



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

PEOPLE OF THE G.R. No. 260708  
PHILIPPINES, Plaintiff-appellee, Present:

— versus —

ABC260708,\*  
Accused-appellant.

GESMUNDO, C.J.,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.,  
GAERLAN,  
ROSARIO,  
LOPEZ, J.,  
DIMAAMPAO,  
MARQUEZ,  
KHO, JR., and  
SINGH, JJ.

Promulgated:

January 23, 2024

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DECISION

LOPEZ, M., J.:

The meticulous study of a crime begins with the understanding of its definition, nature, and penalty, and ends with an accurate nomenclature or

\* Initials were used to identify accused-appellant pursuant to Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017, entitled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances."

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designation of the offense. Here, the Court pedagogically embarks on a quest to settle the proper taxonomy of the crime when the elements of both statutory rape, i.e., *the victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age*, and qualified rape, i.e., *twin circumstances of minority and relationship, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape, or the age of the victim being below 7 years old*, are present.

### ANTECEDENTS

ABC260708 was charged with qualified rape and rape through sexual assault committed against his minor daughter, AAA260708,<sup>1</sup> in two separate Informations filed before the Regional Trial Court of [REDACTED]<sup>2</sup> Cagayan [REDACTED] (RTC) which were docketed as Criminal Case Nos. 17006 and 17007, respectively,<sup>3</sup> the accusatory portions of which read:

#### *Criminal Case No. 17006*

That on March 17, 2015, in the [REDACTED], Province of Cagayan, and within the jurisdiction of this Honorable Court, the accused [ABC260708], with lewd design, and by means of force, threat and intimidation, did then and there, willfully, unlawfully, and feloniously, **have sexual intercourse with the private complainant [AAA260708], who is [his] daughter and a minor being only a 7-year[-]old minor, against her will.**

**That the acts of the accused was aggravated by the fact that the private complainant was only a 7[-]year[-]old minor when the offense was committed and the accused was [her] father.**

That due to the incident, the accused was immediately apprehended and was placed under custody of the law.

CONTRARY TO LAW.<sup>4</sup> (Emphasis supplied)

#### *Criminal Case No. 17007*

That on March 17, 2015, in the [REDACTED], Province of Cagayan, and within the jurisdiction of this Honorable Court, the accused

<sup>1</sup> The identity of the victim or any information which could establish or compromise their identity, and those of their immediate family or household members, shall be withheld pursuant to Republic Act No. 7610 (1992), An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; Republic Act No. 9262 (2004), An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC (2004), Rule on Violence Against Women and Their Children.

<sup>2</sup> Supreme Court Amended Administrative Circular No. 83-2015 states that the geographical location where the crime was committed should refer only to the province where the crime occurred. References to the specific barangay or town should be blotted out from the body of the court decision if its identification could lead to the disclosure of the women or children victims.

<sup>3</sup> *Rollo*, pp. 9-10 and 27.

<sup>4</sup> Records (Criminal Case No. 17006), p. 1.

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[ABC260708], with lewd design, and by means of force, threat and intimidation, did then and there, willfully, unlawfully, and feloniously, abuse sexually the private complainant [AAA260708], who is a 7-year[-]old minor and his own daughter, **by inserting his penis into the private complainant's mouth**; that the acts of the accused were done against the will of the private complainant.

**That the incident was aggravated by the fact that the private complainant was only a 7-year[-]old minor when the offense was committed and that the accused was [her] father.**

That due to the incident[,] the accused was immediately apprehended and was placed under the custody of the law.

CONTRARY TO LAW.<sup>5</sup> (Emphasis supplied)

When arraigned, ABC260708 pleaded not guilty to the offenses charged. After pretrial was terminated, joint trial ensued. AAA260708 testified that on March 15, 2015<sup>6</sup> at around 5:00 p.m., ABC260708 called her to enter their room. ABC260708 removed AAA260708's underwear and directed her to lie on the bed. ABC260708 laid on top of AAA260708 and spread her legs. ABC260708 pulled out his penis and inserted it into AAA260708's vagina. Thereafter, while AAA260708 was already standing, ABC260708 inserted his penis into her mouth. ABC260708 threatened to kill AAA260708 if she would report the matter to the police. BBB260708, AAA260708's older sister, corroborated the incident. BBB260708 recalled that on March 17, 2015 at around 5:00 p.m., she just arrived home, but could not open the front door because it was locked. BBB260708 entered the house through an unfinished window in their kitchen. Thereat, BBB260708 saw AAA260708 with her shirt without undergarments and ABC260708 wearing a shirt and brief. BBB260708 told her aunt what happened. On even date, AAA260708 and her uncle reported the matter to the authorities and the incident was recorded in a police blotter. On March 18, 2015, AAA260708 was brought to the hospital for physical examination. The medical report revealed that AAA260708 had fresh hymenal laceration incurred within 24 hours from penetration.<sup>7</sup>

ABC260708 denied the accusations, and claimed that he usually bathed his daughter AAA260708 because his wife was abroad. On March 17, 2015, ABC260708 bathed AAA260708 who gathered dust after helping him harvest corn. ABC260708 then piled the corn in the living room while wearing a *sando* and underwear. BBB260708 arrived at that moment. Afterwards, BBB260708's aunt whipped ABC260708 based on the report that he molested AAA260708.<sup>8</sup>

<sup>5</sup> Records (Criminal Case No. 17007), p. 1.

<sup>6</sup> AAA260708 stated that the crimes occurred on March 15, 2015 when it actually took place on March 17, 2015. This was corroborated by BBB260708 and the report as reflected in the police blotter; *rollo*, p. 39.

<sup>7</sup> *Id.* at 11 and 29-32.

<sup>8</sup> *Id.* at 33-34.

