



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 January 2022** which reads as follows:*

**“G.R. No. 235992 (*People of the Philippines v. XXX*<sup>1</sup>). – This treats of the Notice of Appeal<sup>2</sup> filed by accused-appellant XXX, seeking the reversal of the Decision<sup>3</sup> dated July 20, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08503, finding XXX guilty beyond reasonable doubt of the crimes of Qualified Trafficking of Persons, Acts of Lasciviousness, and Obscene Publications and Exhibitions.**

**The Case**

XXX stands charged for the crimes of (1) Qualified Trafficking in Persons under Sections 6(a) and (d), in relation to Sections 3(a), 3(c), and 3(h), 4(e) and 4(k2), and 10(e) of Republic Act (R.A.) No. 9208, otherwise known as “*Anti-Trafficking in Persons Act of 2003*”, as amended by R.A. No. 10364 or the “*Expanded Anti-Trafficking in Persons Act of 2012*”; (2) Child Abuse under Section 10(a) of R.A. No. 7610, also known as the “*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*”; and (3) violation of Section 2(b) of Article 201 of the Revised Penal Code (RPC) in three (3) separate Informations, the accusatory portions of which read:

**CRIMINAL CASE NO. 154770  
(Qualified Trafficking in Persons)**

That in or about and during the period comprised between the year 2012 and August 6, 2014, inclusive, in the City of Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [XXX], parent/mother of herein 10-year old minor victim [AAA], at the same time exercising authority over the latter, while acting as

<sup>1</sup> Pursuant to Republic Act No. 9262, otherwise known as the “*Anti-Violence Against Women and Their Children Act of 2004*” and its implementing rules, the real name of the victim, together with the real names of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. (*People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>2</sup> *Rollo*, pp. 27-28.

<sup>3</sup> *Id.* at 2-26; penned by Associate Justice Socorro B. Inting, with Associate Justices Romeo F. Barza and Associate Justice Henri Jean Paul B. Inting (now a Member of this Court), concurring.

a promoter, recruiter, handler and agent of minor children, including among others, her own 10-year old minor daughter [AAA] and neighbors' minor children, one of whom is known or identified as 14-year old "[BBB]", did then and there willfully, unlawfully and knowingly procure, recruit, hire, maintain, provide harbor and obtain the said child victim for the purpose of exploitation, such as pornography or the production of pornography or other forms of sexual exploitation, in exchange for money, profit or any other consideration or with said victim's participation thereof being caused or facilitated by any means of intimidation, or other forms of coercion, fraud, deception or debt bondage, while taking advantage of the victim's vulnerability, by offering, peddling, promoting and advertising her through the web, including an "online chat" with the accused's customers/clients, making a representation through indecent shows and/or information technology or by whatever means, of the said victim as having engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes, and further engaging the said victim to perform other acts of exploitation, including among others, a live nude show, an indecent show, wherein the said child victim, either with or without "[BBB]", was made to remove her clothes including her panty/underwear or appear fully or half naked in front of the web camera, pose in different angles by standing, sitting and bending over (*tuwad*) in different positions including front, back and side views while being naked, and then touch her own private organ/genitalia, her own breasts and/or her companion [BBB]'s breasts, for the online viewing and/or satisfaction of the sexual pleasures and desires of the accused's customers/clients/chatmates, including foreigners, one of whom is named "Philip Smith, Jr.", in exchange for money or consideration, to the victim's damage and prejudice.

That the offense committed is qualified trafficking, the accused being the parent/mother of the victim, in addition to the qualifying circumstance of minority, victim [AAA], being below 18 years of age.

