



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 February 2022** which reads as follows:*

“**G.R. No. 256261 (People of the Philippines v. ZZZ)**¹. — After a judicious study of the case, the Court resolves to **DISMISS** the appeal² for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in affirming the conviction of accused-appellant ZZZ of two (2) counts of Qualified Rape, defined and penalized under Article (Art.) 266-A (1) (a) in relation to Art. 266-B (1) of the Revised Penal Code (RPC), three (3) counts of Statutory Rape, defined and penalized under Art. 266-A (1) (d) in relation to Art. 266-B (1) of the RPC, one (1) count of Acts of Lasciviousness under Art. 336 of the RPC in relation to Section 5 (b) of Republic Act No. (RA) 7610,³ and two (2) counts of Lascivious Conduct under Section 5 (b) of RA 7610.

As correctly ruled by the CA, the prosecution was able to prove ZZZ’s criminal liability beyond reasonable doubt as it was established that he sexually abused the daughters of his common-law wife as follows: (a) he had carnal knowledge of AAA when she was 8, 11, and 13 years old; (b) he had carnal knowledge of BBB when she was 9 and 14 years old; and (c) he performed lascivious and lewd acts on BBB when she was 11 and 12 years old.⁴ AAA’s and BBB’s positive detailing of the incidents of defilement, identification of ZZZ as the abuser, and medical findings showing rape, indicate the truthfulness of their

¹ The identities of the victim and accused appellant or any information which could establish or compromise their identity, as well as those of their immediate family or household members, shall be withheld pursuant to RA 7610, entitled ‘AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,’ approved on June 17, 1992; RA 9262, entitled ‘AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES,’ approved on March 8, 2004; and Section 40 of A.M. 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, entitled ‘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.)

² See Notice of Appeal dated October 19, 2020; CA *rollo*, pp. 148-149.

³ Entitled ‘AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES,’ approved on June 17, 1992.

⁴ See *rollo*, pp. 7-12. See also CA *rollo*, pp. 44-50.

accounts.⁵ This Court too gives no credence to ZZZ's allegations that the charges were mere fabrications as the private complainants' revelation that they had been raped, coupled with their voluntary submission to medical examination and willingness to undergo public trial where they could be compelled to give out the details of an assault on their dignity, cannot be so easily dismissed as mere concoction.⁶ Thus, there being no indication that the courts *a quo* overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings.⁷

However, there is a need to modify the nomenclature of crimes for which ZZZ was convicted, and their corresponding penalties and awards of civil liability *ex delicto* in accordance with prevailing jurisprudence.⁸ As such: (a) for CR FMY Case Nos. 2016-720 and 2016-723, the crime is Qualified Rape⁹ under Art. 266-A (1) (a) in relation to Art. 266-B (1) of the Revised Penal Code; (b) for CR FMY Case Nos. 2016-721, 2016-722, and 2016-724, the crime is Qualified Statutory Rape¹⁰ under Art. 266-A (1) (d) in relation to Art. 266-B (1) of the RPC; (c) for CR FMY Case No. 2016-725, the crime is Acts of Lasciviousness¹¹ under Art. 336 of the RPC in relation to Section 5 (b) of RA 7610; and (d) for CR FMY Case Nos. 2016-726 and 2016-727, the crime is Lascivious Conduct¹² under Section 5 (b) of RA 7610.

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision¹³ dated September 25, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 02004-MIN and **AFFIRMS with MODIFICATION** said Decision as follows:

⁵ See *id.*

⁶ *People v. Ganaba*, 829 Phil. 306, 321 (2018), citing *People v. Descartin*, 810 Phil. 881, 882-883 (2017).

⁷ See *Cahulogan v. People*, 828 Phil. 742, 749 (2018), citing *Peralta v. People*, 817 Phil. 554, 563 (2017), further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

⁸ See *People v. Jugueta*, 783 Phil. 806, 847-853 (2016); *People v. Tulagan*, G.R. No. 227363, March 12, 2019; *ABC v. People*, G.R. No. 248300 (Notice), January 27, 2020; *Tizon y Nido v. People*, G.R. No. 251328 (Notice), September 8, 2020.

