



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 20, 2022, which reads as follows:

“**G.R. No. 257205 (People of the Philippines v. CCC¹)**. – This is an appeal seeking to reverse and set aside the Decision² dated 05 November 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11934. The CA affirmed the Amended Judgment³ dated 04 September 2018 of Branch 73, Regional Trial Court (RTC), [REDACTED], in Criminal Cases Nos. 397-2014FC, 398-2014FC, 399-2014FC, and 400-2014FC.

Antecedents

Accused-appellant CCC was charged with three counts of Rape, penalized under Article 266-A, paragraph 1(d) of the Revised Penal Code⁴ (RPC) and one count of violation of Section 10(a) of Republic Act No. 7610⁵ (RA 7610). We quote these charges in relevant part:

CRIMINAL CASE NO. 397-2014FC

¹ The real names & personal circumstances of the victim are withheld pursuant to Amended Administrative Circular No. 83-15 dated 05 September 2017 which requires the preparation of a first copy of Decisions/Resolutions/Orders where the real or genuine name/s or identity/ies and personal circumstances of the victim/s are used.

² *Rollo*, pp. 9-21; penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Jhosep Y. Lopez (now Member of this Court) and Alfredo D. Ampuan.

³ *Id.* at 23-34; penned by Acting Presiding Judge Ma. Cristina J. Mendoza-Pizarro.

⁴ Article 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;
b. When the offended party is deprived of reason or is otherwise unconscious;
c. By means of fraudulent machination of grave abuse of authority;
d. When the offended party is under twelve years of age or is demented, even though none of the circumstances above be present;

⁵ Entitled “AN ACT PROVIDING FOR THE STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES.” Approved on 17 June 1992.

That on or about the year 2012, at Barangay [REDACTED], in the Municipality of [REDACTED], Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being biological [sic] father of [AAA], by taking advantage of his moral ascendancy over his then 11-year old biological daughter, and with lewd design, by means of threat and intimidation employed upon the person of said victim, did then and there willfully, unlawfully and feloniously, have carnal knowledge of [AAA], then aggravated/qualified by the circumstance that said minor-victim was under eighteen (18) years of age, thereby degrading and demeaning the intrinsic worth and dignity of said minor [AAA], to her damage and prejudice[.]

CRIMINAL CASE NO. 398-2014FC

That on or about the year 2013, at Barangay [REDACTED], in the Municipality of [REDACTED], Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being biological [sic] father of [AAA], with lewd design, through force or coercion, did then and there willfully, unlawfully and feloniously, have carnal knowledge of [AAA], then a minor, being twelve (12) years old, against her will, aggravated/qualified by the circumstance that said minor-victim was under eighteen (18) years of age, thereby degrading and demeaning the intrinsic worth and dignity of said minor [AAA], to her damage and prejudice[.]

CRIMINAL CASE NO. 399-2014FC

That on or about and sometime [sic] July 2014, at around 5:00 in the afternoon, at Barangay [REDACTED], in the Municipality of [REDACTED], Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being a [sic] biological father of [AAA], with lewd design, through force or coercion, did then and there willfully, unlawfully and feloniously, have carnal knowledge of [AAA], then a minor, being thirteen (13) years old, against her will, aggravated/qualified by the circumstance that said minor-victim was under eighteen (18) years of age, thereby degrading and demeaning the intrinsic worth and dignity of said minor [AAA], to her damage and prejudice[.]

