



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

MICHAEL JOHN DELA CRUZ y SODELA, G.R. No. 245516

Petitioner, Present:

LEONEN, J., Chairperson,
HERNANDO,*
INTING,
DELOS SANTOS, and
LOPEZ, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

June 14, 2021

Mis-PDC Batt

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DECISION

LOPEZ, J., J.:

“As the highest court of the land, it is incumbent upon us to give life to all these covenants, agreements, and statutes by enriching and enhancing our jurisprudence on child abuse cases, bearing in mind always the welfare and protection of children.”¹

The Case

Once again, this Court is confronted with the opportunity not only to dispense justice to assuage the sufferings of child victims, but to also breathe life to the provisions of Republic Act (R.A.) No. 7610, or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act, and its implementing rules.

* On leave.

¹ *People v. Abadies*, 433 Phil. 814, 828 (2002).

This Petition for Review on *Certiorari*² seeks to reverse and set aside the October 30, 2018 Decision³ and the February 21, 2019 Resolution⁴ of the Court of Appeals (CA), which affirmed with modification the December 11, 2017 Decision⁵ of the Regional Trial Court (RTC), Branch 270, ██████████, finding petitioner Michael John Dela Cruz y Sodela guilty for violating Sections 5(b) and 10(a) of R.A. No. 7610.

On September 23, 2016, petitioner was charged with five (5) counts of violation of Section 5(b) of R.A. No. 7610 before the RTC in five (5) separate Informations,⁶ the accusatory portions of which read:

Criminal Case No. 1883-V-16

On or about January 26, 2016 in ██████████ and within the jurisdiction of this Honorable Court, the accused being the teacher of victim AAA, 13 years old (DOB: March 3, 2003), with lewd design, with the use of force, coercion[,] and his influence on the victim, did then and there willfully, unlawfully, and feloniously kiss her lips and caress her breast against her will and without her consent, which acts subjectED her to sexual abuse.⁷

Criminal Case No. 1884-V-16

On or about April 20, 2016 in ██████████ and within the jurisdiction of this Honorable Court, the accused, being the teacher of victim AAA, 13 years old (DOB: March 3, 2003), with lewd design, with the use of force, coercion and his influence on the victim, did then and there willfully, unlawfully and feloniously kiss her lips and caress her breast against her will and without her consent, which acts subject her to sexual abuse.⁸

Criminal Case No. 1885-V-16

That on or about [the] 1st week of August 2016 in ██████████ and within the jurisdiction of this Honorable Court, the accused, being the teacher of victim BBB, 13 years old (DOB: August 17, 2003), with lewd design, with the use of force, coercion and his influence on the victim, did then and there, willfully, unlawfully and feloniously ask the latter to kiss him against her will and without her consent, which acts subjected her to sexual abuse.⁹

² *Rollo*, pp. 10-29.

³ Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Myra V. Garcia-Fernandez and Ronaldo Roberto B. Martin concurring; *id.* at 34-51.

⁴ *Id.* at 53.

⁵ *Id.* at 72-88.

⁶ *Id.* at 56-58.

⁷ *Id.* at 35.

⁸ *Id.* at 35-36.

⁹ *Id.* at 36.

Criminal Case No. 1886-V-16

On or about August 18, 2016 in [REDACTED] and within the jurisdiction of this Honorable Court, the accused, being the teacher of victim CCC, 13 years old (DOB: February 22, 2003), with lewd design, with the use of force, coercion and his influence on the victim, did then and there willfully, unlawfully and feloniously command the latter to kiss her boyfriend and do lascivious acts, against her will and without her consent, which acts subjected her to sexual abuse.¹⁰

Criminal Case No. 1887-V-16

On or about August 18, 2016 in [REDACTED] and within the jurisdiction of this Honorable Court, the accused being the teacher of victim BBB, 13 years old (DOB: August 17, 2003), with lewd design, with the use of force, coercion and his influence on the victim, did then and there willfully, unlawfully and feloniously touch (sic) her thigh against her will and without her consent, which acts subjected her to sexual abuse.¹¹

Upon arraignment, petitioner pleaded not guilty to the charges. After pre-trial, trial on the merits ensued.¹²

