



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

“G.R. No. 239820 – (JOHN HECTOR ROBLES y OLAVE, petitioner v. PEOPLE OF THE PHILIPPINES, respondent). – Subject to review under Rule 45 of the Rules of Court at the instance of John Hector Robles y Olave (petitioner) is the November 29, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR No. 38266, affirming with modification the November 26, 2015 Decision² of the Regional Trial Court (RTC), Branch 13 of Lipa City, Batangas, finding petitioner guilty beyond reasonable doubt for the crime of sexual abuse in Criminal Case No. 06-0421-2013.

The Case

This case stemmed from an information filed before the RTC charging petitioner with rape defined and penalized under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC) in relation to Republic Act (R.A.) No.7610, Section 5(b), the accusatory portion of which states:

That on or about the 4th day of January, 2013 at about 11:30 in the evening at Brgy. Talisay, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs and taking advantage of the vulnerability of one AAA, a fourteen (14) year old minor (sic); did then and there willfully, unlawfully and feloniously commit sexual intercourse against said AAA, by inserting his penis into her vagina, against her will and consent, which acts debased, degraded or demeaned her intrinsic worth and dignity as a human being.

Contrary to law.³

- over – ten (10) pages ...

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¹ *Rollo*, pp. 33-43; penned by Associate Justice Carmelita Salandanan Manahan, with Associate Justices Fernanda Lampas Peralta and Elihu A. Ybañez, concurring.

² *Id.* at 71-78; penned by Presiding Judge Noel M. Lindog.

³ *Id.* at 33-34.

Upon arraignment, petitioner pleaded not guilty to the crime charged. Thereupon, pre-trial and trial ensued.⁴

The Antecedents

In her testimony, private complainant AAA,⁵ then 14 years old, narrated that on January 4, 2013, at around 4:00 o'clock in the afternoon, she went to the house of her classmate Jenard P. Magsino (Magsino) to celebrate the latter's birthday. After partying, she asked Magsino and Wilbert Gomez (Gomez) to bring her home. On their way home riding a motorcycle, petitioner, riding a different motorcycle, blocked their way, pulled AAA's arms and brought her to barangay Talisay, Lipa City. When AAA woke up, she realized that she was inside a room, naked, lying on the bed and saw petitioner also naked on top of her. Petitioner was able to insert her penis into her vagina and succeeded in consummating his beastly acts. Petitioner only stopped when AAA began to shout. Thereafter, she lost consciousness. When she regained consciousness, she was already wearing clothes and ran out of the room and saw three male persons.⁶

Prosecution's other witness, Magsino, meanwhile, narrated that at around 10:00 o'clock in the evening of the same day, he, together with Gomez left the party to bring AAA home when petitioner and one other, riding a motorcycle, blocked their path. Thereafter, AAA alighted and talked to petitioner. When Magsino asked petitioner to bring AAA home, the latter agreed. Magsino then left to bring Gomez home.⁷

For his part, petitioner denied the allegation that he sexually molested AAA. He narrated that on January 4, 2013 at around 9:00 o'clock in the evening, while he was with his friends in a waiting shed of their barangay, AAA texted him and requested him to fetch her. He then borrowed the motorcycle of his friend and went to Brgy. Sta. Teresita to wait for her. When Magsino and Gomez saw petitioner's motorcycle, they stopped as AAA alighted and voluntarily rode petitioner's motorcycle. Petitioner then brought AAA home but she refused to alight from his

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⁴ Id. at 34.

⁵ The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances;

⁶ Id. at 34-35.