No bail recommended.<sup>4</sup>

**CRIMINAL CASE NO. 154771**  
**(Child Abuse)**

That in or about and during the period comprised between the year 2012 and August 6, 2014, inclusive, in the City of Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [XXX], promoter, recruiter, handler and agent of her daughter/child victim [AAA] (*10-year old minor*), did then and there willfully, unlawfully and feloniously commit acts of child abuse and exploitation on her daughter/child victim [AAA] and/or subjected her to conditions prejudicial to the child's development, by procuring, enticing, directing, ordering, coercing, intimidating, convincing, influencing or making her perform acts, including among others, chatting with accused's clients/customers either by herself and/or with the assistance of accused, and further engaging her daughter/child victim to *perform a live nude show* in front of the web camera, an indecent show, wherein the said child victim would remove her clothes including her panty/underwear or appear fully or

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<sup>4</sup> *Rollo*, pp. 3-4.

half naked in front of the web camera, pose while being naked in different angles by standing, sitting and bending over (*tuwad*) in different positions including front, back and side views, and then touch her own private organ/genitalia, own breasts and her companion's breasts, for the online viewing and/or satisfaction of the sexual pleasures and desires of the accused's customers/clients/chatmates, including foreigners, one of whom is named "Philip Smith, Jr.", in exchange for money or consideration; and further, by performing a similar live nude show by herself in front of the web camera, including among others, removing all her clothes/being fully naked, bending over and touching her breasts and genitalia/private organ while being naked, *in the presence of her daughter/child victim [AAA]*, likewise for the online viewing and/or satisfaction of the sexual pleasures and desires of the accused's customers/clients/chatmates, including foreigners, in exchange for money or consideration, thereby subjecting the child victim to conditions prejudicial to her normal growth and development.

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

**CRIMINAL CASE NO. 154772**  
(Obscene Publications and Exhibitions)

That in or about and during the period comprised between the year 2012 and August 6, 2014, inclusive, in the City of Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [XXX], promoter, recruiter, handler and agent of her daughter/child victim [AAA] (*10-year old minor*), did then and there willfully, unlawfully and feloniously exhibit indecent or immoral scenes, acts or shows performed or done live by the aforesaid child victim in front of the web camera for the online viewing of the accused's clients/customers, inside the accused's house/room, which served no other purpose but to satisfy the market for lust or pornography, and which are considered contrary to law, public order, morals, good customs and established policies, to the damage and prejudice of the said child victim.

**CONTRARY TO LAW.<sup>6</sup>**

Upon arraignment, XXX pleaded not guilty to the charges.<sup>7</sup> Thereupon, joint trial on the merits ensued.

**The Antecedents**

*Prosecution's Version of Facts*

On June 23, 2014, the Anti-Human Trafficking Division of the National Bureau of Investigation (NBI-AHTRAD) received information that XXX was engaged in cybersex operation and online child exploitation of her own children and that of her neighbors. NBI-AHTRAD tried to conduct an investigation and surveillance, but they could not connect to XXX's online

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<sup>5</sup> Id. at 4-5.

<sup>6</sup> Id. at 5.

<sup>7</sup> Id. at 5.

account. They then sought help from the United States Department of Homeland Security Investigations-Immigration and Custom Enforcement (USHSI-ICE), US Embassy, Manila, to establish connection with XXX and verify the information on her activities.<sup>8</sup>

With the USHSI-ICE's help, NBI-AHTRAD agent Atty. Abdul Jamal Dimaporo, and Department of Justice Inter-Agency Council Against Trafficking's (DOJ-IACAT) IT Consultant, Christian Andrew Ibasco, watched inside the US Embassy the online conversations between XXX and an undercover agent based in the US. This confirmed the online human trafficking activities of XXX. The NBI-AHTRAD then secured a search warrant from the Regional Trial Court (RTC) of Taguig City, Branch 153.<sup>9</sup>

On August 6, 2014, the NBI-AHTRAD conducted an entrapment, implementation of search warrant, and rescue operation. During the operation, an undercover agent based in the US acted as a poseur customer. Meanwhile, the NBI-AHTRAD agents were in a parked vehicle monitoring the transaction real-time. When they turned on the webcam, the NBI operatives were surprised to see XXX's daughter, AAA, already performing a nude show. This prompted the NBI operatives to immediately conduct the rescue. They then rushed to the premises and implemented the search and arrest of XXX. AAA was likewise immediately rescued.<sup>10</sup>