Antecedents

The prosecution established the following facts during trial:¹³

AAA, a 13-year-old minor at the time of the incident, testified that petitioner was her former teacher in [REDACTED]. Sometime in November 2015, petitioner became her boyfriend, until the latter broke up with her upon finding a new girlfriend, also a student. As a teacher, AAA found him kind. He created a group chat on Facebook, mostly for his female students, where he would occasionally strike up a conversation with AAA. During these exchanges, AAA recalled him saying "*akin ka na lang, wala ka naman aasahan sa crush mo,*" to which she replied, "*oo na lang sir, hahaha.*" Beginning January 2016, petitioner began requesting her to stay after class. On January 26, 2016, petitioner reiterated his request that she stay behind. Upon AAA's refusal, petitioner followed her, suddenly kissing her on the lips while fondling her breasts. He also suggested to have sex. Surprised, AAA warned petitioner that if he would not stop, she would shout. When petitioner relented, AAA immediately walked out. Afraid to receive a failing grade, AAA chose to remain silent about the incident. On another occasion, on April 20, 2016, petitioner repeated his attempts toward AAA, kissing her lips and fondling her breasts. Such actions were repeated several times, spanning to once or twice a week. AAA acquiesced to petitioner's sexual desires as she

¹⁰ *Id.*

¹¹ *Id.* at 36-37.

¹² *Id.* at 37.

¹³ *See* Joint Decision; *id.* at 72-88.

was afraid that if she refused, he would not give her a passing grade in his subject. To her embarrassment, AAA later found out that petitioner was bragging to his students about his indiscretions. Eventually, [REDACTED], one of his students and victims, told the school's guidance counselor about petitioner's sexual advances towards his students. It was this instance that compelled AAA to tell her mother her predicament.¹⁴

For her part, BBB, also a 13-year-old minor at the time of the incident, declared that petitioner was also her former teacher in [REDACTED]. Sometime in June 2016, she went online to chat with petitioner concerning their assignment. Since that time, they were in constant communication online. Eventually, petitioner requested if he could court her, which she declined, as her father did not allow her to have suitors. Petitioner continued to woo her. Finally, she recounts to having consented only because she was afraid that he might give her a failing mark. Sometime during the first week of August 2016, petitioner asked if they could kiss, as their "monthsary" was drawing near. When BBB rebuffed his proposal, petitioner shared that he and AAA had kissed during their "monthsary." On August 18, 2016 in the school's welding room, with the class present, petitioner approached BBB and touched her legs. She immediately moved away, with the accused suddenly removing his hand. BBB also revealed that together with AAA and [REDACTED], they had been talking as to what petitioner had been doing to them.¹⁵

CCC, a 13-year-old minor at the time of the incident, cited an instance on August 18, 2016, at around 1:00 o'clock in the afternoon at the school's welding room, during which petitioner directed her and her former boyfriend, [REDACTED], to kiss each other. She also recalled that petitioner went as far as coaxing another girl, [REDACTED], and [REDACTED], also one of petitioner's former students, to go inside a room and have sex.¹⁶

[REDACTED], a 16-year-old minor at the time of the incident, and also one of petitioner's students, was also presented to testify. She corroborated that on August 18, 2016, at 1:00 o'clock in the afternoon, she bore witness to petitioner's act of encouraging his former male students [REDACTED] and [REDACTED] to perform sexual acts with their respective girlfriends. When [REDACTED] was about to leave, petitioner suggested that she kiss her boyfriend [REDACTED] on the lips. Upon her refusal, petitioner alternatively suggested that she just unbutton her blouse and let [REDACTED] caress her breasts. [REDACTED] likewise refused and left, along with CCC. Agitated, they reported the incident to their teacher and guidance counselor, [REDACTED].¹⁷

For his side, [REDACTED], as the school's guidance counselor, shared that on August 18, 2016, AAA, BBB, CCC, and [REDACTED], together with their science teacher, [REDACTED], arrived at his office to report the sexual advances of petitioner towards his students. Subsequent to directing

¹⁴ *Id.* at 75-76.

¹⁵ *Id.* at 76.

