



Republic of the Philippines  
Supreme Court  
Cagayan de Oro City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 6, 2023** which reads as follows:*

“**G.R. No. 251149** (*People of the Philippines v. XXX*<sup>1</sup>). – This is an appeal from the Decision<sup>2</sup> dated 26 November 2018 issued by the Court of Appeals (CA) in CA-G.R. CR No. 40281. The CA affirmed, with modification, the Judgment<sup>3</sup> dated 13 June 2017, issued by Branch 207, Regional Trial Court (RTC) of Muntinlupa City, in Criminal Case No. 14-675, finding accused-appellant XXX (accused-appellant) guilty beyond reasonable doubt of Child Abuse, defined and penalized under Section 5(b) of Republic Act No. (RA) 7610.<sup>4</sup>

**Antecedents**

In an Information<sup>5</sup> dated 28 July 2014, accused-appellant was charged with raping AAA.<sup>6</sup> The accusatory portions of the Information read:

<sup>1</sup> Pursuant to Supreme Court Administrative Circular No. 83-15 dated 05 September 2017 which requires the preparation of a first copy of Decisions/Resolutions/Orders where the real of genuine name/s or identities and personal circumstances are used.

<sup>2</sup> *Rollo*, pp. 3-16; penned by Associate Justice Priscilla J. Baltazar-Padilla (now retired Member of this Court), and concurred in by Associate Justices Victoria Isabel A. Paredes and Henri Jean Paul B. Inting (now a Member of this Court).

<sup>3</sup> *CA rollo*, pp. 48-56; penned by Presiding Judge Philip A. Aguinaldo.

<sup>4</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: 17 June 1992.

<sup>5</sup> Records, p. 1.

<sup>6</sup> The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 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;” RA 9262, “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;” Section 40 of Administrative Matter No. 04-10-11-SC, known as the “Rule on Violence against Women and Their Children,” effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

That on or about the 21<sup>st</sup> day of May 2014, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, with grave abuse of authority as accused is a closed [sic] and trusted friend (“kumpare”) of the parents of the minor complainant, hence accused has moral ascendancy over her, did then and there, willfully, unlawfully and feloniously had carnal knowledge of [AAA], fifteen (15) years old minor, born on November 4, 1998, against the latter’s will and consent.

Contrary to law.<sup>7</sup>

During his arraignment, accused-appellant pleaded not guilty to the charge against him. Hence, pre-trial and trial on the merits ensued.<sup>8</sup>

### Version of the Prosecution

On 21 May 2014, AAA, then a 15-year-old minor, went to the Alabang public market to bring a fresh set of clean clothes to his father, BBB. Accused-appellant, the godfather of AAA’s brother<sup>9</sup> and a friend of BBB, saw the latter and immediately asked BBB if she could come with him to his quarters. Allegedly, BBB wanted to get some groceries to send to his children through AAA. BBB trustingly acceded to his *kumpare*’s request. Little did BBB know that accused-appellant had bestial plans against AAA.<sup>10</sup>

Accused-appellant brought AAA to an *apartelle* and commanded her to go to the second floor of the premises. He let her wait there for half an hour by herself. When accused-appellant returned, he asked AAA to get inside a room. Once they were inside, he locked the door and turned the light off. He gripped her arms and threatened to kill her if she told the incident to anyone. He then put her on bed, started to undress her, and mounted her. She resisted but she got overpowered, and felt weak. Consequently, accused-appellant successfully had unlawful carnal knowledge of her. She could only cry because of the pain she felt. After the forced sexual intercourse, accused-appellant told AAA to dress up and go home.<sup>11</sup>

AAA did not tell anyone about her ordeal until, 28 May 2014 when BBB asked AAA to go to the Alabang public market again. When she was about to go home, accused-appellant saw her aboard a tricycle. He blocked the vehicle and sat behind the driver despite AAA’s objection. He asked AAA to come with him again to the *apartelle*. Fearful that she would get raped again, AAA refused. As soon as accused-appellant got off the tricycle, the driver asked AAA why she seemed to be fearful of accused-appellant.