#### *Defense's Version of Facts*

XXX denied the allegations thrown at her. She averred that she met someone on Facebook. After two weeks of chatting with her male online friend, the latter offered help for her children's education. XXX accepted the offer and told her male friend her complete name to enable him to transfer money via Western Union. After claiming 30\$ from her friend, XXX was not able to get back to him because their electricity was cut off due to a storm. Her male friend got furious when XXX failed to get back to him after she got the money. Through text messages, XXX's friend threatened her that he would file a complaint against her.<sup>11</sup>

Upon resumption of electricity on August 6, 2014, XXX chatted with her friend. The friend told her to look for a woman to do a show for him. When XXX told his friend that she does not know anyone, her friend asked even just a wave from AAA. At first, XXX refused, but because her friend insisted and threatened her, she let AAA go in front of the webcam and wave to her male friend. At that time, XXX went to the bathroom to check on her son who was then taking a bath. She, thus, disavowed any knowledge that AAA also

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<sup>8</sup> CA *rollo*, p. 64.

<sup>9</sup> *Id.* at 64-65.

<sup>10</sup> *Id.* at 65.

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

undressed in front of the camera. XXX was then surprised when NBI operatives suddenly came to her house and arrested her.<sup>12</sup>

### The RTC Ruling

The RTC rendered a Decision<sup>13</sup> dated April 11, 2016, finding XXX guilty beyond reasonable doubt of the crimes of Qualified Trafficking in Persons, Child Abuse, and Obscene Publications and Exhibitions. In convicting XXX of Qualified Trafficking in Persons, the trial court gave credence and probative value to the prosecution's evidence. It explained that "[the] pieces of evidence not only show the act of providing live nude shows but also the act of the accused offering live nude shows to be performed by AAA for a fee."<sup>14</sup>

Meanwhile, the RTC explained that instructing her very own daughter to perform nude on the internet and letting her own daughter witness her (XXX) perform the same thing is constitutive of Other Acts of Abuse in violation of Section 10(a) of R.A. No. 7610.<sup>15</sup>

The RTC further explained that the act of XXX in inducing AAA to exhibit indecent and immoral acts or shows served no other purpose but to satisfy the market for lust or pornography. The RTC, thus, concluded that such acts fall within the ambit of Section 2(b), Article 201 of the RPC on Immoral Doctrines, Obscene Publications and Exhibitions, and Indecent Shows.<sup>16</sup>

Finally, the RTC ruled that XXX's defense of denial is bereft of merit; the exempting circumstance of uncontrollable fear as raised by XXX is likewise untenable.<sup>17</sup> Accordingly, the RTC disposed of the case in this wise:

**WHEREFORE, finding accused [XXX] guilty beyond reasonable doubt in all the charges, this court hereby sentences her as follows:**

In Crim. Case No. 154770, (for Qualified Trafficking in Persons), to suffer the penalty of life imprisonment, pay civil indemnity of PhP75,000.00, moral damages of PhP75,000.00 and exemplary damages of PhP25,000.00 and a fine of PhP2,000,000.00;

In Crim. Case No. 154771, (for Child Abuse), to suffer an indeterminate penalty of 10 years and 1 day of Prision Mayor as minimum, to 17 years and 4 months of Reclusion Temporal as maximum; and to pay AAA PhP50,000.00 civil indemnity, Php50,000.00 as moral damages, Php25,000.00 exemplary damages and a fine of PhP100,000.00;

<sup>12</sup> Id. at 66.

<sup>13</sup> Id. at 61-74; penned by Judge Lorifel Lacap Pahimna.

<sup>14</sup> Id. at 70. Emphasis and underscoring omitted.

<sup>15</sup> Id. at 72-73.

<sup>16</sup> Id. at 71-72.

<sup>17</sup> Id. at 73.

In Crim. Case No. 154772, (for Obscene Publications and Exhibitions), to suffer an indeterminate penalty of 6 months of Arresto Mayor, as minimum, to 4 years and 2 months of Prision Correccional, as maximum; and to pay a fine of PhP2,000.00.