⁹ The elements of Qualified Rape are: (a) the offender had carnal knowledge of a woman; (b) said carnal knowledge was accomplished through force, threat, or intimidation; and (c) 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. (See *People v. Comboy*, 782 Phil. 187, 197-198 [2016])

¹⁰ The elements of Qualified Statutory Rape are: (a) the offender had carnal knowledge of the victim; (b) the victim is below twelve (12) years old; and (c) 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. (See *People v. Comboy*, *id.*)

¹¹ 'For an accused to be convicted of acts of lasciviousness, the confluence of the following essential elements must be proven: (1) that the offender commits any act of lasciviousness or lewdness; and (2) that it is done under any of the following circumstances: (a) by using force or intimidation; (b) when the offended woman is deprived of reason or otherwise unconscious; or (c) when the offended party is under twelve (12) years of age.' (*People v. Tulagan*, G.R. No. 227363, March 12, 2019).

¹² The elements of lascivious conduct are as follows: (a) the accused commits the act of lascivious conduct; (b) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (c) the child, whether male or female, is below eighteen (18) years of age. (See *People v. Caoili*, 815 Phil. 839, 886 [2017]).

¹³ *Rollo*, pp. 6-33. Penned by Associate Justice Lily V. Biton with Associate Justices Oscar V. Badelles and Richard D. Mordeno, concurring.

(a) in CR FMY Case No. 2016-720, ZZZ is **GUILTY** beyond reasonable doubt of Qualified Rape, and accordingly, sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment;

(b) in CR FMY Case No. 2016-721, ZZZ is **GUILTY** beyond reasonable doubt of Qualified Statutory Rape, and accordingly, sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment;

(c) in CR FMY Case No. 2016-722, ZZZ is **GUILTY** beyond reasonable doubt of Qualified Statutory Rape, and accordingly, sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment;

(d) in CR FMY Case No. 2016-723, ZZZ is **GUILTY** beyond reasonable doubt of Qualified Rape, and accordingly, sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay BBB the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment;

(e) in CR FMY Case No. 2016-724, ZZZ is **GUILTY** beyond reasonable doubt of Qualified Statutory Rape, and accordingly, sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay BBB the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment;

(f) in CR FMY Case No. 2016-725, ZZZ is **GUILTY** beyond reasonable doubt of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5 (b) of Republic Act No. 7610, and accordingly, sentenced to suffer the indeterminate sentence of twelve (12) years, ten (10) months, and twenty-one (21) days of *reclusion temporal*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum, to pay a fine in the amount of ₱15,000.00, and to pay BBB the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages. The civil indemnity, moral damages, and exemplary damages

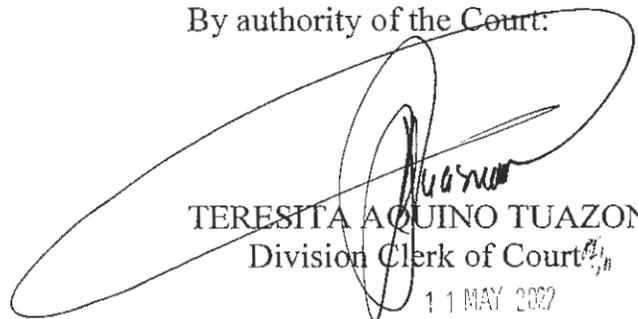
shall incur legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment;

(g) in CR FMY Case No. 2016-726, ZZZ is **GUILTY** beyond reasonable doubt of Lascivious Conduct under Section 5 (b) of Republic Act No. 7610, and accordingly, sentenced to suffer the penalty of *reclusion perpetua*, to pay a fine in the amount of ₱15,000.00, and to pay BBB the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages. The civil indemnity, moral damages, and exemplary damages shall incur legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment; and

(h) in CR FMY Case No. 2016-727, ZZZ is **GUILTY** beyond reasonable doubt of Lascivious Conduct under Section 5 (b) of Republic Act No. 7610, and accordingly, sentenced to suffer the penalty of *reclusion perpetua*, to pay a fine in the amount of ₱15,000.00, and to pay BBB the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages. The civil indemnity, moral damages, and exemplary damages shall incur legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.

SO ORDERED.”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court^{1,2}
11 MAY 2022

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HON. PRESIDING JUDGE (reg)
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(Crim. Case No. 2016-720- & 2016-727)

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Supreme Court, Manila

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COURT OF APPEALS (reg)
Cagayan de Oro City
CA-G.R. CR-HC No. 02004-MIN

*with copy of CA Decision dated 35 September 2020
Please notify the Court of any change in your address.
GR256261. 02/28/2022(84 & 127[b])URES(m) *Redu*