



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 March 2020** which reads as follows:*

“**G.R. No. 250588** (*Alexander Dumalsin¹ Joaquin v. People of the Philippines*). — The Court resolves the Petition for Review on *Certiorari*² under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision dated September 6, 2019 of the Court of Appeals (CA).

Petitioner Alexander Dumalsin Joaquin was charged with the crime of Rape by Sexual Intercourse and Rape through Sexual Assault³ under Article 266-A of the Revised Penal Code in seven separate informations, all dated August 17, 2016, docketed as Crim. Case Nos. 39710-R to 39716-R filed before the Regional Trial Court (RTC) of Baguio City, and raffled off to Branches 4 and 59. These acts were found to have been committed against AAA,⁴ then a 13-year old minor during the commission of the said crimes.

The RTC found probable cause to issue a warrant of arrest against the accused, and thereafter, all cases were consolidated. When arraigned, accused pleaded not guilty to the crimes charged. Pre-trial was held and the trial court issued a Pre-Trial Order dated November 10, 2016, stating the following stipulations and/or admissions, to wit: the identity of the accused as the person charged and arraigned in the seven cases; the minority of private complainant subject to the submission of the Philippine Statistics Authority (PSA) copy of the latter’s certificate of live birth; minor private complainant and the accused are neighbors, residing in the same building, with the accused residing at the upper floor while private complainant, at the

¹ “Dumalsin” is also spelled as “Domalsin” in some parts of the *rollo*; *rollo*, p. 18.

² Assailing the CA’s Decision dated September 6, 2019 and its Resolution dated November 18, 2019 penned by Associate Justice Celia C. Librea-Leagogo, with the concurrence of Associate Justices Ramon A. Cruz and Germano Francisco D. Legaspi; *id.* at 80-115, 131-133.

³ *Id.* at 81-82.

⁴ The names and personal circumstances of the private complainants and their immediate family are withheld per Republic Act (RA) No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act (1992), RA No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004, and Office of the Court Administrator Amended Administrative Circular No. 83-2015.

basement, the accused is also known by the name "Allen;" the presence of the accused at the place of the incident on January 16 and 18; the accused was issued a medical certificate by the Baguio General Hospital and Medical Center (BGHMC) for the examination conducted on July 8, 2016; the landlord of private complainant's parents is the father-in-law of the accused; and as of June 2016, the private complainant's parents have rental arrears.⁵

The RTC found petitioner guilty beyond reasonable doubt of Rape by Sexual Intercourse in Crim. Case Nos. 39710-R, 39712-R, and 39713-R, and of Rape by Sexual Assault in Crim. Case No. 39715-R, the dispositive portion reading, to wit:

WHEREFORE, in view of all the foregoing, accused **ALEXANDER DUMALSIN JOAQUIN** is found:

1. **In Criminal Case No. 39710-R, Criminal Case No. 39712-R and Criminal Case No. 39713-R GUILTY** beyond reasonable doubt of the offense of Rape as defined under paragraph 1, Article 266-A of the Revised Penal Code and penalized under Article 266-B of the same code.

He is sentenced to suffer the penalty of reclusion perpetua and all its accessory penalties in each of these cases.

In line with prevailing jurisprudence, he is ordered to pay AAA PhP100,000.00 as civil indemnity ex-delicto, PhP100,000.00 as moral damages for each case or a total of PhP600,000.00 in these three (3) cases, with an interest of 6% per annum from the finality of the decision until its full satisfaction.

The payment of the docket fees as to the damages is considered a first lien on the judgment.

2. **In Criminal Case No. 39715-R, GUILTY** beyond reasonable doubt of the offense of Rape by Sexual Assault as defined under paragraph 2, Article 266-A of the Revised Penal Code and penalized under Article 266-B of the same code. He is sentenced to suffer the indeterminate sentence of six (6) years of prision correccional, as minimum, to ten (10) years and one (1) day of prision mayor, as maximum.

In line with the prevailing jurisprudence, he is ordered to pay AAA PhP30,000.00 as civil indemnity ex-delicto and PhP30,000.00 as moral damages or a total of PhP60,000.00, in this case with an interest of 6% per annum from the finality of the decision until its full satisfaction.

The payment of the docket fees as to the damages is considered a first lien on the judgment.

⁵ Id. at 83-84.

