



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated January 16, 2023 which reads as follows:*

“G.R. No. 259266 (*People of the Philippines v. XXX*<sup>1</sup>).—Before the Court is an appeal<sup>2</sup> of the March 11, 2021 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11324, which affirmed with modifications the June 26, 2018 Decision<sup>4</sup> of the Regional Trial Court (RTC) of [REDACTED], [REDACTED]<sup>5</sup> in Criminal Case No. DH-4363-17, finding accused-appellant XXX guilty beyond reasonable doubt of Rape in relation to Republic Act No. (RA) 7610,<sup>6</sup> as amended, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

**The Factual Antecedents**

On May 18, 2017, an Information<sup>7</sup> was filed charging accused-appellant with the crime of Rape in relation to RA 7610, to wit:

That on or about May 16, 2017, in [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of threat and intimidation, did then and there willfully, unlawfully and

<sup>1</sup> Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 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. 3-4.

<sup>3</sup> *Id.* at 8-24. Penned by Associate Justice Japar B. Dimaampao (now a Member of the Court) and concurred in by Associate Justices Pedro B. Corales and Florencio M. Mamauag, Jr.

<sup>4</sup> *Id.* at 28-55. Penned by Presiding Judge Amelita Cruz Corpuz.

<sup>5</sup> Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

<sup>6</sup> Entitled “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: June 17, 1992.

<sup>7</sup> Records, p. 1.

feloniously succeed in having sexual intercourse with [AAA],<sup>8</sup> 17 years old, with mental disability, against her will and consent, thereby subjecting her to sexual abuse, to her damage and prejudice.

CONTRARY TO LAW.<sup>9</sup>

During the arraignment on June 6, 2017, accused-appellant pleaded not guilty to the crime charged.<sup>10</sup> Thereafter, trial on the merits ensued.

### Version of the Prosecution

On May 16, 2017, at around 9:00 p.m., private complainant AAA, who was then only 17 years old,<sup>11</sup> went to [REDACTED] to meet her cousin.<sup>12</sup> She took a bus, and alighted near the [REDACTED] Public Market where XXX, a tricycle driver, arrived and offered her a ride.<sup>13</sup> XXX brought AAA to his brother's house, where he, his brother, and AAA had a drinking spree. AAA got drunk and stayed the night in the said place.<sup>14</sup> She could not leave the house of XXX's brother as she does not have enough money for fare.<sup>15</sup>

As AAA lay on the bed, XXX was beside her. XXX kissed her on the lips, and on her body.<sup>16</sup> He removed AAA's clothes, including her underwear, and likewise removed his own clothing. XXX succeeded in mounting AAA, and inserted his penis into her vagina.<sup>17</sup>

Earlier that day, at around 5:00 p.m., BBB, AAA's father, was in his machine shop in [REDACTED] when AAA arrived and asked for money. BBB went inside his office, and when he returned, AAA was no longer there. He went to look for her in the mall because AAA mentioned that she would go there. However, she was not there. He also looked for her at the bus terminal in [REDACTED], and roamed around the area for 30 minutes but failed to find her. BBB went back to his machine shop, and thereafter contacted CCC, his wife

<sup>8</sup> "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, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004." (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 21-23.

<sup>11</sup> *Id.* at 14.

<sup>12</sup> *CA rollo*, p. 84.

<sup>13</sup> *Rollo*, p. 9.

<sup>14</sup> *Id.*

<sup>15</sup> TSN, September 15, 2017, p. 11.

<sup>16</sup> *Id.* at 6-7.