⁷ Id. at 35.

motorcycle and told him to instead bring her to his house. Petitioner brought AAA to his Ate Galo's house instead, where AAA stayed after petitioner's kumpare acceded. When AAA fell asleep, petitioner left the room and went to the sala.⁸

Petitioner further testified that when AAA woke up the next morning, Ate Galo gave her coffee. He then texted Zaila Jimenez (Jimenez) and asked her if AAA could stay in their house. Jimenez agreed and, thereafter, fetched AAA from the house of Ate Galo.⁹

The RTC Ruling

The RTC rendered a Decision finding petitioner guilty beyond reasonable doubt, not for the crime of rape defined and penalized under Article 266-A, paragraph 1(d) of the RPC, but for the crime of sexual abuse defined and penalized under Article III, Section 5(b) of R.A. No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," the dispositive portion of which reads, as follows:

WHEREFORE, in view of all the foregoing, the Court hereby finds accused John Hector Robles y Olave Not Guilty for the crime of *Rape* defined and penalized under *Article 266-A, paragraph 1(d) of the Revised Penal Code*.

The Court, however finds the same accused Guilty beyond reasonable doubt for the crime of *Sexual Abuse* defined and penalized under *Article III, Section 5(b) of Republic Act No. 7610*, otherwise known as the "*Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*," in relation to *Section 2(g) of its Implementing Rules and Regulations*, and hereby sentences him to suffer the penalty of imprisonment of Ten (10) years, Two (2) months and Twenty One (21) days of *Prision Mayor*, as minimum, to Seventeen (17) years, Four (4) months and One (1) day of *Reclusion Temporal*, as maximum; and to pay AAA, Fifty Thousand Pesos (Php50,000.00) as moral damages.

The period which the accused has undergone preventive imprisonment during the pendency of this case shall be credited to him provided he agreed in writing to abide by and comply strictly with the rules and regulations imposed upon committed prisoners.

SO ORDERED.¹⁰

Aggrieved, petitioner appealed to the CA.

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⁸ Id. at 35-36.

⁹ Id. at 36.

¹⁰ Id. at 77-78.

The CA Ruling

In a Decision promulgated on November 29, 2017, the CA affirmed the RTC Decision with modifications, as follows:

WHEREFORE, in consideration of the foregoing disquisition, the Appeal is *DISMISSED*. The *Decision* dated November 26, 2015 finding the accused-appellant guilty beyond reasonable doubt of the crime of sexual abuse under Article III, Section 5(b) of Republic Act 7610 and meting him the penalty of imprisonment of *Ten (10) years, Two (2) months and Twenty One (21) days of Prision Mayor, as minimum, to Seventeen (17) years, Four (4) months and One (1) day of Reclusion Temporal, as maximum* is *AFFIRMED WITH MODIFICATION*.

Accordingly, the accused-appellant is ordered to pay P20,000.00 as civil indemnity and a fine of P15,000.00 in addition to the P15,000.00 moral damages awarded by the trial court.

The accused-appellant is likewise ordered to pay interest on all monetary awards for damages at the rate of six percent (6%) per annum from the date of finality of this *Decision* until fully satisfied. The rest of the assailed *Decision* stands.

SO ORDERED.¹¹

Hence, the instant petition assailing a lone issue.

Issue

*Whether the CA gravely erred in affirming the petitioner's conviction for violation of Section 5(b), Article III of Republic Act No. 7610 despite the prosecution witnesses' inconsistent testimonies and the insufficiency of evidence establishing the elements of the offense.*¹²

The Court's Ruling

The petition lacks merit.

At the outset, it must be emphasized that this Court is not a trier of facts, and under Rule 45 of the 1997 Rules of Civil Procedure, a petition for review to be given due course should raise only questions of law.¹³

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¹¹ Id. at 43.

¹² Id. at 18.

¹³ RULES OF COURT, Rule 45, Section 1.

The difference between a question of fact and a question of law was exhaustively explained in the case of *Allied Banking Corp. v. Sia*,¹⁴ viz.:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. The issue involves a pure question of law when it could be resolved without the examination of the probative value of the evidence presented or the truth or falsehood of the facts being admitted, as oppose to a question of fact where the doubt or controversy arises as to the truth or falsity of the alleged facts. In other words, the resolution of an issue involving a purely legal question rests only on what the law provides on the given set of circumstances. If it is clear that the issue invites a review of the evidence presented, as when the facts are disputed, the question posed is one of fact.¹⁵

Such rule admits of exceptions¹⁶ that warrant a review of the assailed factual findings. The case at bench, however, does not fall within the ambit of any of these recognized exceptions.

