



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 22, 2023 which reads as follows:*

**“G.R. No. 259004 (Darwin Santiago y Lang-odan alias “Galud” v. People of the Philippines).** – The Motion for Extension<sup>1</sup> of thirty (30) days within which to file a petition for review on *certiorari* filed by petitioner Darwin Santiago y Lang-odan alias “Galud” (petitioner) is **GRANTED**, counted from the expiration of the reglementary period.

After a judicious study of the case, the Court resolves to **DENY** the instant Petition for Review on *Certiorari*<sup>2</sup> and **AFFIRM** the Decision<sup>3</sup> dated November 16, 2020 and the Resolution<sup>4</sup> dated October 4, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 42316 for failure of petitioner to show that the CA committed any reversible error in finding him **GUILTY** beyond reasonable doubt of the crime of Lascivious Conduct under Section 5(b) of Republic Act (R.A.) No. 7610.<sup>5</sup>

*First.* While petitioner assails the credibility of AAA,<sup>6</sup> it should be noted that the Regional Trial Court (RTC) of La Trinidad, Benguet, Branch 9 essentially found AAA and BBB to be credible, as the RTC relied on their testimonies, including their claim that they had sexual intercourse with petitioner, that such acts were made in exchange for *shabu*, and that they would not have done so had they not been under the influence of such drug.<sup>7</sup> Notably, the CA affirmed these findings by making these the very bases of its

<sup>1</sup> *Rollo*, pp. 3-8.

<sup>2</sup> *Rollo*, pp. 16-43.

<sup>3</sup> *Id.* at 45-55. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Fernanda Lampas Peralta and Tita Marilyn B. Payoyo-Villordon.

<sup>4</sup> *Id.* at 57-59. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Fernanda Lampas Peralta and Tita Marilyn B. Payoyo-Villordon.

<sup>5</sup> Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” otherwise known as the “SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION AND DISCRIMINATION ACT.” Approved: June 17, 1992.

<sup>6</sup> The identities of the victims are replaced by fictitious initials in accordance with Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017.

<sup>7</sup> *Rollo*, pp. 93-97.

own conclusions.<sup>8</sup> In light of such, Our previous ruling in *People v. Dayaday*,<sup>9</sup> regarding the high respect accorded to a trial court's assessment, is instructive:

Time and again, the Court has held that **when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect.** This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth. Hence, it is a settled rule that appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case. **The foregoing rule finds an even more stringent application where the findings of the RTC are sustained by the CA.**<sup>10</sup> (Emphases supplied)

Following the foregoing jurisprudence, and in application to the case at hand, the Court finds that there is no reason for the Court to believe petitioner's version of the events as against those of AAA's and BBB's.

*Second.* While petitioner refutes the CA's declaration that consent is immaterial in child abuse cases, citing *Bangayan v. People*<sup>11</sup> (*Bangayan*), it appears that petitioner misunderstood the portion of the said case that he cited.<sup>12</sup> Petitioner cited the following:

Taking into consideration the statutory construction rules that penal laws should be strictly construed against the state and liberally in favor of the accused, and that every law should be construed in such a way that it will harmonize with existing laws on the same subject matter, We reconcile the apparent gap in the law by concluding that the qualifying circumstance cited in Section 5(b) of R.A. 7610, which "punishes sexual intercourse or lascivious conduct not only with a child exploited in prostitution but also with a child subjected to other sexual abuse," leave room for a child between 12 and 17 years of age to give consent to the sexual act. **An individual who engages in sexual intercourse with a child, at least 12 and under 18 years of age, and not falling under any of these circumstances,** cannot be held liable under the provisions of R.A. 7610. The interpretation that consent is material in cases where victim is between 12 years old and below 18 years of age is favorable to *Bangayan*. It fills the gap in the law and is consistent with what We have explained in the case of *People v. Tulagan*, to wit:

x x x x

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<sup>8</sup> Id. at 53.

<sup>9</sup> 803 Phil. 363 (2017).

<sup>10</sup> Id. at 370-371.

<sup>11</sup> G.R. No. 235610, September 16, 2020.

<sup>12</sup> *Rollo*, pp. 35-36.

x x x However, **if the same victim gave her consent to the sexual intercourse, and no money, profit, consideration, coercion or influence is involved, then there is no crime committed**, except in those cases where “force, threat or intimidation” as an element of rape is substituted by “moral ascendancy or moral authority,” like in the cases of incestuous rape, and unless it is punished under the RPC as qualified seduction under Article 337 or simple seduction under Article 338.<sup>13</sup> (Emphases and underscoring supplied)

A reading of the foregoing reveals that consent only matters if “no money, profit, consideration, coercion or influence is involved.” The presence of consent, on its own, does not remove the criminal liability. There must also be a lack of presence of the other stated factors, leading to the conclusion that, indeed, if those factors were present, then consent will not serve to exonerate the perpetrator. Notably, *Bangayan* actually states that the gap being addressed is the silence of the law with regard to 12- to 17-year-old children who engage in sexual intercourse not for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate, or group, thus:

In explicitly stating that children deemed to be exploited in prostitution and other sexual abuse under Section 5 of R.A. 7610, refer to those who engage in sexual intercourse with a child “for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group,” it is apparent that the intendment of the law is to consider the condition and capacity of the child to give consent.

