



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 5, 2022 which reads as follows:*

**“G.R. No. 252207 (*People of the Philippines v. CCC*). –** The safest place in the world for a daughter is in her father’s arms.<sup>1</sup> This aphorism was negated by this case where a father who was looked up to as the guardian and protector of the family demonstrated his bestiality and became the predator that preyed on the innocence of his own intellectually challenged minor child.

This is an appeal<sup>2</sup> filed by accused-appellant CCC (accused-appellant) from the November 14, 2019 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC 11005, which modified the February 22, 2018 Decision<sup>4</sup> of the Regional Trial Court (RTC) of Dagupan City, Branch 43 in Criminal Case No. 2017-0144-D, convicting accused-appellant guilty of the crime of Rape under Article 266-A paragraph 1(a) of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353.

**The Facts**

In an Information,<sup>5</sup> accused-appellant was charged with Rape allegedly committed against his minor daughter who is also suffering from mental retardation. The accusatory portion of the said Information provides:

- over – thirteen (13) pages ...

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<sup>1</sup> *People v. ABC*, G.R. No. 244835, December 11, 2019.

<sup>2</sup> *CA rollo*, pp. 128-130.

<sup>3</sup> *Id.* at 113-127. Penned by Associate Justice Walter S. Ong, with Associate Justices Ricardo R. Rosario (now a Member of the court), and Zenaida T. Galapate-Laguilles, concurring.

<sup>4</sup> *Id.* at 52-70. Rendered by Presiding Judge Caridad V. Galvez.

<sup>5</sup> Records, pp. 1-2.

That on or about the 2<sup>nd</sup> day of October 2016, in the City of x x x, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, CCC,<sup>6</sup> with lewd design, and with force and intimidation, did then and there, willfully, unlawfully and criminally, have carnal knowledge with his own child/daughter “AAA”, a 12-year old minor, and a mental retardate, against her will and consent, to the damage and prejudice of the latter.

CONTRARY to Article 266-A 1(a) in relation to Article 266-B, par. 5 (No. 1 and 10) of the Revised Penal Code as amended by RA 8353.<sup>7</sup>

When arraigned on February 24, 2017, assisted by a Public Attorney Cresencio dela Cruz, accused-appellant entered a plea of “not guilty” to the crime charged.<sup>8</sup> Preliminary and Pre-trial conference were held on March 7, 2017<sup>9</sup> where the Prosecution and Defense stipulated on the following facts:

1. The identity of the parties;
2. The accused-appellant is the natural father of AAA based on her Certificate of Live Birth;
3. The physical existence of the Certificate of Live Birth showing that she is twelve (12) years old at the time of the incident;
4. The Police Blotter Entry showing the fact of reporting the incident with the PNP Dagupan City;
5. The Medico-Legal Report issued by attending physician at Region I Medical Center evincing the fact of medical examination conducted on the victim.<sup>10</sup>

Trial on the merits then ensued.

### ***Version of the Prosecution***

On October 2, 2016, accused-appellant raped his twelve (12) year old daughter AAA, who is a mental retardate. At the time of the incident, AAA was living with, accused-appellant.<sup>11</sup>

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<sup>6</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>7</sup> Records, pp. 1-2.

<sup>8</sup> CA *rollo*, pp. 52-53.

<sup>9</sup> Id. at 53.

<sup>10</sup> Id.

<sup>11</sup> Id. at 87.

During her testimony, AAA testified with the aid of two (2) dolls showing the anatomy of a male and female. Using these dolls, AAA testified that accused-appellant kissed her on the lips and forehead.<sup>12</sup> She narrated that accused-appellant pulled AAA's underwear down followed by pulling down his pants together with his underwear.<sup>13</sup> After pulling both of their lower body garments, accused-appellant placed himself on top of AAA, while her right hand was on her back and her left hand being held by accused-appellant, he consummated his lewd designs.<sup>14</sup> When asked how many times did accused-appellant inserted his penis in her vagina, AAA answered three (3) times.<sup>15</sup>

On October 4, 2016, BBB, the victim's sister, visited the house where AAA and accused-appellant lived. AAA recounted to her the bestial act committed by their father.<sup>16</sup> AAA cried and embraced BBB while she was pointing at her vagina. BBB asked her who did it to her, AAA answered "Kaka", the usual name AAA calls accused-appellant.<sup>17</sup> After learning of the horrible act committed by accused-appellant, BBB took AAA away and brought her home.<sup>18</sup>

Thereafter, BBB and AAA filed a complaint at the police station and the Department of Social Welfare and Development (DSWD). AAA was later brought to the hospital and was subjected to a physical and medical examination.<sup>19</sup> The Medico-Legal Report shows that AAA has an old laceration at 3 o'clock position.<sup>20</sup>

The prosecution rested its case after a formal offer of its documentary evidence.