3. In Criminal Case(s) Nos. 39711-R, 39714-R and 39716-R **NOT GUILTY** for failure to prove beyond reasonable doubt of the offense defined under paragraph 2, Article 266-A of the Revised Penal Code and penalized under Article 266-B of the same code.

Considering that the accused has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment, subject to the conditions provided for by law.

SO ORDERED.⁶

During his recourse to the CA, petitioner contended that the trial court, supposedly impartial, demonstrated a clear intention to hinder an effective defense for him, and refused to allow the introduction of evidence showing that the complainant was of dubious credibility and has shown the propensity in the past to fabricate stories of sexual abuse, among others.⁷ The CA, however, found that the appeal was bereft of merit.⁸

The dispositive portion of the Decision reads, to wit:

WHEREFORE, premises considered, the appeal is **DENIED**. The Consolidated Judgment dated 11 June 2018 of the Regional Trial Court of Baguio City, Branch 4, Family Court of Baguio in *Crim. Cases Nos. 39710-R, 39712-R, and 39713-R*, finding accused-appellant Alexander Dumalsin Joaquin guilty beyond reasonable doubt of rape by sexual intercourse as defined under paragraph 1 of Article 266-A and penalized under Article 266-B of the Revised Penal Code, sentencing him to suffer the penalty of *reclusion perpetua* for each count of rape, and in *Crim. Case No. 39715-R*, finding accused-appellant Alexander Dumalsin Joaquin guilty beyond reasonable doubt of rape by sexual assault under paragraph 2, Article 266-A of the Revised Penal Code, in relation to Section 5(b), Article III of Republic Act No. 7610, is **AFFIRMED** with **MODIFICATION**, as follows:

1. In *Crim. Cases Nos. 39710-R, 39712-R and 39713-R*, accused-appellant Alexander Dumalsin Joaquin is ordered to pay private complainant AAA civil indemnity in the amount of Php75,000.00, moral damages in the amount of Php75,000.00, and exemplary damages in the amount of Php75,000.00 for each count of rape by sexual intercourse, plus interest at the rate of 6% *per annum* from finality of this Decision until full payment; and
2. In *Crim. Case No. 39715-R*, accused-appellant is sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years, ten (10) months, and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six months and twenty (20) days of *reclusion*

⁶ Id. at 80-81.

⁷ Id. at 92.

⁸ Id. at 93.

temporal, as maximum, and to pay private complainant AAA civil indemnity, moral damages and exemplary damages in the amount of Php50,000.00 each, plus interest at the rate of 6% *per annum* from finality of this Decision until full payment.

SO ORDERED.⁹

Petitioner's motion for reconsideration was denied in a Resolution dated November 18, 2019. Hence, this petition.

In his petition, petitioner argues, on the procedural aspect, that the CA deviated from the accepted norm that the accused can only be convicted of the crime charged in the Information,¹⁰ by holding petitioner liable for the violation of Section 5(b), Article III of Republic Act (RA) No. 7610, even though the RTC held petitioner liable under paragraph 2 of Article 266-A.¹¹ On the substantive aspect, petitioner alleges that the lower courts ruled in a manner inconsistent to the doctrine that between two interpretations, that which is most favorable to the accused must be followed as it is consistent with the constitutional right to be presumed innocent, and that the CA failed to appreciate petitioner's allegations that the complainant's testimony was riddled with inconsistencies.

Petitioner's contentions are without merit, as the CA did not commit any error. First, as to the allegation of petitioner that he can only be convicted of the crime charged, the same is unmeritorious. The real nature of the criminal charge is determined not from the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated, they being conclusions of law, but by the actual recital of facts in the complaint or information.¹² It is not the technical name given by the fiscal appearing in the title of the information that determines the character of the crime but the facts alleged in the body of the Information.¹³ Herein, the facts as alleged constituted the crimes petitioner was convicted by the CA for. There was no violation of the rights of accused as there was ample evidence showing that he did indeed commit the crime of Rape by Sexual Assault.

Second, petitioner's arguments that the CA failed to consider the inconstant nature of the complainant's testimony fail to persuade. It is axiomatic that minor inconsistencies in the testimony of a witness do not reflect on his or her credibility. What remains important is the positive identification of the accused as the assailant, and, specifically in this case, ample margin of error and understanding must be accorded to a young witness such as complainant, who, much more than adults, would be gripped

⁹ Id. at 114-115.

