



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 15, 2022**, which reads as follows:

“**G.R. No. 255019 – (ALEX BARON y OLIVEROS @ “DODONG,” petitioner, versus PEOPLE OF THE PHILIPPINES, respondent).** - After reviewing the Petition and its annexes, inclusive of the Decision<sup>1</sup> dated January 27, 2020 and Resolution<sup>2</sup> dated December 14, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 40902, and the Decision<sup>3</sup> dated October 18, 2017 of the Regional Trial Court of La Trinidad, Benguet, Branch 9 (RTC), in Criminal Cases Nos. 13-CR-9387, 13-CR-9388 and 13-CR-9389, the Court resolves to **DENY** the Petition for failure of petitioner Alex “Dodong” Baron y Oliveros (Baron) to sufficiently show that the CA committed any reversible error in the challenged Decision and Resolution to warrant the exercise of this Court’s discretionary appellate jurisdiction.

Baron is charged with three counts of Lascivious Conduct under Section 5(b) of Republic Act No. (RA) 7610,<sup>4</sup> viz.:

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:

X X X X

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other

<sup>1</sup> *Rollo*, pp. 29-47. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Stephen C. Cruz and Louis P. Acosta concurring.

<sup>2</sup> *Id.* at 49-59.

<sup>3</sup> *Id.* at 74-81. Penned by Judge Marietta S. Brawner-Cualing.

<sup>4</sup> AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES, otherwise known as the “SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT,” approved on June 17, 1992.

sexual abuse; *Provided*, That when the victim 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[.]

In essence, Baron asserts that AAA<sup>5</sup> had actually engaged in sexual acts with Baron out of his own free will. First, he points out that the lower courts failed to consider that AAA's testimony failed to establish that Baron actually coerced or intimidated AAA — and that, on the contrary, AAA had actually engaged in sexual acts with Baron out of his own free will. Second, although the lower courts found that AAA's willingness could not be taken against him because of Baron's lure of money and other promises, Baron insists that AAA's testimony has doubtful veracity, considering that AAA's cousin, BBB and AAA's uncle, CCC clearly "exerted some influence" on AAA to initiate the present complaint.<sup>6</sup>

The Court finds no merit in Baron's arguments.

The Court notes at the outset that Baron's Petition relies on issues that are factual in nature, as he questions in particular the appreciation by the RTC and CA of the evidence as well as the credibility of the testimony of the victim, AAA. As a rule, issues dealing with the sufficiency of the evidence and the relative weight accorded to it by the RTC cannot be raised in an appeal by *certiorari*, which is confined to questions of law. Questions that are purely factual and evidentiary and which require a re-evaluation and recalibration of the evidence are outside the scope of the Court's discretionary appellate jurisdiction under Rule 45.<sup>7</sup>

As well, it is settled that in assessing the credibility of a witness, the findings of the trial courts carry great weight and respect due to the unique opportunity afforded them to observe the deportment of the witness while undergoing the rigors of examination.<sup>8</sup> Consequently, appellate courts will not overturn the factual findings of the trial courts unless there is a showing that

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<sup>5</sup> The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. RA 7610; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of Administrative Matter No. 04-10-11-SC, otherwise known as the "RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, titled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018, 871 SCRA 424.)

<sup>6</sup> *Rollo*, p. 20.

<sup>7</sup> *Granton v. People*, G.R. No. 226045, October 10, 2018, 883 SCRA 135, 147.

<sup>8</sup> *People v. Bongbonga*, 816 Phil. 596, 606 (2017), citing *Corpuz v. People*, 734 Phil. 353 (2014).

the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.<sup>9</sup> Such rule finds an even more stringent application where the findings of the RTC are sustained by the CA, as in the case at bench.<sup>10</sup>

Be that as it may, even if the foregoing rule were to be relaxed, the Court finds no error committed by the CA in convicting Baron for the subject crimes.