### *Version of the Defense*

For its part, the defense presented accused-appellant as its only witness. He denied the charges and claimed that he went out to watch TV for around two (2) hours.<sup>21</sup> After watching TV, he went home to feed his two (2) children AAA and DDD who were residing with him. His wife was not with them anymore because according to their neighbors, his wife eloped with another man.<sup>22</sup>

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<sup>12</sup> TSN of AAA, dated May 17, 2017, pp. 4-5.

<sup>13</sup> Id. at 4.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> TSN of BBB, dated April 28, 2017, pp. 4-5.

<sup>17</sup> Id. at 6.

<sup>18</sup> Id. at 8.

<sup>19</sup> Id. at 9.

<sup>20</sup> See Exhibit "E" of the prosecution.

<sup>21</sup> CA *rollo*, p. 41.

<sup>22</sup> Id. at 61.

On re-direct, accused-appellant averred that he is not aware of any reason why his daughter, AAA, filed a case against him. He was just mad and surprised that Cristina Aspa (Cristina) was spreading the rumor that he raped AAA. He knows Cristina because she is their neighbor and their house is just separated by a wooden divider.<sup>23</sup>

### **The RTC Ruling**

After due proceedings, the RTC rejected accused-appellant's defense of denial. It ruled that the prosecution was able to fully discharge its burden to prove his guilt beyond reasonable doubt for the crime of Rape defined under Article 266-A of the RPC, as amended. The trial court found credible AAA's testimony notwithstanding her intellectual disability as she was able to consistently narrate the details of the rape.<sup>24</sup> Even the delay in the institution of the complaint was not taken against the private complainant, as it is not uncommon for a young girl to conceal assaults on her virtue especially when the rapist is living with her.<sup>25</sup> Citing jurisprudence, the trial court justified that even a delay of eight (8) years is not a sign of fabrication.

The RTC then decreed:

**WHEREFORE**, premises considered, the court finds the accused [CCC] "**GUILTY**" beyond reasonable doubt of the crime of rape and is hereby sentenced to suffer the maximum penalty of reclusion perpetua and is ordered to pay the private complainant AAA, the sum of P75,000.00 as civil indemnity and P75,000.00 as moral damages with an interest of 6% per annum from the finality of this decision until satisfaction of the award.

**SO ORDERED.**<sup>26</sup> (Emphasis in the original)

Accused-appellant elevated the case to the CA via a Notice of Appeal.<sup>27</sup>

### **Ruling of the CA**

On November 14, 2019, the CA sustained the findings of the RTC and ruled<sup>28</sup> that the prosecution was able to establish the concurrence of all the elements of qualified rape.<sup>29</sup> The appellate court

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<sup>23</sup> Id. at 62-63.

<sup>24</sup> Id. at 65.

<sup>25</sup> Id. at 69.

<sup>26</sup> Id. 69-70.

<sup>27</sup> Id. 128-131.

<sup>28</sup> Decision dated November 14, 2019.

<sup>29</sup> CA *rollo*, p. 121.

found AAA's testimony, as corroborated by the results of the Medico-Legal Report, sufficient proof that accused-appellant had carnal knowledge of his biological daughter who is also suffering from an unspecified mental retardation.<sup>30</sup>

The appellate court found untenable accused-appellant's defense of denial as it cannot overcome the positive and categorical testimony and identification by AAA of accused-appellant, as the one who assaulted her virtues.<sup>31</sup>

As regards the award of damages, the CA increased the award of civil indemnity, moral and exemplary damages to ₱100,000.00 each in order to conform with the prevailing jurisprudence.

