



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 17, 2022** which reads as follows:*

“**G.R. No. 260675 (XXX260675, petitioner, v. People of the Philippines, respondent).** — Assailed in this petition for review on *certiorari*¹ under Rule 45 of the Rules of Court are the Decision² dated January 4, 2021 and the Resolution³ dated March 7, 2022 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02134-MIN, which affirmed with modification the Decision⁴ dated November 13, 2018 of the Regional Trial Court of [REDACTED], Davao del Norte, Branch 2 (RTC) in Criminal Case No. 20982 finding petitioner XXX260675 (petitioner) guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A (1) (d) in relation to Article 266-B of the Revised Penal Code (RPC).

The Facts

This case stemmed from an Information filed before the RTC charging petitioner with Rape of a nine (9)-year-old girl, AAA260675,⁵ under Article 266-A (1) (d) in relation to Article 266-B of the RPC, the accusatory portion of which reads:

¹ *Rollo*, pp. 4-18.

² *Id.* at 23-34. Penned by Associate Justice Evalyn M. Arellano-Morales with Associate Justices Edgardo A. Camello and Angelene Mary W. Quimpo-Sale, concurring.

³ *Id.* at 35-36. Penned by Associate Justice Evalyn M. Arellano-Morales with Associate Justices Edgardo A. Camello and Anisah B. Amanodin-Umpa, concurring.

⁴ Not attached in the *rollo*. See *id.* at 26.

⁵ 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 *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.) To note, there is no document attached in the *rollo* that could determine the real name of the victim.

That sometime in the morning of April 2012, in the Municipality of [REDACTED], Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, through force, violence and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of [AAA260675], a nine (9) year old minor, against her will.⁶

The prosecution alleged that AAA260675 was born on June 29, 2002. Her parents were working in Manila, leaving her in the care of her grandmother, BBB260675, and uncle, CCC260675. On the other hand, petitioner was her uncle-in-law being the husband of AAA260675's aunt, DDD260675. Petitioner and DDD260675 had a son, EEE260675.⁷

Sometime in April 2012, AAA260675, together with petitioner and his family, went to the riverside to wash their clothes. On their way home, petitioner suddenly grabbed AAA260675 and brought her to a banana plantation. There, he laid AAA260675 on the grass and forcibly removed her pants and underwear. AAA260675 pushed and kicked petitioner but the latter threatened to kill BBB260675 if she continued to resist. Petitioner then removed his short pants and underwear, placed himself on top of AAA260675, inserted his penis into her vagina, and made a push and pull movement. AAA260675 cried in pain but petitioner covered her mouth. After satisfying his lust, petitioner threatened AAA260675 anew that he would kill BBB260675 should she disclose the incident to anyone.⁸

CCC260675 testified that upon learning about the incident from his other niece and AAA260675's class adviser, he assisted AAA260675 in filing the case against petitioner.⁹ Thereafter, Dr. Maria Amor L. Magaso (Dr. Magaso) examined AAA260675 and found 'positive notching at 1:00, 5:00, 6:00 and 11:00 o'clock position' in her genitalia. Dr. Magaso concluded that '[a]nogenital findings are suggestive of blunt force or penetrating trauma.'¹⁰

For the defense, DDD260675 admitted that she was the aunt of AAA260675. She testified that it was impossible for petitioner to rape her niece because she was with them the entire morning of the alleged date of the incident. DDD260675 narrated that EEE260675 was with AAA260675 the whole time as they were playing while gathering vegetables. Also, while DDD260675 was washing the clothes, she could see the two kids playing as there were no obstructions in the area. Moreover, petitioner was also gathering vegetables in the area where DDD260675 could see him. DDD260675 further testified that they all went home together on the date of the incident.¹¹

⁶ *Rollo*, pp. 6 and 24.

⁷ *Id.* at 24.

⁸ *Id.* at 24-25.

⁹ *Id.* at 25.

¹⁰ *Id.* at 30.

¹¹ *Id.* at 25.

