



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated February 13, 2023, which reads as follows:*

**G.R. No. 263616 – AURELIO LOPEZ y BUENSUCESO, JR. a.k.a. “KADET,” Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.\***

RESOLUTION

This involves a Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner Aurelio Lopez y Buensuceso, Jr. a.k.a. “Kadet” (**Aurelio**) to assail the May 31, 2022 Decision<sup>2</sup> and September 9, 2022 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 14053. The CA affirmed the September 26, 2019 Judgment of the Regional Trial Court, Branch 100, Quezon City (RTC) in Criminal Case No. R-QZN-19-03102-CR, convicting Aurelio of Rape under Article 266-A(1) of the Revised Penal Code (RPC).

The Court denies the Petition.

Preliminarily, the Court notes that Aurelio availed of the wrong remedy in filing a petition for review on *certiorari* under Rule 45 of the Rules of Court. Section 3(e), Rule 122 of the Revised Rules on Criminal Procedure (Rules) provides that “[e]xcept as provided in the last paragraph of Section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rule 45.”

Section 13, Rule 124 of the Rules states:

*Certification or appeal of case to the Supreme Court. — (a)*  
Whenever the Court of Appeals finds that the penalty of death should be

\* No unmodified version since the real name of the private complainant cannot be found in the *rollo*.

<sup>1</sup> *Rollo*, pp. 3-12.

<sup>2</sup> *Id.* at 18-28. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Roberto P. Quiroz.

<sup>3</sup> *Id.* at 30-31. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Roberto P. Quiroz.

imposed, the court shall render judgment but refrain from making an entry of judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

(b) Where the judgment also imposes a lesser penalty for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more severe offense for which the penalty of death is imposed, and the accused appeals, the appeal shall be included in the case certified for review to the Supreme Court.

**(c) In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals. (Emphasis supplied)**

In this case, the CA affirmed the imposition of the penalty of *reclusion perpetua* on Aurelio. Thus, he should have filed a notice of appeal before the CA instead of filing a petition for review on *certiorari* before the Court.

As a result of Aurelio's failure to timely file a notice of appeal, the Decision and Resolution of the CA had lapsed into finality. Time and again, the Court has held that "a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land."<sup>4</sup> While there are exceptions to the application of this principle, none of which properly obtains in this case.

On this score alone, the Petition must be denied. However, even if the Court were to evaluate the merits of the case, the Petition would still fail.

The gravamen of the crime of Rape is carnal knowledge of a woman against her will.<sup>5</sup> The following elements must be proven beyond reasonable doubt for the conviction of the accused in the crime of Rape under Article 266-A, paragraph (1)(a) of the RPC:(1) that the act was committed by a man; (2) that said man had carnal knowledge of a woman; and (3) that such act was accomplished through force, threat or intimidation.<sup>6</sup>

In this case, the foregoing elements are all present.

The first two elements are uncontroverted. Aurelio does not deny having had sexual intercourse with the private complainant AAA. He merely contends that it was consensual. However, aside from his own statements,

<sup>4</sup> *Antone v. People*, 820 Phil. 1154 (2017).

<sup>5</sup> *People v. XXX*, G.R. No. 225781, November 16, 2020.

<sup>6</sup> *People v. Dechoso*, G.R. No. 248530, March 3, 2021.

Aurelio's claim that the sexual intercourse was consensual was not supported by the evidence on record.

Aurelio puts into question AAA's credibility, and argues that his conviction cannot rest on AAA's testimony as it is not sufficient to establish his guilt beyond reasonable doubt.

The Court is not convinced.

The Court is guided by the following rules when confronted with the issue of credibility of witnesses on appeal: First, the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses. Second, absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances affecting the outcome of the case are shown to have been overlooked or disregarded. And third, the rule is even more stringently applied if the CA concurred with the RTC.<sup>7</sup>

In this case, AAA narrated in detail how Aurelio employed force to have carnal knowledge of her.<sup>8</sup> According to AAA, she tried to stop Aurelio's advances but she was overpowered by the latter due to her intoxicated state. Both the RTC and the CA found AAA and her testimony credible. The Court finds no cogent reason to depart from the RTC and CA findings, which are binding upon it.

The pointed inconsistencies in AAA's Complaint-Affidavit and testimony—whether it was AAA's first time to drink with Aurelio on the date of the incident and whether AAA knew what to do after the rape — are too trivial and have no bearing in the determination of Aurelio's guilt or innocence as they do not relate to any of the elements of the crime charged and thus do not discredit AAA's credibility.

As regards Aurelio's contention that the findings of Dr. Filemon C. Porciuncula (**Dr. Porciuncula**), who examined AAA, that the injury on AAA's hymen was sustained on January 24, 2018 negated AAA's claim of rape on January 28, 2018, suffice it to state that hymenal laceration, whether fresh or healed, is not an element of the crime of Rape.<sup>9</sup> It is settled that a medical examination of the victim can even be dispensed with in a prosecution for rape since the victim's testimony alone, if credible, is sufficient to convict

<sup>7</sup> *People v. Sanchez*, 681 Phil. 631 (2012).

<sup>8</sup> *Rollo*, pp. 24-25.

<sup>9</sup> *People v. Guillen*, 722 Phil. 28 (2013).

the accused of the crime.<sup>10</sup> Moreover, Dr. Porciuncula made other findings of injury which he attested were sustained earlier as to fall within the period of commission of the offense.

Lastly, AAA's acts of reporting the incident a day after, staying in the same boarding house as Aurelio, and going to work the next day where Aurelio was also working cannot be taken against her. A victim's reaction after a harrowing experience, especially in a crime of rape, is subjective and not everyone responds in the same way. There is no standard form of behavior that can be anticipated of a rape victim following her sexual abuse.<sup>11</sup> In fact, AAA's decision to report the rape to their common employer the very next day negates this argument.

As regards the penalty, the Court agrees with the CA that the phrase "without parole" in the sentence should be deleted in line with Administrative Matter No. 15-08-02-SC or the Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties, which pertinently provides:

Parole is extended only to those convicted of divisible penalties. *Reclusion perpetua* is an indivisible penalty and carries no minimum nor maximum period. xxx With no "minimum penalty" imposable on those convicted of a crime punishable by *reclusion perpetua*, then even prior to the enactment of R.A. No. 9346, persons sentenced by final judgment to *reclusion perpetua* could not have availed of parole under the Indeterminate Sentence Law.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "without eligibility for parole":

**(1) In cases where the death penalty is not warranted, there is no need to use the phrase "without eligibility for parole" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and**

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "without eligibility for parole" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for RA 9346. (Emphasis supplied)

<sup>10</sup> *People v. XXX*, G.R. No. 241787, March 15, 2021, citing *People v. Fernandez*, 426 Phil. 168 (2002).

<sup>11</sup> *People v. Yamon Tuando*, 781 Phil. 687 (2016).

Since the death penalty is not warranted in this case, the phrase “without parole” does not need to be affixed to *reclusion perpetua*.

**WHEREFORE**, the Petition is **DENIED**. The May 31, 2022 Decision and the September 9, 2022 Resolution of the Court of Appeals in CA-G.R. CR-HC No. 14053 are **AFFIRMED**.

By authority of the Court:

<sup>MisDCCBatt</sup>  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
r/abs

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(Criminal Case No. R-QZN-19-03102-CR)

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