<sup>17</sup> *Rollo*, p. 9.

and AAA's mother.<sup>18</sup> BBB and CCC both looked for AAA in the plaza of [REDACTED], and waited for the buses coming from [REDACTED] until 2:00 a.m, the following day, hoping that AAA was there.<sup>19</sup>

On May 17, 2017, at around 9:00 a.m., DDD, arrived at the house of BBB, his brother, together with AAA. DDD found AAA walking at the corner of the street in [REDACTED].<sup>20</sup> CCC noticed that AAA looked dirty and haggard.<sup>21</sup> She asked what happened to her, and AAA replied that she went to visit a friend. CCC then asked AAA to eat. After eating, AAA rested on the bed.<sup>22</sup> As AAA lay on the bed, CCC fixed her clothing, and it was then, that she noticed that AAA was wearing a different underwear. CCC asked AAA why she was wearing a different underwear, and she answered that it was hers. When AAA went to the bathroom to take a bath, CCC checked the underwear and it was a man's briefs or male underwear.<sup>23</sup> Afterwards, CCC took the briefs, and told AAA that they would return it to the owner. AAA then told her parents that her friend was at the [REDACTED]. AAA together with her parents, BBB and CCC, and his uncle, DDD went to [REDACTED].<sup>24</sup>

When they arrived at the public market, a tricycle driver, who was also a barangay *kagawad*, approached them thinking that they were in need of a ride. During their talk, the barangay *kagawad* informed them that he saw AAA with XXX. BBB then decided to go to the police station to file a blotter of the incident, while CCC and AAA were left at the market. Police Officer 2 Venus Bungasngas and PO3 Ricardo Manalo assisted BBB in filing the report at the police station. Thereafter, the police officers went to the public market and met with the barangay *kagawad* to help them in locating XXX at the tricycle terminal.<sup>25</sup> After some time, XXX was found, and arrested by the police officers,<sup>26</sup> and was brought to the police station.<sup>27</sup>

On the same day, Dr. Ana Claudine Zamora (Dr. Zamora), a medico-legal officer at the [REDACTED] General Hospital interviewed, and examined AAA, and thereafter issued a Medico-Legal Certificate.<sup>28</sup> Based on the interview, Dr. Zamora observed that AAA has poor comprehension, and is relatively

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<sup>18</sup> TSN, October 27, 2017, p. 4.

<sup>19</sup> Id.

<sup>20</sup> TSN, November 24, 2017, p. 3.

<sup>21</sup> Id. at 4.

<sup>22</sup> *Rollo*, p. 10.

<sup>23</sup> TSN, November 24, 2017, p. 5.

<sup>24</sup> *Rollo*, p. 10.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id. at 35.

<sup>28</sup> TSN, March 20, 2018, pp. 2-3.

disoriented, which are signs consistent with mental retardation.<sup>29</sup> AAA's physical examination showed that there were "erosions on the left *labia minora*." As explained by Dr. Zamora, the injuries were still fresh which could have been sustained by AAA in the last 48 hours. Further, Dr. Zamora stated that the findings of laceration at the vaginal opening could have been caused by the forcible entry of a hard object possibly, a male genitalia.<sup>30</sup>

### Version of the Defense

Accused-appellant denied the charges against him. He claimed that AAA was not subjected to sexual abuse as the element of force, threat, intimidation, or coercion is absent. Further, he argued that it was not proven that AAA's mental age is below 12 years old, and that she is suffering from mental retardation. Accused-appellant explained that AAA fully understands the concept of time, place, and her whereabouts.<sup>31</sup> He also maintained that he and AAA were in a relationship.<sup>32</sup>

### Ruling of the Regional Trial Court

In its June 26, 2018 Decision, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape in relation to Republic Act No. 7610.<sup>33</sup> The RTC ruled that AAA has no capacity to give consent considering her mental condition.<sup>34</sup> The trial court noted that despite AAA's testimony that she and XXX have a relationship, the crime of rape still exists.<sup>35</sup> The dispositive portion of the trial court's Decision reads:

**WHEREFORE**, the court finds accused [XXX] **GUILTY** beyond reasonable doubt in Criminal Case No. DH-4363-17 for rape in re[l]ation to R.A. 7610.

[XXX] is hereby sentenced to suffer the penalty of *reclusion perpetua*.

He is hereby ordered to pay the victim the following:

1. ₱75,000.00 as civil indemnity;
2. ₱35,000.00 as moral damages; and
3. ₱35,000.00 as exemplary damages.

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<sup>29</sup> Id. at 4.

<sup>30</sup> *Rollo*, p. 10.

<sup>31</sup> *CA rollo*, pp. 31-40.