According to jurisprudence,<sup>11</sup> the elements of Lascivious Conduct under Section 5(b) of RA 7610 are as follows:

1. The accused commits the 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>12</sup>

In this regard, the Implementing Rules and Regulations of RA 7610 defines “lascivious conduct” as:

x x x 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[.]*<sup>13</sup>

The foregoing elements were sufficiently alleged and proved by the prosecution beyond reasonable doubt, *i.e.*, that on three separate occasions, Baron committed lascivious conduct on AAA, a child exploited in prostitution or other sexual abuse, who was then below 18 years of age.

AAA clearly and positively testified that while he was 13 years of age, Baron committed lascivious conduct on him by “caress[ing],” “play[ing] with” and “suck[ing]” his penis on three separate occasions at Baron’s boarding house.<sup>14</sup> AAA also testified that on these occasions, Baron gave

<sup>9</sup> Id. at 606, citing *People v. Gahi*, 727 Phil. 642 (2014).

<sup>10</sup> Id.

<sup>11</sup> See *People v. Tulagan*, G.R. No. 227363, March 12, 2019, 896 SCRA 307; *People v. Villacampa*, 823 Phil. 70, 84 (2018), citing *People v. Bonaagua*, 665 Phil. 750 (2011); and *Olivarez v. Court of Appeals*, 503 Phil. 421, 431 (2005), citing *Amployo v. People*, 496 Phil. 747 (2005).

<sup>12</sup> Id.

<sup>13</sup> RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES, October 11, 1993, Sec. 2(h); italics supplied.

<sup>14</sup> AAA testified:

PROSECUTOR OLIVA:

x x x x

AAA money after the sexual acts and promised AAA a cellular phone “should they stay together for a long period of time.”<sup>15</sup> Baron himself likewise admitted during the preliminary and pre-trial conferences AAA’s minority at the time of the commission of the said acts.<sup>16</sup>

As a rule, the testimonies of child-victims are given full weight and credit. Moreover, in prosecutions for acts of lasciviousness in particular, it has been held that the lone testimony of the offended party, if credible, is sufficient to establish the guilt of the accused; and that youth and immaturity of the victim are generally badges of truth that the courts cannot justly ignore.<sup>17</sup> The Court thus finds no cogent reason to doubt the testimony of AAA relative to his defilement by Baron, as such testimony was, as observed by the trial court, “clear and direct to the point.”<sup>18</sup>

At this juncture, it is worthy to note that Baron does not dispute the presence of the first and third elements of the offense. Rather, he simply takes issue as regards the existence of the second element — and asserts that he did not coerce AAA,<sup>19</sup> and that AAA engaged in sexual acts with Baron out “of his own free will.”<sup>20</sup> For this purpose, Baron highlights that in one instance, after the supposed lascivious conduct, AAA stayed the night and even took a bath the morning after. He also points out that in yet another instance, while AAA was left alone in Baron’s boarding house, AAA voluntarily stayed and waited for Baron to come back.<sup>21</sup> In other words, Baron argues that AAA was not a child “exploited in prostitution or subjected to other sexual abuse.”

The Court is not convinced.

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Q. Were you able to sleep?

A. No[,] ma’am.

Q. Why were you not able to sleep?

A. He started removing my pants and brief and he started to caress and suck my penis.

x x x x

Q. And what happened after you lied down on the bed?

A. When he came back, he again pulled down my pants and removed my brief and he played with my penis and sucked it.

x x x x

Q. Mr. Witness, how many times do you remember that Alex Baron put down your pants and brief, caress and suck your penis?

A. Three times if I am not mistaken. *Rollo*, pp. 36-40.

<sup>15</sup> *Id.* at 79.

<sup>16</sup> *Id.* at 40.

<sup>17</sup> *Catuiza v. People*, G.R. No. 237031, April 4, 2018 (Unsigned Resolution); *Awaz v. People*, 811 Phil. 700, 707-708 (2017), citing *People v. Mendoza*, 595 Phil. 1197 (2008); and *People v. Cataytay*, 746 Phil. 185 (2014).

<sup>18</sup> *Rollo*, p. 79.

<sup>19</sup> *Id.* at 20.

