



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 June 2021** which reads as follows:*

“G.R. No. 250437 (*People of the Philippines v. Richard James Dongcoy @ Argie*). – The appeal must fail.

AAA¹ categorically testified that she was forcibly brought to a secluded place called “Kamang Bato” by accused Mark Joseph Manalastas y Cunanan (Mark), Ever Tinga y Daza (Ever), Russel Delos Reyes (Russel) and their companions. There, they forced her to drink, threatened to push her into the ravine if she refused, brandished a knife at her, and alternately fondled her.² She saw Richard James Dongcoy @ Argie (appellant) arrive later.

After the companions of the accused had left, the latter, including appellant, started to touch her. Appellant, Ever, and Mark touched her breasts and inserted their hands under her pants. Then, they forcefully undressed her as they laid her on the ground. Russel and Mark held AAA’s hands while Ever and appellant held her feet.³ Ever then went on top of her and inserted his penis into her vagina. The process was repeated as Mark took his turn to rape her. Russel, on the other hand, inserted his finger into AAA’s vagina, while appellant touched her breasts.⁴ While being brutally ravished, AAA cried and resisted but she was overpowered by the accused.⁵

¹ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² *CA rollo*, pp. 66-67.

³ *Id.* at 214.

⁴ *Id.*

⁵ *Id.*

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Notably, the trial court found AAA's testimony and identification of appellant and his co-accused to be clear and straightforward, hence, worthy of credence. In contrast, it found their bare denial to be weak and self-serving. This factual assessment is accorded great weight⁶ since the trial court has had the opportunity to observe the demeanor of the witnesses and the manner by which they testified; and such factual assessment even carries the full concurrence of the Court of Appeals.⁷

On the issue of conspiracy, the trial court and the Court of Appeals both found that the accused, including appellant, did conspire in committing the crimes charged, thus:

Here, there can be no mistake that the Accused-Appellants were motivated by one and the same purpose – to have carnal knowledge of the Private Complainant. Each of them performed their part to complete and attain the said savage purpose. Although the acts may have been done without prior agreement, the Accused-Appellants' and Delos Reyes' acts were concerted and coordinated which clearly manifest unity of purpose and common design. To reiterate, when the four (4) were left with the Private Complainant, they forced her to drink Emperador and threatened to throw her over [the] cliff if she did not do their bidding. Next, they all touched her body, held her hands and feet, covered her mouth so she could not scream, and took turns in ravishing her. Under these circumstances, it can be indubitably inferred that conspiracy was present in the commission of the crime. Thus, the acts of the Accused-Appellants before, during, and after the commission of the crime of Rape indicate that there was a common purpose to commit the same.⁸

Conspiracy is the unity of purpose and intention in the commission of a crime.⁹ It exists if at the time of the commission of the offense, the acts of two or more accused show that they were animated by the same criminal purpose and were united in their execution, or where the acts of the malefactors indicate a concurrence of sentiments, a joint purpose, and a concerted action.¹⁰

It is therefore inconsequential that appellant was not the one who had actual forced sexual intercourse with AAA; nor the one who inserted his finger in her vagina. It is likewise immaterial that he only touched her breasts and assisted in restraining her hands and feet while his co-accused alternated in raping and sexually assaulting her. In conspiracy, the act of one is the act of all. Hence, the conspirators are liable as co-principals regardless of the extent and character of their respective participation in the commission of the crime.¹¹

⁶ See *People v. Lagangga*, 775 Phil. 335, 341 (2015).

⁷ See *People v. Opeña*, 828 Phil. 701, 708 (2018).

⁸ CA rollo, pp. 224-225.

⁹ *People v. Solar*, G.R. No. 225595, August 6, 2019.

¹⁰ *Id.*

¹¹ See *People v. Abut*, 449 Phil. 522, 536 (2003).

