



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **October 4, 2023** which reads as follows:*

“**G.R. No. 263503 (PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. XXX263503, Accused-Appellant).** – This Appeal¹ seeks to reverse the Decision² dated May 30, 2022 of the Court of Appeals in CA-G.R. CR-HC 14609, affirming with modification the trial court’s verdict of conviction against accused-appellant XXX263503 for seven counts of acts of lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610; three counts of lascivious conduct under Section 5(b) of Republic Act No. 7610; two counts of sexual assault under Article 266-A (2) of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610; and four counts of statutory rape.

On February 7, 2011, XXX263503 was charged with two counts of acts of lasciviousness and one count of rape by sexual assault,³ respectively, as follows:

Criminal Case No. 331-M-2011

That on or about the 25th day of January 2011, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel one [ABC263503],⁴ a minor, 15 years of age, to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of

¹ *Rollo*, p. 3.

² Penned by Associate Justice Jaime Fortunato A. Caringal with the concurrences of Associate Justices Myra V. Garcia-Fernandez and Lois P. Acosta, *id.* at 9.

³ *CA rollo*, pp. 53-54

⁴ *People v. Manjares*; G.R. No. 185844, November 23, 2011, decreed: “In line with Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of AC 83-2015, 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. For purposes of discussion, the private offended party and her immediate family members shall be referred to using initials. See also *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006, 502 SCRA 419) and *People v. Guillermo* (G.R. No. 173787, April 23, 2007, 521 SCRA 597).”

said minor [ABC263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 332-M-2011

That sometime in the year 2004 to 2005, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel one [ABC263503], a minor, 15 [sic]⁵ years of age, to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [ABC263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 333-M-2011

That sometime in the year 2004 to 2005, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sexually assault minor [ABC263503], who was then between the ages of 9 [and] 10, by inserting his penis into said minor's anus by means of force, violence and intimidation, with lewd designs and against his will.

On May 2, 2011, XXX263503 was again charged with eight counts of acts of lasciviousness, one count of rape by sexual assault, and four counts of statutory rape,⁶ respectively, as follows:

Criminal Case No. 1911-M-2011

That sometime in the year of 2005, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1912-M-2011

That sometime in the year of 2006, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully,

⁵ Since he was born on October 1, 1995, his age should be 9 or 10 years old at the time the crimes was alleged to be committed.

⁶ *Rollo*, pp. 55-63.

unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1913-M-2011

That sometime in the year of 2007, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1914-M-2011

That sometime in the year of 2008, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1915-M-2011

That sometime in the year of 2009, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1916-M-2011

That sometime in the year of 2010, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1917-M-2011

That on or about the 24th day of January 2011, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, compel said minor [DEF263503], to masturbate his penis, of which he consequently [sic] blew or sucked, while he was jerking or masturbating his own penis, against the will and without [the] consent of said minor [DEF263503], thereby placing said minor under conditions prejudicial to his normal growth and development.

Criminal Case No. 1918-M-2011

That on or about the 25th day of January 2011, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of [GH1263503], a minor, 10 years of age [sic],⁷ did then and there willfully, unlawfully and feloniously[,] by means of force and intimidation, and with lewd designs, commit the act of lascivious conduct against said minor, by fondling and touching her private part, against her will and without her consent, thereby demeaning, degrading and debasing said minor's intrinsic worth and dignity as a human being.

Criminal Case No. 1919-M-2011

That sometime in the year of 2008, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [DEF263503 Jose S. Limboy], under twelve (12) years of age, did then and there willfully, unlawfully and feloniously sexually assault[] minor [DEF263503 Jose S. Limboy], by inserting his penis into said minor's anus by means of force, violence and intimidation, with lewd designs and against

⁷ Since she was born on March 30, 2001, her age should be 9 years old at the time the offense was committed.

his will, thereby demeaning, degrading and debasing said minor's intrinsic worth and dignity as a human being.

Criminal Case No. 1920-M-2011

That sometime between the years of 2006 and 2007, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [GHI263503], under twelve (12) years of age, and taking advantage of the innocence of the offended party, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, and with lewd designs, have carnal knowledge of said [GHI263503], against her will and without her consent, thereby demeaning, degrading and debasing said minor's intrinsic worth and dignity as a human being.

Criminal Case No. 1921-M-2011

That sometime in the year of 2008, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [GHI263503], under twelve (12) years of age, and taking advantage of the innocence of the offended party, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, and with lewd designs, have carnal knowledge of said [GHI263503], against her will and without her consent, thereby demeaning, degrading and debasing said minor's intrinsic worth and dignity as a human being.

Criminal Case No. 1922-M-2011

That sometime in the year of 2009, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [GHI263503], under twelve (12) years of age, and taking advantage of the innocence of the offended party, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, and with lewd designs, have carnal knowledge of said [GHI263503], against her will and without her consent, thereby demeaning, degrading and debasing said minor's intrinsic worth and dignity as a human being.