**SO ORDERED.**<sup>18</sup>

Aggrieved, XXX appealed to the CA.

### **The CA Ruling**

In a Decision<sup>19</sup> promulgated on July 20, 2017, the CA affirmed with modification the Decision of the RTC. The CA retained XXX's conviction for the crimes of Qualified Trafficking in Persons, and Obscene Publications and Exhibitions. However, instead of Child Abuse under Section 10(a) of R.A. No. 7610, the CA held XXX liable for Acts of Lasciviousness under Article 336 of the RPC, in relation to Section 5(b), Article III of R.A. No. 7610.<sup>20</sup>

The CA likewise ruled that though there were inconsistencies in the prosecution's witnesses, these were merely inconsequential and did not detract from the proven elements of the crimes charged.<sup>21</sup> Finally, the CA gave more credence to AAA's testimony, than that of XXX's defense of denial.<sup>22</sup> The *fallo* of the assailed Decision reads:

**WHEREFORE**, the appeal is **DENIED**. The Decision dated April 11, 2016 of the Regional Trial Court (RTC) of Taguig City, Branch 69, in Criminal Cases Nos. 154770-72 is hereby **AFFIRMED** with the following **MODIFICATIONS**:

I. In Criminal Case No. 154771

(a) Accused-appellant is found guilty of Acts of Lasciviousness under Article 336 of the RPC, as amended, in relation to Section 5(b), Article III of RA 7610 and is sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal* as minimum to seventeen (17) years of *reclusion temporal* as maximum;

(b) She is further ordered to pay the following amounts: (1) P15,000.00 as fine, (2) P20,000.00 as civil indemnity, (3) P15,000.00 as moral damages, and (4) P15,000.00 as exemplary damages.

II. In Criminal Case No. 154772

<sup>18</sup> Id. at 73-74.

<sup>19</sup> *Rollo*, pp. 2-16; penned by Associate Justice Socorro B. Inting, with Associate Justices Romeo Barza and Henri Jean Paul B. Inting (now a Member of this Court), concurring.

<sup>20</sup> Id. at 21-22.

<sup>21</sup> Id. at 22-23.

<sup>22</sup> Id.

(a) Accused-appellant is sentenced to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

The victim, 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.**<sup>23</sup>

Undaunted, XXX filed a Notice of Appeal<sup>24</sup> with this Court.

### **The Issue**

*Whether the CA erred in affirming with modification the RTC's Decision and convicting XXX of the crimes of Qualified Trafficking of Persons, Acts of Lasciviousness, and Obscene Publications and Exhibitions.*

### **The Court's Ruling**

The instant appeal is bereft of merit.

*XXX is guilty of Qualified Trafficking of Persons.*

Section 3(a) of R.A. No. 9208, as amended by R.A. No. 10364 defines the term "Trafficking in Persons" as:

x x x recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

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<sup>23</sup> Id. at 25-26.

<sup>24</sup> Id. at 27-28.

Section 4, of the same law, as amended by R.A. No. 10364, further enumerates the acts that fall under the term “trafficking” in persons, thus:

- (a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, or sexual exploitation;
- (b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- (c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage;
- (d) To undertake or organize tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation;
- (e) To maintain or hire a person to engage in prostitution or pornography;
- (f) To adopt persons by any form of consideration for exploitative purposes or to facilitate the same for purposes of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- (g) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- (h) To recruit, hire, adopt, transport, transfer, obtain, harbor, maintain, provide, offer, receive or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;
- (i) To recruit, transport, obtain, transfer, harbor, maintain, offer, hire, provide, receive or adopt a child to engage in armed activities in the Philippines or abroad;
- (j) To recruit, transport, transfer, harbor, obtain, maintain, offer, hire, provide or receive a person by means defined in Section 3 of this Act for purposes of forced labor, slavery, debt bondage and involuntary servitude, including a scheme, plan, or pattern intended to cause the person either:
  - (1) To believe that if the person did not perform such labor or services, he or she or another person would suffer serious harm or physical restraint; or