The CA disposed:

The appeal is denied for lack of merit. The Decision dated 22 February 2018 rendered by Branch 43 of the Regional Trial Court, First Judicial Region, X City in Criminal Case No. 2017-0144-D is AFFIRMED with MODIFICATION, in that CCC is sentenced to suffer the maximum penalty of *reclusion perpetua* without eligibility for parole and to pay AAA the sum of Ph[P]100,000.00 as civil indemnity, Ph[P]100,000.00 as moral damages, and Ph[P]100,000.00 as exemplary damages, all with interest of six percent (6%) *per annum* from the finality of this *Decision* until full payment.

**IT IS SO ORDERED.**<sup>32</sup> (Emphasis in the original)

Insisting on his innocence, accused-appellant filed the instant appeal<sup>33</sup> anchored on the following grounds:

I

THE COURT *A QUO* GRAVELY ERRED IN FAILING TO RECOGNIZE THAT IT LACKED JURISDICTION OVER THE CASE.

II

THE COURT *A QUO* GRAVELY ERRED IN DECLARING THE ACCUSED-APPELLANT GUILTY OF RAPE, DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE ELEMENTS OF THE CRIME CHARGED.<sup>34</sup> (Emphasis in the original)

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<sup>30</sup> Id. at 125.

<sup>31</sup> Id. at 126.

<sup>32</sup> Id. at 119.

<sup>33</sup> Id. at 128-130.

<sup>34</sup> Id. 38.

The Court required the parties to submit their respective supplemental briefs if they so desired.<sup>35</sup> Accused-appellant, through the Public Attorney's Office, filed a Manifestation (In lieu of a Supplemental Brief for the Accused-Appellant) on October 21, 2020.<sup>36</sup> He manifested that he foregoes the filing of a supplemental brief and adopts all arguments raised in his Brief dated December 03, 2018.<sup>37</sup> The Office of the Solicitor General, representing the appellee, also manifested that they will no longer submit a supplemental brief stating that the Brief dated April 10, 2019 filed with the CA has substantially and exhaustively addressed the issues and arguments raised in the Appellant's Brief.<sup>38</sup>

### The Ruling of the Court

The appeal lacks merit.

I

This Court will first address the procedural issue raised by accused-appellant. He claims that the Information charging him of rape is void. Accused-appellant pointed out that the said Information was signed by Deputy City Prosecutor Elmer M. Surot (Atty. Surot), in his capacity as Officer-in-Charge.<sup>39</sup> The prosecution, however failed to present any documentary evidence showing that Atty. Surot has prior written authority to file the information nor, has the approval of the City Prosecutor.<sup>40</sup>

Invoking Section 4(3),<sup>41</sup> Rule 112 of the Rules of Court, accused-appellant alleged that a City Prosecutor's signature in an Information is the embodiment of his or her approval to the filing of the same. Absent said signature, an Information lacks the authority required by law to signify the City Prosecutor's approval. This renders the Information void and must be quashed.<sup>42</sup>

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<sup>35</sup> *Rollo*, pp. 24-25.

<sup>36</sup> *Id.* at 27-29.

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

<sup>38</sup> *Id.* at 32-35.

<sup>39</sup> *Id.* at 42.

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

<sup>41</sup> Section 4, paragraph 3, Rule 112 of the Rules of Court

x x x x

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

x x x x

<sup>42</sup> *CA rollo*, pp. 41-42.

Accused-appellant's claim fails to persuade.

Basically, the question that needs to be resolved is whether the trial court is divested of its jurisdiction over the person of the accused-appellant and over the offense charged if the information is filed without the signature of the authorized officer such as the provincial, city or chief state prosecutor.

The issue has been extensively discussed and resolved by this Court in the recent case of *Gomez v. People*<sup>43</sup> which characterized the lack of prior approval or authority to file an Information as a mere procedural infirmity and not a jurisdictional defect which may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea, viz.:

In sum, a procedural infirmity regarding legal representation is not a jurisdictional defect or handicap which prevents courts from taking cognizance of a case, it is merely a defect which should not result to the quashal of an Information. As a result, objections or challenges pertaining to a handling prosecutor's lack of authority in the filing of an Information **may be waived** by the accused through silence, inaction or failure to register a timely objection. An Information filed by a handling prosecutor with no prior approval or authority from the provincial, city or chief state prosecutor will be rendered as merely quashable, until waived by the accused, and binding on the part of the State due to the presence of colorable authority.