Criminal Case No. 1923-M-2011

That sometime in the year of 2010, in [REDACTED], province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of minor [GHI263503], under twelve (12) years of age, and taking advantage of the innocence of the offended party, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, and with lewd designs, have carnal knowledge of said [GHI263503], against her will and without

her consent, thereby demeaning, degrading and debasing said minor's intrinsic worth and dignity as a human being.

On arraignment, XXX263503 pleaded not guilty to all the charges.⁸

The prosecution presented the testimonies of ABC263503, DEF263503, GHI263503 (collectively, private complainants), JKL263503, and Security Guard Rogelio San Diego, Jr.⁹ On the other hand, the defense presented XXX263503 as its lone witness.¹⁰

Version of the Prosecution

The first complainant was ABC263503. He testified that he was introduced by his brother to XXX263503 sometime in 2004. XXX263503 was then a security guard at *ML Kwarta Padala* in [REDACTED], Bulacan. Since then, he got close to XXX263503 and was later invited to go to his house in [REDACTED], Bulacan, where the first incident of molestation occurred. Right when they arrived, XXX263503 removed his (ABC263503's) clothes and masturbated his penis. XXX263503 then placed his (ABC263503's) penis in his mouth. He cried in pain as his penis got swollen. XXX263503 threatened to kill him if he reported the incident to anyone.¹¹

Two weeks after, XXX263503 invited him to join an excursion in Zambales. He agreed out of fear. They boarded a bus which, at the time, had no passengers except the two of them. Recognizing this opportunity, XXX263503 took off his (ABC263503's) clothes and put his (ABC263503's) penis into his mouth. While performing fellatio, XXX263503 took out his own penis and masturbated. After XXX263503 climaxed, XXX263503 instructed him to put on his clothes back.¹²

After their excursion in Zambales, XXX263503 brought him home to his (XXX263503's) house in [REDACTED]. There, XXX263503 once again took advantage of the opportunity. XXX263503 removed his (ABC263503's) clothes, performed fellatio, and masturbated. After that, XXX263503 ordered him to bend over and inserted his (XXX263503's) penis into his (ABC263503's) anus. XXX263503 did a back-and-forth motion, and when he stopped, a white substance emitted from his anus.¹³

⁸ CA Decision, p. 8.

⁹ *Id.*

¹⁰ *Id.* at 11.

¹¹ *Id.* at 8-9.

¹² *Id.* at 9.

¹³ *Id.*

These incidents were only the beginning of his suffering in the hands of XXX263503. Since then, XXX263503 would repeat the same acts about once a month. He had to put up with the same pattern of his clothes being removed, his penis being orally stimulated, and his anus being penetrated. Even if he wanted to report to the authorities, he could not do so because XXX263503 always threatened to kill him if he did.¹⁴

The last incident occurred on January 25, 2011, in ██████████ National High School, where he went to school. XXX263503 was in the campus because he brought food for his stepson, DEF263503, who had also been attending the same school. He (ABC263503) had just finished urinating in the comfort room. He was about to go back to his classroom when he saw XXX263503 who blocked his way and ordered him to go back inside the comfort room.¹⁵

There, XXX263503 unzipped his (ABC263503's) pants, locked the comfort room door, and once again performed fellatio on him for about 40 minutes. The school janitor, noticing that the two of them had been inside the comfort room for an unusually long time, called the attention of the security guards. Rogelio, one of the school guards on duty, went to check the comfort room to see what was going on. XXX263503 peeped into a hole inside the comfort room and saw Rogelio standing outside. XXX263503 ordered him (ABC263503) to wear his pants back and explain to the security guard that they took a long time inside because they were defecating. A commotion ensued between XXX263503 and Rogelio who was extremely suspicious of XXX263503's actions. Together, he and XXX263503 were brought to the school guidance counselor. It was there that he finally reported how, for a long time, XXX263503 has been sexually abusing him, resulting in the latter's apprehension.¹⁶

The second complainant was **DEF263503**, XXX263503's stepson. He testified that XXX263503 started abusing him sometime in 2005. One evening, he was roused from his sleep because XXX263503 removed his undergarments and performed fellatio on him. When XXX263503 was finished, he warned him not to disclose to anyone what had happened or he would kill him. Since then, XXX263503 would often take advantage of him in the bathroom and in the bedroom of their house. He even got molested twice in ABC263503's house when they were visiting the latter.¹⁷

In 2008, XXX263503 moved to another residence, but he occasionally visited his old residence, where he (DEF263503) and his mother were still living. XXX263503, however, would bring him to his new residence where he would continue his molestations. These abuses happened so many times

¹⁴ *Id.*

¹⁵ *Id.* at 9-10.

