



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 22, 2022, which reads as follows:

“G.R. No. 260846 (Rolito Pestaño Malang v. People of the Philippines). – The Court resolves to **GRANT** petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on *certiorari*, counted from the expiration of the reglementary period.

Before the Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated December 14, 2021, of the Court of Appeals (CA) in CA-G.R. CR No. 45063 and its Resolution³ dated May 5, 2022, denying the motion for reconsideration thereof. The assailed Decision dismissed the appeal and affirmed albeit with modification as to the amount of damages the Decision⁴ dated January 22, 2020 of the Regional Trial Court (RTC) of Catanauan, Quezon, Branch 96 in Criminal Case No. 19-0287-CAT, which found Rolito Pestaño Malang (petitioner), guilty beyond reasonable doubt of the crime of “Rape by Sexual Assault in relation to Republic Act (R.A.) No. 7610.”

After a perusal of the records of the case, the Court resolves to **DENY** the instant petition for review for failure to sufficiently show any reversible error in the herein assailed Decision dated December 14, 2021, to warrant the exercise of our appellate jurisdiction.

The task of assigning values and the assessment of the credibility of witnesses are best undertaken by the trial court because of its unique opportunity to observe their attitude and demeanor during examination. The

¹ *Rollo*, pp.11-26.

² *Id.* at 30-52; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Maria Filomena D. Singh (now a Member of the Court) and Bonifacio S. Pascua.

³ *Id.* at 54-55.

⁴ *Id.* at 68-79; rendered by Presiding Judge Edilwasif T. Baddiri.

trial court's evaluation of the witnesses testimony, is thus, accorded the highest degree of respect, more so when as in the case at bar, they were affirmed by the CA. Thus, in the absence of any showing that some facts and circumstances which could have otherwise affected the outcome of the case were overlooked, misapprehended, or misinterpreted, such findings are binding and conclusive upon the Court.⁵

The petitioner's defense of alibi must be rejected. While the same is corroborated by defense witnesses Oscar Pilapil Polar (Polar) and Beverly Dublin (Dublin), as previously held, an alibi corroborated mainly by relatives and friends on the accused is treated with extreme suspicion for it is easy to fabricate and concoct. Moreover, as noted by both the RTC and the CA, it is unlikely that Polar and Dublin could have kept a close watch as to the petitioner's whereabouts the entire night, as they were also preoccupied by their own tasks. Ultimately, the petitioner's alibi fails as he was in the same barangay as AAA's⁶ house such that it was not physically impossible for him to be at the scene of the crime or within its immediate vicinity at the time of its commission.⁷

It must be said that the absence of injuries in AAA's genitalia does not mean that she was not raped. The presence or absence of injuries depend on different factors, such as the forcefulness of the insertion, the size of the object inserted, the method by which the injury was caused, the changes occurring in a female child's body, and the length of healing time, if indeed injuries were caused; none of which have any definitive bearing on whether rape was committed.⁸

The elements of Rape through Sexual Assault having been proven in this case, the CA correctly adjudged the petitioner guilty of the crime of Lascivious Conduct under Section 5(b) of R.A. No. 7610, the corresponding imposition of penalty and damages are likewise in order, taking guidance from the Court's pronouncement in *People v. Tulagan*,⁹ and must therefore be affirmed.

WHEREFORE, the instant petition is **DENIED**. The Decision dated December 14, 2021 and the Resolution dated May 5, 2022, issued by the Court

⁵ *People v. Juare*, G.R. No. 234519, June 22, 2020; *Gatan, et al. v. Vinarao, et al.*, 820 Phil. 257, 273 (2017).

⁶ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁷ *People v. Malones*, 469 Phil. 301, 329 (2004).

⁸ *People v. Bay-od*, G.R. No. 238176, January 14, 2019, citing *People v. Pamintuan*, 710 Phil. 414, 426 (2013).

⁹ G.R. No. 227363, March 12, 2019.

of Appeals in CA-G.R. CR No. 45063, finding petitioner Rolito Pestaño Malang guilty beyond reasonable doubt of Lascivious Conduct under Section 5(b) of Republic Act No. 7610 are hereby **AFFIRMED**. Petitioner Rolito Pestaño Malang shall suffer the indeterminate penalty of imprisonment ranging from eight (8) years and one (1) day of *prision mayor* medium, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum. He is also liable to pay the victim AAA, ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages; and pay a fine of ₱15,000.00. All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

SO ORDERED.” (Singh, J., no part; Lopez, J., J. designated additional Member per Raffle dated August 9, 2022.)

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *01/10/22*

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 96, Catanauan, Quezon
(Criminal Case No. 19-0287-CAT)

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