



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 June 2021** which reads as follows:*

“G.R. No. 253819 (*Rogelio Lopez y Ayes v. People of the Philippines*). – At the outset, the petition¹ should be denied outright for failure to attach legible duplicate originals or certified true copies of the assailed Decision² dated November 29, 2019 and Resolution³ dated July 16, 2020 of the Court of Appeals in CA-G.R. CR No. 40799 in violation of Section 4, Rule 45 of the Rules of Court, as amended. Too, the Court notes that: (1) the MCLE Certificate of Compliance of the counsel of Rogelio Lopez y Ayes’ (petitioner) is not updated; and (2) petitioner failed to submit a CD and verified declaration, and soft copy of the petition in compliance with the Efficient Use of Paper Rule. These omissions are sufficient to warrant the dismissal of the petition.⁴

In any event, petitioner’s challenge against the credibility of the child victim *vis-a-vis* his denial and alibi requires a review of the facts and recalibration of the evidence which the Court, not being a trier of

¹ *Rollo*, pp. 18-29.

² Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Fernanda Lampas Peralta and Danton Q. Bueser, *id.* at 33-45.

³ *Id.* at 47-48.

⁴ Sections 4 and 5, Rule 45, Rules of Court:

Section 4. Contents of petition. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall x x x (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; x x x. (2a)

Section 5. Dismissal or denial of petition. — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

x x x x

facts, will not take cognizance under a Rule 45 petition. Besides, the Court respects the factual findings of the trial court on the credibility of witnesses⁵ since it had the opportunity to observe first hand their conduct and demeanor while testifying. More so, when these factual findings carry the full concurrence of the Court of Appeals, as in this case.

Finally, in accordance with *People v. Tulagan*,⁶ the Court of Appeals correctly a) found petitioner Rogelio Lopez y Ayes **GUILTY of Sexual Assault under Article 266-A, paragraph 2 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610 (RA 7610)**; b) imposed the indeterminate penalty of twelve (12) years, ten (10) months, and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months, and twenty (20) days of *reclusion temporal*, as maximum; and c) awarded ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages plus six percent (6%) interest *per annum on the total monetary awards* from finality of judgment until fully paid.

In addition, petitioner is further ordered to pay a fine in the amount of ₱15,000.00, pursuant to Section 31(f),⁷ Article XII of RA 7610.⁸

ACCORDINGLY, the petition is **DENIED**. The Decision dated November 29, 2019 and Resolution dated July 16, 2020 of the Court of Appeals in CA-G.R. CR No. 40799 are **AFFIRMED with MODIFICATION**.

Petitioner **ROGELIO LOPEZ y AYES** is found **GUILTY** of Sexual Assault under Article 266-A, paragraph 2 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610. He is sentenced to suffer the indeterminate penalty of twelve (12) years, ten (10) months, and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months, and twenty (20) days of *reclusion temporal*, as maximum, and to pay a fine of ₱15,000.00. He is ordered to pay ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.

All monetary awards are subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

⁵ *People v. Hiram*, 803 Phil. 277, 290 (2017).

⁶ G.R. No. 227363, March 12, 2019.

⁷ Section 31(f), Article XII of RA 7610 provides:

Section 31. *Common Penal Provisions.* –

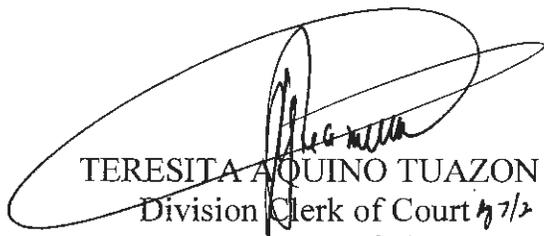
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(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

⁸ *People v. BBB*, G.R. No. 232071, July 10, 2019.

SO ORDERED.” (J. Lopez., J., designated additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:



TERESITA AQUINO TUAZON
 Division Clerk of Court *by 7/2*
 02 JUL 2021

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HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 67
 Bauang, La Union
 (RTC Case No. 3736)

JUDGMENT DIVISION (x)
 Supreme Court, Manila

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 Supreme Court, Manila

COURT OF APPEALS (x)
 Ma. Orosa Street
 Ermita, 1000 Manila
 CA-G.R. CR No. 40799

*with copy of CA Decision dated 29 November 2019
Please notify the Court of any change in your address.
 GR253819. 06/16/2021(125)URES