The records of this case will clearly show that the findings of the CA are amply supported by the evidence on record. Hence, considering that the instant petition raises not only questions of law, but also questions of fact, petitioner has committed a legal blunder, which by itself may be a ground for the outright dismissal of the instant petition.

Putting the procedural obstacle aside, this Court holds and so rules that the prosecution was able to establish petitioner's guilt beyond reasonable doubt for the crime of Sexual Abuse as defined and penalized under Section 5(b), Article III of R.A. No. 7610.

Section 5(b), Article III of R.A. No. 7610 states:

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¹⁴ G.R. No 195341, August 28, 2019.

¹⁵ Id.

¹⁶ The Court declared in the case of *Pastor v. PNB*, 461 Phil. 789, 806-807 (2003), that there are exceptional circumstances that may compel the Court to review the findings of fact of the Court of Appeals, which as summarized in a line of cases are as follows: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals are based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals in making its findings went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of facts are conclusions without citations of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which if properly considered would justify a different conclusion; and (10) when the findings of fact by the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.

SEC. 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 subjected 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

The elements of sexual abuse under the above-cited provision are 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.
3. The child, whether male or female, is below 18 years of age.¹⁷

The first element obtains in this case. It was established beyond reasonable doubt that petitioner had carnal knowledge of AAA. During the trial the court *a quo*, the defense admitted that a medical examination was conducted by Dra. Khristine Mae Serrano (Dra. Serrano) and that a medical certificate was issued as a result thereof attesting to the presence of lacerations to AAA's hymen. While petitioner insists otherwise, the testimony of AAA, herself, who was able to narrate the ordeal that was done to her, *vis-a-vis*, the medical certificate issued by the Dra. Serrano, belie such denial.

Furthermore, as a minor victim who has taken significant risks in coming to court, her testimony deserves weight and credence. As enunciated in the case of *People v. Briosos*,¹⁸ the testimonies of child-

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¹⁷ *Amplayo v. People*, 496 Phil. 747, 758 (2005).

¹⁸ 788 Phil. 292 (2016).

victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has, in fact, been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.¹⁹

The second element, that is, that the act is performed with a child exploited in prostitution or subjected to other sexual abuse, is likewise present. As succinctly explained in *People v. Larin*:²⁰

A child is deemed exploited in prostitution or subjected to other sexual abuse, when the child indulges in sexual intercourse or lascivious conduct (a) for money, profit, or any other consideration; or (b) **under the coercion or influence of any adult, syndicate or group.** x x x

It must be noted that the law covers not only a situation in which a child is abused for profit, but also one in which a child, through coercion or intimidation, engages in any lascivious conduct. **Hence, the foregoing provision penalizes not only child prostitution, the essence of which is profit, but also other forms of sexual abuse of children** x x x²¹ (Emphasis supplied)

In the case at bench, it is undisputed that at the time of the incident, petitioner was 23 years old, or nine years older than AAA. The age disparity, without a doubt, is an indicia of coercion, intimidation or influence.²² It is, therefore, not hard to imagine the then 14-year old AAA being intimidated by petitioner, a full grown adult male, to give in to his sexual desires.

As case law has it, 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 or to have the courage and intelligence to disregard the threat.²³

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¹⁹ Id. at 307.

²⁰ 357 Phil. 987 (1998).

²¹ Id. at 998.

²² *Caballo v. People*, 710 Phil. 792, 807 (2013).

²³ *Amployo v. People*, 496 Phil. 747, 759 (2005).

The trial court and the CA, therefore, correctly ruled that even if AAA voluntarily went with petitioner on the night of the incident, it will not change the fact that AAA was still a child subjected to sexual abuse. AAA was intimidated, if not coerced, to succumb to petitioner's lustful desires.