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On July 10, 2019, the RTC convicted ABC260708 of qualified rape and rape through sexual assault.<sup>9</sup> According to the RTC, the prosecution established that ABC260708 had carnal knowledge of his minor daughter AAA260708, and then inserted his penis in her mouth. The RTC admitted in evidence the photocopy of AAA260708's birth certificate indicating that she was born on February 6, 2007 and that her father is ABC260708. Thus, AAA260708 was 8 years old at the time of the sexual molestations in March 2015, and not 7 years old as alleged in the Informations. Also, ABC260708 acknowledged that he is the father of AAA260708 and exercised parental authority over her. The RTC noted that the defense never objected during trial against the minority of AAA260708 and her relationship with ABC260708. Likewise, the RTC clarified the discrepancy between the Informations and the testimony of AAA260708 as to the alleged date of the commission of the crimes. The RTC explained that AAA260708 narrated the incidents that transpired on March 17, 2015 even though she stated the date of March 15, 2015. The testimony of BBB260708, the police blotter, and the medico-legal report supported that the crimes were committed on March 17, 2015. In any event, the conviction of the accused is not solely based on the preciseness of dates but on the credibility of the witnesses's testimonies,<sup>10</sup> thus:

A reading of the evidence presented, it appears that accused indeed committed the crime charged. Private complainant categorically narrated how the accused sexually molested her while inside their room in their house. Complainant while outside their house [sic] accused called upon her inside the room, there he removed her undergarments, let her lie down on the bed, then accused went on top of her, brought out his penis, spread her legs, and inserted his penis into her vagina. Complainant felt pain while accused [sic] penis was inserted in her private part. After he removed his penis from her vagina, he also inserted the same in her mouth while she was already standing. Then, she put on her underwear and shorts. Accused even threatened to kill her if she reports what happened to anyone. Complainant's claim is back [sic] up by the declaration of her elder sister that from an unfinished window she saw her sister wearing shirt [sic] without her undergarments while their father was clad only in briefs. . . . Complainant's sister informed their aunt on what she saw and together they went to their house and confronted the accused. Thereafter, they reported the incident to the barangay officials who also summoned the assistance of the police authorities[.]

**The minority of the victim was not specifically objected to during her testimony since she declared that she was only 8 years old when she testified in court. Similarly, accused categorically stated that the private complainant is his daughter. The minority is likewise reflected in the medico-legal report and the police blotter, where both**

<sup>9</sup> *Id.* at 27-43. The Judgment dated July 10, 2019 in Criminal Case Nos. 17006 and 17007 was penned by Judge Lyliha L. Abella-Aquino of the Regional Trial Court of ██████████, Cagayan, ██████████.

<sup>10</sup> *Id.* at 37-43.

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are considered public document [sic] with the presumption of regularity.

Consequently, notwithstanding the fact that [AAA260708]'s original or duly certified birth certificate, baptismal certificate or school records, were never presented by the prosecution, the Court agrees . . . [AAA260708]'s minority was duly established by the evidence on record[.]

Needless to state, upon peruse of the birth certificate of the private complainant it shows that she was born on February 6, 2007. Evidently, she was already eight (8) years old at the time of the commission of the crime not seven (7) as stated in the information.

WHEREFORE, in view of the above findings, accused [ABC260708] is hereby found GUILTY beyond reasonable doubt in:

1. Criminal Case No. 17006, for the crime of RAPE, defined and penalized under Article 266-A, paragraph 1-a, in relation Article 266-B, 2<sup>nd</sup> paragraph of the Revised Penal Code, as amended by [Republic Act No.] 8353. The accused is sentenced to suffer the penalty of *RECLUSION PERPETUA* and to pay the private complainant the amount of ONE HUNDRED THOUSAND PESOS ([PHP] 100,000.00) as civil indemnity and the amount of ONE HUNDRED THOUSAND PESOS ([PHP] 100,000.00) as moral damages, and the amount of ONE HUNDRED THOUSAND PESOS ([PHP] 100,000.00) as exemplary damages;

[2.] Criminal Case No. 17007, for the crime of RAPE THROUGH SEXUAL ASSAULT, defined and penalized under Article 266-A, paragraph (2) in relation to Article 266-B, last paragraph of the Revised Penal Code, as amended by [Republic Act No.] 8353. The accused is sentenced to suffer the indeterminate penalty of imprisonment of eight (8) years and one (1) day to ten (10) years of *prison mayor* medium, as minimum, to fourteen (14) years[,] eight (8) months and one (1) day of *reclusion temporal* medium, as maximum. He is likewise ordered to pay the private complainant the amount of THIRTY THOUSAND PESOS ([PHP] 30,000.00) as civil indemnity, THIRTY THOUSAND PESOS ([PHP] 30,000.00) as moral damages, and THIRTY THOUSAND PESOS ([PHP] 30,000.00) as exemplary damages.

Record shows that accused was under the custody of the Cagayan Provincial Jail, ██████████, Cagayan. The preventive imprisonment of the accused during the pendency of this case shall be credited in full in his favor if he abided with the disciplinary rules upon convicted prisoners.

SO ORDERED.<sup>11</sup> (Emphasis supplied)

<sup>11</sup> *Id.*

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ABC260708 elevated the case to the Court of Appeals (CA), which was docketed therein as CA-G.R. CR-HC No. 13463.<sup>12</sup> On October 14, 2020, the CA affirmed the RTC's findings with modifications as to the nomenclature of the crimes, penalties, and award of damages.<sup>13</sup> In Criminal Case No. 17006, the CA convicted ABC260708 of qualified statutory rape and imposed upon him the penalty of *reclusion perpetua* without eligibility for parole. In Criminal Case No. 17007, the CA found ABC260708 liable for rape through sexual assault in relation to Section 5(b) of Republic Act No. 7610<sup>14</sup> punishable with *reclusion temporal* in its medium period,<sup>15</sup> viz.:

WHEREFORE, the instant appeal is DENIED. Accordingly, the June 11, 2019 Judgment of the Regional Trial Court, [REDACTED], Cagayan in Criminal Case Nos. 17006 and 17007 is AFFIRMED with the following MODIFICATIONS:

1. In Criminal Case No. 17006, accused-appellant [ABC260708] is found guilty of **qualified statutory rape** and sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. The damages awarded by the Regional Trial Court stand;

2. In Criminal Case No. 17007, accused-appellant [ABC260708] is found guilty 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 to an indeterminate penalty of thirteen (13) years, nine (9) months[,] and eleven (11) days of *reclusion temporal*, as minimum, to sixteen (16) years and five (5) months[,] and ten (10) days of *reclusion temporal*, as maximum. He is ordered to pay private complainant [AAA260708] civil indemnity, moral damages, and exemplary damages amounting to [PHP] 50,000.00 each and a fine of [PHP] 15,000.00.