<sup>32</sup> *Rollo*, p. 11.

<sup>33</sup> Id. at 55.

<sup>34</sup> Id. at 54.

<sup>35</sup> Id. at 50.

The immediate commitment of [XXX] to the national penitentiary is likewise further ordered.

**SO ORDERED.**<sup>36</sup>

Dissatisfied with the ruling of the trial court, accused-appellant elevated the case to the CA.

### **Ruling of the Court of Appeals**

The appellate court, in its Decision dated March 11, 2021, found XXX's appeal unmeritorious and affirmed with modifications the Decision of the RTC. In rejecting accused-appellant's arguments, the CA ruled that the prosecution adequately established that accused-appellant committed the crime of Rape through the straightforward and credible testimony of AAA,<sup>37</sup> corroborated by Dr. Zamora's finding of penetration.<sup>38</sup> Anent the award of damages, the appellate court increased the moral damages as well as the exemplary damages to PHP 75,000.00 from PHP 35,000.00.<sup>39</sup> The CA thus ruled:

**WHEREFORE**, the *Decision* dated 26 June 2018 of the [Regional Trial Court of ██████████], ██████████, [██████████] in Criminal Case No. DH-4363-17, finding accused-appellant [XXX] **GUILTY** of the crime charged is hereby **AFFIRMED with the following MODIFICATIONS**:

1. He is meted the penalty of *reclusion perpetua* without eligibility of parole.
2. The awards of civil indemnity, moral damages, and exemplary damages are all increased to ₱75,000.00.
3. Interest at the rate of six percent (6%) *per annum* is imposed on all the damages awarded from the date of finality of this *Decision* until [full] payment.

**SO ORDERED.**<sup>40</sup>

Aggrieved by the CA's affirmation of his conviction, accused-appellant filed a Notice of Appeal.<sup>41</sup>

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<sup>36</sup> Id. at 55.

<sup>37</sup> Id. at 13-18.

<sup>38</sup> Id. at 21.

<sup>39</sup> Id. at 23.

<sup>40</sup> Id. at 23-24.

<sup>41</sup> Id. at 3-4.

### Issue

The sole issue for this Court's resolution is whether accused-appellant is guilty beyond reasonable doubt for the crime of Rape.

### Our Ruling

The appeal has no merit.

Article 266-A of the Revised Penal Code (RPC) provides that rape is committed:

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;

**d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.**<sup>42</sup> (Emphasis supplied)

Statutory Rape is committed when there is carnal knowledge of a woman below 12 years old, regardless of whether there was force, threat, or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority.<sup>43</sup> Thus, to convict an accused of Statutory Rape, the prosecution must sufficiently establish that the offended party is under 12 years of age, and the accused had sexual intercourse with the victim.<sup>44</sup>

It is also a settled rule that carnal knowledge of a woman who is a mental retardate, with a mental age under 12 years old, constitutes Statutory Rape.<sup>45</sup> The Court, in *People v. Castillo*,<sup>46</sup> held that when the victim is a mental retardate whose mental age is below 12 years old, the rape is considered

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<sup>42</sup> REVISED PENAL CODE, ARTICLE 266-A.

<sup>43</sup> *People v. Castillo*, G.R. No. 242276, February 18, 2020, citing *People v. Manson*, 801 Phil. 130, 137 (2016).

<sup>44</sup> *People v. XXX*, G.R. No. 240750, June 21, 2021.

<sup>45</sup> *People v. Deniega*, 811 Phil. 712, 721 (2017), citing *People v. Bangsoy*, 778 Phil. 294, 306 (2016); *People v. Castro*, 653 Phil. 471, 480 (2010).

<sup>46</sup> G.R. No. 242276, February 18, 2020.

