral damages; and (c) PHP 50,000.00 as exemplary damages; and
- (3) Accused-appellant XXX is also **ORDERED** to **PAY** interest at the rate of 6% *per annum* from the time of finality of this Decision until fully paid, to be imposed on the civil indemnity, moral damages, and exemplary damages.<sup>75</sup>

**SO ORDERED.**



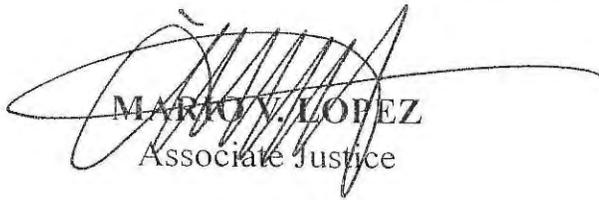
MARVIC M.V.F. LEONEN  
Senior Associate Justice

<sup>75</sup> *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, G.R. No. 225433, September 20, 2022 [Per J. Leonen, *En Banc*].

WE CONCUR:



**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice



**JHOSEP Y. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

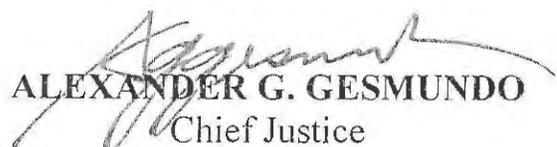
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was as assigned to the writer of the opinion of the Court's Division.



**ALEXANDER G. GESMUNDO**  
Chief Justice