3. All awarded damages in both cases shall earn 6% interest per annum from date of finality of this judgment until fully paid.

SO ORDERED.<sup>16</sup> (Emphasis supplied)

Hence, this appeal.<sup>17</sup> The parties opted not to file supplemental briefs considering that all issues have already been exhaustively discussed in their pleadings before the CA.<sup>18</sup> ABC260708 insists that the prosecution failed to establish his guilt beyond reasonable doubt of the criminal offenses charged, and that AAA260708's testimony was incredible.<sup>19</sup>

<sup>12</sup> See Brief for the Accused-Appellant dated January 13, 2020; CA *rollo*, pp. 26-38.

<sup>13</sup> *Rollo*, pp. 8-24-A. The Decision was penned by Associate Justice Pedro B. Corales, with the concurrence of Associate Justices Pablito A. Perez and Alfredo D. Ampuan of the Court of Appeals, Manila, Special Fifth Division.

<sup>14</sup> Entitled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes" (1992).

<sup>15</sup> *Rollo*, p. 24.

<sup>16</sup> *Id.* at 24-24-A.

<sup>17</sup> See Compliance and Notice of Appeal dated November 10, 2020; *id.* at 2-4

<sup>18</sup> *Id.* at 46-47 and 51-53.

<sup>19</sup> CA *rollo*, pp. 34-37.

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**RULING**

The appeal is unmeritorious.

*The prosecution established that ABC260708 had carnal knowledge of his 8-year-old daughter, AAA260708, against the latter's will in Criminal Case No. 17006*

ABC260708 assailed his conviction on the ground that AAA260708's testimony is unbelievable. On this point, we stress that the CA and the RTC's assessment on the credibility of the prosecution witness and the veracity of her testimony are given the highest degree of respect,<sup>20</sup> especially if there is no fact or circumstance of weight or substance that was overlooked, misunderstood, or misapplied, which could affect the result of the case.<sup>21</sup> The trial court had the best opportunity to determine the credibility of the prosecution witness, having evaluated her emotional state, reactions, and overall demeanor in open court.<sup>22</sup> Here, AAA260708 positively identified ABC260708 as her ravisher and vividly recounted how he had sexual intercourse with her and thereafter, inserted his penis into her mouth, thus:

**Q: Madam Witness how old are you now?**

**A: I am 8 years old ma'am.**

....

**Q: And on March 15, 2015 Madam Witness where [sic] you in your house at around 5:00 in the afternoon?**

**A: Yes ma'am.**

**Q: How about your father was he also in your house in [REDACTED] on that day?**

**A: Yes ma'am.**

**Q: What did you do on that afternoon of March 15 again Madam Witness?**

**A: He called me inside the room ma'am.**

**Q: When your father [ABC260708] called you inside your room did you go as directed?**

**A: Yes ma'am.**

**Q: And when you were already inside the room what happened next?**

**A: He removed my underwear ma'am.**

<sup>20</sup> *People v. Maignas*, 428 Phil. 834, 868–869 (2002) [Per J. Panganiban, *En Banc*], citing *People v. Basquez*, 418 Phil. 426, 439 (2001) [Per J. Panganiban, Third Division]; *People v. Jaberto*, 366 Phil. 556, 566 (1999) [Per J. Panganiban, Third Division]; and *People v. Deleverio*, 352 Phil. 382, 401 (1998) [Per J. Vitug, *En Banc*].

<sup>21</sup> *People v. Orosco*, 757 Phil. 299, 310 (2015) [Per J. Villarama, Jr., Third Division], citing *People v. De Leon*, 608 Phil. 701, 721 (2009) [Per J. Peralta, Third Division].

<sup>22</sup> *People v. Lumikid*, 875 Phil. 467, 480 (2020) [Per C.J. Peralta, First Division]; and *People v. Gerola*, 813 Phil. 1055, 1064 (2017) [Per J. Caguioa, First Division].

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.....

Q: What were you wearing on that day Madam Witness?

A: I was wearing underwear, short and T-shirt.

Q: Then when he told you to put off you[r] panty what happened next if any?

A: He told me to lie down.

Q: And did you lie down?

A: Yes ma'am.

Q: Where did you lie down?

A: In the bed ma'am.

**Q: What happened next if any Madam Witness?**

**A: He went on top of me.**

**Q: Then when he was on top of you what did he do next if any?**

**A: He brought out his penis.**

Q: And at that time you already had no short and underwear, isn't it not?

A: I was naked ma'am...

.....

**Q: After [ABC260708] brought out his penis, what happened next?**

**A: He inserted his penis inside my vagina.**

**Q: And Madam Witness what was the position of your feet when he inserted his penis into your vagina?**

**A: My legs were spread apart.**

Court:

**Q: Who spread your legs apart?**

**A: My papa ma'am.**

Pros. Mallanao:

**Q: Madam Witness did you feel that the penis of your father was inserted in your vagina?**

**A: Yes ma'am.**

Q: Were you hurt?

A: Yes ma'am it was painful.

Q: Did he also move Madam witness while his penis was inside your vagina?

A: Yes ma'am[.]

Q: After he has inserted his penis into your vagina what happened next?

A: My ate [BBB260708] arrived.