CRIMINAL CASE NO. 400-2014FC

That on or about the 17th day of September 2014, at around 5:00 in the afternoon, at Barangay [REDACTED], in the Municipality of [REDACTED], Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to commit acts of child abuse and cruelty on then thirteen (13) years old minor [AAA], did then and there willfully, unlawfully and feloniously, hit and maul said [AAA], which acts debased, degraded or demeaned the intrinsic worth and dignity of said minor [AAA] as a human being, to the damage and

prejudice of said minor [AAA].⁶

When arraigned, accused-appellant entered a plea of “not guilty” to the charges.⁷ During trial, the prosecution presented the testimonies of the minor victim, AAA, and Dr. Robesol Trompeta (Dr. Trompeta), the doctor who examined AAA on 19 September 2014. The prosecution also offered the following documentary evidence: (1) AAA’s Certificate of Live Birth; (2) AAA’s *Sinumpaang Salaysay*; (3) Medico-Legal Certificate issued by Dr. Trompeta; (4) Complaint Assignment Sheet; and (5) Certificate of Marriage between accused-appellant and AAA’s mother BBB.⁸

Version of the Prosecution

AAA testified that she was born on 28 May 2001 in ██████ Pangasinan. However, during the times material to the case, she lived with her father, herein accused-appellant, and brother in ██████, Zambales, where the former worked as a tricycle driver. At the time, her mother, BBB, was working as a domestic helper abroad. AAA claimed that accused-appellant raped her several times inside their house.⁹

AAA recounted that the first incident of rape happened when she was 11 years of age, sometime before the New Year. Accused-appellant, who smelled of liquor, told her, “*magkilitian tayo.*” When she replied that she wanted to go to sleep, accused-appellant persisted, ordered her to remove her underwear, and proceeded to touch her vagina. Thereafter, he went on top of her and inserted his penis into her vagina. AAA asked accused-appellant to stop, as it was painful, but the latter covered her mouth instead. When he was done, accused-appellant laid beside her and slept.¹⁰

The second incident of rape happened when AAA was in 7th Grade, around the month of September.¹¹ She was working on her homework around dusk when accused-appellant ordered her older brother to go to the sawmill. Afterwards, accused-appellant approached AAA and told her “*kilitian tayo.*” AAA replied that she was doing her homework; accused-appellant, however, insisted that it would only be for a few minutes. When AAA continued to refuse, accused-appellant carried her inside the house where he asked her to remove her pants. Concerned that AAA was moving too slowly and that her brother might come back soon, accused-appellant removed AAA’s undergarments himself. He started by inserting one of his fingers into her vagina, but, after a while, he inserted his penis instead. When they heard AAA’s brother coming back, accused-appellant ordered AAA to put her clothes on. She did not tell her brother about what happened because accused-appellant threatened to kill her and the person to whom she

⁶ *Rollo*, pp. 23-24.

⁷ *Id.* at 24.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 25.

¹¹ *See id.* at 25. The year was not specified.

would report the matter to. AAA believed that accused-appellant will make good on this threat as he spanked her and her brother whenever they would fail to do things he asked.¹²

Dr. Trompeta, for her part, testified¹³ that in the morning of 19 September 2014, AAA went to see her and told her that she was being molested by her father, herein accused-appellant. Dr. Trompeta thereafter conducted an examination and found, among others, that AAA has a urinary tract infection (UTI) and a 4 o'clock hymenal laceration consistent with the latter's claim that she was sexually assaulted. Dr. Trompeta also opined that said hymenal laceration was caused by a full penile penetration because the area covered a big cut.

Version of the Defense

Accused-appellant, on the other hand, interposed the defense of denial, the gist of which was summarized as follows:

[Accused-appellant] admitted that during the years 2012-2014, [AAA] was still a minor and was living under his custody because her biological mother was then working as an OFW. According to accused-appellant, there were no other relatives staying with them aside from him and his two children, [AAA] and [AAA]'s brother. He denied having raped [AAA] and he also denied that he inflicted physical harm on his children. According to the accused-appellant, [AAA] was just making up the charges against him because of the proddings of his wife and [AAA]'s aunt.¹⁴

Ruling of the RTC

On 04 September 2018, the RTC rendered its Amended Judgment, the dispositive portion of which, as amended, states:

WHEREFORE, premises considered and with the prosecution having been able to prove the guilt of [accused-appellant] beyond reasonable doubt of two (2) counts of rape (in Criminal Cases Nos. 397-2014FC and 398-2014FC), he is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count, with no eligibility for parole. He is likewise ordered to pay minor AAV civil indemnity of P100,000.00, moral damages of P100,000.00 and exemplary damages of P100,000.00 for each count, all with interest at the rate of 6% *per annum* from date of finality of this Judgment until full payment. As far as the third incident of alleged rape (Criminal Case No. 399-2014FC) and the violation of Section 10(a) of RA 7610 (Criminal Case No. 400-2014FC), accused is hereby ACQUITTED on grounds of reasonable doubt.