In another vein, the fact that the results of the physical examination of AAA did not reveal the presence of *fresh lacerations* does not mean she did not get raped.¹² A medical examination of the victim, as well as the medical certificate, is merely corroborative in character and is not an indispensable element in rape. What is important is the clear, unequivocal, and credible testimony of the victim that the accused, by force and intimidation, had sexual intercourse with her not once, but twice.¹³

Neither does the absence of external injuries negate rape. In fact, even the presence of spermatozoa in the vagina is not an essential element of rape.¹⁴ The important consideration in rape cases is not the emission of semen but the unlawful penetration of the female genitalia by the male organ.¹⁵

Proper Nomenclature of the Crime, Penalty, and Damages

Crim. Case No. 230-2005

In accordance with *People v. Tulagan*,¹⁶ where the acts constituting sexual assault are committed against a victim who is twelve (12) years or over but under eighteen (18) years old, or is eighteen years old or older but under special circumstances, the nomenclature of the crime should be "*Lascivious Conduct* under Section 5(b) of Republic Act No. 7610 (RA 7610)" and the imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*.

Considering that AAA was only fifteen (15) years old when she got sexually abused, the verdict of conviction against appellant in Crim. Case No. 230-2005 should be modified from rape to lascivious conduct under Section 5(b) of RA 7610.

Applying the Indeterminate Sentence Law, appellant should be sentenced to imprisonment for an indeterminate period of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal*, as maximum.

The awards of civil indemnity, moral damages, and exemplary damages should be retained at ₱50,000.00 each.

Further, a fine in the amount of ₱15,000.00 is imposed pursuant to Section 31(f), Article XII of RA 7610.

¹² See *People v. Gabon*, 421 Phil. 21, 39 (2001).

¹³ See *People v. Brandares*, 370 Phil. 167, 175 (1999).

¹⁴ *People v. Lagangga*, supra note 6, at 342.

¹⁵ *People v. Bato*, 382 Phil. 558, 566 (2000).

¹⁶ G.R. No. 227363, March 12, 2019.

Crim. Case Nos. 231-2005 and 232-2005

We sustain the imposition of *reclusion perpetua* on appellant for each count of Rape under Article 266-A (1), in relation to Art. 266-B of the Revised Penal Code. In *People v. Nocido*,¹⁷ we ruled that Rape through Sexual Intercourse under Article 266-A in relation to Art. 266-B when committed by two or more persons, shall be punishable by *reclusion perpetua* to death. There being no aggravating or mitigating circumstance attendant in the commission of the crime, the penalty of *reclusion perpetua* shall be imposed.

Consistent with *People v. Juguetta*,¹⁸ where the penalty imposed is *reclusion perpetua*, civil indemnity of ₱75,000.00, moral damages of ₱75,000.00 and exemplary damages of ₱75,000.00 shall be awarded.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated January 31, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08648 is **AFFIRMED WITH MODIFICATION**, as follows:

In **Crim. Case No. 230-2005**, appellant RICHARD JAMES DONGCOY @ ARGIE is found guilty of *Lascivious Conduct* under Section 5(b) of Republic Act No. 7610 and 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. He is directed to pay AAA ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages and a fine of ₱15,000.00.

In **Crim. Case No. 231-2005**, appellant RICHARD JAMES DONGCOY @ ARGIE is found guilty of rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code. He is sentenced to *reclusion perpetua* and directed to pay AAA ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages.

In **Crim. Case No. 232-2005**, appellant RICHARD JAMES DONGCOY @ ARGIE is found guilty of rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code. He is sentenced to *reclusion perpetua* and directed to pay AAA ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages.

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

¹⁷ G.R. No. 240229, June 17, 2020.

¹⁸ 783 Phil. 806 (2016).

SO ORDERED.” (M. Lopez, J., no part due to prior action in the Court of Appeals; Inting, J., designated additional member per Raffle dated July 6, 2020)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
09 AUG 2021 *Edla 09*

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THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 73
Olongapo City
(Crim. Case Nos. 230-2005, 231-2005 & 232-2005)

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*with copy of CA Decision dated 31 January 2018.
Please notify the Court of any change in your address.
GR250437. 6/16/2021(233)URES(m)