¹⁶ *Id.*

¹⁷ *Id.* at 10.

that he already lost count of them, but he testified that it had happened almost every day.¹⁸

XXX263503's acts were almost always the same. He would remove his clothes then order him to fondle his (XXX263503's) penis. Sometimes, he would perform fellatio on him while he masturbated. Other times, he would insert his penis into his (DEF263503's) anus. The last time he was abused by XXX263503 was on January 24, 2011, because the next day, XXX263503 was already apprehended due to his incident with ABC263503 in ██████████ ██████████ National High School.¹⁹

The third complainant was **GHI263503**, XXX263503's stepdaughter. She testified that she was around 6 years old and was still in kindergarten when she was first molested by XXX263503 in 2006. She was playing outside their house when he asked her to come inside. When she did, he locked the main door and ordered her to go inside one of the rooms. He ordered her to undress, lie down on the bed, and spread her thighs. He threatened to maul her if he did not do as he said. He first inserted his finger into her vagina and proceeded to penetrate her vagina with his penis. She shouted for help but was threatened that she would be beaten up if she would not stop.²⁰

XXX263503 continued to rape her almost every day. She kept everything a secret from her mother because of his threats. It was only after a few years that she finally mustered the courage to divulge everything to her mother who initially did not believe her. When he GHI263503rned that she had told her mother what he was doing, he punished her by hitting her with a piece of wood. This was followed by further abuses, approximately on a weekly basis. The last incident took place on January 25, 2011. At dawn, she was awakened by XXX263503 who was fondling her vagina. He only stopped when her mother also woke up. He then pretended to be asleep.²¹

JKL263503 is the mother of ABC263503. She testified that XXX263503 is her *kumpare* and is the godfather of her son. She only came to know about XXX263503's crimes when the guidance counselor came to her house on January 25, 2011 and told her that XXX263503 was caught with her son inside the school's comfort room. When she went to the school, ABC263503 admitted to her that he was being molested by XXX263503 inside the comfort room. She then brought her son to Camp Crame for a medico-legal examination. Prior to January 25, 2011, she averred that she did not notice anything unusual in her son's behavior.²²

¹⁸ *Id.*

¹⁹ *Id.* at 10-11.

²⁰ *Id.* at 11.

²¹ *Id.* at

²² *Rollo*, p. 69.

Rogelio was the security guard on duty in [REDACTED] National High School on January 25, 2011. He testified that he was told by another security guard on duty that a student had been inside the comfort room for 40 minutes with a man. When he peeped inside the comfort room, he saw XXX263503 dressing up. He likewise saw XXX263503 lift the pants of a student. A commotion ensued and he and his group brought XXX263503 to the guidance office. Thereafter, they brought him to the police station.²³

Version of the Defense

XXX263503 admitted that ABC263503 is his godson while DEF263503 and GHI263503 are his “stepchildren” since their mother was his live-in partner. But he denied all the accusations against him. He asserted that ABC263503’s accusations were only motivated by his mother, JKL263503, who was jealous of DEF263503 and GHI263503’s mother. On the other hand, for the accusations against him by DEF263503 and GHI263503 themselves, he thought that the officers who arrested him might have threatened the two to make up their accusations.²⁴

Ruling of the Regional Trial Court

By Joint Decision²⁵ dated February 6, 2020, the trial court convicted XXX263503 of ten counts of acts of lasciviousness, two counts of rape by sexual assault, and four counts of statutory rape, thus:

WHEREFORE, accused [XXX263503], having been found guilty beyond reasonable doubt:

a) of the crime of Acts of Lasciviousness in relation to R.A. 7610 in Criminal Cases Nos. 331-M-2011, 332-M-2011, 1911-M-2011 to 1918-M-2011, and is hereby sentenced to suffer ten (10) counts of imprisonment of fourteen (14) years and eight (8) months of reclusion temporal, as minimum, to twenty (20) years of reclusion temporal, as maximum, and to pay [ABC263503], [DEF263503] and [GHI263503], [t]wenty [t]housand [p]esos (P20,000.00) as civil indemnity, [t]hirty [t]housand [p]esos (P30,000.00) as moral damages, and [t]hirty [t]housand [p]esos (P30,000.00) as exemplary damages for each count;

Likewise, the accused is hereby ordered to pay fine of [f]ifteen [t]housand [p]esos (P15,000.00) for each count in accordance with Section 31 of R.A. 7610.

²³ *Id.* at 69-70.

²⁴ CA Decision, p. 11.

²⁵ *Id.* at 12.

b) of the crime of rape by sexual assault in Criminal Cases Nos. 333-M-2011 and 1919-M-2011 and is hereby sentenced to suffer imprisonment of twelve (12) years, ten (10) months and twenty-one (21) days of reclusion temporal, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of reclusion temporal, as maximum, and to pay [ABC263503] and [DEF263503] [t]hirty [t]housand [p]esos (P30,000.00) as civil indemnity, [t]hirty [t]housand [p]esos (P30,000.00) as moral damages and [t]hirty [t]housand [p]esos (P30,000.00) as exemplary damages for each count; and

c) of the crime of Statutory Rape in Criminal Cases Nos. 1920-M-2011 to 1923-M-2011 and is hereby sentenced to suffer four (4) counts of the penalty of reclusion perpetua and to pay [GHI263503] [s]eventy-five [t]housand [p]esos (P75,000.00) as civil indemnity, [s]eventy-five [t]housand [p]esos (P75,000.00) as moral damages and [s]eventy-five [t]housand [p]esos (P75,000.00) as exemplary damages for each count.

