



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 1, 2022, which reads as follows:

“G.R. No. 260199 (XXX¹ v. People of the Philippines). – Before this Court is a Petition for Review on *Certiorari*² filed by petitioner XXX to assail the Decision³ dated February 15, 2021 and the Resolution⁴ dated March 25, 2022 of the Court of Appeals (CA) 13th Division in CA-G.R. CR No. 43925. Said Decision modified his conviction⁵ by the Regional Trial Court of [REDACTED] Catanduanes (Branch [REDACTED]) in its Decision dated July 31, 2019, in Criminal Case No. 6322 to be one of Sexual Assault as penalized under Article 266-A, Paragraph 2 of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353,⁶ in relation to Section 5(b) of R.A. No. 7610.⁷

The dispositive portion of the Decision dated July 31, 2019 of the trial court reads as follows:

WHEREFORE, the Court finds the accused [XXX], guilty beyond reasonable doubt of Rape through sexual assault under Article 266-A, paragraph 2 of the Revised Penal Code, as amended by R.A. No. 8353, he is hereby sentenced to suffer the indeterminate penalty of twelve (12) years, ten (10) months and twenty-one (21) days of *reclusión temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusión temporal*, as maximum. He is ordered to pay the victim civil indemnity in the amount of

¹ 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 Republic Act No. 7610 entitled “An Act Providing For Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And For Other Purposes”; Republic Act No. 9262, entitled “An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefore, And For Other Purposes”; 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).

² *Rollo*, pp. 11-27.

³ *Id.* at 32-53; penned by Associate Justice Edwin D. Sorongon, with Associate Justices Gabriel T. Robeniol and Bonifacio S. Pascua, concurring.

⁴ *Id.* at 55-57.

⁵ *Id.* at 75-84.

⁶ 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 OTHER PURPOSES; approved on September 30, 1997.

⁷ AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES; approved on June 17, 1992.

thirty thousand (P30, 000.00) pesos; moral damages in the amount of thirty thousand (P30, 000.00) pesos; [and] exemplary damages in the amount of twenty-five thousand (P25, 000.00) pesos.⁸ (Emphasis in the original)

On appeal, the CA affirmed the conviction of petitioner with the following modifications:

WHEREFORE, premises considered, the appeal is **DENIED**. Accordingly, the July 31, 2019 Decision of the Regional Trial Court of [REDACTED] Catanduanes, Branch [REDACTED], in *Crim. Case No. 6322*, is **AFFIRMED** with **MODIFICATIONS** in that this Court finds accused-appellant XXX **GUILTY** beyond reasonable doubt of **Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code, in relation to Section 5 (b) of Republic Act No. 7610**, and is hereby sentenced to suffer the indeterminate penalty of fourteen (14) years and eight (8) months of *reclusión temporal* as minimum to seventeen (17) years and four (4) months of *reclusión temporal* medium, as maximum. Said accused-appellant is **ORDERED** to **PAY** private complainant AAA the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P50,000.00 as exemplary damages. Legal interest of six percent (6%) *per annum* is likewise imposed on all damages awarded from the date of finality of this Decision until fully paid.

SO ORDERED.⁹ (Emphases in the original)

Petitioner moved for the reconsideration of the appellate court, but the same was denied, *viz.*:

WHEREFORE, accused-appellant's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.¹⁰ (Emphases and italics in the original)

Hence, the present Petition.

After a judicious study of the case, this Court resolves to **DENY** the instant petition of petitioner for his failure to sufficiently show any reversible error in the assailed Decision and Resolution of the CA.

Firstly, the appellate court was correct in modifying petitioner's conviction, penalties, and payable damages in order to reflect the Court's guidance in *People v. Fragante*¹¹ and *People v. Tulagan*.¹² Said jurisprudence constituted the basis for the appellate court's consideration of petitioner's relationship to the victim (his daughter) as an alternative aggravating circumstance under Article 15 of the RPC, which consequently led to the increase of the impossible penalty and payable damages *ex delicto*.

⁸ *Rollo*, p. 84.

⁹ *Id.* at 52.

¹⁰ *Id.* at 56.

¹¹ 657 Phil. 577 (2011).

¹² G.R. No. 227363, March 12, 2019.

Secondly, the victim's positive identification of petitioner as the perpetrator of the crime in her straightforward and candid testimony remains unimpeached by his mere denial; his insufficient alibis that he was either watching television in another room or that he was drinking outside with his friends; and imputations of ill motive on the part of the victim's mother to deprive him of paternal custody. In the more recent case of *People v. Bay-od*,¹³ which sadly also involved a six-year old victim at the time of the offense, the Court reiterated that testimonies of child-victims of Rape and Sexual assault are generally given full weight and credit due to their relative vulnerability and sincerity as young and immature individuals. Their testimonies, unimpeached by inconsistencies or physical evidence to the contrary, are "all that is necessary to show that rape has in fact been committed."¹⁴ Thus, even if the medical examination on the victim's person was conducted more than a month after the alleged crime, as what happened here, this cannot be enough to negate the primacy that jurisprudence accords to straightforward and candid testimonies pointing to the fact of Rape or Sexual assault, such as that of the victim in the present case.

Thirdly, petitioner's attempts to discredit the victim's testimony by pointing out an alleged inconsistency is futile. The victim's former nanny testified that the victim admitted to her that the petitioner only poked the victim's vagina, but not her anus. Either way, this still corroborates an act of Sexual Assault upon the victim that is still punishable under the law.

Lastly, petitioner's attempts to color the immediate reaction of the victim upon the occurrence of the crime, *i.e.*, acting normally and not fleeing the scene, deserves scant consideration. The victim at the time was only six (6) years old, and likely did not understand the gravity, illegality, and immorality of what was happening to her. A child of such tender years would not be able to comprehend the unspeakable acts done to her by her own father, and such child should not be faulted for acting the way she did at the time.

WHEREFORE, the instant Petition is **DENIED**. The Decision dated February 15, 2021 and the Resolution dated March 25, 2022 of the Court of Appeals 13th Division in CA-G.R. CR No. 43925, which affirmed with modification the Decision dated July 31, 2019 of the Regional Trial Court of ██████ Catanduanes (Branch ██████) in Criminal Case No. 6322, are hereby **AFFIRMED**.

¹³ G.R. No. 238176, January 14, 2019.

¹⁴ *Id.*, citing *People v. Piosang*, 710 Phil. 519, 526 (2013).

SO ORDERED.”

By authority of the Court:

Mis-RDC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *11/3/22*

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(Criminal Case No. 6322)

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