¹² Id.

¹³ TSN, 22 February 2018.

¹⁴ *Rollo*, p. 13.

SO ORDERED.¹⁵

The trial court found AAA's testimonial account of the first two incidents to be clear, simple, straightforward, and without any attempts at exaggeration on her part, and totally devoid of any inconsistency that would affect her credibility.¹⁶ It, however, acquitted accused-appellant for the felony punishable under Article 266-A, paragraph 1(d) "for the simple reason that there was no adequate proof that AAA was under 12 years old at the time these rapes happened."¹⁷ Accused-appellant was also acquitted of the charge of violation of Section 10(a) of RA 7610 on the ground that "[AAA] had not sufficiently testified on the circumstances surrounding [her alleged] injury and had just mentioned it in her testimony in passing."¹⁸

Accused-appellant filed a Notice of Appeal.¹⁹ This was given due course by the trial court in its Order dated 11 September 2018.²⁰ In his Brief²¹ before the CA, accused-appellant contended, *inter alia*, that: (1) the trial court gravely erred in convicting him despite violation of his constitutional right to be informed of the nature and cause of the accusation against him; and (2) the prosecution failed to prove his guilt beyond reasonable doubt.

In the meantime, or on 30 August 2018, the RTC issued a Commitment Order delivering custody over accused-appellant to the Director of the Bureau of Corrections, New Bilibid Prison, Muntinlupa City.²²

Ruling of the CA

The CA denied accused-appellant's appeal in its assailed Decision dated 05 November 2020. It found that the trial court correctly convicted him for two counts of Qualified Rape. The *fallo* of the Decision reads:

WHEREFORE, premises considered, the instant appeal is **DENIED** for lack of merit. The Amended Judgment dated 4 September 2018 of the Regional Trial Court of ██████ City, Branch 73, in Criminal Cases Nos. 397-2014FC and 398-2014FC finding accused appellant [CCC] guilty beyond reasonable doubt of Qualified Rape under Article 266-A(1) in relation to Article 266-B of the Revised Penal Code is **AFFIRMED in TOTO**. Accused-appellant is thus hereby sentenced to suffer the penalty of two (2) counts of *reclusion perpetua* to be served successively, without the benefit of parole. He is also ordered to pay AAA, for each count, the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, with legal interest at

¹⁵ CA Rollo, pp. 63-64.

¹⁶ Id. at 62.

¹⁷ Id. at 63.

¹⁸ Id.

¹⁹ Id. at 16.

²⁰ Id. at 17.

²¹ Id. at 35-51.

²² Rollo, p. 22.

the rate of six percent (6%) per annum from the finality of this decision until its full satisfaction.

SO ORDERED.²³

Hence, the present recourse.²⁴

On 10 March 2022, the Office of the Solicitor General filed a Manifestation In Lieu of Supplemental Brief²⁵ on behalf of the People stating that it would no longer file a supplemental brief as all relevant issues and arguments have been adequately adduced in its Brief filed before the CA.

Issue

The Court now resolves whether the CA erred in affirming accused-appellant's conviction.

Ruling of the Court

We DENY the appeal for lack of merit.