All awards of damages shall earn interest at the rate of six percent (6%) per annum from the date of the finality of the judgment until fully paid.

SO ORDERED.

Ruling of the Court of Appeals

By its assailed Decision²⁶ dated May 30, 2022, the Court of Appeals affirmed with modification, convicting XXX263503 of seven counts of acts of lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610; three counts of lascivious conduct under Section 5(b) of Republic Act No. 7610; two counts of sexual assault under Article 266-A (2) of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610; and four counts of statutory rape, *viz.*:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated February 6, 2020 of the Regional Trial Court Branch 18 of ██████████, Bulacan in Criminal Case Nos. 331-M-2011 to 333-M-2011 and 1911-M-2011 to 1923-M-2011 is AFFIRMED with MODIFICATIONS. We find the appellant:

1. Guilty beyond reasonable doubt of seven (7) counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of R.A. No. 7610 in Criminal Case Nos. 332-M-2011, 1911-M-2011 to 1915-M-2011, and 1918-M-2011. For each count, the appellant is sentenced to suffer the penalty of imprisonment of fourteen (14) years and eight (8) months of reclusion temporal, as minimum, to twenty (20) years of reclusion temporal, as maximum, and is ordered to pay the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P50,000.00 as exemplary damages.

²⁶ *Id.* at 13-30.

For each count, the appellant is also ordered to pay a fine of P15,000.00, in accordance with the lower court's invocation of Section 31 of R.A. No. 7610.

2. Guilty beyond reasonable doubt of three (3) counts of Lascivious Conduct under Section 5(b) of R.A. No. 7610 in Criminal Case Nos. 331-M-2011, 1916-M-2011, and 1917-M-2011. For each count, the appellant is sentenced to suffer the penalty of imprisonment of ten (10) years and one (1) day of prison mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum, and is ordered to pay the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P50,000.00 as exemplary damages.

3. Guilty beyond reasonable doubt of two (2) counts of Sexual Assault under Article 266-A (2) of the Revised Penal Code in relation to Section 5(b) of R.A. No. 7610 in Criminal Case Nos. 333-M-2011 and 1919-M-2011. For each count, the appellant is sentenced to suffer the penalty of imprisonment of fourteen (14) years and eight (8) months of reclusion temporal, as minimum, to twenty (20) years of reclusion temporal, as maximum, and is ordered to pay the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P50,000.00 as exemplary damages.

4. Guilty beyond reasonable doubt of four (4) counts of Statutory Rape in Criminal Case Nos. 1920-M-2011 to 1923-M-2011. For each count, the appellant is sentenced to suffer the penalty of reclusion perpetua and is ordered to pay GH1263503 the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages.

Legal interest of six percent (6%) per annum is imposed on all damages awarded from the date of finality of this Decision until fully paid.

SO ORDERED.

The Present Appeal

XXX263503 now seeks affirmative relief from the Court and pleads anew for his acquittal.²⁷ For the purpose of this appeal, both XXX263503²⁸ and the People²⁹ manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Our Ruling

We affirm. The Court finds no cogent reason to deviate from the trial court's factual findings, which carried the full conformity of the Court of

²⁷ *Rollo*, p. 55.

²⁸ Manifestation (In Lieu of Supplemental Brief) dated May 15, 2023 of the accused-appellant.

²⁹ Manifestation and Motion dated April 26, 2023 of the OSG.

Appeals. The Court agrees with the conclusion of the Court of Appeals that the prosecution established beyond reasonable doubt the elements of Acts of Lasciviousness under Article 336 of the Revised Penal Code, Lascivious Conduct under Section 5(b) of Republic Act No. 7610, and Rape under Article 266-A of the Revised Penal Code, through the straightforward, positive, and convincing testimonies of the minor victims, ABC263503, DEF263503, and GHI263503.

*Acts of Lasciviousness
under Article 336 of the
Revised Penal Code in
relation to Section 5(b) of
Republic Act No. 7610
and Lascivious Conduct
under Section 5(b) of
Republic Act No. 7610*

The elements of Acts of Lasciviousness under Article 336 of the Revised Penal Code are:

- (1) That the offender commits any act of lasciviousness or lewdness;
- (2) That it is done
 - (a) by using force and intimidation or
 - (b) when the offended party is deprived of reason or otherwise unconscious, or
 - (c) when the offended party is under 12 years of age; and
- (3) That the offended party is another person of either sex.³⁰

All of these elements have been clearly established through the testimonies of ABC263503, DEF263503, and GHI263503 who gave detailed, spontaneous, and consistent narrations of their ordeals in XXX263503's hands. Specifically, as to ABC263503 and DEF263503, XXX263503 would start by removing their clothes, masturbate their penis and his own, then suck their penis up until he was satiated. For GHI263503, XXX263503 fondled her vagina while she was sleeping and only stopped when her mother woke up. The lower court remarked how these children testified in a categorical, straightforward, spontaneous, and frank manner. They remained consistent in their testimonies despite their young age.