- (2) To abuse or threaten the use of law or the legal processes; and
- (k) To recruit, transport, harbor, obtain, transfer, maintain, hire, offer, provide, adopt or receive a child for purposes of exploitation or trading them, including but not limited to, the act of buying and/or selling a child for any consideration or for barter for purposes of exploitation. Trafficking for purposes of exploitation of children shall include:
- (1) All forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, including recruitment of children for use in armed conflict;
  - (2) The use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances;
  - (3) The use, procuring or offering of a child for the production and trafficking of drugs; and
  - (4) The use, procuring or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals; and
- (l) To organize or direct other persons to commit the offenses defined as acts of trafficking under this Act.

The crime is deemed qualified when the trafficked person is a child<sup>25</sup> and/or when the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee,<sup>26</sup> among others.

Under R.A. No. 10364, the elements of Trafficking in Persons have been expanded to include the following acts:

- (1) The act of “recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders;”
- (2) The means used include “by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”
- (3) The purpose of trafficking includes “the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs”<sup>27</sup>

We find all these elements present in this case.

<sup>25</sup> Section 6(a), R.A. No. 9208.

<sup>26</sup> Id. at Section 6(d).

<sup>27</sup> *People v. Casio*, 749 Phil. 458, 472-472 (2014).

During trial, AAA testified as follows:

APA ACAYAN-

x x x x

Q- So kapag gumagamit ka ng computer, ano ang ginagawa mo?

A- Nag-games po at saka Facebook at saka meron pong pinapagawa sa akin si Mama.

Q- May pinapagawa sa iyo si Mama, ano ang pinapagawa sa iyo ni Mama?

A- Naghuhubad po.

APA ACAYAN-

Your Honor, we would like to manifest that the minor is crying.

Q- Sabi mo inutusan kang maghubad, ano ang ibig sabihin mo na naghuhubad ka?

COURT-

Okay ka lang ba? Medyo alalay na lang.

APA ACAYAN-

Q- So sabi mo Bebe na inutusan ka maghubad, ano ang ibig mo sabihin na naghuhubad ka?

A- Witness is not answering.

Q- Sabi mo kanina pinaghuhubad ka, ano ang ibig mo sabihin na pinaghuhubad ka?

A- Hubad po ako whole body.

Q- So liban sa paghuhubad, may mga iba pa bang inuutos si Mama mo?

A- The witness nodded.

Q- Ano ba pa yong mga iba pang pinapagawa sa iyo ng Mama mo?

A- Pinapatuwad po ako sa camera.

Q- Camera ng ano?

A- Computer po.

Q- Bakit ka... sa pagnakatuwad ka sa harap ng camera, saan ka nakaharap?  
(sic)

A- Sa camera po.

Q- So iyong ulo mo saan nakaharap?

A- Dito po tapos dito po iyong camera.

APA ACAYAN-

Your Honor, she said kapag pinapatuwad siya, she faces against the camera.

COURT [TO THE WITNESS] –

Q- So iyong unang bahagi ng iyong katawan ang iyong likuran ang

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nakarap (sic) sa camera tapos iyon namang harapan mo ay nasa kabila, so ang nakaharap sa camera iyong likuran mo kapag sinasabi mo na nakatuwad ka?

A- Opo.

APA ACAYAN-

Q- Liban sa paghuhubad at pagtutuwad meron pa bang inuutos sa iyo ang Mama mo?

A- Pinabubukaka po ako sa camera.

Q- Ikaw lang ba mag-isa and pinapagawa ni Mama mo ng ganoon?

A- The witness is shaking her head.

Q- So sino ang kasama mo?

A- Minsan po si [BBB] po.

Q- Pero kadalasan, ikaw lang mag-isa?

A- Opo.

Q- Tama ba na pagkaintindi ko kapag mag-isa ka inuutusan ka ni Mama mo na maghubad, tumuwad na nakahubad at pinapabukaka ka sa harap ng camera ng computer, tama ba?