I

We settle at the outset the issue raised by accused-appellant regarding the sufficiency of the Informations filed against him. He claims that the allegations that the incidents of rape were committed "on or about the year 2012" and "on or about the year 2013" were too indefinite, "encompassing not only the twelve (12) months of 2012 and 2013 x x x for which [he] had to account for his whereabouts x x x and therefore could not intelligently prepare for his defense x x x."²⁶

This Court, however, has held that:

[F]ailure to specify the exact dates or time when the rapes occurred does not *ipso facto* make the information defective on its face. The reason is obvious. The date or time of the commission of rape is not a material ingredient of said crime because the *gravamen* of rape is carnal knowledge of a woman through force and intimidation. In fact, the precise time when the rape takes place has no substantial bearing on its commission. As such, the date or time need not be stated with absolute accuracy. It is sufficient that the complaint or information states that the crime has been committed at any time as near as possible to the date of its actual commission.²⁷

Furthermore, if indeed there is a defect in the Information in that it

²³ Id. at 20.

²⁴ Id. at 3.

²⁵ Id. at 52-54.

²⁶ Id. at 43-46.

²⁷ *People v. Magbanua*, 377 Phil. 750 (1999).

fails to allege the time of the commission of the offense with sufficient definiteness, as accused-appellant suggests, the remedy is to move for a bill of particulars. There is, however, no indication from the records that accused-appellant resorted to this remedy during the course of the trial. He is therefore deemed to have waived this particular objection and cannot now be heard to seek affirmative relief on account thereof.

At any rate, AAA, during the trial, testified that the first incident of rape happened **when she was 11 years old, just before the new year:**

Q: Why are you here before this Honorable Court, what is that that [sic] you want to tell the Honorable Court?

A: That instance where he used me aside from physically abusing us, he would use me "ginagamit niya ako".

Q: When you said ginagamit ka niya, what exactly did he do to you?

A: Kinakantot niya po ako, tinitira niya po ako sa ari ko.

Q: How old were you when he started doing this to you

A: **I was in Grade 6 when he started using me.**

Q: When you were in Grade 6, where were you studying at that time.

A: In [REDACTED]

Q: How old were you when he started abusing you?

A: **Eleven (11) years old.**

Q: What do you remember a few incidents that come to your mind, how did it happen?

A: **What I could remember, it was before New Year that was the first incident that happened.** I thought we were about to go to sleep but he called me, and he told me, magkilitian daw po kami.

Q: What did you say when he told you that?

A: I told him, I will sleep.

Q: What did he say or do?

A: He told me that it would only be for a few minutes.

Q: And then, what happened next?

A: And then, he ordered me to remove my lower garment and my panty and touched my vagina.

Q: What exactly did he do when he touched your vagina?

A: I was silent at that time, and he was touching my vagina and I told him papa, it is painful but still he continued to what he is doing.

Q: What was he using when he was continuing doing that when you said it is painful?

A: He inserted his finger inside my vagina and thereafter,

he inserted his penis into my vagina.²⁸ (Emphasis supplied)

As to the second incident of rape, which the Information stated happened “on or about the year 2013,” AAA testified:

Q: What other times do you remember and when was this?

A: **It was in September before my mother arrived, I was doing my assignment.**

Q: At this time when you were doing your assignment, what year or grade were you at that time?

A: **Grade 7 ma’am.**

Q: In what school?

A: [REDACTED]

Q: While you were doing your homework, where was your older brother then?

A: He ordered my older brother to go to the Sawmill using the tricycle to fetch [DDD].

Q: Do you remember what time it was already?

A: **Patakip silim na po.**

Q: What happened as you were doing your homework along with your father?

A: He approached me and told me kilitian tayo and then, I told him I am doing my assignment, but he said, it would only be for few minutes and when I refused, he carried me going inside the room.

Q: How did he carry you?

A: Like this.

CLERK OF COURT –

The witness is demonstrating how the accused carried her using his two (2) hands, the other hand holding her neck and the other hand to her knees.

Q: Was he able to bring you to the room?

A: On the bamboo bed, he let me lie down.

Q: What happened next?