Undoubtedly, the act of sucking the penis of a minor victim amounts to lascivious conduct.³¹ The act of fondling the vagina of a minor victim also amounts to the same crime.³²

³⁰ *XXX v. People*, 861 Phil. 57, 84-85 (2019), [Per *J. Caguioa*, Second Division].

³¹ *Pinalac v. People*, 773 Phil. 49, 53 (2015) [Per *J. Del Castillo*, Second Division].

³² *People v. Dagsa*, 824 Phil. 704, 720 (2018), [Per *J. Peralta*, Second Division].

In designating or charging the proper offense where lascivious conduct is committed under Section 5(b) of Republic Act No. 7610, the Court clarified in *People v. Tulagan*³³ that if the victim is under twelve (12) years of age, the nomenclature of the crime should be “Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610.” If the victim is exactly 12 years of age, or more than 12 but below 18 years of age, or is 18 years old or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as “Lascivious Conduct under Section 5(b) of Republic Act No. 7610.”

In Criminal Case No. 332-M-2011, per birth certificate of ABC263503 marked as Exhibit “I”,³⁴ he was born on October 1, 1995, hence, was around 9 years old when the crime was committed in 2004. In Criminal Case Nos. 1911-M-2011 to 1915-M-2011, per birth certificate of DEF263503 marked as Exhibit “H”,³⁵ who was born on April 26, 1997, DEF263503 was only around 7 to 11 years old when the crimes were committed from 2005 to 2009. In Criminal Case No. 1918-M-2011, per birth certificate marked as Exhibit “G”,³⁶ she was born on March 30, 2001, hence, was only nine years old when the crime was committed in 2011. Consequently, the Court of Appeals correctly convicted XXX263503 of seven counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) Republic Act No. 7610 and sentenced him to 14 years and 8 months of *reclusion temporal*, as minimum, to 20 years of *reclusion temporal*, as maximum, and ordering him to pay the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages, pursuant to *Tulagan*.

In Criminal Case No. 331-M-2011, ABC263503 was already around 16 years old when the crime was committed in 2011. In Criminal Case Nos. 1916-M-2011 and 1917-M-2011, DEF263503 was around 12 to 13 years old when the crimes were committed in 2010 and 2011. Thus, the Court of Appeals correctly modified XXX263503’s crime to Lascivious Conduct under Section 5(b) of Republic Act No. 7610 and sentenced him to 10 years and 1 day of *prision mayor*, as minimum, to 17 years, 4 months and 1 day of *reclusion temporal*, as maximum, and ordering him to pay the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages, pursuant to *Tulagan*.

As it was, the trial court cited Section 31(f) of Republic Act No. 7610³⁷ to support the fine of PHP 15,000.00 imposed on XXX263503 for each count

³³ 849 Phil. 197 (2019), [Per J. Peralta, *En Banc*].

³⁴ CA Records, *rollo*, p. 42.

³⁵ *Id.* at 41.

³⁶ *Id.* at 40.

³⁷ Section 31. Common Penal Provisions. –

of acts of lasciviousness and lascivious conduct or a total of PHP 150,000.00. On appeal, however, the Court of Appeals affirmed only the fine imposed on XXX263503 for each of the seven counts of acts of lasciviousness at PHP15,000.00 or a total of PHP 105,000.00. It made no mention of the fine imposed with respect to the three counts of lascivious conduct. There is thus a need to modify this ruling of the appellate court. Needless to state, such fine shall be administered as a cash fund by the Department of Social Welfare and Development (DSWD) and disbursed for the rehabilitation of each child victim.³⁸

In another vein, the alleged “long delay” before complainants reported the said incidents and their lack of resistance during the commission of the abuses do not destroy their credibility. In *People v. Udang*,³⁹ we held that the delay in reporting of the incident is not a factor which diminishes the value of the private complainants’ testimonies. It did not affect the private complainants’ credibility. Delay is not and should not be an indication of a fabricated charge because, often, victims of rape and sexual abuse choose to suffer alone and “bear the ignominy and pain” of their experience.

Too, complainants’ failure to shout for help or resist XXX263503’s bestial acts are not indicators of false allegations, as “different people react differently to different situations and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience,” such as rape or any other sexual abuse.⁴⁰

XXX263503 nonetheless argues that he could not be held liable for violation of Section 5(b) of Republic Act No. 7610 because the Informations in Criminal Case Nos. 331-M-2011, 332-M-2011, and 1911-M-2011 to 1918-M-2011 failed to allege that there was “influence and coercion.”