In a nutshell, the Court reiterates that even some constitutionally guaranteed rights may be expressly or impliedly waived by the accused. The perceived right of the accused to question a handling prosecutor's authority in the filing of an Information does not even have any constitutional or statutory bearing. At best, it is only recognized by this Court, pursuant to its rule-making power, as a procedural device available for the accused to invoke in aid of the orderly administration of justice. Accordingly, such requirement to obtain a prior written authority or approval from the provincial, city or chief state prosecutor is considered merely a **formal**, and **not a jurisdictional**, requisite which **may be waived** by the accused.

x x x x

Presently, there is no penal law which prescribes or requires that an Information filed must be personally signed by the provincial, city or chief state prosecutor (or a delegated deputy) in

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<sup>43</sup> G.R. No. 216824, November 10, 2020.

order for trial courts to acquire jurisdiction over a criminal case. Clearly, the pronouncement in Villa is not sanctioned by any constitutional or statutory provision. Absent constitutional or statutory fiat, such pronouncement or ruling cannot operate to create another jurisdictional requirement before a court can acquire jurisdiction over a criminal case without trading on the confines of judicial legislation. In effect, Villa is rendered unconstitutional for violating the basic principle of separation of powers. Hence, it now stands to reason that a handling prosecutor's lack of prior written authority or approval from the provincial, city or chief state prosecutor in the filing of an Information **does not affect a trial court's acquisition of jurisdiction over the subject matter or the person** of the accused.

x x x x

All told, the handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. 3(d), Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.<sup>44</sup> (Emphases in the original)

Clearly, lack of prior written authority or approval from the provincial, city or chief state prosecutor as a ground to quash the Information is deemed waived. Accused-appellant belatedly raised said issue only on appeal.

## II

We now resolve the substantive aspect. The instant case pertains to the crime of Qualified Rape by a father of his minor daughter who is suffering from unspecified intellectual disability.

Article 266-A of the RPC provides:

ART. 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;

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<sup>44</sup> Id.



b) When the offended party is deprived of reason or is 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.

Based on Article 266-A of the RPC, the crime of rape is committed when a man 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 previously mentioned are present.

Under Article 266-B<sup>45</sup> of the RPC, as amended by R.A. No. 8353, rape is penalized with *reclusion perpetua*. When rape is qualified, the death penalty shall be imposed. The crime of rape is qualified if all these requisites are present: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under eighteen years of age at the time of the rape; and (5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.<sup>46</sup>

In the present case, the Court finds no convincing reason to deviate from the findings of the lower court that the prosecution was able to sufficiently prove beyond reasonable doubt all the elements of qualified rape.

In an attempt to exculpate himself from conviction, accused-appellant harps on the alleged failure of the prosecution to categorically establish the elements of the crime charged against

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<sup>45</sup> REVISED PENAL CODE, Article 266-B.

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

x x x x

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.

x x x x

<sup>46</sup> *People v. Divinagracia*, 814 Phil. 730, 748 (2017).

him. Accused-appellant claims that AAA's *Sinumpaang Salaysay* lacks any indication that he raped her. He also pointed out the following portion of AAA's testimony:

Q [AAA], [CCC] is your father?

A Yes, ma'am. Witness is pointing to the person seated at the last bench inside the Courtroom who identified himself [as] [CCC].

Q What did your father do to you?

A Witness demonstrating and pointing to her vagina and demonstrating using her right index finger and her palm and she is placing her index finger on her left palm.

Q I am giving to you two (2) dolls [AAA], let's say this is you and this is your father, show us what your father did to you using these dolls?

A Witness is placing or using the dolls as if they are kissing.

Q Now, where did your father kiss you?

A Witness placed the lips (sic) of the male anatomical correct dolls to the lips of the female anatomical correct doll.

Q Where else did he kiss you?

A Witness is pointing to her forehead.

Q Now, when you ... what else did your father do to you?

A Witness is using her finger and pointing to the vagina of the anatomical correct doll.

Q This is your father, what did he do?

A Witness demonstrating that accused pulled down his pant[s] and brief of the anatomical correct doll and placed the male anatomical correct doll on top of the female anatomical correct doll.