**Q: Madam Witness before your Ate [BBB260708] arrived did your father not also inserted his penis into your mouth?**

**A: He also inserted his penis into my mouth ma'am.**



**Q: What was then your position when he inserted his penis into your mouth?**

**A: I was standing ma'am.**

**Q: So that was after he inserted his penis into your vagina?**

**A: After inserting his penis into my vagina he inserted his penis into my mouth.<sup>23</sup> (Emphasis supplied)**

Verily, ABC260708's uncorroborated denial cannot prevail over the positive declaration of AAA260708. This negative defense is self-serving and undeserving of weight in law absent clear and convincing proof.<sup>24</sup> ABC260708 likewise failed to prove any ill motive on the part of AAA260708 to falsely testify against him. It is even unthinkable for AAA260708 to accuse her own father, to submit herself for examination of her most intimate parts, put her life to public scrutiny and expose herself, along with her family, to shame, pity, or even ridicule for said serious crimes had she really not been aggrieved.<sup>25</sup> Also, the fact that AAA260708 was uncertain as to the actual date the crimes were committed does not detract from her credibility. The exact date of the rape incidents has no substantial bearing on their commission. Neither date nor time of commission is an essential element of the crime of rape. What is decisive is that the commission of the crime has been sufficiently proven. Therefore, it is not necessary to allege the date in the Information with ultimate precision. Besides, a victim of tender age is not expected to recall the exact date and time when her traumatic experience took place.<sup>26</sup> We now determine ABC260708's criminal liability.

In Criminal Case No. 17006, ABC260708 was charged with qualified rape. The Information alleged carnal knowledge between ABC260708 and AAA260708 as well as the special qualifying circumstances of minority of the victim and her father-daughter relationship with the accused.<sup>27</sup> Specifically, the elements of rape through sexual intercourse are: (1) the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) by means of fraudulent machination or grave abuse of authority, or (d) when the victim is under 12 years of age or is demented.<sup>28</sup> Here, AAA260708 categorically narrated in open court how ABC260708 undressed her and forcibly inserted his penis into her vagina. The existence of fresh hymenal laceration based on the medical findings of the attending physician who examined AAA260708 further supports the fact of forcible defloration.<sup>29</sup> More telling is that ABC260708 threatened AAA260708 with harm if she disclosed the incident.

<sup>23</sup> TSN, AAA260708 Asuncion y Ballad, April 19, 2016, pp. 2-5.

<sup>24</sup> *People v. Togahan*, 551 Phil. 997, 1014 (2007) [Per J. Tinga, Second Division].

<sup>25</sup> *People v. Canoy*, 459 Phil. 933, 944 (2003) [Per Curiam, En Banc].

<sup>26</sup> *People v. ZZZ[232329]*, G.R. No. 232329, April 28, 2021 [Per J. Hernando, Third Division]; and *People v. Nuyok*, 759 Phil. 437, 448 (2015) [Per J. Bersamin, First Division].

<sup>27</sup> REV. PEN. CODE, art. 266-B(1).

<sup>28</sup> *People v. Vañas*, 850 Phil. 201, 210 (2019) [Per J. Del Castillo, First Division], citing *People v. Jastiva*, 726 Phil. 607, 624 (2014) [Per J. Leonardo-De Castro, First Division].

<sup>29</sup> *People v. Banaya*, 828 Phil. 231, 240 (2018) [Per J. Martires, Third Division], citing *People v. Sabal*, 734 Phil. 742, 746 (2014) [Per J. Brion, Second Division].

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The prosecution also proved the minority of AAA260708 notwithstanding the non-presentation of the original or certified true copy of her birth certificate. The prosecution adduced a photocopy of AAA260708's certificate of live birth stating that she was born on February 6, 2007. Thus, AAA260708 was 8 years old at the time of the rape incidents on March 17, 2015. Under Section 3(d)<sup>30</sup> of Rule 130 of the Revised Rules of Court, the presentation of the original document may be dispensed with when the same is a public record in the custody of a public officer or is recorded in a public office. In *People v. Cayabyab*,<sup>31</sup> the Court ruled that a photocopy of the rape victim's birth certificate is admissible to prove her age because its original is a public record in the custody of the local civil registrar, thus:

Without doubt, a certificate of live birth is a public record in the custody of the local civil registrar who is a public officer. Clearly, therefore, the presentation of the photocopy of the birth certificate of AAA is admissible as **secondary evidence** to prove its contents. **Production of the original may be dispensed with, in the trial court's discretion, whenever in the case at hand the opponent does not *bona fide* dispute the contents of the document and no other useful purpose will be served by requiring production.**

In the case at bar, the defense did not dispute the contents of the photocopied birth certificate; in fact it admitted the same. Having failed to raise a valid and timely objection against the presentation of this secondary evidence the same became a primary evidence, and deemed admitted and the other party is bound thereby.<sup>32</sup> (Emphasis supplied)

Hence, the CA and the RTC did not err in admitting in evidence the photocopy of AAA260708's certificate of live birth to prove her minority.<sup>33</sup> The CA and the RTC made categorical rulings that AAA260708 was only 8 years old when the sexual violations happened in 2015. The defense did not even object against the victim's minority and the presentation of the photocopy of her birth certificate. In any event, the presentation of the birth certificate is not an all-exclusive requisite in proving the age of the victim. In *People v. Tipay*,<sup>34</sup> the Court recognized that the "*minority of a victim of tender age who may be below the age of ten is quite manifest and the court can take judicial notice thereof.*"<sup>35</sup> Here, the RTC emphatically observed that AAA260708 was only 9 years old when she took the witness stand in 2016 or just one year after the commission of the crime.<sup>36</sup>

<sup>30</sup> Section 3. *Original document must be produced; exceptions.* — When the subject of inquiry is the contents of a document, . . . no evidence shall be admissible other than the original document itself, except in the following cases:

.....  
(d) When the original is a public record in the custody of a public officer or is recorded in a public office[.]

<sup>31</sup> 503 Phil. 606 (2005) [*Per Curiam, En Banc*].

<sup>32</sup> *Id.* at 620.