The truth is the Informations all alleged that XXX263503 employed “force and intimidation” as a means to commit the crimes charged. In *People v. Ejercito*,⁴¹ the Court, through then Senior Associate Justice Estela Perlas Bernabe, clarified that for purposes of determining the proper charge, the terms “coercion” and “intimidation” are often used synonymously and the use of one term is sufficient to include the other, to wit:

The term “**coercion and influence**” as appearing in the law is broad enough to cover “**force and intimidation**” as used in the Information. To be sure, Black’s Law Dictionary defines “coercion” as “compulsion; force; duress” while “[undue] influence” is defined as “persuasion carried to the

(1) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

³⁸ *Rollo*, p. 31.

³⁹ 823 Phil. 411, 439-440 (2018). [Per J. Leonen, Third Division].

⁴⁰ *People v. Prodeniads*, 749 Phil. 746, 763 (2014), [Per J. Del Castillo, Second Division].

⁴¹ 834 Phil. 837, 847-848 (2018), [Per J. Perlas-Bernabe, Second Division].

point of overpowering the will." On the other hand, "force" refers to "constraining power, compulsion; strength directed to an end" while jurisprudence defines "**intimidation**" as "unlawful **coercion**; extortion; duress; putting in fear." As can be gleaned, the terms are used almost synonymously. It is then of no moment that the terminologies employed by RA 7610 and by the Information are different. And to dispel any remaining lingering doubt as to their interchangeability, the Court enunciated in *Caballo v. People* [(710 Phil. 792, 805-806[2013])] that:

x x x sexual intercourse or 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.

Further, influence and coercion were duly proven. Complainants were minors when the crimes were committed. Too, while XXX263503 was committing the crime and soon thereafter, he would invariably threaten to kill them should they report the incidents to anyone. They testified that they could not stop XXX263503 from performing his bestial acts because they were afraid.

XXX263503 cannot now assail the Informations simply because the same did not bear the exact dates when the crimes were committed. Rule 110, Section 11 of the Revised Rules of Criminal Procedure specifically provides that it is not necessary to state in the information the precise date that the offense was committed except when it is a material ingredient of the offense. Here, the dates are immaterial to the commission of the offense. None of the elements of acts of lasciviousness and sexual assault require that the date of the commission of the crime be alleged with certainty.

Sexual Assault under Article 266-A (2) of Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610

The elements of sexual assault under Article 266-A, paragraph 2 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610 are:

- (1) The offender commits an act of sexual assault;
- (2) The act of sexual assault is committed by inserting his penis into another person's mouth or anal orifice or by inserting any instrument or object into the genital or anal orifice of another person; and
- (3) The act of sexual assault is accomplished by using force or intimidation, among others.

(4) The victim is under 12 years old.⁴²

All these elements have been proven beyond reasonable doubt by the prosecution. In Criminal Case Nos. 333-M-2011 and 1919-M-2011, ABC263503 and DEF263503 testified as to the presence of the first, second, and third elements.

Again, they gave detailed, spontaneous, and consistent narrations of how XXX263503 sexually assaulted them. Aside from masturbating and sucking their penises, he also committed the crime of sexual assault when he inserted his penis inside their anuses. XXX263503 accomplished this by threatening them that he would kill them should they reveal their ordeals to anyone. When asked why they did not shout for help when they were being molested or why they did not report any of the incidents, they said that they were afraid that XXX263503 would make good his threat to kill them.

Regarding the age of the victims, the prosecution was able to prove through the victims' respective birth certificates that ABC263503 was born on October 1, 1995, hence, he was around 9 years old when XXX263503 sexually assaulted him in 2004, while DEF263503 was born on April 26, 1997, thus, was around 11 years old when XXX263503 sexually assaulted him in 2008. Both the trial court and the appellate court found their testimonies credible, positive, clear, and categorical. As such, the same are sufficient to support a verdict of conviction against XXX263503.

As for the correct designation of the crimes, *People v. Tulagan*⁴³ ordains that if rape by sexual assault is committed against a child who is under 12 years old or is demented, the proper nomenclature is "Sexual Assault under Article 266-A(2) of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610." Thus, the lower courts correctly convicted XXX263503 of Sexual Assault under Article 266-A(2) of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610 and sentenced him to 10 years and 1 day of *prision mayor*, as minimum, to 17 years, 4 and 1 day of reclusion temporal, as maximum. Also, he was properly ordered to pay the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

Statutory Rape

Article 266-A, paragraph (1) reads:

Article 266-A. Rape: When and How Committed. — Rape is committed:

⁴² *People v. Caoili*, 815 Phil. 839, 882 (2017), [Per J. Tijam, *En Banc*].

⁴³ 849 Phil. 197 (2019), [Per J. Peralta, *En Banc*].