Q You said he removed his brief?

A Yes, ma'am.

Q This is your father and you said he removed your panty, what did he do?

A Witness demonstrating that her right hand was on her back while her father was holding her left hand.<sup>47</sup>

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<sup>47</sup> CA rollo, pp. 45-46.

x x x x

For accused-appellant, kissing and touching one's vagina are insufficient to establish the crime of rape. AAA's testimony failed to establish an actual penetration of the accused-appellant penis into AAA's vagina. He added that due to AAA's mental retardation, the trial court should have treated her testimony with a grain of salt instead of according it with utmost credence.<sup>48</sup>

We are not convinced.

In *People v. Rodriguez*,<sup>49</sup> rape can be established by the sole testimony of the victim that is credible and not tainted with serious uncertainty especially when bolstered with medical findings. In this case, the victim's testimony on her defilement is corroborated by physical evidence of penetration which supports the conclusion that there was carnal knowledge.<sup>50</sup>

To discredit AAA's credibility, accused-appellant harps on AAA's mental retardation. Jurisprudence, however, provides that a mental retardate may be a credible witness because mental retardation *per se* does not affect a witness's credibility.<sup>51</sup> That the victim suffers from a mental abnormalcy would not detract from the reliability of her testimony.<sup>52</sup> In *People v. Castillo*,<sup>53</sup> we ruled:

It bears emphasis that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it is shown that they can communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant's accusations, it even lends greater credence to her testimony, that, someone as feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused.<sup>54</sup>

The appreciation of the trial court on the credibility of AAA as a direct witness, despite her mental disability, given her candid and categorical identification of the accused-appellant as the one who defiled her and the straightforward narration of the acts constituting the crime of qualified rape must be sustained especially since the CA affirmed the same.<sup>55</sup>

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<sup>48</sup> Id. at 46-47.

<sup>49</sup> 781 Phil 826 (2016).

<sup>50</sup> Id. at 834-835.

<sup>51</sup> *People v. Obogne*, 730 Phil. 354, 359 (2014).

<sup>52</sup> *People v. Bayrante*, 687 Phil. 416, 427 (2012).

<sup>53</sup> 641 Phil. 570 (2010).

<sup>54</sup> Id. at 587-588.

<sup>55</sup> *People v. Gerola*, 813 Phil. 1055, 1066 (2017).

The Court finds no reason to disturb the lower court's appreciation of the prosecution witnesses' testimonies. The assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand, a vantage point denied appellate courts.<sup>56</sup>

The rejection of denial as defense for accused-appellant is also well-taken. Denial is essentially the weakest form of defense and it can never overcome an affirmative testimony particularly when it comes from the mouth of a credible witness.<sup>57</sup>

The lower court correctly found accused-appellant guilty beyond reasonable doubt for the crime of qualified rape, defined and penalized under Article 266-A, paragraph 1 and Article 266-B. Given the relation of the accused-appellant to AAA, as well as AAA's minority, the penalty provided by law should be *reclusion perpetua* to death. But due to the suspension of the death penalty, the Court sustains the penalty of *reclusion perpetua* without eligibility for parole imposed on the accused-appellant.

In line with recent jurisprudence, the appellate court correctly awarded exemplary damages and increased the awards of civil indemnity, moral damages from ₱75,000.00 to ₱100,000.00 each.

**WHEREFORE**, premises considered, the appeal is hereby **DISMISSED**. The November 14, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11005 is **AFFIRMED**.

The letter dated January 2, 2022 of CTSSupt. Ricardo S. Zulueta, New Bilibid Prison, Maximum Security Compound, Muntinlupa City, informing the Court that the accused-appellant was received in their Institution on July 12, 2018 and is presently confined therein, is **NOTED**.

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<sup>56</sup> *People v. GGG*, G.R. No. 224595, September 18, 2019.

<sup>57</sup> *People v. Dulay*, 695 Phil. 742, 759 (2012).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court **2719**

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**66 & 110-B**  
**JUL 29 2022**

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 11005)

The Hon. Presiding Judge  
Regional Trial Court, Branch 43  
Dagupan City, 2400 Pangasinan  
(Crim. Case No. 2017-0144-D)

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