¹⁶ *Id.*

¹⁷ *Id.*

them to formalize the complaints through a written report, he requested the presence of their parents for a conference. On August 19, 2016, [REDACTED] and the principal sat with petitioner and informed him of the complaints of AAA, BBB, and CCC against him, all of which he vehemently denied. Finally, on August 22, 2016, they referred the cases to the City Social Welfare and Development Office, [REDACTED] thru Social Worker [REDACTED].¹⁸

After the prosecution rested its case, the defense presented the following version of the incident:

Petitioner proffered the defense of denial. He denied having made sexual advances to AAA, BBB, and CCC. Instead, AAA might have misinterpreted him when he would call her “*mahal*.” He merely called AAA such endearment as the latter saw him as a second father, being his teacher. He also recalled several instances when he helped AAA in resolving some ordeals, such as the issue of her sex video involving her and her then boyfriend that spread in their campus. As to BBB, he denied touching her legs while they were in the school’s welding room, as well as the fact that they were in a relationship. He also raises the impossibility of making sexual advances toward her during class, as he had many students who could likely witness such actions. Regarding CCC, he testified that he discovered that the latter was using *marijuana*. He withheld from reporting such incident on the condition that she would stop using substances. Lastly, he alleges that [REDACTED], also a former student, merely influenced AAA, BBB, and CCC to file the charges against him, as she held a grudge for failing to help her with a certain problem in school.¹⁹

The defense also presented Milagros Francisco (*Milagros*), a friend of the mother of petitioner, who was also a former teacher of BBB in [REDACTED]. Milagros testified that petitioner’s mother requested that she accompany her to the house of BBB. Therein, the mother of petitioner pleaded with the mother of BBB to retract the case due to the health condition of petitioner. During such time, BBB arrived and while listening to their conversation, admitted that petitioner did not sexually abuse her. Regrettably, she could no longer desist from prosecuting the cases due to the threats from her other co-complainants, AAA and CCC.²⁰

The Ruling of the RTC

On December 11, 2017, the RTC convicted petitioner, thus:

WHEREFORE, judgment is hereby rendered as follows, to wit:

¹⁸ *Id.* at 77.
¹⁹ *Id.* at 77-78
²⁰ *Id.*

In Criminal Case Nos. 1883-V-16 and 1884-V-16, finding ACCUSED MICHAEL JOHN DELA CRUZ Y SODELA GUILTY BEYOND REASONABLE DOUBT for two (2) counts of SEXUAL ABUSE defined and penalized under Section 5(b) of RA 7610 and he is hereby sentenced [to] suffer the penalty of an indeterminate prison term [of] 14 years and 8 months of *reclusion temporal* as minimum to 20 years of *reclusion temporal* as maximum. He is further ordered to pay [CCC]²¹ [P]50,000.00 as civil indemnity, [P]50,000.00 for moral damages, [P]50,000.00 as exemplary damages.

In Criminal Case No/s 1885-V-16 to 1887-V-[16] finding ACCUSED MICHAEL JOHN DELA CRUZ Y SODELA GUILTY BEYOND REASONABLE DOUBT for three (3) counts of CHILD ABUSE defined and penalized under Section 10(a) of RA 7610 and he is hereby sentenced to suffer the penalty of four (4) years[,] nine (9) months and eleven (11) days of *prisión correccional*[,] as minimum, to seven (7) years, four (4) months and one (1) day of *prisión mayor*, as the maximum and awarding to [BBB] and [CCC] [P]30,000.00 civil indemnity, [P]30,000.00 for moral damages, [and] [P]30,000.00 for exemplary damages.

SO ORDERED.²²

In its ruling, the RTC lent credence to the testimonies of the complainants, finding no ill motive on their part to concoct such serious allegations against petitioner. It discounted petitioner's defense of denial as it failed to overcome the overwhelming evidence presented by the prosecution, which proved his guilt beyond doubt.²³

The court found that all the elements of sexual abuse under Section 5(b)²⁴ of R.A. No. 7610 was present in this case, particularly, the act of kissing AAA, fondling her breasts, as well as inducing the latter to engage in sexual intercourse. Even more repulsive is the fact that petitioner was the teacher of AAA, who was proved in open court to be a minor. The RTC also held that petitioner's role as AAA's teacher was a component in allowing him to wield influence upon his student. By virtue of petitioner's ascendancy, and the probability of giving her a failing grade, AAA had no choice but to submit to his sexual advances.²⁵

²¹ Should be AAA as indicated in the Informations for Criminal Case Nos. 1883-V-16 and 1884-V-16, *id.* at 72.

²² *Id.* at 88.

²³ *Id.* at 87-88.

²⁴ **Section 5. Child Prostitution and Other Sexual Abuse.** — **Children**, whether male or female, who for money, profit, or any other consideration or **due to the coercion or influence of any adult**, syndicate or group, **indulge in sexual intercourse or lascivious conduct**, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; xxx (Emphasis ours)

²⁵ *Id.* at 82-85.