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

<sup>8</sup> CA *rollo*, p. 110.

<sup>9</sup> Id. at 66.

<sup>10</sup> *Rollo*, p. 4.

<sup>11</sup> Id. at 4-5.

Mustering enough courage, AAA told the driver about her ordeal in the hands of accused-appellant, and she allowed him to inform BBB about it.<sup>12</sup>

On the same date, AAA, accompanied by her grandmother and cousin, went to the police station to lodge a complaint against accused-appellant. She also went to the Southern Police District Crime Laboratory Office for medical examination. The Medico-Legal Report of Police Senior Inspector Reah Mangoba Cornelio revealed that AAA sustained a blunt penetrating trauma on her hymen, and a shallow healed laceration at 6 o'clock position thereof.<sup>13</sup>

### **Version of Accused-Appellant**

Accused-appellant admitted that he knew AAA as the daughter of his friend, BBB. He also admitted that he worked at the Alabang Public Market. However, he vehemently denied having unlawful carnal knowledge with AAA.<sup>14</sup>

He alleged that on 21 May 2014, he was at the market selling fish but did not see AAA. He got exhausted as he was working since the evening of 20 May 2014. Hence, at around 7:00 a.m. to 8:00 a.m. the following morning, he went home and slept all day.<sup>15</sup>

CCC, mother of accused-appellant, corroborated the testimony of her son. She claimed that on 21 May 2014, accused-appellant went home from work and slept immediately. He woke up only at 8:00 p.m. She was certain that accused-appellant did not leave the house because she was also at home the whole day, taking care of her grandchildren.<sup>16</sup>

CCC also accused AAA's family of asking the amount of ₱200,000.00 from them in exchange for dropping the case against accused-appellant. The said amount was later reduced to ₱100,000.00 but CCC did not budge as she had no money to give AAA's family.<sup>17</sup>

### **Ruling of the RTC**

After trial on the merits, the RTC convicted accused-appellant, finding accused-appellant guilty of Sexual Abuse under Sec. 5(b) under RA 7610. The decretal portion of the Judgment reads:

**WHEREFORE**, the court finds accused Luis Villacrusis y Agravante guilty beyond reasonable doubt of the offense of child abuse under Section 5(b) of RA 7610, without aggravating or mitigating

<sup>12</sup> CA rollo, pp. 40-50

<sup>13</sup> Rollo, p. 5.

<sup>14</sup> Id.

<sup>15</sup> Id. at 5-6.

<sup>16</sup> Id. at 6.

<sup>17</sup> Id.

circumstances accused is sentenced to an indeterminate penalty of 10 years and 1 day of prison mayor in its maximum as the minimum period to 17 years[,] 4 months and 1 day of reclusion temporal in its maximum as the maximum period. Accused is further ordered to pay P75,000.00 as and for civil indemnity; P75,000.00 as and for moral damages; and P75,000.00 as and for exemplary damages, with 6% per annum from the finality of this decision up to full payment.

A fine of P25,000.00 with subsidiary penalty imprisonment shall be imposed against the accused in accordance with Sec. 13(f) of R.A. 7610, in relation to Art. 39 of the Revised Penal Code.

The full preventive imprisonment of the accused shall be credited in his favor.

Let mittimus be issued for the immediate transfer of accused Luis Villacrusis y Agravante to the New Bilibid Prison for the service of his sentence.