<sup>33</sup> *People v. XXX*[232308], 887 Phil. 734, 752 (2020) [*Per J. Lazaro-Javier, First Division*].

<sup>34</sup> 385 Phil. 689 (2000) [*Per J. Melo, En Banc*].

<sup>35</sup> *Id.* at 718.

<sup>36</sup> *Rollo*, pp. 29 and 39–40.

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More importantly, AAA260708's certificate of live birth indicated ABC260708 as her father. Applying the same rules on evidence, the photocopy of the birth certificate adequately established the father-daughter relationship between the accused and the victim. Further, ABC260708 testified that AAA260708 is his daughter.<sup>37</sup> This is a judicial admission that does not require proof. Such admission dispenses with the further requirement on the part of the prosecution to prove the relationship of the victim and the accused.<sup>38</sup> Interestingly, the defense did not claim that such admission was made through palpable mistake or no such admission was made.<sup>39</sup> The submission of secondary evidence such as the photocopy of the victim's birth certificate together with the judicial admission of the accused are sufficient evidence of filiation.<sup>40</sup>

*The definition, nature, and penalty of a crime are essentially legislative in nature. Absent specific name or designation, the Court may provide a nomenclature for the offense consistent with the language of the statute and principles of criminal law*

The realm of penology, the determination of what should be criminalized, the definition of crimes, and the prescription of penalties are the exclusive prerogatives of the legislature.<sup>41</sup> Judicial *fiat* cannot fill the legislative *lacuna* on these matters. Judges and magistrates may not, in the guise of interpretation, enlarge the scope of a statute and include situations not provided nor intended by the lawmakers. The courts should not encroach on these prerogatives of the lawmaking body lest they venture in judicial legislation.<sup>42</sup>

Corollary, a penal law may baptize the crimes with their specific names<sup>43</sup> or general classifications,<sup>44</sup> or simply enumerate the prohibited acts

<sup>37</sup> *Id.* at 20-A.

<sup>38</sup> *People v. ZZZ[243933]*, G.R. No. 243933, June 21, 2021 [Notice, Third Division].

<sup>39</sup> See REVISED RULES OF COURT, Rule 129, sec. 4.

<sup>40</sup> *People v. Salvador*, 433 Phil. 602, 617-618 (2002) [*Per Curiam, En Banc*].

<sup>41</sup> *People v. Quijada*, 328 Phil. 505, 555 (1996) [Per J. Davide, Jr., *En Banc*].

<sup>42</sup> *Canet v. Decena*, 465 Phil. 325, 332-333 (2004) [Per J. Ynares-Santiago, First Division]; and *People v. Dacuycoy*, 255 Phil. 94, 102-103 (1989) [Per J. Regalado, *En Banc*].

<sup>43</sup> See Republic Act No. 11596 (2021), Prohibition of Child Marriage Law; Republic Act No. 11479 (2020), Anti-Terrorism Act of 2020; Republic Act No. 11053 (2018), Anti-Hazing Act of 2018; Republic Act No. 10883 (2016), New Anti-Carnapping Act of 2016; Republic Act No. 10175 (2012), Cybercrime Prevention Act of 2012; Republic Act No. 10173 (2012), Data Privacy Act of 2012; Republic Act No. 9208 (2003), Anti-Trafficking in Persons Act of 2003; Republic Act No. 9165 (2002), Comprehensive Dangerous Drugs Act of 2002; Republic Act No. 9160 (2001), Anti-Money Laundering Act of 2001; Republic Act No. 7080 (1991), Anti-Plunder Act; Presidential Decree No. 1613 (1979), Law on Arson; Presidential Decree No. 1612 (1979), Anti-Fencing Law of 1979; Presidential Decree No. 1602 (1979), Anti-Gambling Act; Presidential Decree No. 533 (1974), Anti-Cattle Rustling Law of 1974; and Presidential Decree No. 532 (1974), Anti-Piracy and Anti-Highway Robbery Law of 1974.

<sup>44</sup> See Republic Act No. 11313 (2018), Safe Spaces Act; Republic Act No. 10591 (2013), Comprehensive Firearms and Ammunition Regulation Act; Republic Act No. 9851 (2009), Philippine Act on Crimes

and identify them using articles or sections.<sup>45</sup> Yet, the legislative omission regarding the nomenclature or designation of crimes does not render the penal law unconstitutional. A statute criminalizing an act is valid if it describes the violation with sufficient definiteness that persons of ordinary intelligence can understand what conduct is prohibited. A law couched in imprecise language remains valid if it can be clarified through proper judicial construction.<sup>46</sup> A simpler test even exists which provides that there is nothing vague about a penal law that adequately answers the basic query “*what is the violation?*” Anything beyond — *the hows and the whys* — are evidentiary matters that the law itself cannot possibly disclose, in view of the uniqueness of every case.<sup>47</sup>

Absent specific designation in the law, the courts may give the crimes their common names or proper nomenclature consistent with the language of the statute and principles of criminal law. For instance, the Court referred the crimes with their common names as “*hijacking*” under Republic Act No. 6235,<sup>48</sup> “*bouncing checks*” for violation of Batas Pambansa Blg. 22,<sup>49</sup> and “*technical malversation*” punished in Article 220 of the Revised Penal Code (RPC).<sup>50</sup> Compatible with the letters of the penal statutes, the Court denominated crimes as “*syndicated estafa*” for infringement of Presidential Decree No. 1689,<sup>51</sup> “*kidnapping for ransom with homicide*” under Article 267 of the RPC, as amended by Republic Act No. 7659,<sup>52</sup> “*simple robbery (extortion)*” for violation of Article 294(5) of the RPC,<sup>53</sup> and “*reckless imprudence resulting in multiple slight physical injuries and damage to property*” under Article 365 of the RPC.<sup>54</sup> Similarly, the Court designated the felonies as “*estafa through falsification of public, official, or commercial documents,*”<sup>55</sup> “*qualified theft through falsification of commercial documents,*”<sup>56</sup> and “*forcible abduction with rape*”<sup>57</sup> applying the provision on complex crimes under Article 48 of the RPC. Lastly, the Court outlined the nomenclature for the crimes of acts of lasciviousness or lascivious conduct

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Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity; Republic Act No. 9745 (2009), Anti-Torture Act of 2009; Republic Act No. 9262 (2004), Anti-Violence Against Women and their Children Act of 2004; Republic Act No. 7877 (1995), Anti-Sexual Harassment Act of 1995; and Republic Act No. 7610 (1992), Special Protection of Children Against Abuse, Exploitation, and Discrimination Act.