Statutory Rape under Art. 266-A, paragraph 1 (d) of the RPC.<sup>47</sup> The Court followed the pronouncements in *People v. Quintos*,<sup>48</sup> which explained that:

Decision-making is a function of the mind. Hence, a person's capacity to decide whether to give consent or to express resistance to an adult activity is determined not by his or her chronological age but by his or her mental age. **Therefore, in determining whether a person is "twelve (12) years of age" under Article 266-A(1)(d), the interpretation should be in accordance with either the chronological age of the child if he or she is not suffering from intellectual disability, or the mental age if intellectual disability is established.**<sup>49</sup> (Emphasis supplied)

In this case, all the elements of the crime of Statutory Rape were sufficiently established by the prosecution. The Information charging accused-appellant with the crime, alleged that AAA, at the time of the commission of the crime, was 17 years old with mental disability.<sup>50</sup> The prosecution satisfactorily proved these facts through AAA's Certificate of Live Birth,<sup>51</sup> and the testimonies of the witnesses.

In his appeal, accused-appellant insists that there was no proof that the mental age of AAA was below 12 years old.<sup>52</sup> XXX argues that contrary to Dr. Zamora's testimony, AAA, despite her alleged mental retardation can fully comprehend the concept of time, place, and her whereabouts. Further, private complainant was able to remember, and narrate clearly the events surrounding her.<sup>53</sup>

We are not persuaded.

It must be stressed that factual findings of the trial court, when affirmed by the appellate court, are generally binding upon this Court.<sup>54</sup> Further, this Court has held that the trial court's conclusions on the credibility of witnesses are accorded great weight and respect, unless there are material facts overlooked which could affect the case.<sup>55</sup> In this case, the Court has no reason to overturn the findings of the RTC and CA that private complainant is a mental retardate.

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<sup>47</sup> Id., citing *People v. Quintos*, 746 Phil. 809, 829-831 (2014).

<sup>48</sup> 746 Phil. 809 (2014).

<sup>49</sup> Id. at 830-331.

<sup>50</sup> Records, p. 1.

<sup>51</sup> Id. at 14.

<sup>52</sup> CA *rollo*, p. 31.

<sup>53</sup> Id. at 36-37.

<sup>54</sup> *People v. Urmaza*, 829 Phil. 324, 335 (2018), citing *Castillo v. Court of Appeals*, 329 Phil. 150, 152 (1996).

<sup>55</sup> *People v. XXX*, G.R. No. 236562, September 22, 2020, citing *People v. Villamor*, 780 Phil. 817, 829 (2016).

It bears to note that AAA was examined by two neurodevelopmental pediatricians, Dr. Christine Leonor Ma. Cruz-Conductor and Dr. Ma. Paz Irene P. Lucido-Bautista, in 2006 and 2016, respectively.<sup>56</sup> The medical evaluations showed that AAA suffers from global developmental delays, and that she has cognitive skills of a 5-year old and language skills of a 4-year old.<sup>57</sup> These findings were substantiated by the testimony of Dr. Zamora who testified that based on her examination, AAA has poor comprehension, disoriented, and is suffering from mental delays.<sup>58</sup> Further, the trial court had the opportunity to observe the demeanor of AAA, and concluded that “she is indeed a mentally challenged person.”<sup>59</sup>

Further, We note in *People v. Caoile*<sup>60</sup> that:

The fact that AAA was able to answer in a straightforward manner during her testimony cannot be used against her. The capacity of a mental retardate to stand as a witness has already been settled by this Court. In *People v. Castillo*, we said:

It bears emphasis that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it is shown that they can communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant’s accusations, it even lends greater credence to her testimony, that, someone as feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused. Moreover, it is settled that when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.<sup>61</sup> (Citations omitted)

Based on the foregoing, We find that the prosecution’s evidence clearly established that AAA is a mental retardate.

The fact of sexual congress between the accused-appellant and AAA was also adequately proven by the prosecution. In her testimony, private complainant was able to narrate in a straightforward manner the details of the incident where accused-appellant assaulted her:

Fiscal Guiua:

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<sup>56</sup> Records, pp. 34-38.

<sup>57</sup> *Rollo*, pp. 20-21.

<sup>58</sup> TSN, March 20, 2018, pp. 3-4.

<sup>59</sup> *Rollo*, p. 45.

<sup>60</sup> 710 Phil. 564 (2013).