SO ORDERED.<sup>18</sup>

The RTC accorded more weight to the testimonies of the prosecution witnesses, especially that of AAA's which it found straightforward, credible and convincing. It considered accused-appellant's denial as self-serving. Also, it did not give any weight to the allegation that AAA's family asked for money from accused-appellant because the alleged demand was made during the pendency of the case, not before the filing of the complaint. Hence, the same could not have been extortion.<sup>19</sup>

### **Ruling of the CA**

On appeal, the CA found accused-appellant guilty of raping AAA but the RTC erroneously convicted him of Sexual Abuse under RA 7610 instead of Simple Rape under the Revised Penal Code<sup>20</sup> (RPC). Consequently, the CA modified the penalties, imposing the penalty commensurate to the crime of Simple Rape under the RPC, as amended by RA 8353.<sup>21</sup> The dispositive portion of the CA's decision reads:

**WHEREFORE**, the instant appeal is hereby **DISMISSED**.

The assailed Decision dated June 13, 2017 of the court *a quo* is **AFFIRMED** with the following **MODIFICATIONS**: (1) accused-appellant is sentenced to suffer the penalty of reclusion perpetua under Article 266-B of the Revised Penal Code and; 2) the fine of P25,000.00 is **DELETED**.

<sup>18</sup> CA rollo, p. 56.

<sup>19</sup> Id.

<sup>20</sup> Entitled "AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS." Approved 08 December 1930.

<sup>21</sup> Entitled "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: 30 September 1997.

The rest of the Decision STANDS.

**SO ORDERED.**<sup>22</sup>

### **Issue**

Whether the CA correctly affirmed the conviction of accused-appellant for violation of Sec. 5(b) of RA 7610.

### **Ruling of the Court**

The Court dismisses the appeal.

The Court agrees with the common findings of the lower courts that accused-appellant is guilty beyond reasonable doubt of Simple Rape, by having carnal knowledge of AAA through force and intimidation. AAA, without hesitation, identified accused-appellant in court as her abuser. Also, she unequivocally narrated how accused-appellant forcibly had sexual intercourse with her, and how he intimidated and threatened her.

On accused-appellant's contention that the medical certificate should not be given weight because the medico legal officer was not presented in court, suffice to state that under settled jurisprudence, the categorical and candid testimony of the complainant suffices, and a culprit may be convicted solely on the basis of her testimony, provided that it hurdles the test of credibility.<sup>23</sup> Proof of physical injuries is not an element of rape. Neither is a medical examination of the victim indispensable in a prosecution for rape. Again, the victim's testimony alone, if credible, is sufficient to convict.<sup>24</sup>

In line with this, jurisprudence has consistently emphasized that the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, especially after the CA, as the intermediate reviewing tribunal, has affirmed the trial court's findings. This applies in the absence of a clear showing that the factual findings and conclusions were reached arbitrarily, or that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or misappreciated that, if properly considered, would alter the result of the case.<sup>25</sup>

In this case, the Court fully concurs with the RTC and the CA that as between the testimony of AAA and the mere denial and *alibi* of accused-appellant, the former deserves credence. There is nothing to prove that AAA was motivated by any ill-will in accusing accused-appellant of a grievous

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<sup>22</sup> *Rollo*, p. 15.

<sup>23</sup> See *People v. Rapiz*, G.R.No. 240662, 16 September 2020.

<sup>24</sup> See *People v. Salazar*, G.R. No. 239138, 17 February 2021.

<sup>25</sup> See *People v. VVV*, G.R. No. 230222, 22 June 2020.

crime. Absent any reasonable explanation to the contrary, AAA, a minor, would not be accusing accused-appellant of rape, allow an examination of her private parts, subject herself and her entire family to humiliation, go through the rigors of public trial, and taint her good name if her claim were not true.

In addition, the allegation of extortion against AAA's family is self-serving and highly doubtful. As pointed out by the RTC, AAA's family filed the complaint first before the alleged demand for money transpired. Hence, even if there was such a demand, the same could be in the nature of a compromise, instead of extortion. At any rate, accused-appellant's unsubstantiated allegation cannot be given any credence by the Court. The basic rule is that mere allegation is not evidence; it is not equivalent to proof.<sup>26</sup>

Pertinently, there is no merit in accused-appellant's argument that AAA's testimony cannot be considered trustworthy because of the following dubious portions in her statements: 1) BBB easily allowed his daughter to go with a stranger like him; and 2) AAA nonchalantly narrated her embarrassing story to a tricycle driver who is not even a family member or a friend.

