

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 29, 2020, which reads as follows:

“G.R. No. 248808 (*People of the Philippines v. XXX*¹). – We DENY the appeal from the 15 May 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10771, which affirmed the 12 February 2018 Decision³ of Branch 86, Regional Trial Court of Quezon City (RTC) in Criminal Case Nos. R-QZN-14-11212 to 13-CR. The RTC found XXX (accused-appellant) guilty beyond reasonable doubt of the crimes of (a) violation of Section 5(b) of Republic Act No. (RA) 7610; otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act,” and (b) rape under Article 266(A) of the Revised Penal Code (RPC).

In his appeal, accused-appellant argues that the prosecution failed to prove his guilt beyond reasonable doubt for the crimes charged.

We are not persuaded.

It is a settled rule that findings of fact of the RTC, when affirmed by the CA, are accorded great respect and even finality by this Court.⁴ Further, in resolving issues pertaining to the credibility of the witnesses, the Court is

- 1 The identity of the victim or any information which could establish or compromise her identity, including the names of her immediate family or household members, and the *barangay* and town of the incident, are withheld pursuant to SC Amended Administrative Circular No. 83-2015 (Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances). The confidentiality of the identity of the victim is mandated by RA 7610 (Special Protection of Children against Abuse, Exploitation and Discrimination Act); RA 8505 (Rape Victim Assistance and Protection Act of 1998); RA 9208 (Anti-Trafficking in Persons Act of 2003); RA 9262 (Anti-Violence against Women and Their Children Act of 2004); and RA 9344 (Juvenile Justice and Welfare Act of 2006). The real name of the accused-appellant is also replaced with fictitious initials by reason of his relationship to the minor victim.
- 2 *Rollo*, pp. 3-19; penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Pedro B. Corales and Germano Francisco D. Legaspi of the Special Fifteenth Division, Court of Appeals, Manila.
- 3 *CA rollo*, pp. 57-74; penned by Presiding Judge Roberto P. Buenaventura.
- 4 See *Fernando v. Court of Appeals*, 539 Phil. 407, 420 (2006).

in resolving issues pertaining to the credibility of the witnesses, the Court is guided by the following well-settled principles: (1) the reviewing court will not disturb the findings of the lower court, unless there is a showing that it overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that may affect the result of the case; (2) the findings of the trial court on the credibility of witnesses are entitled to great respect and even finality, as it had the opportunity to examine their demeanor when they testified on the witness stand; and (3) a witness who testifies in a clear, positive and convincing manner is a credible witness.⁵

Verily, both the CA and the RTC correctly ruled that the prosecution was able to prove that accused-appellant committed the crime of rape against AAA who was only thirteen years (13) old at the time. AAA categorically testified that accused-appellant forced himself on her despite her resistance and pleas for him to stop. Further, her testimony was corroborated by the medical findings which verified the presence of deep healed lacerations in AAA's hymen, indicating that a blunt object penetrated her genitalia. Moreover, AAA's testimony established that accused-appellant committed lascivious conduct when he kissed AAA, touched her breast, and removed her shorts. Hence, the courts *a quo* properly held that accused-appellant committed rape under Article 266-A of the RPC and violated Section 5(b), Article II of RA 7610.

Accused-appellant's denial of the charges against him failed to overcome AAA's unwavering testimony. No young girl would usually concoct a tale of défloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her.⁶

Moreover, accused-appellant's claim that AAA's accusations against him was motivated by ill will does not deserve credence. After all, the alleged ill will, *i.e.*, BBB's anger due to accused-appellant's soiled clothes, is too inconsequential for a mother to subject her own child to public scrutiny and lifelong stigma that a rape trial brings in its wake.⁷

⁵ *Estioca v. People*, 578 Phil. 853, 864 (2008).

⁶ *People v. Barberan*, 788 Phil. 103, 110 (2016).

⁷ *See People v. Bagsic*, 822 Phil. 784, 797 (2017).

Nevertheless, the Court finds the need to rectify the proper nomenclature of the crimes committed by accused-appellant pursuant to principles enunciated in *People v. Tulagan*.⁸

First, it has been established that accused-appellant had carnal knowledge of AAA through force, threat, or intimidation. Thus, the Court hereby finds that in Criminal Case No. R-QZN-14-11213-CR, accused-appellant committed the crime of **rape under Article 266-A (1), in relation to Article 266-B of the RPC**. However, We cannot agree with the penalty imposed by the RTC and as affirmed by the CA, which is *reclusion perpetua* without eligibility of parole.