¹⁰ Id. at 7.

¹¹ Id.

¹² *People v. Escosio*, 292-A Phil. 606, 620 (1993).

¹³ Id.

with tension due to the novelty of the experience of testifying before a court.¹⁴

In *People v. Gerola*,¹⁵ the Supreme Court held that it has time and again held that inconsistencies in the testimony of witnesses with respect to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony, to wit:

As well, that a witness' testimony contains inconsistencies or discrepancies does not, by such fact alone, diminish the credibility of such testimony. In *People v. Esquilla*, the accused therein similarly cited contradictions and discrepancies in the victim's testimony in questioning his conviction for rape. x x x In affirming the findings of the lower courts, the Court brushed aside such inconsistencies and gave full weight and credit to the testimony of the victim, who was likewise a minor.

x x x x

Indeed, the statements are contradictory. However, it should be remembered that the victim, Maribeth, was only 14 years old at the time she testified and, therefore, it is not unnatural should inconsistencies crop into her testimony as she is more prone to error than an adult person. In fact, minor inconsistencies may be expected of persons of such tender years.

The minor inconsistencies in Gloria's testimonies are to be expected. Protracted cross-examination of a 16-year old girl not accustomed to public trial would produce contradictions which nevertheless would not destroy her credibility. x x x

We will not deviate from the rule that "testimonies of rape victims who are young and immature are credible; the revelation of an innocent child whose chastity was abused demands full credence." x x x

Too, the inconsistent statements Maribeth made as to the date and place of the commission of the crime are collateral or minor matters which do not at all touch upon the commission of the crime itself x x x nor affect Maribeth's credibility.¹⁶

Considering the foregoing, the Court finds no reason to disturb the findings of the trial court as affirmed by the CA. To note, in rape cases, the accused may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is clear, convincing, and otherwise consistent with human nature.¹⁷ This is a matter best assigned to the trial court which had the first-hand opportunity to hear the testimonies of the witnesses and observe their demeanor, conduct, and attitude during cross-examination.¹⁸ Hence, the trial court's findings carry very great weight

¹⁴ *People of the Philippines v. Eddie Regalado*, 793 Phil. 493 (2016).

¹⁵ 813 Phil. 1055 (2016).

¹⁶ *Id.* at 1064-1066.

¹⁷ *People of the Philippines v. XXX*, G.R. No. 226467, October 17, 2018.

¹⁸ *Id.*

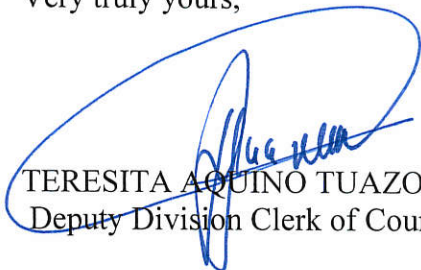
and substance.¹⁹ This, especially considering the age of the victim is 13 years of age, making her a minor.

Thus, the Court resolves to **DENY** the petition for failure to sufficiently prove that the CA committed a reversible error in the disputed Decision.

The Court, however, finds that the nomenclature of the penalty is in need of modification. In the recent and timely case of *People of the Philippines v. Salvador Tulagan*,²⁰ the Court took the opportunity to reconcile the provisions on Acts of Lasciviousness, Rape and Sexual Assault under the Revised Penal Code as amended by Republic Act No. 8353 *vis-à-vis* Sexual Intercourse and Lascivious Conduct under Section 5(b) of RA No. 7610, and to clarify the nomenclature and the imposable penalties of said crimes, and damages in line with existing jurisprudence. In the case at bar, petitioner was found guilty of (a) having carnal knowledge of AAA, then a 13-year old minor, in three (3) separate occasions; and (b) inserting his finger into AAA's vagina in one (1) occasion, **thus the crime committed by the accused is "Lascivious Conduct under Section 5(b) of Republic Act No. 7610."** To note, there is no more need to adjust the concomitant penalties and civil liability *ex delicto* in the said criminal case as they are already in accordance with prevailing jurisprudence on the matter.

SO ORDERED."

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

¹⁹ Id.

²⁰ G.R. No. 227363, March 12, 2019.

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(Crim. Case Nos. 39710-R to 39716-R)

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