



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 5, 2022** which reads as follows:*

“**G.R. No. 260980 (XXX<sup>1</sup> v. People of the Philippines)**. – This Petition<sup>2</sup> for Review on *Certiorari* (petition) under Rule 45 of the Rules of Court (Rules) assails the Decision<sup>3</sup> dated 07 September 2020 and Resolution<sup>4</sup> dated 12 November 2021 of the Court of Appeals (CA) in CA-G.R. CR NO. 41825. The CA affirmed the Decision<sup>5</sup> dated 14 March 2018 of Branch 36, Regional Trial Court (RTC) of [REDACTED], [REDACTED] in Criminal Case No. 2015-4-13-24, finding petitioner Marcos Chaclag (petitioner) guilty of the crime of Rape by Sexual Assault under Article 266-A, paragraph 2 of the Revised Penal Code (RPC), as amended.

Upon careful perusal of the records of this case, We **DENY** the petition.

*First*, the petition is fraught with procedural infirmities warranting its outright dismissal. Conspicuously absent in the petition are the following: 1) proof of service to the court of origin and to the adverse party; 2) certified true copy of the CA decision; 3) verified statement on material dates; 4) proper verification; 5) certification of non-forum shopping; and 6) verified declaration in compliance of the Efficient Use of Paper Rule.<sup>6</sup>

<sup>1</sup> Initials were used to identify accused-appellant pursuant to Supreme Court Amended Administrative Circular No. 83-2015 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.”

<sup>2</sup> *Rollo*, pp. 3-18.

<sup>3</sup> *Id.* at 31-47; penned by Associate Justice Ricardo R. Rosario (now a Member of this Court) and concurred in by Associate Justices Maria Filomena D. Singh (now a Member of this Court) and Florencio Mallanao Mamauag, Jr.

<sup>4</sup> *Id.* at 49-52; penned by Associate Justice Maria Filomena D. Singh (now a Member of this Court) and concurred in by Associate Justices Manuel M. Barrios and Florenci Mallanao Mamauag, Jr.

<sup>5</sup> *Id.* at 19-29; penned by Presiding Judge Sergio T. Angnganay, Jr.

<sup>6</sup> A.M. No. 11-9-4-SC. Issued: 13 November 2012.

Section 4, Rule 45 of the Rules provides that the petition shall: 1) indicate the material dates showing when notice of the judgment was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; 2) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo*; and 3) contain a sworn certification against forum shopping. Section 5, Rule 45 of the same Rules mandates that the failure of petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition, shall be sufficient ground for the dismissal thereof.

*Second*, even on the merits, the Court finds no cogent reason to reverse the rulings of the RTC and the CA finding petitioner guilty of the act he was charged with – Rape by Sexual Assault under Art. 266-A, paragraph 2 of the RPC.

Factual findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case.<sup>7</sup> This rule finds great application in this case because both the RTC and the CA are consistent in their findings.

There is, however, a need to modify the nomenclature of the crime committed, the penalty imposed, and the award of damages.

Private complainant AAA<sup>8</sup> is of legal age, and petitioner was charged and convicted of the crime defined in Art. 266-A, paragraph 2 of the RPC, as amended by Republic Act No. (RA) 8353. Petitioner utilized an object, his finger, to penetrate the vagina of AAA. As clarified in the case of *People v. Tulagan*,<sup>9</sup> (*Tulagan*) the nomenclature of the crime committed should be for Sexual Assault under Art. 266-A, paragraph 2 of the RPC.

Under Art. 266-B of the RPC, as amended by RA 8353, the penalty for Sexual Assault under Art. 266-A, paragraph 2 of the RPC, shall be *prision mayor*. The RTC, as affirmed by the CA, imposed the indeterminate penalty of two years, four months and one day of *prision correccional*, as minimum, to six years and one day of *prision mayor*, as maximum. Applying the Indeterminate Sentence Law, the minimum of the indeterminate sentence should be within the range of *prision correccional*, or six months and one

<sup>7</sup> *People v. Tulagan*, G.R. No. 227363, 12 March 2019.

<sup>8</sup> Initials were used to identify accused-appellant pursuant to Supreme Court Amended Administrative Circular No. 83-2015 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.”

<sup>9</sup> *Supra*.

day to six years. Meanwhile, the maximum term, in the absence of any aggravating nor mitigating circumstances, shall be within the medium period of the impossible penalty of *prision mayor*, or eight years and one day to 10 years. There being no aggravating nor mitigating circumstance in this case, there is a need to modify the maximum term of the impossible penalty, from anywhere between eight years and one day to 10 years. Hence, petitioner is sentenced to an indeterminate penalty of two years, four months and one day of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum.

Likewise, pursuant to *Tulagan*, the award of damages should include exemplary damages in the amount of ₱30,000.00, in addition to the awards of ₱30,000.00 as civil indemnity and ₱30,000.00 for moral damages.

The Court also finds it proper to impose legal interest at the rate of six percent (6%) per *annum* upon the total monetary awards from finality of this Resolution until fully paid pursuant to *Nacar v. Gallery Frames*.<sup>10</sup>

**WHEREFORE**, the petition is hereby **DENIED**. The Decision dated 07 September 2020 and Resolution dated 12 November 2021 of the Court of Appeals in CA-G.R. CR NO. 41825 are **AFFIRMED** with **MODIFICATIONS**. Petitioner XXX is found guilty beyond reasonable doubt of Sexual Assault under Article 266-A, paragraph 2 of the Revised Penal Code, as amended by Republic Act No. 8353. He is hereby **SENTENCED** to suffer the indeterminate penalty of two years, four months and one day of *prision correccional*, as minimum, to eight years, and one day of *prision mayor*, as maximum. Further, he is **ORDERED** to pay AAA the following amounts: ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The total monetary awards shall earn legal interest of six percent per *annum* from the date of finality of this Resolution until fully paid.

The petitioner's: (a) payment for docket and other legal fees in the amount of ₱4,600.00 as evidenced by O.R. No. 338433-SC-EP dated June 14, 2022; and (b) manifestation, remitting the thereto attached postal money orders in the total amount of ₱4,500.00 as replacement for the postal money orders that were returned to sender for being stale, are both **NOTED**.


The petitioner is required to **SUBMIT**, within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed petition for review on certiorari with annexes pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC; and the Cash Collection and Disbursement Division is **DIRECTED** to **RETURN** to petitioner the excess payment for the legal fees in the amount of ₱70.00 under O.R. No. 338433-SC-EP dated June 14, 2022.

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<sup>10</sup> 716 Phil. 267, 281-283 (2013).

**SO ORDERED.”** *Rosario, J., no part; Dimaampao, J., additional Member per Raffle dated 13 September 2022. Marquez, J., on official leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *10/11/22*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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(CA-G.R. CR No. 41825)

The Solicitor General  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 36  
Bontoc, 2616 Mountain Province  
(Crim. Case No. 2015-4-13-24)

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