As to the charges lodged by BBB and CCC, the RTC found the same falling under child abuse in Section 10(a)²⁶ in relation to Section 3(b)²⁷ of R.A. No. 7610. Undoubtedly, the devious acts of petitioner in making sexual advances upon his students, courting them, and encouraging them to perform sexual acts debased, degraded, and demeaned the intrinsic worth of BBB and CCC. Surely, such betrayal of trust from their teacher, who was expected to guide and nurture them, gravely threatened their normal development.²⁸

Aggrieved, petitioner interposed an Appeal²⁹ with the CA, maintaining that the RTC gravely erred in finding him guilty despite the prosecution's failure to establish all the elements of the subject crimes. Specifically, the testimonies of AAA, BBB, and CCC failed to establish that he coerced or intimidated them so as to make it possible for him to perform the supposed acts complained of. While AAA claims that she only entered into a relationship with petitioner as she was afraid of receiving a failing mark, she similarly admitted that she was given a satisfactory grade. She further testified that petitioner did not threaten her or her family in any way. As to the testimonies of BBB and CCC, petitioner argues that they remain vague at best, having failed to show how he coerced or influenced them to commit the acts complained of.

The Ruling of the CA

The CA affirmed the conviction of petitioner with modification in its October 30, 2018 Decision,³⁰ the dispositive portion of which reads:

WHEREFORE, the appeal is **DENIED**. The Joint Decision of the RTC is **AFFIRMED** with **MODIFICATION** as follows:

In Criminal Case Nos. 1883-V-16 and 1884-V-16 finding ACCUSED MICHAEL JOHN DELA CRUZ Y SODELA GUILTY BEYOND REASONABLE DOUBT for two (2) counts of SEXUAL ABUSE defined and penalized under Section 5(b) of RA 7610 and he is hereby sentenced (sic) suffer the penalty of an indeterminate prison term of 14 years and 8 months of *reclusion temporal* as minimum to 20 years of *reclusion temporal* as

²⁶ **Section 10. Other Acts of neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.** —(a) Any person who shall commit other acts of child abuse, cruelty, or exploitation, or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

²⁷ **Section 3. Definition of Terms.** -

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse, and emotional maltreatment;
- (2) **Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;**
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter;
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death. xxx
(Emphasis ours)

²⁸ *Id.* at 85-87.

²⁹ See Brief for Accused-appellant; *rollo*, pp. 56-70.

³⁰ *Id.* at 34-51.

maximum. He is further ordered to pay AAA, in each case, [P]20,000 as civil indemnity, P15,000 as moral damages, P15,000 as exemplary damages and P15,000 as fine.

In Criminal Case No/s 1885-V-16 to 1887-V-[16] finding ACCUSED MICHAEL JOHN DELA CRUZ Y SODELA GUILTY BEYOND REASONABLE DOUBT for three (3) counts of CHILD ABUSE defined and penalized under Section 10(a) of RA 7610 and he is hereby sentenced to suffer the penalty of four (4) years, nine (9) months, and eleven (11) days of prison correccional as minimum, to seven (7) years and four (4) months of prison mayor, as the maximum and awarding to BBB [P]20,000.00 as civil indemnity, [P]20,000.00 as moral damages, [P]20,000.00 as exemplary damages each in Criminal Cases Nos. 1885-V-16 and 1887-V-16 and to CCC [P]20,000.00 as civil indemnity, [P]20,000.00 as moral damages, [P]20,000.00 as exemplary damages in Criminal Case [No.] 1886-V-16.

All damages shall earn interest at the rate of six percent (6%) from the date of finality of this judgment until they be fully paid.

IT IS SO ORDERED.³¹ (Emphasis and underscoring in the original)

In affirming the Decision, the CA accorded great weight to the facts and circumstances found by the RTC in convicting petitioner. The alleged credibility issues pointed out by petitioner is not the kind which discredits any of the witnesses' testimonies. In light of the positive and categorical identification of petitioner as the perpetrator of the acts complained of, his defense of denial crumbles and should be given scant consideration.³²

In this regard, the CA concurred with the RTC in finding that all the elements of Sexual Abuse and Child Abuse under R.A. No. 7610 are attendant in this case. In Criminal Cases Nos. 1883-V-16 and 1884-V-16, there is no dispute that AAA was below 18 years of age at the time of the incident. The prosecution was able to prove beyond reasonable doubt that petitioner committed conduct within the purview of sexual abuse by kissing her and even touching her breast. Petitioner, as her teacher, having moral ascendancy or influence over her, coerced AAA into engaging in such lascivious conduct.³³

Finally, in Criminal Case No. 1886-V-16, the CA agreed with the RTC that petitioner committed child abuse in ordering CCC and her boyfriend to kiss in front of him. Such act undoubtedly degraded and debased the intrinsic worth of CCC, not only as a human, but also as a child. Also, in Criminal Cases Nos. 1885-V-16 and 1887-V-16, the acts of knowingly courting BBB and touching her thighs in front of her classmates demeaned her humanity, are likewise tantamount to child abuse.³⁴

³¹ *Id.* at 49-50.