EEE260675 likewise testified that petitioner did not rape AAA260675. EEE260675 corroborated his mother's testimony that he and AAA260675 were gathering vegetables at a distance where he could still see his parents and that they were together all the time.¹²

Petitioner did not testify during the trial.¹³

The RTC Ruling

In the Decision¹⁴ dated November 13, 2018, the RTC found petitioner guilty beyond reasonable doubt of the crime of Rape, and accordingly, sentenced him to suffer the penalty of *reclusion perpetua*, and ordered him to pay AAA260675 the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with interest at the rate of six percent (6%) *per annum*, reckoned from the finality of the decision until fully paid.¹⁵

In convicting petitioner, the RTC gave more credence to AAA260675's testimony and rejected petitioner's defenses of denial and alibi.¹⁶

Aggrieved, petitioner filed an appeal with the CA.

The CA Ruling

In the Decision¹⁷ dated January 4, 2021, the CA affirmed the RTC ruling with modification, adjusting the monetary awards due AAA260675 to ₱75,000.00 as civil indemnity, ₱75,000.00 moral damages, and ₱75,000.00 as exemplary damages, all with interest at the rate of six percent (6%) *per annum*, reckoned from the finality of the decision until fully paid.¹⁸

In affirming the RTC ruling, the CA found the elements of Rape under Article 266-A in relation to Article 266-B of the RPC present in this case, considering that: *first*, petitioner was positively identified by AAA260675 as her uncle-in-law, a relative by affinity within the third civil degree and as the person who raped her; *second*, petitioner had carnal knowledge of AAA260675, a minor girl under twelve (12) years of age at the time of the incident; and *third*, during and after the rape, petitioner threatened to kill BBB260675 if she would report the incident to anyone. Thus, the CA ruled

¹² *Id.* at 25-26.

¹³ *Id.* at 25.

¹⁴ Not attached in the *rollo*.

¹⁵ *Rollo*, p. 26.

¹⁶ *Id.*

¹⁷ *Id.* at 23-34.

¹⁸ *Id.* at 33.

that the RTC correctly imposed the penalty of *reclusion perpetua* but reduced the award of damages to above-mentioned amounts.¹⁹

Petitioner filed a motion for reconsideration²⁰ mainly questioning the credibility of the testimony of the prosecution’s witnesses, which the CA denied in its Resolution²¹ dated March 7, 2022; hence, this petition.

The Issue Before the Court

The issue before the Court is whether the CA erred in affirming the RTC ruling finding petitioner guilty of the crime charged.

The Court’s Ruling

The petition is without merit.

At the outset, the Court notes that petitioner appealed to the Court by filing a petition for review on *certiorari*. As a general rule, appeals of criminal cases shall be brought to the Court by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court; except when the CA imposed a penalty of *reclusion perpetua* or life imprisonment, in which case, the appeal shall be made by a mere notice of appeal before the CA.²² Clearly, petitioner availed of a wrong mode of appeal by filing a petition for review on *certiorari* before the Court, despite having been sentenced to suffer the penalty of *reclusion perpetua* by the CA. Nonetheless, in the interest of

¹⁹ See *id.* at 28-33.

²⁰ Not attached in the *rollo*.

²¹ *Rollo*, pp. 35-36.

²² See Section 3 (e), Rule 122 and Section 13 (c), Rule 124 of the Revised Rules on Criminal Procedure, which read:

RULE 122
APPEAL

x x x x

Section 3. How appeal taken. -

x x x x

(e) Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rule 45.

x x x x

RULE 124
PROCEDURE IN THE COURT OF APPEALS

x x x x

Section 13. Certification or appeal of case to the Supreme Court. -

x x x x

(c) In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals.

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substantial justice, the Court will treat the instant petition as an ordinary appeal in order to resolve the substantive issue at hand with finality.²³

In *People v. Lopez*,²⁴ the Court held that the gravamen of the offense of statutory rape as provided under the RPC is the carnal knowledge of a woman below twelve years of age. Thus, for conviction of statutory rape to hold, the prosecution must prove the following elements: (1) that the offender had carnal knowledge of a woman; and (2) that the woman is under twelve (12) years of age.²⁵

Both the RTC and the CA correctly found these elements present in this case, established as they were, through the testimonies of the prosecution's witnesses, especially that of the AAA260675 herself, that: (1) petitioner had carnal knowledge with her; and (2) she was nine (9) years of age at the time of the incident.²⁶