<sup>61</sup> *Id.* at 576, citing *People v. Castillo*, 641 Phil. 570, 587-588 (2010).

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Q: 'Yong suot mo, brief na rin, paano nangyari 'yon?

A: Nung una nag-inuman kami nun.

Q: Nag-inuman kayo, saan?

A: Sa ka-tropa.

Q: Saan kayo nag-inuman?

A: Deretso po ng highway, tapos merong lubak-lubak doon, may gate doon.

Q: Doon kayo pumasok sa may gate?

A: Opo.

Q: Sino'ng kasama mo?

A: 'Yan po.

Q: Si [XXX]?

A: Opo.

Q: Alam mo ba kung kaninong bahay 'yon, 'yong pinapasok niyo?

A: Sa kapatid niya.

Q: Kapatid ni [XXX]?

A: Opo.

Q: Sabi mo nag-inuman kayo ng ka-tropa, Sinu-sino 'yon?

A: Kami-kami lang po.

Q: Sino 'yong kami-kami, ikaw, si [XXX], sino pa?

A: 'Yong kapatid niya.

Q: Alam mo ba 'yong pangalan ng kapatid niya?

A: Siya po ang nakakaalam nun.

Q: So, hindi mo alam ang pangalan. Di ba nag-inuman kayo, ano pa ang nangyari doon sa bahay ng kapatid niya?

A: Nalasing po kami.

Q: Uminom ka ba ng alak?

A: Opo.

Q: Alam mo ba 'yong alak na ininom mo, ano'ng ininom mo, bakit ka nalasing?

A: 'Yong empi.

Q: Sino'ng nagpainom sa'yo? Si [XXX] ba ang nagbigay sa'yo ng empi?

A: Yes po.

Q: Ano pa ang nangyari, ano ang nangyari doon sa bahay noong nag-iinuman kayo?

A: Di na ako umuwi ng bahay.

Q: Saan ka natulog nun, nung nag-inuman kayo?

A: Dun sa kapatid niya.

Q: Sino ang katabi mong natulog?

A: Siya po.

Q: Nung natulog kayo, magkatabi ba kayo sa kama?

A: Opo.

Q: **May ginawa ba siya sa'yo nung nandun kayong magkatabi sa kama?**

A: **Opo.**

Q: **Ano'ng ginawa niya?**

A: **Nagganun kami.**

Court Interpreter:

Witness demonstrating what they did together with bumping motion.

Q: [AAA], sabi mo nagganun kayo. Ano'ng ibig mong sabihin?

A: 'Yong ano po, naghalikan kami.

Q: Hinalikan ka niya?

A: Opo.

Q: Hinalikan ka niya sa lips mo?

A: Opo

Q: Sa katawan mo, hinalikan ka ba niya?

A: Opo.

Q: Nung hinalikan ka niya, may suot ka bang damit?

A: Meron.

Q: Si [XXX], may suot ba siyang damit nun?

A: Opo.

Q: Sabi mo kanina, 'yong naisuot mo 'yong brief niya, paano nangyari 'yon, hinubad ba niya 'yon?

A: Opo.

Q: 'Yong panty mo, saan napunta, hinubad mo ba 'yon?

A: Nawala rin po.

Q: Sino'ng nag-alis ng panty mo, ba't nawala?

A: 'Yon po.

Q: Siya rin?

A: Opo.

Q: Nung inalis niya 'yong panty mo, ano'ng ginawa niya?

A: 'Yong ano napalit, 'yong brief.

Q: Pero bago mo sinuot 'yong brief niya, may nangyari pa ba, sabi mo kasi hinalikan ka niya kanina, di ba, tapos ano pa?

A: Nag-ano kami dun sa ano nun, madilim pa kami nung nagpunta.

Q: [AAA], sabi mo kanina magkatabi kayong natulog sa kama, di ba, sabi mo siya 'yong nag-alis ng panty mo, tapos 'yong brief niya inalis din tapos napunta sa'yo, di ba, pumatong ba siya sa'yo noon noong nawalan ka ng panty?

A: Opo.

Q: Dito sa dibdib mo?

A: Opo.