³² *Id.* at 46-47.

³³ *Id.* at 44-45.

³⁴ *Id.* at 45-46.

Petitioner moved for reconsideration, but the Motion³⁵ was denied in the Resolution³⁶ of the CA dated February 21, 2019.

Issues

Petitioner raises the following issues for this Court's resolution:

1. The Court of Appeals gravely erred in sustaining the petitioner's conviction, despite the prosecution's failure to sufficiently prove that the private complainants were coerced or intimidated by the petitioner; and
2. The Court of Appeals gravely erred in sustaining the petitioner's conviction, despite the incredible testimonies of the private complainants who were unable to establish the elements of the subject charges.³⁷

Ruling

The Court **AFFIRMS** the conviction with modification.

To begin with, the issues raised in the petition are factual in nature. Petitioner ultimately requires a recalibration of private complainants' testimonies to determine whether they are insufficient to establish the elements of the subject charges, and credible in demonstrating that private complainants were coerced or intimidated by petitioner. Indubitably, these matters are outside the Court's scope of review in Rule 45 petitions.

Fundamental in this jurisdiction is the principle 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 the 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.³⁸

While questions of fact have been entertained by the Court in justifiable circumstances, petitioner manifestly failed to establish that the instant case

³⁵ *Id.* at 110-115.

³⁶ *Id.* at 53.

³⁷ *Id.* at 20.

³⁸ *People v. Duyadov*, 803 Phil. 363, 370-371 (2017).

falls within the allowable exceptions. Not being a trier of facts but of law, the Court must necessarily concede to the concurrent findings of fact of the CA and the RTC.

Be that as it may, the Court finds no reversible error committed by the CA in affirming petitioner's guilt for violation of Sections 5(b) and 10(a) of R.A. No. 7610.

At this juncture, the Court deems it appropriate to correct the nomenclature of one of the crimes with which petitioner was charged and convicted with. In instances when the victim is exactly 12 years of age, or more than 12 but below 18 years of age, or is 18 years 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 R.A. No. 7610" and the impossible penalty is *reclusion temporal* in its medium period to *reclusion perpetua*.³⁹

R.A. No. 7610 finds application when the victims of abuse, exploitation or discrimination are children or those "persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition."⁴⁰

As it is undisputed fact that at the time of the commission of the crime charged, AAA was below 18 years of age, Section 5(b) is necessarily called into application. The section pertinently reads:

Section 5. Child Prostitution and Other Sexual Abuse. — Children, whether male or female, who for money, profit, or any other consideration or **due to the coercion or influence of any adult**, syndicate or group, **indulge in sexual intercourse or lascivious conduct**, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; x x x (Emphasis ours)

³⁹ *People v. Caoli*, 815 Phil. 839, 894 (2017).

⁴⁰ *People v. Chingh*, 661 Phil. 208, 222-223 (2011).

Before an accused may be held criminally liable for lascivious conduct under this section, the requisites of the crime of Acts of Lasciviousness penalized under Article 336 of the Revised Penal Code (*RPC*) must be satisfied *in addition* to the requisites for sexual abuse under Section 5(b) of R.A. No. 7610, as follows: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) that child, whether male or female, is below 18 years of age.⁴¹

As to the first element, “lascivious conduct” is defined under paragraph (h), Section 2 of the Implementing Rules and Regulations of R.A. No. 7610 as “a crime committed through the intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh or buttocks with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, among others.”⁴² On the other hand, “other sexual abuse” is construed to cover not only a child who is abused for profit, but also one who engages in lascivious conduct through the coercion or intimidation by an adult.⁴³

Parenthetically, Acts of Lasciviousness is defined and penalized under Article 336 of the *RPC*, to wit:

Article 336. Acts of lasciviousness. - Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prisión correccional*.