The argument fails to convince the Court.

There is no exceptional or compelling reason to set aside the common findings of the RTC and the CA as to the credibility of AAA and the other prosecution witnesses.

The workings of the human mind and body when placed under emotional stress are unpredictable.<sup>27</sup> Not every victim can be expected to act with reason or conformably with the usual expectation of mankind. It is unfair to expect and demand a rational reaction or a standard behavioral response from a rape victim, who was confronted with such startling and traumatic experience.<sup>28</sup>

In any case, however, the Court finds that AAA's demeanor after the incident is typical of rape victims. They are initially apprehensive of telling any of their loved ones of the harrowing experience they went through. Some are afraid that their family would not believe their tale while some do not want their family and relatives to go through the same emotional torment and be exposed to the public scrutiny and the humiliation that normally ensues.

That AAA just blurted out about the rape incident to a stranger may not have been a natural reaction, but it is neither incredible nor impossible. The tricycle driver asked her why she felt agitated when she saw accused-

<sup>26</sup> See *Macaventa v. Atty. Nuyda*, A.C. No. 11087, 12 October 2020.

<sup>27</sup> *People v. Jagdon*, G.R. No. 242882, 09 September 2020; citation omitted.

<sup>28</sup> *Id.*; citation omitted.

appellant. Perhaps, AAA confided to him as he appeared to be a gentle soul and someone who was genuinely concerned for her. In fact, this turned out to be true as the tricycle driver was the one to inform BBB about the situation and he later willingly testified for the prosecution.

As regards BBB's demeanor, there is nothing dubious about it because accused-appellant is a close friend of his and the godfather of BBB's son. Sometimes, people accede to a friend's request without thinking due to so much trust.

All things considered, the Court affirms the conviction of accused-appellant for lack of sufficient evidence to overturn the same.

As to the penalty, it should be emphasized at once that the CA aptly modified the RTC's disposition by convicting accused-appellant of Simple Rape under the RPC, as amended by RA 8353, instead of Sexual Abuse under RA 7610.

*People v. Abay* (Abay),<sup>29</sup> *People v. Pangilinan*,<sup>30</sup> and *People v. Tubillo* (Tubillo)<sup>31</sup> commonly instructed that when the victim was 12 years old and below 18, her assailant may be prosecuted either for violation of Sec. 5 (b) of RA 7610 or rape under Article 266-A of the RPC, albeit the offender cannot be accused of both crimes for the same act because his right against double jeopardy will be prejudiced.

However, in *People v. Ejercito*,<sup>32</sup> the Court enunciated that since RA 8353 is not only the more recent statutory enactment but more importantly, the more comprehensive law on rape, it ought to follow that in cases where a minor is raped through sexual intercourse, the provisions of RA 8353, amending the RPC, prevails over Sec. 5(b) of RA 7610, although the latter also penalizes the act of sexual intercourse against a minor. Moreover, **“the ‘focus of evidence’ approach<sup>33</sup> used in the *Tubillo, et al.* rulings had already been abandoned.”**

In *People v. Tulagan* (Tulagan),<sup>34</sup> though, the Court once more revisited *Abay, Pangilinan, and Tubillo*. As the Court stated therein, “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.”<sup>35</sup> Accordingly, the Court

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<sup>29</sup> 599 Phil. 390 (2009).

<sup>30</sup> 676 Phil. 16 (2011).

<sup>31</sup> 811 Phil. 525 (2017).

<sup>32</sup> 834 Phil. 837 (2018).

<sup>33</sup> This approach was described in *Ejercito* as relying on evidence appreciation, instead of legal interpretation.