The Court finds no cogent reason to depart from above findings. 'It is elementary that the assessment of a trial court in matters pertaining to the credibility of witnesses, especially when already affirmed by an appellate court on appeal, are accorded great respect — if not binding significance — on further appeal to this Court. The rationale of this rule is the recognition of the trial court's unique and distinctive position to be able to observe, first hand, the demeanor, conduct, and attitude of the witness whose credibility has been put in issue.'²⁷

It does escape the Court's notice that the circumstance of petitioner's relationship with AAA260675 as the latter's uncle-in-law by affinity within the third civil degree, a qualifying circumstance under Article 266-B of the RPC, though alleged and proved during the trial,²⁸ was nevertheless not specifically pleaded and alleged in the Information. Case law instructs that '[t]he crime of qualified rape x x x consists of the twin circumstances of the victim's minority and her relationship to the perpetrator, both of which must concur and must be alleged in the information'²⁹ and '[i]t is immaterial whether the relationship was proven during trial if that was not specifically pleaded for in the information.'³⁰ Stated differently, '[i]n order for an accused to be convicted of qualified rape, it is essential that these special qualifying circumstances of minority and relationship are properly alleged in the Information and duly proven during the trial.'³¹ This requirement is to ensure compliance 'with the constitutional right of the accused to be properly

²³ See *Ramos v. People*, 803 Phil. 775, 782-783 (2017).

²⁴ 617 Phil. 733 (2009).

²⁵ See *id.* At 744-745.

²⁶ See *rollo*, pp. 24 and 28.

²⁷ See *People v. Fetalco*, G.R. No. 241249, July 28, 2020.

²⁸ See *rollo*, pp. 24 and 28.

²⁹ See *People v. Armodia*, 810 Phil. 822, 832-833 (2017).

³⁰ *id.* at 833.

³¹ See *People v. XXX*, G.R. No. 252351, July 7, 2021.

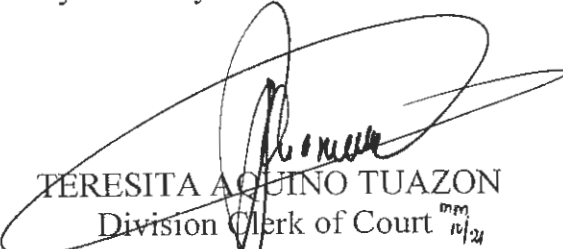
informed of the nature and cause of the accusation against him' and 'to allow the accused to prepare fully for his defense to prevent surprises during the trial.'³² As this was not the case here, both the RTC and CA correctly convicted petitioner of Simple Statutory Rape, the indictment stated in the Information, instead of Qualified Statutory Rape.

Finally, the Court finds the CA's monetary award of ₱75,000.00 each for civil indemnity, moral damages, and exemplary damages, all of which to earn legal interest at the rate of six percent (6%) per annum from the time of finality of the decision until fully paid, consistent with the prevailing jurisprudence.³³

FOR THESE REASONS, the appeal is **DENIED**. The Decision dated January 4, 2021 and the Resolution dated March 7, 2022 of the Court of Appeals in CA-G.R. CR-HC No. 02134-MIN are hereby **AFFIRMED**. Accordingly, petitioner XXX260675 is found **GUILTY** beyond reasonable doubt for the crime of Simple Statutory Rape, defined and penalized under Article 266-A (1) (d) in relation to Article 266-B of the Revised Penal Code. He is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA260675 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 moral damages, and ₱75,000.00 as exemplary damages, all with interest at the rate of six percent (6%) per annum, reckoned from the finality of this Resolution until fully paid.

SO ORDERED."

By authority of the Court:


TERESITA ACUINO TUAZON
Division Clerk of Court ^{mm} _{11/24}
24 OCT 2022

³² See *id.*

³³ See *People vs. Jugueta*, 783 Phil. 806, 849 and 854 (2016).

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HON. PRESIDING JUDGE (reg)
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(Crim. Case No. 20982)

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Please notify the Court of any change in your address.
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