To establish culpability, the following elements must be attendant *along with* the requisites of sexual abuse under Section 5(b), R.A. No. 7610: (1) the offender commits any act of lasciviousness or lewdness; (2) the lascivious act is done under any of the following circumstances: (i) by using force or intimidation; (ii) when the offended party is deprived of reason or otherwise unconscious; or (iii) when the offended party is under twelve (12) years of age; and (3) the offended party is another person of either sex.⁴⁴

The Court, in *Amployo v. People*,⁴⁵ took pains to expound on the term “lewd” to mean, thus:

The term “lewd” is commonly defined as something indecent or obscene; it is characterized by or intended to excite crude sexual desire. That an accused is entertaining a lewd or unchaste design is necessarily a mental process the existence of which can be inferred by overt acts carrying out such intention, *i.e.*, by conduct that can only be interpreted as lewd or lascivious. The presence or absence of lewd designs is inferred from the nature of the acts themselves and the environmental circumstances. What is

⁴¹ *Quimvel v. People*, 808 Phil. 889, 915 (2017).

⁴² *People v. Dagsa*, 824 Phil. 704, 721 (2018).

⁴³ *Olivarez v. Court of Appeals*, 503 Phil. 421, 432 (2005).

⁴⁴ *Fianza v. People*, 815 Phil. 379, 389-390 (2017).

⁴⁵ 496 Phil. 747 (2005).

or what is not lewd conduct, by its very nature, cannot be pigeonholed into a precise definition ⁴⁶ (Citations omitted)

All the elements to sustain a conviction is obtained.

Records indicate that AAA was 13 years old at the time of the incident.⁴⁷ The courts *a quo* found the testimony of AAA to be straightforward, categorical, and convincing when she testified that petitioner forcibly kissed her while touching her breasts, tantamount to lascivious conduct as defined under the law. It must be borne in mind that this Court has consistently given full weight and credence to a child's testimonies as youth and immaturity are badges of truth and sincerity.⁴⁸ Worthy to mention is that the RTC observed that AAA was crying while testifying. Crying is but a natural display of emotion indicating the pain that the victim feels when asked to recount a traumatic experience;⁴⁹ the tears indicate truth and sincerity. To wit:

Pros. Fajardo:

Q: So, Ms. [REDACTED], how old are you now?

A: Thirteen, sir.

Q: Do you have proof that you are thirteen years old, what is your proof that you are thirteen years old?

A: My birth certificate, Sir.

Q: Exhibit "G", please go over your birth certificate, ito ba yan?

A: Yes, Sir.

x x x x

Pros. Fajardo:

Q: The accused in this case is a certain Michael John Dela Cruz, how are you related to this person, can you tell us?

A: He was my [REDACTED] when I was in [REDACTED], Sir.

Q: And what year was that?

A: 2015...

Q: 2015, as a teacher, how do you find him?

A: He is close with his students. Sir.

Q: And while you were under his tutelage in the [REDACTED], do you recall any unusual incident that transpired between you and Michael John?

A: It's just that when it's only the two of us, *kung ano ano po ang ginagawa niya sa akin.*

⁴⁶ *Id.* at 756.

⁴⁷ See Joint Decision; *rollo*, pp. 77-88.

⁴⁸ *People v. Entrampas*, 808 Phil. 258, 268 (2017).

⁴⁹ *People v. Ancheta*. 464 Phil. 360, 371 (2004).

Q: What was that? *Ano ang ginagawa sa'yo* while you were under his tutelage?

A: He would touch my breast and he kisses me. Sir. [The witness is crying]

Q: How long did it happen? *Kailan nagsimula iyan* and when did it end?

A: It started January 26, 2016, Sir.

Q: January 26, 2016 until?

A: April 20, 2016.

Q: It happened for three months, it happened almost every day?

x x x x

Court: Where did he kiss you?

Witness: On my lips, Your Honor.

Court: When he did that to you, what was your reaction?

Witness: I was shocked, Your Honor.

Court: When you say you were shocked, what did you do?

Witness: I was trying to resist him, Your Honor. But he was hugging me, he was embracing me and he put his hands inside my blouse to touch my breast.⁵⁰

Further, a child is deemed subjected to “other sexual abuse” under Section 5(b) of R.A. No. 7610 when the child is subjected to lascivious conduct under the coercion and influence of any adult. Case law clarifies that intimidation need not necessarily be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. This is especially true in the case of young, innocent, and immature girls who could not be expected to act with equanimity of disposition and with nerves of steel. Young girls cannot be expected to act like adults under the same circumstances to have the courage and intelligence to disregard the threat.⁵¹

It cannot be denied that the presence of coercion and intimidation is attendant in this case. As aptly found by the RTC and the CA, the fact that the accused is the subject teacher of AAA played a great role for the latter to satisfy his dastardly desires. As laid down in *People v. Errojo*⁵² and *People v. Clado*,⁵³ the Court has determined that the vast difference in age between the victim and the offender is indicative of coercion and intimidation. Clearly, AAA, a minor, was vulnerable and would have been easily intimidated by an attacker who is not only a grown man, but is also someone exercising moral

⁵⁰ Rollo, pp 78-80.