Q: Ano'ng ginawa niya nun, nung nakapatong siya sa'yo?

A: Tapos 'yong panyo ko nun, hinanap ko, wala naman. 'Yong poon lagi kong dala 'yon.

Q: [AAA], nakita mo ba siyang nakahubad?

A: Opo.

Q: Doon sa may kwarto, kung nasaan kayo sa kama?

A: Opo.

Q: Ikaw, nakahubad ka sa kama?

A: Opo.

Q: Si [XXX] ba nakahubad din dun sa kama?

A: Yes po.

Q: Ano ang ginagawa niya doon sa kama habang nakahubad ka?

A: Dapat 'yong kapalit daw pera para pamasaha.

Q: Binigyan ka niya ng pera para pamasaha mo?

A: Opo.

Q: May masakit ba sa katawan mo nung nasa kama kayo?

A: Meron po.

Q: Ano ang masakit sa'yo? Ano sa katawan mo, puwede mo bang ituro?

A: Dito.

Court Interpreter:

Witness is pointing to her back.

Fiscal Guiua:

Q: Sa likod mo?

A: Opo.

Q: Nung nakahubad si [XXX], sabi mo kanina nakahubad siya sa kama, di ba, tapos pumatong siya sa'yo, nung nandito siya sa'yo, may ginagawa ba siya sa'yo noon?

A: Opo.

Q: Nakita mo ba 'yong ari niya nung nakahubad siya?

A: Opo.

Q: Nakikita niya rin ikaw na nakahubad?

A: Opo.

Q: Di ba sabi mo 'yong suot mong panty, tinanggal niya 'yon, di ba, ano ba ang tawag mo doon, pepe ba ang tawag mo doon?

A: Opo.

Q: **May ginawa ba si [XXX] sa pepe mo?**

A: **Meron po.**

Q: Ano'ng ginawa niya?

A: 'Yong ano niya, parang malaki 'yong ganito niya.

Court Interpreter:

Witness demonstrating with her index finger.

Fiscal Guiua:

Q: Sabi mo malaki 'yong ganito niya, ari ba niya 'yong sinasabi mo?

A: Opo.

Q: Tapos?

A: Tapos hinubad niya 'yong brief niya, sunod naman 'yong ganito niya, 'yong malaki niya.

Q: **Ano'ng ginawa niya dun, pinasok ba niya 'yon sa pepe mo?**

A: **Opo.**

Q: **Nasaktan ka ba?**

A: **Opo.**<sup>62</sup> (Emphasis supplied)

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<sup>62</sup> TSN, September 15, 2017, pp. 5-10.

It is clear from AAA's testimony that accused-appellant succeeded in having carnal knowledge of the private complainant. This was also corroborated by the medical findings of Dr. Zamora, which showed that there were "erosions on the left *labia minora*" of private complainant<sup>63</sup> which could be produced by the forcible entry of a hard object possibly, a male genitalia.<sup>64</sup>

Accused-appellant did not deny the fact of sexual intercourse with private complainant. However, he contends that there was no force, threat, intimidation or coercion. Moreover, accused-appellant maintains that he and private complainant had an amorous relationship.<sup>65</sup>

We reject all of XXX's arguments.

It has been repeatedly held that proof of force, intimidation, or consent is unnecessary in Statutory Rape as they are not elements of the crime.<sup>66</sup> The Court has stressed that the law presumes that a child of tender years does not, and cannot have an own will. Thus, the child's consent is immaterial because of the presumed incapacity to discern good from evil.<sup>67</sup>

Notably, in *People v. Quintos*,<sup>68</sup> the Court ruled:

In all the above circumstances, rape is ensured because the victim lacks the awareness or presence of mind to resist a sexual abuse. The unconscious, the manipulated, the reason-deprived, the demented, and the young cannot be expected to offer resistance to sexual abuse for the simple reason that their mental statuses render them incapable of doing so. **They are incapable of rational consent. Thus, sexual intercourse with them is rape. No evidence of force, intimidation, or resistance is necessary.**<sup>69</sup> (Emphasis supplied)

In this case, private complainant is a mentally challenged person with cognitive skills of a 5-year old and language skills of a 4-year old. Clearly, she is incapable of giving rational consent to the sexual act. Thus, regardless of the absence of force or intimidation, sexual intercourse with the private complainant is considered rape.<sup>70</sup>

XXX's claim that he and private complainant were in a relationship deserves scant consideration. Time and again, the Court ruled that for the

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<sup>63</sup> Records, p. 13.