A- The witness nodded.

Q- Mga ilang beses na ito inutos sa iyo ng mama mo na mag- isa ka.

A- Nakalimutan ko na eh

Q- Pero natatandaan mo ba kung kailan ito nagsimula?

A- The witness nodded.

Q- Kailan iyon?

A- Noong 9 years old po ako.

Q- So sabi mo kanina may mga pagkakataon na kasama mo si [BBB], pagkasama mo si [BBB], ano naman ang inuutos sa iyo ng Mama mo?

A- Naghahawakan po kami ng dede.

Q- Uulitin ko iyong tanong [AAA], kanina sabi mo may mga pagkakataon na kasama mo si [BBB], so ano ang ginagawa ninyo kapag magkasama kayong dalawa, ano ang inuutos sa inyo ni Mama?

A- Naghahawakan po kami ng dede.

Q- Liban sa paghahawakan ng dede, ano pang inuutos sa inyo Mama mo? (sic)

A- Iyon lang po.

Q- Bakit kayo pinapaharap sa camera ng computer ni Mama mo?

A- The witness shrugs her shoulder.

COURT [TO THE WITNESS] –

Q- Ano ang ibig sabihin ng pagkibit mo ng balikat, ibig sabihin hindi mo alam kung bakit kayo kailangan na humarap sa camera?

A- The witness nodded.

COURT-

You may continue.

APA ACAYAN-

Q- Ibig sabihin may mga iba pa bang ginagawa si Mama noong mga panahon na iyon kaya kayo inutusan ni Mama?

COURT [TO THE WITNESS] –

Q- Habang ginagawa ninyo yon, ano ang ginagawa ni Mama?

A- Nagta-type po.

Q- Sa computer?

A- Opo.

APA ACAYAN-

Q- Ano ang itina-type niya?

A- English po kasi hindi ko maintindihan.

Q- So may kausap ba si Mama mo sa computer?

A- Opo.

Q- Sino ang mga kausap niya?

A- Isa lang po ang kilala ko doon eh.

Q- Sino iyong kakilala mo?

A- Si Philip Smith po.

Q- Sino itong si Philip Smith?

A- Kaibigan po ni Mama ko.

Q- Paano mo nalaman na kaibigan siya ni Mama mo?

A- Sinasabi po sa akin ni Mama.

Q- Pinapagawa ba ni Mama sa iyo iyon mga paghuhubad, pagtuwad dahil sa may kausap siya?

A- The witness nodded.

Q- Ibig sabihin ba noon na inutos ng kausap ng kausap (sic) ng Mama mo sa Mama mo na gawin ninyo iyon?

A- Opo.

Q- Pagkatapos mong maghubad, tumuwad, bumukaka, ano nangyayari pagkatapos?

A- Nagpapadala po iyong ano... yong pinaghubadan po namin. (sic)

Q- Nagpapadala iyong... sino? (sic)

A- Nagpapadala po iyong pinaghubadan namin.

Q- Ano ang pinapadala?

A- Pera po.

Q- San niya pinapadala?

A- Sa Western Union tapos minsan po sa Cebuana Lhuiller.

Q- So paano mo nalaman na may pinapadalang pera?

A- Sinasabi po sa akin ni Mama ko.

Q- Dinadala ka ba ni Mama mo sa Cebuana o kaya sa Western Union?

A- Sinasama niya po ako.<sup>28</sup>

AAA's testimony was clear and straightforward. She was able to narrate in a clear and categorical manner her experiences at the hands of her very own mother. She narrated that her mother XXX offered her for monetary consideration to her online costumers for purposes of sexual exploitation and pornography. AAA was asked to be naked in front of a webcam, and do things to satisfy the lust of XXX's clients. XXX is clearly guilty of Trafficking of Persons. Furthermore, her relationship with AAA, that is, her mother, and the age of AAA at the time of the incident – ten (10) years old, qualify the crime committed.

In contrast, XXX's claim of denial is a weak defense considering that her narration of facts is suspicious and contrary to human reason.