⁵¹ *People v. Leonardo*, 638 Phil. 161, 188 (2010).

⁵² 299 Phil. 51, 59-60 (1994).

⁵³ 397 Phil. 813, 826 (2000).

influence or ascendancy over her. It is doctrinal that moral influence or ascendancy takes the place of violence and intimidation.⁵⁴

The facts before the Court is nowhere near novel. In *People v. Malto*,⁵⁵ the accused, a professor, was convicted of violating Section 5(b), R.A. No. 7610 for having abused his position and influence, thus allowing his minor victim to indulge in lascivious acts. Similarly, in *Orsos v. People*,⁵⁶ petitioner, as complainant's teacher and CAT Commandant in her school, exercised influence and coercion upon the latter in order to commit the crime against her, thereby satisfying the element of force and intimidation. Although petitioner was not armed nor did he threaten his victim, his moral ascendancy over her is a sufficient substitute for the use of force or intimidation.

In the same vein, the Court finds no compelling reason to overturn the ruling of the RTC and the CA in finding petitioner guilty of child abuse under Section 10(a) of R.A. No. 7610.

Section 10(a) of R.A. No. 7610 provides that "a person who shall commit any other acts of child abuse, cruelty, or exploitation or be responsible for other conditions prejudicial to the child's development shall suffer the penalty of *prisión mayor* in its minimum period." Appropriately, child abuse is defined in Section 3(b), thus:

Section 3. Definition of Terms.

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

Verily, a person who commits an act that debases, degrades, or demeans the intrinsic worth and dignity of the child as a human being, whether habitual or not, can be held liable for above-mentioned provisions of R.A. No. 7610. While it may be true that not every instance of laying of hands on the child would constitute child abuse, petitioner's intention can be inferred from the

⁵⁴ *People v. Caoili*, *supra* note 29, at 881.

⁵⁵ 560 Phil. 119 (2007).

⁵⁶ 820 Phil. 1015 (2017).

manner in which he committed the act complained of.⁵⁷ It bears stressing that coercion and intimidation is not a material element for an accused to be held culpable under this section.

On this score, petitioner's acts of courting BBB, and in another occasion, touching her thighs in front of her classmates, while also ordering CCC and her boyfriend to kiss in front of him surely debase, degrade, and demean their intrinsic worth and dignity as children. These acts are manifestly prejudicial to their normal development, in light of their mental capacity and emotional maturity as minors. Given that the perpetrator was no less than someone who was expected to raise his students as responsible members of society, the incidents only made the school a hostile environment, where complainants are no longer able to freely learn and maximize their education. Even more perplexing, being asked to kiss or being subjected to inappropriate touching in a public place is a humiliating and traumatizing experience for all persons regardless of age.

Equally significant, petitioner cannot take refuge in his insistence that the private complainants' credibility crumbles in the face of their inconsistent testimony. Jurisprudence is clear that a witness' testimony containing inconsistencies or discrepancies does not, by such fact alone, diminish its credibility. In fact, the variance in minor details has the net effect of bolstering instead of diminishing the witness' credibility because they discount the possibility of a rehearsed testimony. Instead, what remains paramount is the witness' consistency in relating the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same.⁵⁸

Aside from harping on the inconsequential inconsistencies of private complainants' testimony, petitioner interposes the defense of denial.

It is an established rule, however, that denial is an inherently weak defense and constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the positive declaration by credible witnesses. Mere denial, without any strong evidence to support it, can scarcely overcome the unequivocal declarations by child victims regarding the identity of the accused and his involvement in the crime attributed to him.⁵⁹ Here, the positive testimony of the private complainants, further bolstered by the narrations of ██████ and ██████, as the school's guidance counselor, outweighs the denial proffered by petitioner.

As regards the penalty, the Court finds that the RTC and the CA's imposition with respect to Lascivious Conduct under Section 5(b) of R.A. No. 7610 conforms to recent jurisprudence.⁶⁰ The imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*. Considering the

⁵⁷ *Torres v. People*, 803 Phil. 480, 490-491 (2017).