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

x x x x

- 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; and
- 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; x x x

The Court finds that the prosecution was able to establish all the foregoing elements of rape. GHI263503 narrated her experience with XXX263503 in a detailed, spontaneous, and consistent manner. During the incidents in question, XXX263503 would undress her, remove his own clothes, and proceed to insert his penis inside her vagina. After he was done with his bestial act, he would threaten to kill her and her mother, as he always did each time.

Notably, GHI263503's testimony was also found by both the trial court and the appellate court to be credible, positive, clear, and categorical. As such, it is sufficient to support a verdict of conviction. As it was, however, the victim's testimony did not stand alone. The trial court and the Court of Appeals also considered the corroborative Medico-Legal Certificates of GHI263503 which showed the presence of deep healed lacerations in her hymen, which were caused by blunt intravaginal penetration, consistent with sexual abuse. Hymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration. When the forthright testimony of a rape victim is consistent with medical findings, as in this case, the essential requisites of carnal knowledge are deemed to have been sufficiently established.⁴⁴

Still, XXX263503 argues that the attending physician who prepared GHI263503's Medico-Legal Certificate did not testify in court and therefore the said certificates should not be given any probative weight. The Court has ruled, however, that a medical certificate is not necessary to prove the commission of rape. It is merely corroborative in character and not an indispensable element in rape. The absence of medical findings by a medico-legal officer does not disprove the occurrence of rape. It is enough that the evidence on hand convinces the court that conviction is proper, as in this case.⁴⁵

⁴⁴ *People v. Pagkatipunan*, 859 Phil. 806, 816 (2019), [Per *J. Lazaro-Javier*, Second Division].

⁴⁵ *People v. Cariño*, G.R. No. 230550, January 13, 2020, [Per Notice, Second Division].

As for the correct designation of the crime committed, *People v. Tulagan*⁴⁶ decrees that if sexual intercourse is committed against a child less than 12 years old or is demented, whether or not exploited in prostitution, it is always a crime of statutory rape.

Statutory rape is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act. Proof of force, intimidation or consent is unnecessary as they are not elements of statutory rape. For the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act.⁴⁷

Here, the prosecution was able to establish through the presentation of the GHI263503's birth certificate that she was born on March 30, 2001, hence, was around 5 to 10 years old when XXX263503 repeatedly raped her from 2006 to 2011. Notably, for all the charges against him, XXX263503 merely invokes denial. The same however cannot outweigh the positive testimonies of complainants. It is settled that between a categorical statement bearing the earmarks of truth on the one hand, and bare denial on the other, the former is generally held to prevail.⁴⁸

In the same vein, XXX263503's challenge against their credibility based on their so-called inconsistent testimonies on the exact time when he molested them and who they were with when the molestations took place refer to trivial matters which do not affect their credibility. Discrepancies referring only to minor details and not to the central fact of the crime do not affect the veracity or detract from the credibility of a witness' declaration.⁴⁹

More, it is settled that when the offended party is of tender age, courts are inclined to give credit to his or her account of what transpired, considering not only his or her relative vulnerability, but also the shame to which she would be exposed if the matter to which he or she testified is not true. Youth and immaturity are generally badges of truth and sincerity.⁵⁰

Most important, the trial court's factual findings on the credibility of witnesses are accorded high respect, if not conclusive effect. This is because the trial court has the unique opportunity to observe the witnesses' demeanor and is in the best position to discern whether they are telling the truth or not.⁵¹ This rule becomes more compelling when such factual findings carry the full concurrence of the Court of Appeals, as in this case.

⁴⁶ 849 Phil. 197 (2019), [Per J. Peralta, *En Banc*].

⁴⁷ *People v. Gaa*, 819 Phil. 860, 867 (2017), [Per J. Tijam, Third Division].

⁴⁸ *People v. Gabriel*, 807 Phil. 516, 528 (2017), [Per J. Del Castillo, First Division].

⁴⁹ *People v. Romero*, 824 Phil. 10, 21-22 (2018), [Per J. Del Castillo, First Division].

⁵⁰ *People v. Cadano*, 729 Phil. 576, 585 (2014), [Per J. Perlas-Bernabé, Second Division].

⁵¹ *People v. Nelmiida*, 694 Phil. 529, 556 (2012), [Per J. Perez, *En Banc*].

The Court notes that aside from minority, the circumstance of relation was also alleged in the Informations. Thus, the same stated that XXX263503 was GHI263503's stepfather. The prosecution, however, did not offer in evidence the supposed marriage contract between XXX263503 and GHI263503's mother to prove that they are legally married, and consequently, that he is the stepfather of GHI263503.

In qualified rape, the relationship between a stepfather and a stepdaughter assumes the existence of a legitimate relationship, that is, the stepfather should be legally married to the stepdaughter's mother.⁵² This is because relationship is an aggravating circumstance which increases the imposable penalty, hence, it must be proven by competent evidence.