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

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

It bears noting that all the three Informations<sup>22</sup> filed against Baron sufficiently alleged that AAA is a child “exploited in prostitution or subjected to other sexual abuse” as defined under RA 7610. In this regard, Section 5 of RA 7610 deems a child, whether male or female, as one “exploited in prostitution and other sexual abuse” (1) who for money, profit or any other consideration or (2) due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct.<sup>23</sup>

Anent the first two instances of Baron’s lascivious conduct, both Informations in Criminal Cases Nos. 13-CR-9387 and 13-CR-9388 alleged that Baron “invit[ed] [AAA] inside his room with **a promise to give him something in return[,]**” and, thereafter fondled, licked and sucked AAA’s penis “against his will and consent.”<sup>24</sup> Similarly, anent the third instance, the Information in Criminal Case No. 13-CR-9389 likewise alleged that Baron “licked [AAA’s] nipples and sucked his penis **in exchange [for] money.**”<sup>25</sup>

True enough, in AAA’s un rebutted testimony, he testified that Baron lured him into giving in to Baron’s sexual advances by making promises that he would give AAA cellular phone if they would be able to stay together for a long period of time.<sup>26</sup> As well, as found by the lower courts, Baron gave money to AAA “after every lascivious act complained of.”<sup>27</sup> In fact, in one instance, apart from money, Baron also gave AAA a wallet containing his picture.<sup>28</sup> AAA further testified that in all of such instances, he did not ask Baron for money, and that it was given to him by Baron voluntarily.<sup>29</sup> Clearly, AAA acceded to Baron’s advances not only because of his age, but also for “money, profit or any other consideration.”

In addition, AAA testified that he did not know at the time that Baron’s acts were wrong,<sup>30</sup> and that, in one instance, he was even told by Baron to drink liquor before engaging in said lascivious acts.<sup>31</sup> Here, it can also be

<sup>22</sup> Id. at 30-31.

<sup>23</sup> RA 7610, Sec. 5; *Leonor v. People*, G.R. No. 216102, November 3, 2020 (Unsigned Resolution).

<sup>24</sup> *Rollo*, p. 30; emphasis supplied.

<sup>25</sup> Id. at 31; emphasis supplied.

<sup>26</sup> Id. at 42.

<sup>27</sup> Id.

<sup>28</sup> Id. at 76.

<sup>29</sup> Id. at 39.

<sup>30</sup> AAA’s pertinent testimony states:

PROS. OLIVA:

May we make it of record that the witness is in tears.

Q. Aside from being ashamed[d] personally, what do you feel of yourself?

A. I have lost confidence in myself.

Q. Do you now realize that what happened to you is not right?

A. Yes[,] ma’am.

Q. But at that time that the accused is [*sic*] doing this to you, do you know that what the accused is [*sic*] doing to you is wrong?

A. No[,] ma’am. Id. at 40.

<sup>31</sup> AAA further testified:

PROSECUTOR OLIVA:

gleaned from the records that Baron was already 28 years old at the time of the commission of the crime,<sup>32</sup> which was more than twice the age of AAA who was only 13 years old at that time.<sup>33</sup>

On this score, the Court held in *Caballo v. People*<sup>34</sup> that the age disparity between an adult and a minor is an *indicium* of coercion or influence.<sup>35</sup> Thus, as aptly observed by the CA, the age disparity between Baron and AAA of more than 16 years irrefragably placed the former in a stronger position to exert his will upon the latter.<sup>36</sup>

As such, in view of AAA's minority, coupled with AAA's and Baron's age disparity of more than 16 years and, more importantly, Baron's "lure of money and other promises," AAA's supposed willingness will not exculpate Baron. In *People v. Abello*,<sup>37</sup> the Court emphasized that "since [RA] 7610 is a special law referring to a particular class in society, the prosecution must show that the victim truly belongs to this particular class to warrant the application of the statute's provisions."<sup>38</sup> Here, the Court finds that the prosecution was able to sufficiently show that AAA "truly belongs" to the class of children who are deemed "exploited in prostitution or other sexual abuse" as contemplated under RA 7610.