<sup>45</sup> See Republic Act No. 9995 (2009), Anti-Photo and Video Voyeurism Act of 2009; Republic Act No. 9775 (2009), Anti-Child Pornography Act of 2009; Presidential Decree No. 1689 (1980), Increasing the Penalty for Certain Forms of Swindling or Estafa; Batas Pambansa Blg. 22 (1979), Bouncing Checks Law; Republic Act No. 6235 (1971), Act Prohibiting Certain Acts Inimical to Civil Aviation, and for Other Purposes; Republic Act No. 4200 (1965), Anti-Wire Tapping Act; Republic Act No. 3019 (1960), Anti-Graft and Corrupt Practices Act.

<sup>46</sup> *Romualdez v. Sandiganbayan*, 479 Phil. 265, 285 (2004) [Per J. Panganiban, *En Banc*].

<sup>47</sup> *Dans, Jr. v. People*, 349 Phil. 434, 462 (1998) [Per J. Romero, Third Division].

<sup>48</sup> *People v. O’Cochlain*, 845 Phil. 150, 187 (2018) [Per J. Peralta, Third Division].

<sup>49</sup> *Ty v. People*, 482 Phil. 427, 433 (2004) [Per J. Tinga, Second Division].

<sup>50</sup> *Ysidoro v. People*, 698 Phil. 813, 817 (2012) [Per J. Abad, Third Division].

<sup>51</sup> *People v. Baladjay*, 814 Phil. 914, 916 (2017) [Per J. Velasco, Jr., Third Division].

<sup>52</sup> *Gurro v. People*, 863 Phil. 512, 523 (2019) [Per J. A. Reyes, Jr., Third Division].

<sup>53</sup> *Flores v. People*, 830 Phil. 635, 639 (2018) [Per J. Gesmundo, Third Division].

<sup>54</sup> *Morales v. People*, G.R. No. 240337, January 4, 2022 [Per J. Carandang, *En Banc*].

<sup>55</sup> *Desmoparan v. People*, 850 Phil. 966, 980 (2019) [Per J. Peralta, Third Division]; *Tanenggee v. People*, 712 Phil. 310, 336 (2013) [Per J. Del Castillo, Second Division]; and *Domingo v. People*, 618 Phil. 499, 518 (2009) [Per J. Velasco, Jr., Third Division]; and *Ambito v. People*, 598 Phil. 546, 579 (2009) [Per J. Leonardo-De Castro, First Division].

<sup>56</sup> *People v. Salonga*, 411 Phil. 845, 861 (2001) [Per J. Gonzaga-Reyes, Third Division].

<sup>57</sup> *People v. Amaro*, 739 Phil. 170, 172 (2014) [Per J. Perez, Second Division].

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and rape by carnal knowledge or sexual assault, depending on the age of the victim pursuant to Article 266-A and Article 336 of the RPC, as amended by Republic Act No. 8353 and Section 5(b) of Republic Act No. 7610.<sup>58</sup>

*The Court sifts through legislative history, divergent case law, and principles of criminal law to determine the proper taxonomic designation of the crime when the elements of both statutory rape and qualified rape are present*

It bears emphasis that the law on rape went on a series of changes. Under the original language of Article 335 of the RPC, rape is classified as a crime against chastity and may be committed as follows:

Article 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by *reclusion temporal*.

.....

In 1993, Section 11 of Republic Act No. 7659<sup>59</sup> amended Article 335 of the RPC. At that time, rape was still considered a crime against chastity, to wit:

Article 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

<sup>58</sup> *People v. Tulagan*, 849 Phil. 197, 248–249 (2019) [Per J. Peralta, *En Banc*].

<sup>59</sup> Entitled “An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for That Purpose the Revised Penal Laws, As Amended, Other Special Penal Laws, and for Other Purposes” (1993).

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Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.
2. when the victim is under the custody of the police or military authorities.
3. when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
4. when the victim is a religious or a child below seven (7) years old.
5. when the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
6. when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
7. when by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.

In 1997, Republic Act No. 8353<sup>60</sup> reclassified rape as a crime against persons and incorporated Articles 266-A, 266-B, 266-C, and 266-D in the RPC. The amendment also introduced the crime of sexual assault, *viz.*:

Article 266-A. *Rape; When And How Committed.* — Rape is Committed —

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

<sup>60</sup> Entitled "An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same As A Crime Against Persons, Amending for the Purpose Act No. 3815, As Amended, Otherwise Known As the Revised Penal Code, and for Other Purposes" (1997).

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or 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.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Article 266-B. *Penalties.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion perpetua* to death.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;
- 2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;
- 3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;
- 4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;
- 5) When the victim is a child below seven (7) years old;

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- 6) When the offender knows that he is afflicted with Human Immune-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;
- 7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;
- 8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;
- 9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and
- 10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Rape under paragraph 2 of the next preceding article shall be punished by *prision mayor*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *prision mayor to reclusion temporal*.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion temporal*.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion temporal to reclusion perpetua*.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be *reclusion perpetua*.

*Reclusion temporal* shall also be imposed if the rape is committed with any of the ten aggravating/qualifying circumstances mentioned in this article.

Article 266-C. *Effect of Pardon*. — The subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed.

In case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty: *Provided*, That the crime shall not be extinguished or the penalty shall not be abated if the marriage is void *ab initio*.