<sup>64</sup> *Rollo*, p. 10.

<sup>65</sup> CA *rollo*, pp. 31-37.

<sup>66</sup> *People v. Manaligod*, 831 Phil. 204, 211 (2018).

<sup>67</sup> *People v. Deniega*, supra note 45, at 721, citing *People v. Teodoro*, 622 Phil. 328, 337 (2009); *People v. Vergara*, 724 Phil. 702, 708 (2014); *People v. Gutierrez*, 731 Phil. 352, 357 (2014).

<sup>68</sup> *People v. Quintos*, supra note 48.

<sup>69</sup> *Id.* at 831.

<sup>70</sup> *Id.*

“sweetheart” defense to be appreciated, it must be substantiated by evidence of the relationship.<sup>71</sup> Apart from the bare and unsubstantiated claim of XXX that he and AAA had an amorous relationship, XXX failed to present evidence to support this defense.

More importantly, it is well-settled that the fact that accused-appellant and the victim are sweethearts does not negate lack of consent to the sexual act.<sup>72</sup> The Court explained that “regardless of the relationship between two individuals, forcing carnal knowledge upon another is considered rape, more so when the victim is incapable of giving consent due to her mental capacity.”<sup>73</sup> Thus, the lower courts properly disregarded the sweetheart defense despite the testimony of private complainant that they have a relationship, and that they love each other,<sup>74</sup> due to AAA’s lack of capacity to give consent.

In the recent case of *People v. XXX*,<sup>75</sup> the Court convicted therein accused-appellant of Statutory Rape for having carnal knowledge of the private complainant who has a chronological age of 29 years old and a mental age of a six-year old child.

From the foregoing, the Court affirms the decision of the CA convicting accused-appellant of the crime of rape. However, the Court deems it necessary to modify the nomenclature of the crime charged, and impose the proper penalty.

Notably, the lower courts prosecuted and convicted accused-appellant with Rape in relation to RA 7610. We hold that there is a need to correct the error in the nomenclature of accused-appellant’s crime, and delete the correlation to RA 7610. The Court’s pronouncements in *People v. Tulagan*<sup>76</sup> explains the ratio for the correct designation of offenses under Art. 266-A, paragraph 1 (a) and Art. 266-B of the RPC, and not under RA 7610:

With this decision, We now clarify the principles laid down in *Abay*, *Pangilinan* and *Tubillo* to the effect that there is a need to examine the evidence of the prosecution to determine whether the person accused of rape should be prosecuted under the RPC or R.A. No. 7610 when the offended party is 12 years old or below 18.

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<sup>71</sup> *People v. Rubillar*, 817 Phil. 222, 234 (2017), citing *People v. Patentes*, 726 Phil. 590, 604 (2014).

<sup>72</sup> *People v. Olesco*, 663 Phil. 15, 24-25 (2011), citing *People v. Magbanua*, 576 Phil. 642, 647-648 (2008).

<sup>73</sup> *People v. Quintos*, supra note 48, at 826.

<sup>74</sup> *Rollo*, p. 50.

<sup>75</sup> G.R. No. 243988, August 22, 2020.

<sup>76</sup> G.R. No. 227363, March 12, 2019.



*First*, if sexual intercourse is committed with an offended party who is a child less than 12 years old or is demented, whether or not exploited in prostitution, **it is always a crime of statutory rape**; more so when the child is below 7 years old, in which case the crime is always qualified rape.