To recall, XXX claimed that he was merely blackmailed by an online chatmate, whose name she cannot remember. She averred that when her friend offered her money for the education of her children, she acceded but failed to reply to her friend after getting the money because of a power outage due to typhoon.<sup>29</sup>

Interestingly, if her chatmate was her friend, how come that she can no longer remember his name? She accepted money from someone who she did not know? Furthermore, XXX could have easily recovered and presented as evidence in her favor, not only the name of her friend but also her conversation with him, through Facebook. She, unfortunately, failed to do so. As such her defense of denial was bare and not worthy of any credence. It even becomes weaker in the face of positive identification of the accused by the prosecution witnesses,<sup>30</sup> such as in this case.

Finally, well-settled is the rule that courts are inclined to give credence to the version of a young and immature girl of what transpired. As held in *People v. Tulagan*:<sup>31</sup>

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired,

<sup>28</sup> *Rollo*, pp. 14-17.

<sup>29</sup> *Id.* at 7.

<sup>30</sup> *People v. Torres*, 317 Phil. 252, 258 (1995).

<sup>31</sup> G.R. No. 227363, March 12, 2019.

considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.<sup>32</sup>

*XXX is guilty of Child Abuse, not Acts of Lasciviousness.*

Contrary to the findings of the CA, XXX is not liable for the crime of Acts of Lasciviousness, but for Child Abuse under Section 10(a) of R.A. No. 7610.

Under section 3 (b) of R.A. No. 7610, "child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following: (1) psychological and physical abuse, neglect, cruelty, sexual abuse, and emotional maltreatment; (2) any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; (3) unreasonable deprivation of his basic needs for survival, such as food and shelter; or (4) failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

In conjunction with this, Section 10 (a) of the same act provides:

SECTION 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.

(a) Any person who shall commit any other acts of *child abuse*, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period. (Italics supplied.)

Corollarily, Section 2 of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases defines the term "child abuse" as the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child.<sup>33</sup>

As testified to by AAA before the RTC, she saw her mother, XXX, naked and rubbing her vagina in front of the webcam.<sup>34</sup> We agree with the trial court that witnessing XXX naked and AAA's performance of an indecent live

<sup>32</sup> *People v. Garcia*, 695 Phil. 576, 588-589 (2012).

<sup>33</sup> *Patulot y Galia v. People*, G.R. No. 235071, January 7, 2019.

<sup>34</sup> CA rollo, p. 72.

show upon the instruction of XXX, render her mother, XXX, guilty of Child Abuse.

XXX clearly inflicted, not physical, but psychological injury, not to mention sexual abuse and exploitation of her very own child. Such, without a doubt, debased, degraded and demeaned the intrinsic worth and dignity of AAA, as a child and as a human being.

*XXX is liable for Obscene Publication and Exhibition.*

Section 2(b), Article 201 of the RPC reads:

Art. 201. Immoral doctrines, obscene publications and exhibition, and indecent shows. The penalty of *prision mayor* or a fine ranging from six thousand to twelve thousand pesos, or both such imprisonment and fine, shall be imposed upon:

2. a. x x x x

b. Those who, in theaters, fairs, cinematographs or any other place, exhibit indecent or immoral plays, scenes, acts or shows, it being understood that the obscene literature or indecent or immoral plays scenes, acts or shows, whether live or in film, which are prescribed by virtue hereof, shall include those which: (1) glorify criminals or condone crimes; (2) serve no other purpose but to satisfy the market for violence, lust or pornography; (3) offend any race religion; (4) tend to abet traffic in and use of prohibited drugs; and (5) are contrary to law, public order, morals, good customs, established policies, lawful orders, decrees and edicts.

In the instant case, the prosecution was able to establish that XXX made her minor daughter, AAA, perform a live nude show for her online customers and clients, which served no other purpose but to satisfy the market for lust and pornography.

