



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 14 February 2022 which reads as follows:

“**G.R. No. 257809 (John David Mark Polon y Bais v. People of the Philippines).** – After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM** the Decision² dated September 29, 2020 and the Resolution³ dated July 22, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 43506 for failure of petitioner John David Mark Polon y Bais (Polon) to sufficiently show that the CA committed any reversible error in affirming his conviction for the crime of Rape through Sexual Assault, defined and penalized under Article 266-A (2) of the Revised Penal Code⁴, as amended by Republic Act No. 8353.⁵

The elements of Rape through Sexual Assault under Article 266-A (2) are: (a) that the offender commits an act of sexual assault; (b) that the act of sexual assault is committed by inserting any instrument or object into the genital or anal orifice of another person; and (c) that the act of sexual assault is accomplished by using force and intimidation.⁶

As correctly ruled by the lower court and the CA, all the elements of Rape through Sexual Assault had been proven in this case. Indeed, the straightforward and categorical testimony of AAA⁷ and her positive identification of Polon,

¹ See Petition for Review on *Certiorari* dated September 13, 2021; *rollo*, pp. 11-35.

² *Id.* at 40-65. Penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Elihu A. Ybañez and Walter S. Ong, concurring.

³ *Id.* at 67-69.

⁴ Entitled “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS,” approved on December 8, 1930.

⁵ Entitled “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS “THE REVISED PENAL CODE,” AND FOR THE PURPOSES,” approved on September 30, 1997.

⁶ See *People v. HHH*, G.R. No. 248245, August 26, 2020.

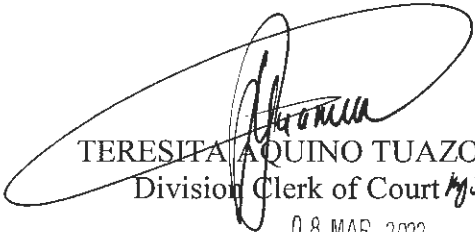
⁷ The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION 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

corroborated by the results of her medical examination, proved that Polon sexually assaulted AAA when the latter inserted his fingers into AAA's vagina against her will by means of threats and intimidation.⁸ In this regard, the proximity of AAA's friends at the scene of the crime and her alleged failure to engage in acts of self-preservation do not detract from her credibility. It is well-settled that the proximity of other people at the rape scene does not negate the commission of the crime.⁹ Further, the workings of the human mind when placed under emotional stress is unpredictable such that not every victim can be expected to act with reason or conformably with the usual expectation of mankind.¹⁰ Certainly, a rational reaction or a standard behavioral response cannot be expected from AAA who was confronted with a traumatic experience. 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.¹¹

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision dated September 29, 2020 and the Resolution dated July 22, 2021 of the Court of Appeals in CA-G.R. CR No. 43506 and **AFFIRMS** said Decision finding petitioner John David Mark Polon *y* Bais **GUILTY** beyond reasonable doubt of the crime of Rape through Sexual Assault, defined under paragraph 2, Article 266-A and penalized under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353. Accordingly, he is sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) years of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum, and to pay AAA the amounts of: (a) ₱30,000.00 as civil indemnity; (b) ₱30,000.00 as moral damages; and (c) ₱30,000.00 as exemplary damages. In addition, all monetary awards shall earn 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 *kyj/b*
08 MAR 2022

People v. Cudano, Jr., 729 Phil. 576, 578 [2014], citing *People v. Lomaquén*, 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.)

⁸ *Rollo*, p. 57.

⁹ See *People v. Suwalat*, G.R. No. 227749, September 22, 2020; citing *People v. Descartin, Jr.*, 810 Phil. 881, 892 (2017).

¹⁰ See *People v. Ramos*, 838 Phil. 797, 812 (2018).

¹¹ See *People v. De Guzman*, G.R. No. 234190, October 1, 2018; citing *Peralta v. People*, 817 Phil. 554, 563 (2017), further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 85
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(Crim. Case Nos. R-QZN-17-12707-CR &
R-QZN-17-12708-CR)

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