A: He ordered me to remove my pants and when I was removing it slowly, he told me to make it faster because my older brother might come back soon and then he was the one who removed it completely.

Q: Was [sic] he able to remove it completely your under garment, what happened next?

A: He was touching my vagina for a few moment [sic]

²⁸ TSN, 23 September 2016, pp. 7-9.

and after a while, he inserted his penis into my vagina.²⁹ (Emphasis supplied)

With AAA's foregoing testimony, accused-appellant cannot logically argue that he was not sufficiently informed of the acts he was accused of as to enable him to prepare his defense.

II

Accused-appellant also appears to be challenging the findings of fact of both the trial court and the appellate court, raising doubts as to the credibility of the witnesses and the weight and credence accorded to the evidence of the prosecution. He points out that it is unbelievable how the alleged crime could have been committed in the cramped space as depicted by AAA; that despite AAA's testimony that she was raped multiple times, the physical evidence showed only a single scar on her vagina; and that it took AAA two years from the first alleged incident before she reported the same to the authorities.³⁰

These contentions deserve scant consideration.

Case law dictates that factual findings of the trial court, particularly when affirmed by the CA, are binding on the Court barring arbitrariness and oversight of some fact or circumstance of weight and substance.³¹ Accused-appellant has not shown, much less proved, any ground warranting a re-examination of the factual findings made by both lower courts.

Nonetheless, We have reviewed the records and find that the trial court correctly found accused-appellant guilty of two counts of qualified rape.

"The elements of Qualified Rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under [18] years of age at the time of the Rape; and (5) the offender is [either] a parent (whether legitimate, illegitimate or adopted), [ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent] of the victim."³² The victim's minority and her relationship with the offender should both be alleged in the Information and proven beyond reasonable doubt during trial to have the effect of altering the nature of Rape and its corresponding penalty.³³

Here, AAA's minority was properly alleged and proven during the trial. The Informations in Criminal Case Nos. 397-2014FC and 398-2014FC likewise explicitly alleged that accused-appellant was AAA's biological

²⁹ TSN, 23 September 2016, pp. 9-11.

³⁰ CA Rollo, pp. 46-49.

³¹ *People v. Monroyo*, 811 Phil. 802, 813-814 (2017).

³² *People v. Salaver*, 839 Phil. 90, 102 (2018), citing *People v. Colentava*, 753 Phil. 361 (2015).

³³ *People v. XXX*, G.R. No. 238405, 07 December 2020.

father; it was also not disputed by accused-appellant.

Moreover, the record fully bears out the incidents of rape. AAA's testimony recounted, in sufficient detail, how accused-appellant succeeded in having carnal knowledge of her, against her will.

In incestuous Rape, the father's moral ascendancy and influence over his daughter substitutes for violence and intimidation. The ascendancy or influence necessarily flows from the father's parental authority, which the constitution and the laws recognize, support and enhance, as well as from the children's duty to obey and observe reverence and respect towards their parents.³⁴

Accused-appellant questions the credibility of AAA's testimony, arguing that it is unbelievable how Rape could have been committed considering the cramped space, with AAA's brother sleeping beside them.

This argument is untenable. The presence of other people in a cramped space does not restrict the actions of someone who commits the crime of Rape.³⁵

It has likewise been repeatedly held that when the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, 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.³⁶ More importantly, no child would concoct a story of incest especially if it would result in losing one's father to prison.³⁷

That it took AAA more than two years from the time she was first raped to report also does not detract from the credibility of her testimony. Speaking before the trial court, AAA explained:

Q: Did you ever tell your brother at that time what your father was doing to you?

A: No, ma'am.

Q: Why did you never tell your brother at that time?

A: Because there were instances when he told me that don't tell it to anyone because if you tell it to someone, I will kill that someone whom you reported to including you.³⁸

AAA believed that her father would make good on his threat to kill her and those whom she would report to. This reasonably explained the

³⁴ *People v. Baun*, 584 Phil. 560, 573 (2008).