X X X X

Assuming that the elements of both violations of Section 5 (b) of R.A. No. 7610 and of Article 266-A, paragraph 1 (a) of the RPC are mistakenly alleged in the same information – *e.g.*, carnal knowledge or sexual intercourse was due to “force or intimidation” with the added phrase of “due to coercion or influence,” one of the elements of Section 5 (b) of R.A. No. 7610; or in many instances wrongfully designate the crime in the Information as violation of “Article 266-A, paragraph 1 (a) in relation to Section 5 (b) of R.A. No. 7610,” although this may be a ground for quashal of the Information under Section 3(f) of Rule 117 of the Rules of Court – and proven during the trial in a case where the victim who is 12 years old or under 18 did not consent to the sexual intercourse, the accused should still be prosecuted pursuant to the RPC, as amended by R.A. No. 8353, which is the more recent and special penal legislation that is not only consistent, but also strengthens the policies of R.A. No. 7610. Indeed, **while R.A. No. 7610 is special law specifically enacted to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development, We hold that it is contrary to the legislative intent of the same law if the lesser penalty (*reclusion temporal medium to reclusion perpetua*) under Section 5 (b) thereof would be imposed against the perpetrator of sexual intercourse with a child 12 years of age or below 18.**

**Article 266-A, paragraph 1 (a) in relation to Article 266-B of the RPC, as amended by R.A. No. 8353, is not only the more recent law, but also deals more particularly with all rape cases, hence, its short title “*The Anti-Rape Law of 1997*.” R.A. No. 8353 upholds the policies and principles of R.A. No. 7610, and provides a “stronger deterrence and special protection against child abuse,” as it imposes a more severe penalty of *reclusion perpetua* under Article 266-B of the RPC, x x x<sup>77</sup> (Emphasis supplied)**

Thus, the rectification of accused-appellant’s conviction of rape under a single criminal law provision is in order. XXX is to be held liable for Statutory Rape defined in Article 266-A, paragraph 1 (d) of the RPC, as amended.

Applying Article 266-B of the RPC, the RTC and CA correctly imposed the penalty of *reclusion perpetua*. However, the Court modifies the decision of the appellate court by deleting the phrase “without eligibility for parole” from the penalty imposed pursuant to A.M. No. 15-08-02-SC.<sup>78</sup> The qualification of “without eligibility of parole” is only applicable in cases where the death penalty should have been imposed had it not been for the enactment of

<sup>77</sup> Id.

<sup>78</sup> Entitled “GUIDELINES FOR THE PROPER USE OF THE PHRASE “WITHOUT ELIGIBILITY FOR PAROLE” IN INDIVISIBLE PENALTIES.” Signed: August 4, 2015.

Republic Act No. 9346 or the Act Prohibiting the Imposition of Death Penalty in the Philippines. Such is not the case here.

Accused-appellant is guilty of Statutory Rape, and sentenced to suffer the penalty of *reclusion perpetua*. Accordingly, the phrase “without eligibility for parole” should be deleted.

Finally, as to the award of damages, in line with prevailing jurisprudence,<sup>79</sup> the Court affirms the award of civil indemnity, moral damages, and exemplary damages to private complainant in the amount of PHP 75,000.00 each.

**WHEREFORE**, the appeal is **DISMISSED**. The assailed March 11, 2021 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11324 is **AFFIRMED WITH MODIFICATION**. Accused-appellant XXX is hereby found **GUILTY** beyond reasonable doubt of Statutory Rape under Article 266-A, Paragraph 1 (d), in relation to Article 266-B, of the Revised Penal Code and is thus sentenced to suffer the penalty of *reclusion perpetua*. Moreover, accused-appellant shall pay private complainant AAA the following amounts: (1) PHP 75,000.00 as civil indemnity; (2) PHP 75,000.00 as moral damages; and (3) PHP 75,000.00 as exemplary damages. All amounts are subject to the legal interest at the rate of six percent (6%) per *annum* from finality of this Resolution until fully paid.

**SO ORDERED.”**

**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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**JAN 27 2023**

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<sup>79</sup> *People v. Jugueta*, 783 Phil. 806, 849 (2016).

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 11324)

The Hon. Presiding Judge  
Regional Trial Court, Branch 96  
Dinalupihan, 2110 Bataan  
(Crim. Case No. DH-4363-17)

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