Article 266-D. *Presumptions*. — Any physical overt act manifesting resistance against the act of rape in any degree from the offended party, or where the offended party is so situated as to render her/him incapable of giving valid consent, may be accepted as evidence in the prosecution of the acts punished under Article 266-A.

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In 2022, Republic Act No. 11648<sup>61</sup> amended Article 266-A (1)(d) of the RPC by raising the threshold age for statutory rape from “*under twelve (12) years of age*” to “*under sixteen (16) years of age*,” thus:

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

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

.....

d) When the offended party is under sixteen (16) years of age or is demented, even though none of the circumstances mentioned above be present: *Provided*, That there shall be no criminal liability on the part of a person having carnal knowledge of another person under sixteen (16) years of age when the age difference between the parties is not more than three (3) years, and the sexual act in question is proven to be consensual, non-abusive, and non-exploitative: *Provided, further*, That if the victim is under thirteen (13) years of age, this exception shall not apply.

As used in this Act, non-abusive shall mean the absence of undue influence, intimidation, fraudulent machinations, coercion, threat, physical, sexual, psychological, or mental injury or maltreatment, either with intention or through neglect, during the conduct of sexual activities with the child victim. On the other hand, non-exploitative shall mean there is no actual or attempted act or acts of unfairly taking advantage of the child’s position of vulnerability, differential power, or trust during the conduct of sexual activities.

In this case, the sexual molestations were committed on March 17, 2015 or before Republic Act No. 11648 amended Article 266-A(1)(d) of the RPC. Hence, the provisions on rape before the effectivity of Republic Act No. 11648 applies. As intimated earlier, the RTC convicted ABC260708 with qualified rape in Criminal Case No. 17006 for having carnal knowledge against the will of his 8-year-old daughter, AAA260708. The CA affirmed the RTC’s findings but changed the designation of the crime to qualified statutory rape.

Statutory rape is different from qualified rape as to the modes of commission, circumstances present, and prescribed penalties. Under Article 266-A(1)(d) of the RPC, statutory rape is carnal knowledge of a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act.<sup>62</sup> Proof of force, intimidation, or consent is unnecessary. The absence of free consent is conclusively presumed when the victim is below the threshold age. The law presumes that the victim does not possess discernment and is

<sup>61</sup> Entitled “An Act Providing for Stronger Protection Against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape, Amending for the Purpose Act No. 3815, As Amended, Otherwise Known As ‘The Revised Penal Code,’ Republic Act No. 8353, Also Known As ‘The Anti-Rape Law Of 1997,’ and Republic Act No. 7610, As Amended, Otherwise Known As the ‘Special Protection of Children Against Abuse, Exploitation and Discrimination Act’” (2022).

<sup>62</sup> *People v. Libeta*, 430 Phil. 626, 634 (2002) [Per J. Sandoval-Gutierrez, Third Division].

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incapable of giving intelligent consent to the sexual act.<sup>63</sup> Also, the sexual intercourse with a mental retardate whose intellectual age is below 12 years old constitutes statutory rape under Article 266-A 1(d) of the RPC.<sup>64</sup> The prescribed penalty for statutory rape is *reclusion perpetua*.

In contrast, qualified rape is sexual congress against the will of the woman attended by any of the aggravating and/or qualifying circumstances enumerated in Republic Act No. 7659 and/or Republic Act No. 8353 anchored on the relationship, moral ascendancy, or influence between the parties,<sup>65</sup> abuse of authority on the part of the accused,<sup>66</sup> ignominy in the commission of the offense,<sup>67</sup> personal circumstances and conditions of the victim,<sup>68</sup> and additional or resulting consequences of the crime.<sup>69</sup> These are special qualifying circumstances which alter the nature of the crime of rape and warrant the increase of the imposable penalty. The prescribed punishment for qualified rape is death penalty.

The journey to ascertain the proper taxonomy of the crime acquires major significance when viewed in the context of divergent jurisprudence as to the characterization of the offense if the elements of both statutory rape and qualified rape are present. In rape cases, the Court consistently denominated and/or affirmed the name of the crime as “qualified rape” when special qualifying circumstances mentioned in Republic Act No. 7659 and/or Republic Act No. 8353 attended the commission of the offense warranting the imposition of death penalty, *e.g., minority and relationship*. The designation of the crime as qualified rape stands although the circumstances of statutory rape are also extant, *e.g., victim is below 12 years old at the time of sexual violations or is suffering from mental retardation comparable to the intellectual capacity of a child below 12 years old*.

<sup>63</sup> *People v. Lopez*, 439 Phil. 63, 70 (2002) [Per J. Quisumbing, Second Division].

<sup>64</sup> *People v. Castillo*, 871 Phil. 73, 80–81 (2020) [Per J. Reyes, Jr., *En Banc*]; *People v. Niebres*, 822 Phil. 68, 76 (2017) [Per J. Perlas-Bernabe, Second Division]; and *People v. Deniega*, 811 Phil. 712, 721 (2017) [Per J. Peralta, Second Division].

<sup>65</sup> See Article 266-B (1) of the RPC which provides: “When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim[.]”

<sup>66</sup> See Article 266-B (2) and (7) of the RPC which provide: “When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;” and “When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime[.]”

<sup>67</sup> See Article 266-B (3) of the RPC which provides: “When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity[.]”

<sup>68</sup> See Article 266-B (4), (5), (9), and (10) of the RPC which provide: “When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;” “When the victim is a child below seven (7) years old;” “When the offender knew of the pregnancy of the offended party at the time of the commission of the crime;” and “When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime[.]”

<sup>69</sup> See Article 266-B (6) and (8) of the RPC which provide: “When the offender knows that he is afflicted with Human Immune-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;” and “When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability[.]”