Section 5 (b) of R.A. 7610 qualifies that when the victim of the sexual abuse is under 12 years of age, the perpetrator shall be prosecuted under the Revised Penal Code. This means that, regardless of the presence of any of the circumstances enumerated and consent of victim under 12 years of age, the perpetrator shall be prosecuted under the Revised Penal Code. On the other hand, the law is noticeably silent with respect to **situations where a child is between 12 years old and below 18 years of age and engages in sexual intercourse not “for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group.”** Had it been the intention of the law to absolutely consider as sexual abuse and punish individuals who engage in sexual intercourse with “children” or those under 18 years of age, the qualifying circumstances enumerated would not have been included in Section 5 of R.A. 7610.<sup>14</sup> (Emphasis and underscoring supplied)

Again, mere presence of consent is not all that is required. There should also be a showing that the consent to engage in such sexual intercourse is not for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate, or group. Unfortunately for petitioner, such

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<sup>13</sup> *Bangayan v. People*, supra.

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

factors of coercion and influence are present in this case, as found by the RTC and the CA.

As an aside, it should likewise be noted that *Bangayan* is not squarely on fours with the case at hand. In *Bangayan*, the defense raised was that the ongoing relationship of Bangayan with therein private complainant, and their two children, should exonerate him from the charge against him. Notably, in *Bangayan*, therein private complainant executed an Affidavit of Desistance stating that she had decided not to pursue the case against Bangayan because they are living together as husband and wife.<sup>15</sup> In contrast, the records of this case reveal no such ongoing relationship between petitioner and AAA or BBB, nor any affidavit of desistance filed by AAA or BBB.

**Third.** In relation to the foregoing, the RTC and the CA are correct in finding that the acts of petitioner effectively constitute overt acts of influence. The Court notes with approval the following findings of the CA:

In the case at bar, appellant used money and drugs to induce AAA and BBB to have sexual relations with him, **which effectively constitute overt acts of influence**. AAA testified that had there been no promise of drugs and money, she would not have given in freely to sex with appellant. BBB, meanwhile, averred that she had sex with appellant in exchange for *shabu* and that appellant gave her money after sex. Moreover, it cannot be over emphasized that AAA and BBB were minors at the time of the commission of the crimes and are, therefore, considered children under the law. They were not capable of fully understanding or knowing the nature or import of their actions. Coupled with their minority is appellant's more than 20-year seniority over them; appellant being, at the time of the incidents, around 48 years of age. The RTC aptly found that the age disparity placed appellant in a stronger position over AAA and BBB so as to enable him to force his will upon them. The evident age disparity between appellant and AAA and BBB clearly gave appellant moral ascendancy over AAA and BBB.<sup>16</sup> (Emphasis supplied)

To the mind of the Court, the foregoing acts of petitioner of using money and drugs to induce AAA and BBB into having sexual intercourse with him are clear acts of influence and/or coercion. The Court has already settled the definition of coercion and influence, in relation to R.A. 7610, in the case of *Fianza v. People*,<sup>17</sup> thus:

A child is deemed subjected to other sexual abuse when the child indulges in lascivious conduct under the coercion or influence of any adult. Case law further clarifies that lascivious conduct under the coercion or influence of any adult exists when **there is some form of compulsion equivalent to intimidation which subdues the free exercise of the offended party's free will**. Corollary thereto, Section 2 (g) of the Rules on Child

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<sup>15</sup> Id.

<sup>16</sup> *Rollo*, p. 53.

<sup>17</sup> 815 Phil. 379 (2017).

Abuse Cases conveys that **sexual abuse involves the element of influence which manifests in a variety of forms**. It is defined as:

[T]he employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children x x x

The term “*influence*” means the “improper use of power or trust in any way that deprives a person of free will and substitutes another's objective.” On the other hand, “*coercion*” is the “improper use of x x x power to compel another to submit to the wishes of one who wields it.”<sup>18</sup> (Emphases, italics, and underscoring in the original)

Measuring the factual findings in the case at hand against the standards set in the foregoing doctrine, the Court finds it undeniable that the concept of “influence” and/or “coercion” is present in petitioner’s act of using the promise of drugs and money on minors whom he is at least 20 years older, in order to create some form of compulsion equivalent to intimidation which subdues the free exercise of AAA’s and BBB’s free will. Certainly, petitioner was not able to refute the foregoing beyond the feeble claim that the minors supposedly repeatedly consented to the act.

As such, all the elements of the crime of Lascivious Conduct under Section 5 (b) of R.A. 7610 are present in the case at hand, and proven by the prosecution beyond reasonable doubt.