<sup>34</sup> G.R. No. 227363, 12 March 2019.

<sup>35</sup> See *People v. Tulagan*, G.R. No. 227363, 12 March 2019.

judiciously distinguished the crime of Rape of a minor over 12 under the RPC and Sexual Abuse under the RA 7610 in this wise:

When the offended party is 12 years old or below 18 and the charge against the accused is carnal knowledge through “force, threat or intimidation,” then he will be prosecuted for rape under Article 266-A(1)(a) of the RPC. In contrast, in case of sexual intercourse with a child who is 12 years old or below 18 and who is deemed “exploited in prostitution or other sexual abuse,” the crime could not be rape under the RPC, because this no longer falls under the concept of statutory rape, and the victim indulged in sexual intercourse either “for money, profit or any other consideration or due to coercion or influence of any adult, syndicate or group,” which deemed the child as one “exploited in prostitution or other sexual abuse.”

To avoid further confusion, *Tulagan* further dissected the phrase “children exploited in prostitution” as an element of violation of Sec. 5(b) of RA 7610. In essence, *Tulagan* held that”

“force, threat or intimidation” is the element of rape under the RPC, while “due to coercion or influence of any adult, syndicate or group” is the operative phrase for a child to be deemed ‘exploited in prostitution or other sexual abuse,’ which is the element of sexual abuse under Section 5(b) of R.A. No. 7610. The “coercion or influence” is not the reason why the child submitted herself to sexual intercourse, but it was utilized in order for the child to become a prostitute. Considering that the child has become a prostitute, the sexual intercourse becomes voluntary and consensual because that is the logical consequence of prostitution as defined under Article 202 of the RPC, as amended by R.A. No. 10158 where the definition of “prostitute” was retained by the new law.

Following the explanation in *Tulagan*, accused-appellant is thus rightly found guilty of Simple Rape under the RPC, as amended by RA 8353, since AAA was proven to be more than 12 years old when the incident transpired and that accused-appellant had carnal knowledge of her through force, threat or intimidation. Corollarily, the prosecution did not allege and prove that AAA was a child deemed *exploited in prostitution or other sexual abuse*. AAA was not coerced or influenced by any adult, syndicate or group to indulge in sexual intercourse with accused-appellant, and neither did she consented to have sexual intercourse with him for money, profit, or any other consideration.

The Court further affirms the imposition of the penalty of *reclusion perpetua* against accused-appellant, pursuant to Article 266-B of the Revised Penal Code, as amended by RA 8353. Also, the awards of civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each are in order, the same being in accordance with *People v. Jugueta*.<sup>36</sup> Finally, in consonance with prevailing jurisprudence, the Court affirms the imposition of legal interest at the rate of six percent (6%) per *annum* on the aggregate

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<sup>36</sup> 783 Phil. 806 (2016).






monetary awards, to be reckoned from the finality of this judgment until said amounts are fully paid.<sup>37</sup>

**WHEREFORE**, premises considered, the instant appeal is **DISMISSED**. Accordingly, the Decision dated 26 November 2018 issued by the Court of Appeals in CA-G.R. CR No. 40281 is **AFFIRMED** *in toto*.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court<sup>1st</sup>

by:

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

**188-A**

**APR 03 2023**

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 40281)

The Director General  
Bureau of Corrections  
1770 Muntinlupa City

The Hon. Presiding Judge  
Regional Trial Court, Branch 207  
1770 Muntinlupa City  
(Crim. Case No. 14-675)

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Special and Appealed Cases Service  
Counsel for Accused-Appellant  
5/F, DOJ Agencies Building  
NIA Road cor. East Avenue  
Diliman, 1101 Quezon City

Philippine Judicial Academy (x)  
Supreme Court

XXX  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

Judgment Division (x)  
Supreme Court

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<sup>37</sup> See *People v. Nocado*, G.R. No. 240229, 17 June 2020.