In *People v. Santos*,⁵³ the Court convicted the accused-appellant therein only of simple rape and not qualified rape because the prosecution failed to establish the relationship of Danly as the stepdaughter of the accused-appellant. The Court noted that the Information alleged that Danly was the accused-appellant's stepdaughter, but the prosecution did not offer in evidence the marriage certificate between appellant and Danly's mother.

*People v. Victor*⁵⁴ is equally relevant, thus:

The declaration of accused-appellant that he was married to Julieta, even if made in the course of the proceedings in the trial court, is not conclusive proof that the two are legally married. Said declaration did not dispense with the burden of the prosecution to adduce in evidence the marriage contract of accused-appellant and Julieta. Neither may the prosecution rely on the disputable presumption that when a man and woman live together as husband and wife, they are presumed to be married. **Relationship is a qualifying circumstance in rape and must not only be alleged. It must also be proved beyond reasonable doubt as the crime itself.**⁵⁵ (Emphasis supplied)

Verily, XXX263503's admission that he is the stepfather of GHI263503 cannot serve as conclusive evidence of such relationship because the marriage contract remains to be the best evidence to prove such fact of marriage between him and GHI263503's mother. Said admission did not dispense with the burden of the prosecution to adduce in evidence the marriage contract itself.⁵⁶ Consequently, the lower courts correctly convicted

⁵² *People v. Santos*, 452 Phil. 1046, 1066 (2003), [Per J. Carpio, *En Banc*].

⁵³ *Id.*

⁵⁴ 441 Phil. 798, 813 (2002), [Per J. Callejo, Sr., Second Division].

⁵⁵ *Id.*

⁵⁶ *People v. Corral*, 446 Phil. 652, 666-667 (2003), [Per J. Azcuna, *En Banc*].

⁵⁶ *Id.*

him of statutory rape only and sentenced him to *reclusion perpetua*, ordering him to pay civil indemnity, moral damages, and exemplary damages at PHP 75,000.00 each, per count of statutory rape, pursuant to *Tulagan*.

FOR THESE REASONS, the appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR-HC 14609 dated May 30, 2022 is **AFFIRMED with MODIFICATION**.

1. In Criminal Case Nos. 332-M-2011, 1911-M-2011 to 1915-M-2011, and 1918-M-2011, accused-appellant XXX263503 is **GUILTY** of seven (7) counts of **ACTS OF LASCIVIOUSNESS** under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610. For each count, he is sentenced to fourteen (14) years and eight (8) months of *reclusion temporal*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, and ordered to pay ABC263503, DEF263503, and GHI263503 the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

For each count, he is also ordered to pay a fine of PHP 15,000.00, in accordance with Section 31(f) of Republic Act No. 7610.

2. In Criminal Case Nos. 331-M-2011, 1916-M-2011, and 1917-M-2011, accused-appellant XXX263503 is **GUILTY** of three (3) counts of **LASCIVIOUS CONDUCT** under Section 5(b) of Republic Act No. 7610. For each count, he is sentenced to 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, and ordered to pay ABC263503 and DEF263503 the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

For each count, he is also ordered to pay a fine of PHP 15,000.00, in accordance with Section 31 (f) of Republic Act No. 7610.

3. In Criminal Case Nos. 333-M-2011 and 1919-M-2011, he is **GUILTY** of two (2) counts of **SEXUAL ASSAULT** under Article 266-A (2) of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610. For each count, he is sentenced to fourteen (14) years and eight (8) months of *reclusion temporal*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, and ordered to pay ABC263503 and DEF263503 the amounts of PHP

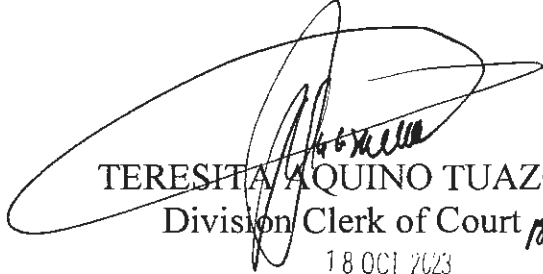
50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

4. In Criminal Case Nos. 1920-M-2011 to 1923-M-2011, he is **GUILTY** of four (4) counts of **STATUTORY RAPE**. For each count, he is sentenced to *reclusion perpetua* and ordered to pay GHI263503 the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages.

These amounts shall be subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED.” (Leonen, *SAJ.*, on leave but left a vote pursuant to Section 4, Rule 12 of the SC Internal Rules)

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court *10/18*
 18 OCT 2023

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 18
 [REDACTED], Bulacan
 (Crim. Case Nos. 331-M-2011 to 333-M-2011;
 1911-M-2011 to 1923-M-2011)

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*with a copy of the CA Decision dated May 30, 2022
 Please notify the Court of any change in your address.
 GR263503. 10/04/2023B(201)URES(m)

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