The last element is likewise established in this case. Records show that during the trial *a quo*, the defense did not dispute the fact that the minor victim was only 14 years old at the time of the incident. For its part, the prosecution offered as evidence, without any objection from the defense, AAA's birth certificate stating that she was 14 years of age at the time of the commission of the offense on January 4, 2013.²⁴

With the presence of the three elements, the trial court and the CA, therefore, committed no reversible error when it convicted petitioner for sexual abuse as defined and penalized under Section 5(b), Article III of R.A. No. 7610

Notwithstanding, petitioner tries to extricate himself from criminal liability by alleging that he did nothing wrong to AAA; and that the testimonies of the prosecutions' witnesses are full of inconsistencies, hence, incredible. Simply, he raises the defense of denial. His defense, however, falters.

This Court has consistently held that denial is an inherently weak defense and has always been viewed upon with disfavor by the courts due to the ease with which it can be concocted.²⁵ Denial and alibi constitute self-serving negative evidence which cannot be accorded greater evidentiary weight than the positive declaration of a credible witness.²⁶

Petitioner, in this case, made self-serving statements, which he failed to substantiate by sufficient evidence. He merely denied the accusations but failed to adduce any evidence in support thereof. Worse, if indeed his narration of facts is genuine, his testimony could have been easily corroborated by several personalities which he mentioned during trial. Unfortunately, no other witnesses were presented to support his claims.

Finally, petitioner contends that, since there were inconsistencies in the testimonies of the prosecution's witnesses, especially that of AAA, the prosecution failed to prove his guilt beyond reasonable doubt. Such contention, however, is misplaced.

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²⁴ *Rollo*, p. 40.

²⁵ *People v. Rom*, 727 Phil. 587, 606 (2014).

²⁶ *People v. Nachor*, 652 Phil. 756, 775 (2010).

This Court has repeatedly ruled that discrepancies referring only to minor details and collateral matters do not affect the veracity or detract from the essential credibility of a witness' declarations, as long as these are coherent and intrinsically believable on the whole.²⁷

In the instant case, this Court holds and so rules that these alleged inconsistencies are insignificant and only refer to minor details and not upon the basic aspect of the crime charged. Accordingly, these alleged inconsistencies cannot be considered a ground to reverse petitioner's conviction.

The Penalty

The RTC and the CA correctly applied the pertinent provisions of the Indeterminate Sentence Law in imposing the penalty of ten (10) years, two (2) months and twenty-one (21) days of *prision mayor*, as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum.

As regards the award of damages, however, further modification must be made in view of this Court's ruling in *People v. Tulagan*.²⁸ Accordingly, AAA, the offended party, must be awarded exemplary damages in the amount of ₱50,000.00. Meanwhile, the award of civil indemnity and moral damages are increased to ₱50,000.00 each. The fine ₱15,000.00 previously awarded by the CA is sustained. All monetary awards shall earn a six percent (6%) *per annum* legal interest from the date of the finality of this Resolution until full payment.

WHEREFORE, the instant petition is **DENIED**. The assailed November 29, 2017 Decision of the Court of Appeals in CA-GR. CR No. 38266 is **AFFIRMED with MODIFICATION** in that petitioner John Hector Robles y Olave is **ORDERED** to **PAY** the offended party AAA the following amounts: (i) ₱50,000.00 as civil indemnity; (ii) ₱50,000.00 as moral damages; (iii) ₱50,000.00 as exemplary damages; and (iv) ₱15,000.00 as fine.

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

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²⁷ *People v. Laog*, 674 Phil. 444, 463 (2011), citing *People v. Suarez*, 496 Phil. 231, 243 (2005).

²⁸ G.R. No. 227363, March 12, 2019.

SO ORDERED.” *Peralta, C.J., no part; Leonen, J., designated
Additional Member per Raffle dated January 4, 2021.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *Jan 12*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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