⁵⁸ *People v. Tulagan*, G.R. No. 227363, March 12, 2019.

⁵⁹ *People v. Udtohan*, 815 Phil. 449 (2017).

⁶⁰ *Supra* note 48.

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application of the Indeterminate Sentence Law, the minimum of the indeterminate sentence should be within the range of the penalty next lower to that described by the law for the offense, or *prisión mayor* in its medium period to *reclusion temporal* in its minimum period, within a range of eight (8) years and one (1) day to fourteen (14) years and eight (8) months. Meanwhile, *sans* mitigating and aggravating circumstances, the maximum term of the sentence shall be taken from the medium period of the imposable penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, within the range of seventeen (17) years, four (4) months, and one (1) day to twenty (20) years. Here, the penalty imposed by the RTC and CA, that is fourteen (14) years and eight (8) months of *reclusion temporal* as minimum to twenty (20) years of *reclusion temporal* as maximum, is well-within the periods given above.

Neither can this Court find error in the meted penalty by the CA with regards to child abuse under Section 10(a) of R.A. No. 7610. The imposable penalty is *prisión mayor* in its minimum period, or six (6) years and one (1) day to eight (8) years. In applying the Indeterminate Sentence Law, the minimum of the indeterminate sentence should be within the range of *prisión correccional* in its maximum period or four (4) years, two (2) months, and one (1) day to six (6) years. Meanwhile, the maximum term, in the absence of any mitigating and aggravating circumstances, shall be within the medium period of the imposable penalty of *prisión mayor* in its minimum period, or six (6) years, eight (8) months, and one (1) day to seven (7) years and four (4) months. The Court agrees with the CA that the aggravating circumstance that petitioner was a teacher cannot be appreciated as the same was not specifically alleged in the Informations. Thus, the penalty imposed by the CA, that is four (4) years, nine (9) months, and eleven (11) days of *prisión correccional* as minimum to seven (7) years and four (4) months of *prisión mayor* as maximum, is proper.

Anent imposable damages, this Court increases the awards to conform with its ruling in *People v. Tulagan*⁶¹ on lascivious conduct under Section 5(b) of R.A. No. 7610. For consistency and uniformity, petitioner is ordered to pay, in Criminal Case Nos. 1883-V-16 and 1884-V-16, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages. Consonant with the judgment in *Rosaldes v. People*,⁶² this Court is in agreement with the CA that petitioner is liable to pay the amounts of ₱20,000.00 as moral damages, ₱20,000.00 as exemplary damages, and ₱20,000.00 as temperate damages in Criminal Case Nos. 1885-V-16, 1886-V-16 and 1887-V-16.

WHEREFORE, in view of the foregoing, the Petition is **DENIED**. The Decision dated October 30, 2018 and the Resolution dated February 21, 2019 of the Court of Appeals in CA-G.R. CR No. 40957 is **AFFIRMED** with **MODIFICATION**.

⁶¹ *Supra* note 49.

⁶² 745 Phil. 77, 93 (2014).

In Criminal Case Nos. 1883-V-16 and 1884-V-16, Petitioner Michael John Dela Cruz y Sodela is hereby found **GUILTY** beyond reasonable doubt for two (2) counts of lascivious conduct defined and penalized under Section 5(b) of Republic Act No. 7610 and he is hereby **SENTENCED** to suffer the indeterminate penalty of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum to twenty (20) years of *reclusion temporal* as maximum. He is likewise **ORDERED** to **PAY** the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages for each count.

In Criminal Case Nos. 1885-V-16 to 1887-V-16, Petitioner Michael John Dela Cruz y Sodela is hereby found **GUILTY** beyond reasonable doubt for three (3) counts of child abuse defined and penalized under Section 10(a) of Republic Act No. 7610 and for each count, he is hereby **SENTENCED** to suffer the indeterminate penalty of four (4) years, nine (9) months, and eleven (11) days of *prisión correccional* as minimum to seven (7) years and four (4) months of *prisión mayor* as maximum. He is likewise **ORDERED** to **PAY** the amount of ₱20,000.00 as civil indemnity, ₱20,000.00 as moral damages, and ₱20,000.00 as exemplary damages for each count.

All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.


SO ORDERED.


JHOSEP N. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice

On leave
RAMON PAUL L. HERNANDO
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice