



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated October 05, 2022 which reads as follows:

“G.R. No. 258905 (*Richard Galura y Villena v. People of the Philippines*). – The instant Petition for *Certiorari*¹ (petition) assails the Decision² dated 20 January 2021 and Resolution³ dated 14 February 2022 of the Court of Appeals (CA) in CA-G.R. CR No. 44009. The CA affirmed the Decision⁴ dated 13 August 2019 of Branch 05, Regional Trial Court (RTC) of the [REDACTED]⁵ in Criminal Case No. 14-309156, finding petitioner Richard Galura y Villena (petitioner) guilty beyond reasonable doubt of Acts of Lasciviousness, in relation to Section 5(b)⁶ of Republic Act No. (RA) 7610.⁷

¹ *Rollo*, pp. 11-28.

² *Id.* at 30; penned by Associate Justice Isabel A. Paredes and concurred in by Presiding Justices Remedios A. Salazar-Fernando and Associate Justice Walter S. Ong

³ *Id.* at 41-43. penned by Associate Justice Victoria Isabel A. Paredes.

⁴ *Id.* at 65-82; penned by Presiding Judge Emily L. San Gaspar-Gito.

⁵ Geographical locations are blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁶ **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 of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; *Provided*, That when the victims 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; x x x.

⁷ Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES.” Approved 17 June 1992.

We **DENY** the petition for lack of merit.

There is no reversible error in the CA's affirmation of petitioner's guilt beyond reasonable doubt for the offense of Acts of Lasciviousness in relation to Section 5(b) of RA 7610.

The factual findings of the RTC, as affirmed by the CA, are accorded great weight and respect. Petitioner's assertions in this petition have all been duly passed upon by the CA, and said factual findings are no longer reviewable by this Court as petitioner failed to establish the existence of any of the recognized exceptions.⁸

The prosecution duly proved all the elements of the offense.

AAA,⁹ the 9-year old victim, candidly testified how petitioner molested her. He made her touch his genital and kissed her lips. BBB, AAA's friend, buttressed her story. Furthermore, petitioner exercised moral ascendancy over AAA. He took advantage of her youth and immaturity to satisfy his lust. *Quimvel v. People*¹⁰ instructs that when the victim of the crime is a child under 12 years old, as in this case, mere moral ascendancy will suffice.

The actuations of AAA and BBB in not immediately reporting the shocking incident do not make their statements dubious. Neither do they diminish their credibility. Minors like AAA and BBB are not expected to act like adults who know exactly what to do given a startling and horrendous occurrence like what petitioner did here. In fact, adults can likewise react bizarrely given the same stressful, humiliating, and appalling situation. As the CA aptly stated, different people have varying different reactions during moments of trauma.¹¹

On another point, AAA's admission that she could no longer identify petitioner in a line-up is not fatal to her case. As the CA discussed, when AAA testified on 07 June 2019, six long years had already lapsed from the time the incident transpired. Moreover, she was only 9 years old back then. At any rate, AAA positively identified petitioner as his assailant before the *barangay* when they reported the incident. Too, BBB pointed to petitioner as AAA's molester in open court.¹²

⁸ See *People v. Ramos*, 715 Phil 193 (2013).

⁹ Initials were used to identify the minor victim, AAA, and the other witness, BBB who is likewise a minor, pursuant to Amended Administrative Circular No. 83-15 dated 5 September 2017 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."

¹⁰ 808 Phil. 889 (2017).

¹¹ *Rollo*, p. 34; citation omitted.

¹² *Id.* at 34.

There is, however, a need to modify the penalty imposed by the CA.

The penalty for Acts of Lasciviousness, in relation to Section 5(b) of RA 7610 is *reclusion temporal* in its medium period or 14 years, 8 months and 1 day to 17 years and 4 months.¹³

In this case, the CA affirmed the trial court's imposition of an indeterminate sentence of 12 years, 10 months and 21 days of *reclusion temporal*, as minimum, to 15 years, 6 months and 20 days of *reclusion temporal*, as maximum. This should be modified considering that the maximum indeterminate penalty is short of one day.

Applying the Indeterminate Sentence Law¹⁴ and there being no aggravating or mitigating circumstance proved, the minimum term of the indeterminate penalty shall be within the range of the penalty next lower in degree, which is *reclusion temporal* in its minimum period, or 12 years and 1 day to 14 years and 8 months. On the other hand, the maximum term of the indeterminate penalty that can be properly imposed under the law is 15 years, 6 months and 21 days of *reclusion temporal*.

Accordingly, the penalty imposed by trial court, as affirmed by the CA, should be modified to an indeterminate penalty of 12 years, 10 months and 21 days of *reclusion temporal*, as minimum, to fifteen 15 years, 6 months and 21 days of *reclusion temporal*, as maximum.

Finally, in accordance with *People v. Jugueta*¹⁵ and *People v. Tulagan*,¹⁶ the Court sustains the award for civil indemnity, moral damages, and exemplary damages in the amount of ₱50,000.00 each, as well as the fine of ₱15,000.00, and the imposition of interest at the rate of six percent (6%) *per annum* from the date of finality of this resolution until fully paid.

WHEREFORE, the petition is **DENIED**. The Decision dated 20 January 2021 and Resolution dated 14 February 2022 of the Court of Appeals in CA-G.R. CR No. 44009 are **AFFIRMED** with **MODIFICATION**. Petitioner Richard Galura y Villena is found guilty beyond reasonable doubt of Acts of Lasciviousness, in relation to Section 5(b) of Republic Act No. 7610. He is hereby sentenced to imprisonment of an indeterminate sentence of 12 years, 10 months and 21 days of *reclusion temporal*, as minimum, to fifteen 15 years, 6 months and 21 days of *reclusion temporal*, as maximum.

¹³ See *Joaquin v. People*, G.R. No. 244570, 17 February 2021.

¹⁴ ACT 4103. Entitled "AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES." Approved: 19 June 1965.

¹⁵ 783 Phil. 806 (2016).

¹⁶ G.R. No. 227363, 12 March 2019.

Petitioner is further adjudged to pay private complainant (a) civil indemnity of ₱50,000.00; (b) moral damages of ₱50,000.00, (c) exemplary damages of ₱50,000.00; (d) fine of ₱15,000.00; and (e) costs. The monetary award shall earn interest at the rate of six percent (6%) per *annum* from the finality of this Resolution until fully paid.

In the service of his sentence, petitioner shall be entitled to the full credit of his preventive imprisonment if he agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners. Otherwise, he shall be credited only in the service of his sentence of four-fifths (4/5) of the time during which he has undergone preventive imprisonment in accordance with Article 29 of the Revised Penal Code.

SO ORDERED.” *Marquez, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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(CA-G.R. CR No. 44009)

The Hon. Presiding Judge
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(Crim. Case No. 14-309156)

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