Finally, it bears stressing that Baron did not even deny the foregoing allegations, particularly — that he gave AAA money in said instances, or that he promised AAA a cellphone in exchange for their prolonged relationship.<sup>39</sup> Rather, he simply argues that AAA's testimony cannot be given credence

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x x x x

Q. What happened to the liquor that Dodong bought?

A. We drunk a little.

Q. Who told you to drink the liquor?

A. Dodong.

Q. How old were you that time in the year 2012?

A. 13 years old.

x x x x

Q. After you drunk the liquor, what happened next, if any?

A. Aster requested Dodong to bring him home and Dodong complied.

x x x x

Q. And what happened after you lied down on the bed?

A. When he came back, he again pulled down my pants and removed my brief and he played with my penis and sucked it. Id. at 38.

<sup>32</sup> Id. at 42.

<sup>33</sup> Id.

<sup>34</sup> 710 Phil. 792 (2013).

<sup>35</sup> Id. at 807.

<sup>36</sup> *Rollo*, p. 42.

<sup>37</sup> 601 Phil. 373 (2009).

<sup>38</sup> Id. at 394.

<sup>39</sup> *Rollo*, pp. 19-22.

considering that BBB and CCC clearly “exerted some influence” on AAA to initiate the present complaint.<sup>40</sup>

This argument, however, is unavailing. Here, Baron did not even adduce any evidence to show how AAA was actuated by any dubious or improper motive to falsely testify against Baron. Rather, he simply implies that it was BBB’s and CCC’s influence which pushed AAA to initiate the complaint against him.<sup>41</sup> In this respect, it is settled that where there is nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he/she was not so actuated and his/her testimony is entitled to full faith and credit.<sup>42</sup> In fact, for as long as the identity of the accused and his/her participation in the commission of the crime has been duly established, motive is immaterial to sustain a conviction.<sup>43</sup>

In sum, it is immaterial that AAA apparently engaged with Baron in such acts “out of [AAA’s] own free will.”<sup>44</sup> Considering that the victim was lured to engage in sexual conduct with the petitioner due to material consideration — in a sense, turning the victim into a prostitute — the “sexual intercourse becomes voluntary and consensual because that is the logical consequence of prostitution.”<sup>45</sup> As aptly observed by the RTC, AAA’s apparent willingness or consent to engage in these lascivious acts by Baron “could not be taken against him because of the lure of money given to him and the promise of a cellular phone conditioned to be given to him if he will continue [their activities] for a long time.”<sup>46</sup>

All told, we find that all the elements were proven beyond reasonable doubt. Baron, on three separate occasions, “caressed and sucked” the penis of AAA, a 13-year-old minor. In these instances, Baron took advantage of AAA’s minority and credulity, and gave or offered AAA, “money, profit, or any other consideration” by giving him money and promising to give him a cellular phone conditioned on their continued relationship. Baron, therefore, is guilty of three counts of Lascivious Conduct, in violation of Section 5(b) of RA 7610. As regards the penalties and civil liabilities *ex delicto* adjudged by the CA for all three counts, the same are likewise in accordance with law and prevailing jurisprudence.<sup>47</sup>

**WHEREFORE**, premises considered, the Petition is **DENIED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated January 27, 2020 of the Court of Appeals in CA-

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<sup>40</sup> Id.

<sup>41</sup> Id. at 20.

<sup>42</sup> *People v. Pulgo*, 813 Phil. 205, 215-216 (2017); *People v. Dadao*, 725 Phil. 298, 310-311 (2014); and *People v. Aquino*, 724 Phil. 739, 755 (2014).

<sup>43</sup> *People v. Ygot*, 790 Phil. 236, 242 (2016).

<sup>44</sup> *Rollo*, p. 20.

<sup>45</sup> *People v. Tulagan*, supra note 11, at 387.

<sup>46</sup> *Rollo*, p. 79.

<sup>47</sup> See *People v. Tulagan*, supra note 11.

**SO ORDERED.”**

By authority of the Court:

*MisDCBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *8/15/22*

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13-CR-9388,  
13-CR-9389)

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