We note that the Information alleged that accused-appellant was the victim's stepfather. The stepfather-stepdaughter relationship as a qualifying circumstance presupposes that the victim's mother and the accused-appellant contracted marriage.⁹ However, the prosecution did not present any credible proof that accused-appellant was legally married to BBB, AAA's mother. Likewise, while accused-appellant admitted to being the live-in partner of BBB, the same was not alleged in the Information so as to qualify the crime and impose a higher penalty. Following the Court's pronouncement in *People v. Solar*,¹⁰ the qualifying circumstance of relationship was not proven by the prosecution, hence, it should not be appreciated against the accused-appellant. As such, pursuant to the first paragraph of Article 266-B of the RPC, **accused-appellant should be meted with the penalty of *reclusion perpetua***.

Further, the Court modifies the monetary awards in AAA's favor in the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) *per annum* from finality of this ruling until fully paid, since the same are in accord with prevailing jurisprudence for the crime of simple rape.¹¹

Second, in Criminal Case No. 14-11212-CR, the nomenclature of the crime charged, which was "violation of Section 5 (b) of R.A. 7610," the penalty imposed, and the damages awarded should be modified. The crime should be designated as **Lascivious Conduct under Section 5 (b) of RA 7610** considering that AAA was above 12 years but under 18 years of age at the time of the incidents.

⁸ G.R. No. 227363, 12 March 2019.

⁹ *People v. Corpuz*, 597 Phil. 459, 468 (2009).

¹⁰ G.R. No. 225595, 06 August 2019.

¹¹ *People v. Ejercito*, G.R. No. 229861, 02 July 2018.

Under Section 2(h) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, "lascivious conduct" is defined as follows:

[T]he 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[.]

The testimony of AAA clearly recounted the lascivious conduct committed by accused-appellant through the latter's act of touching AAA's breast and undressing her.¹² Following the Court's designation in *People v. Tulagan*, the penalty imposable for lascivious conduct under Section 5(b) of RA 7610 is *reclusion temporal* in its medium period to *reclusion perpetua*. Applying the Indeterminate Sentence Law, and in the absence of aggravating or mitigating circumstances, the Court imposes the indeterminate penalty of imprisonment of **eight (8) 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.**¹³

Under prevailing jurisprudence,¹⁴ when the crime committed is Lascivious Conduct under Section 5(b) of RA 7610, and the penalty of imprisonment is within the range of *reclusion temporal*, the awards of damages are as follow: ₱50,000.00 civil indemnity; ₱50,000.00 moral damages; and ₱50,000.00 exemplary damages. Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this resolution until fully paid.¹⁵

WHEREFORE, the appeal is hereby **DENIED**. Accordingly, the findings of fact and conclusions of law in the 15 May 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10771, affirming *in toto* the 12 February 2018 Decision of Branch 86, Regional Trial Court of Quezon City (RTC) in Criminal Case Nos. R-QZN-14-11212 to 13-CR, are **AFFIRMED WITH MODIFICATIONS**, as follows:

1. in **Criminal Case No. 14-11213-CR**, accused-appellant is found **GUILTY** beyond reasonable doubt of the crime of **Rape under Article 266-A (1), in relation to Article 266-B, of the**

¹² See *People v. Moya*, G.R. No. 228260, 10 June 2019.

¹³ *Pendoy y Posadas v. Court of Appeals (18th Division)-Cebu City*, G.R. No. 228223, 10 June 2019; *XXX v. People*, G.R. No. 242101, 16 September 2019.

¹⁴ *People v. XXX*, G.R. No. 240441, 04 December 2019; *People v. Tulagan*, G.R. No. 227363, 12 March 2019.

¹⁵ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

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Revised Penal Code and is **SENTENCED** to suffer the penalty of *reclusion perpetua*. Accused-appellant is further **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages; and

- 2. in **Criminal Case No. 14-11212-CR**, accused-appellant is found **GUILTY** beyond reasonable doubt of the crime of **Lascivious Conduct under Section 5 (b) of Republic Act No. 7610** and is **SENTENCED** to suffer the indeterminate penalty of imprisonment for eight (8) 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. He is further **ORDERED** to **PAY** AAA the amounts of ₱50,000.00 as civil indemnity; ₱50,000.00 as moral damages; and ₱50,000.00 as exemplary damages.

Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this resolution until fully paid.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court
GER 1/25/21

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The Presiding Judge
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 (Criminal Case Nos. R-QZN-14-11212 to 13-CR)

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