***Fourth.*** With regard to petitioner’s claim of application of the equipoise rule, such rule provides that where the evidence in a criminal case is evenly balanced, the constitutional presumption of innocence tilts the scales in favor of the accused.<sup>19</sup> A review of the case however, shows that the evidence is not evenly balanced, with the evidence of the prosecution being much more credible. As such, the equipoise rule does not apply.

***Fifth.*** On petitioner’s claim that the prosecution must rely on the strength of its own evidence and not on the weakness of the defense, it can be clearly seen from the RTC Decision that the conviction of petitioner did not rely on the weakness of his defense. The testimony and evidence presented by the prosecution were the basis for the finding of his guilt beyond reasonable doubt.

Having said thus, however, the Court finds the need to further modify the penalty meted out by the RTC, as already modified by the CA.

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<sup>18</sup> Id. at 391.

<sup>19</sup> *People v. Urzais*, 784 Phil. 561, 579 (2016).

In *Encinares v. People*<sup>20</sup> (*Encinares*), like in the case at hand, the accused therein was found guilty of Lascivious Conduct under Section 5(b) of R.A. 7610, and he was sentenced to suffer an indeterminate penalty of imprisonment of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum. Said the Court:

**The prescribed penalty for violation of Section 5 (b) of RA 7610 is *reclusion temporal* in its medium period to *reclusion perpetua*. In the absence of mitigating or aggravating circumstances, the maximum term of the sentence shall be taken from the medium period of the prescribed penalty.** Moreover, notwithstanding the fact that RA 7610 is a special law, petitioner may still enjoy the benefits of the Indeterminate Sentence Law. In applying its provisions, the minimum term shall be taken from within the range of the penalty next lower in degree, which is *prision mayor* in its medium period to *reclusion temporal* in its minimum period. Thus, petitioner is sentenced to suffer the indeterminate penalty of imprisonment of ten (10) years and one (1) day of *prision mayor*, as minimum, to **seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum**, for violation of Section 5 (b) of RA 7610.<sup>21</sup> (Italics in the original, emphases supplied)

While the RTC properly meted out the minimum prison term of eight (8) years and one (1) day of *prision mayor* in its medium period, ranging from eight (8) years and one (1) day to fourteen years and eight (8) months, there is a need to increase the maximum term to seventeen (17) years, four (4) months and **one (1) day** to comply with the requirements of the law.

In addition to the foregoing, *Encinares*<sup>22</sup> ruled that the amounts of civil indemnity, moral damages, and exemplary damages awarded for Lascivious Conduct under Section 5(b) of R.A. 7610, when the victim is a child below 18 years of age and the penalty imposed is within the range of *reclusion temporal* in its medium period, are at ₱50,000.00 each, to wit:

Finally, and conformably with the ruling in *People v. Tulagan*, the amount of civil indemnity, moral damages, and exemplary damages awarded for Lascivious Conduct under Section 5 (b) of RA 7610, where the victim is a child below eighteen (18) years of age and the penalty imposed is within the range of *reclusion temporal medium*, is ₱50,000.00 each.<sup>23</sup>

As such, there is a need to modify the damages awarded, thus: ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) per *annum* from finality of this Resolution until full payment.

<sup>20</sup> G.R. No. 252267, January 11, 2021.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

**WHEREFORE**, the Petition is **DENIED**. The Decision dated November 16, 2020 and the Resolution dated October 4, 2021 of the Court of Appeals in CA-G.R. CR No. 42316 are **AFFIRMED** with **MODIFICATION** as follows:

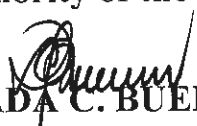
Darwin Santiago y Lang-Odan alias "Galud," having been found **GUILTY** beyond reasonable doubt of Lascivious Conduct under Section 5(b) of Republic Act No. 7610 in Criminal Cases Nos. 15-CR-10790 and 15-CR-10792, is sentenced to suffer, for each count, the indeterminate penalty of imprisonment of eight (8) years and one (1) day of *prision mayor* in its medium period as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal* in its maximum period as maximum, and to pay the fine of ₱15,000.00 in each case, pursuant to Section 31(f) of Republic Act No. 7610.

Darwin Santiago y Lang-Odan alias "Galud" is likewise ordered to pay AAA and BBB, each, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) per *annum* from finality of this Resolution until full payment.

The Manifestation (Re: Annex "G")<sup>24</sup> stating that petitioner is dispensing with Annex "G" as the State did not file any comment to the motion for reconsideration before the Court of Appeals but only a manifestation in lieu thereof, is **NOTED**.

**SO ORDERED.** *Marquez, J., on official business.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *gk1h*

by:

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

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Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 42316)

<sup>24</sup> *Rollo*, pp. 10-13.

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The Hon. Presiding Judge  
Regional Trial Court, Branch 9  
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(Crim. Case Nos. 15-CR-10790  
& 15-CR-10792)

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