³⁵ *People v. CCC*, G.R. No. 239336, 03 June 2019, citing *People v. Nuyok*, 759 Phil. 437 (2015).

³⁶ *People v. XXX*, G.R. No. 230334, 19 August 2019.

³⁷ *People v. Armodia*, 810 Phil. 822, 832 (2017).

³⁸ TSN, 23 September 2016, p. 12.

delay in reporting her harrowing experience to others. In any case, failure to immediately disclose the rape does not warrant the conclusion that the victim was not raped.³⁹

In addition, prosecution witness Dr. Trompeta was able to sufficiently explain how it was possible that only one scar is seen despite the repeated sexual abuse committed on AAA:

Q: If there were no scars doctor as physician, how would you reconcile with her claim that as early as 11 years old she was already being subjected to some form of sexual abuse by her father and then we just have one laceration?

A: It might be that it was only a 4 o' clock position so it was the same laceration that was hit all over again.

Q: It is probably that the same 4 o' clock position so it's the same laceration being made all over again?

A: Yes.

Q: During the repeated sexual abuses, it would be on the same position that's why there could be just this finding?

A: Yes ma'am.⁴⁰

All told, We find, contrary to accused-appellant's claim, that the prosecution proved, beyond reasonable doubt, his guilt for two (2) counts of Qualified Rape committed against his daughter AAA.

III

The crime of Qualified Rape under Article 266-A, paragraph 1 of the RPC is penalized under Article 266-B(1) which, in turn, provides that the death penalty shall be imposed if, **as in this case**, the victim is under 18 years of age and the offender, among others, is the ascendant or a relative by consanguinity or affinity within the third civil degree. Considering, however, that the death penalty cannot be imposed because of RA 9346,⁴¹ We find that the appellate court correctly imposed the penalty of *reclusion perpetua*, without eligibility for parole. This emphasizes that accused-appellant should have been sentenced to death had it not been for RA 9436.⁴²

We likewise find the amount of damages awarded by the trial and appellate courts which is ₱100,000.00 each for civil indemnity, moral damages, and exemplary damages for every count of rape, as well as the

³⁹ *People v. Colentava*, 753 Phil. 361, 379 (2015).

⁴⁰ TSN, 22 February 2018, p. 11.

⁴¹ Entitled: "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY." Approved: 24 June 2006.

⁴² *People v. ZZZ*, G.R. No. 232329, 28 April 2021.

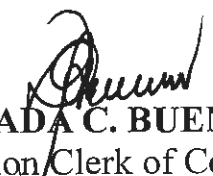
imposition of interest, to be correct and consistent with prevailing jurisprudence.⁴³

WHEREFORE, the appeal is **DISMISSED**. The Decision dated 05 November 2020 of the Court of Appeals in CA-G.R. CR-HC No. 11934 is **AFFIRMED**. Accused-appellant **CCC** is hereby found **GUILTY** beyond reasonable doubt of **QUALIFIED RAPE** in Criminal Case Nos. 397-2014FC and 398-2014FC. He is sentenced to suffer the penalty of two counts of *reclusion perpetua* to be served successively, without the benefit of parole. He is also ordered to pay the victim AAA, for each count, the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All monetary awards shall earn legal interest at the rate of six percent (6%) per *annum* from the finality of this Resolution until its full satisfaction.

The accused-appellant's manifestation (in lieu of a supplemental brief with profuse apology), pursuant to the Resolution dated November 24, 2021, is **NOTED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
8/9/22

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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SEP 29 2022

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 11934)

The Hon. Presiding Judge
Regional Trial Court, Branch 73
Olongapo City, 2200 Zambales
(Crim. Case Nos. 397-2014FC
& 398-2014FC)

⁴³ *People v. ZZZ*, G.R. No. 232329, 28 April 2021, citing *People v. Gambao*, 718 Phil. 507 (2013) and *People v. Jugueta*, 783 Phil. 806 (2016).

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