### **Imposable Penalties**

Anent the proper penalty to be imposed on XXX for Qualified Trafficking in Persons, Section 10 (c) of R.A. No. 9208 states that persons found guilty of Qualified Trafficking shall suffer the penalty of life imprisonment and a fine of not less than ₱2,000,000.00 but not more than ₱5,000,000.00. Thus, the RTC correctly sentenced XXX to suffer the penalty of life imprisonment and to pay a fine of ₱2,000,000.00.

We find reasonable the award of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱25,000.00 as exemplary damages in favor of AAA.

For Child Abuse, a further modification as to the imposable penalty is necessary to align with existing jurisprudence. We apply Our ruling in *Lalaguna v. People*,<sup>35</sup> where the accused therein was also convicted of the crime of Child Abuse. Hence, We impose the penalty of imprisonment of four (4) years, nine (9) months and eleven (11) days of *prision correccional* as minimum to six (6) years, eight (8) months and one (1) day of *prision mayor* as maximum against XXX. The RTC's awards of ₱50,000.00 civil indemnity, ₱50,000.00 as moral damages, ₱25,000.00 exemplary damages and a fine of ₱100,000.00 are retained.

Finally, on the crime of Obscene Publication and Exhibition under Article 201, Section 2(b) of the RPC, We affirm the penalty imposed by the CA.

All damages awarded shall earn a six percent (6%) legal interest *per annum* from the date of the finality of this Resolution until full payment.<sup>36</sup>

In view of all the foregoing, We are satisfied with moral certainty that the prosecution has established XXX's guilt beyond reasonable doubt for the crimes of Qualified Trafficking in Person, Child Abuse, and Obscene Publication and Exhibition. Accordingly, We are constrained to overturn the CA's conclusion that XXX was guilty of Acts of Lasciviousness and reinstate the RTC's ruling convicting her of the crime of Child Abuse.

**WHEREFORE**, the instant appeal is **DENIED**. The assailed Decision of the Court of Appeals in CA-G.R. CR-HC No. 08503 is **AFFIRMED** with the following **MODIFICATIONS**.

- I. In Crim. Case No. 154770 (Qualified Trafficking in Persons), to suffer the penalty of life imprisonment, and pay a fine of ₱2,000,000.00; and to pay AAA civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱25,000.00;
- II. In Crim. Case No. 154771 (Child Abuse), to suffer an indeterminate penalty of imprisonment of four (4) years, nine (9) months and eleven (11) days of *prision correccional* as minimum to six (6) years, eight (8) months and one (1) day of *prision mayor* as maximum; to pay a fine of ₱100,000.00; and to pay AAA ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages.
- III. In Crim. Case No. 154772 (Obscene Publications and

<sup>35</sup> G.R. No. 252197, September 2, 2020.

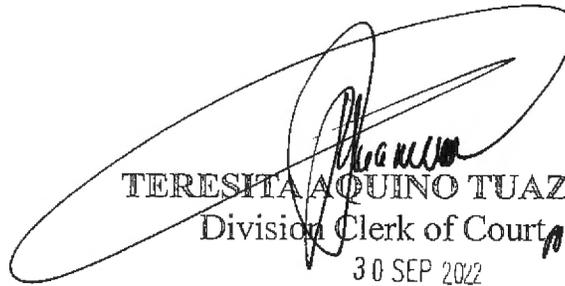
<sup>36</sup> *People v. Valencia*, G.R. No. 234013, June 16, 2021.

Exhibitions), to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

All damages awarded shall earn a six percent (6%) legal interest *per annum* from the date of the finality of this Resolution until full payment.

**SO ORDERED.**” (Inting, J., no part due to prior action in the assailed Court of Appeals Decision; Gesmundo, C.J., additional Member per Raffle dated August 25, 2021.)

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
 Division Clerk of Court  
 30 SEP 2022

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THE SUPERINTENDENT (reg)  
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THE DIRECTOR (reg)  
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HON. PRESIDING JUDGE (reg)  
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 Taguig City  
 (Crim. Case Nos. 154770-72)

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\*with a copy of the CA Decision dated July 20, 2017  
*Please notify the Court of any change in your address.*  
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