In *People v. Pangilinan*,<sup>70</sup> *People v. Prodenciado*,<sup>71</sup> *People v. Tabuada*,<sup>72</sup> *People v. Junas*,<sup>73</sup> and *People v. Mariano*,<sup>74</sup> the rape incidents happened when the pertinent law was Republic Act No. 7659. In those cases, the accused are all related to the victims who were below 12 years old at the time of the sexual violations. **The Court convicted the accused of qualified rape and imposed *reclusion perpetua*, in lieu of death penalty, without eligibility for parole. These cases did not mention or make any reference to the phrase “qualified statutory rape” in their discussions.** When Republic Act No. 8353 took effect, the Court continued designating the crime as qualified rape, after it appreciated the special qualifying circumstances of minority and relationship, even if the victims are below 12 years old. These cases include *People v. Calderon*,<sup>75</sup> *People v. Boromeo*,<sup>76</sup> *People v. Arellano*,<sup>77</sup> *People v. Basmayor*,<sup>78</sup> *People v. Paldo*,<sup>79</sup> *People v. Traigo*,<sup>80</sup> *People v. Besmonte*<sup>81</sup> (*Besmonte*), *People v. Altubar*,<sup>82</sup> *People v. Comboy*,<sup>83</sup> *People v. Pacayra (Pacayra)*,<sup>84</sup> *People v. Aycardo*,<sup>85</sup> *People v. Udtohan*,<sup>86</sup> *People v. CCC[239336]*,<sup>87</sup> *People v. XXX[244288]*,<sup>88</sup> *People v. XXX[218277]*,<sup>89</sup> *People v. XXX[238405]*,<sup>90</sup> *People v. Manuel*,<sup>91</sup> *People v. XXX[241787]*,<sup>92</sup> *People v. ZZZ[243933]*,<sup>93</sup> *People v. XXX[232158]*,<sup>94</sup> and *People v. XXX[253560-62]*.<sup>95</sup> Specifically, the Court held in *Besmonte* that “[t]he presence of the qualifying circumstances of relationship and minority raises the crime of statutory rape to qualified rape.”<sup>96</sup> In *Pacayra*, the Court explained that “[t]o raise the crime of rape, be it simple rape or statutory rape to qualified rape under Article 266-B, paragraph 1 of the RPC, the twin circumstances of minority of the victim and her relationship to the offender must concur.”<sup>97</sup>

<sup>70</sup> 547 Phil. 260 (2007) [Per J. Chico-Nazario, *En Banc*].

<sup>71</sup> 749 Phil. 746 (2014) [Per J. Del Castillo, Second Division].

<sup>72</sup> G.R. No. 207636, March 11, 2015 [Notice, First Division].

<sup>73</sup> 457 Phil. 934 (2003) [*Per Curiam, En Banc*].

<sup>74</sup> 607 Phil. 731 (2009) [Per J. Leonardo-De Castro, *En Banc*].

<sup>75</sup> 441 Phil. 634 (2002) [*Per Curiam, En Banc*].

<sup>76</sup> 474 Phil. 605 (2004) [*Per Curiam, En Banc*].

<sup>77</sup> 585 Phil. 177 (2008) [Per J. Carpio Morales, Second Division].

<sup>78</sup> 598 Phil. 194 (2009) [Per J. Chico-Nazario, Third Division].

<sup>79</sup> 723 Phil. 723 (2013) [Per J. Leonardo-De Castro, First Division].

<sup>80</sup> 734 Phil. 726 (2014) [Per J. Brion, Second Division].

<sup>81</sup> 735 Phil. 234 (2014) [Per J. Leonardo-De Castro, First Division].

<sup>82</sup> G.R. No. 207089, February 18, 2015 [Notice, Third Division].

<sup>83</sup> 782 Phil. 187 (2016) [Per J. Perlas-Bernabe, First Division].

<sup>84</sup> 810 Phil. 275 (2017) [Per J. Tijam, Third Division].

<sup>85</sup> 810 Phil. 309 (2017) [Per J. Peralta, Second Division].

<sup>86</sup> 815 Phil. 449 (2017) [Per J. Mendoza, Second Division].

<sup>87</sup> 852 Phil. 523 (2019) [Per J. Peralta, Third Division].

<sup>88</sup> 872 Phil. 389 (2020) [Per J. A. Reyes, Jr., Second Division].

<sup>89</sup> 889 Phil. 265 (2020) [Per J. Hernando, Third Division].

<sup>90</sup> 891 Phil. 655 (2020) [Per J. Hernando, Third Division].

<sup>91</sup> 892 Phil. 374 (2020) [Per J. Delos Santos, Third Division].

<sup>92</sup> G.R. No. 241787, March 15, 2021 [Per J. J. Lopez, Third Division].

<sup>93</sup> G.R. No. 243933, June 21, 2021 [Notice, Third Division].

<sup>94</sup> G.R. No. 232158, June 23, 2021 [Notice, Third Division].

<sup>95</sup> G.R. Nos. 253560-62, February 15, 2022 [Notice, First Division].

<sup>96</sup> *People v. Besmonte*, 735 Phil. 234, 254 (2014) [Per J. Leonardo-De Castro, First Division].

<sup>97</sup> *People v. Pacayra*, 810 Phil. 275, 288 (2017) [Per J. Tijam, Third Division].

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In *People v. Dela Paz*<sup>98</sup> and *People v. Dela Rosa*,<sup>99</sup> the rape victims were suffering from mental retardation comparable to the intellectual capacity of a child below 12 years old. The nomenclature of the offense remains qualified rape because the accused knew the mental disability of the victims at the time of the commission of the crime which is one of the special qualifying circumstances under Article 266-B of the RPC. Moreover, in *People v. Peralta*,<sup>100</sup> *People v. Jacinto*,<sup>101</sup> *People v. Padigos*,<sup>102</sup> *People v. Medina*,<sup>103</sup> and *People v. Ilogon*,<sup>104</sup> **the Court characterized the crime as qualified rape because the victims are children below 7 years old which is likewise a special qualifying circumstance under the law.**

On the other hand, the terminology “qualified statutory rape” was first mentioned in the dissenting opinion in *People v. Ombreso*.<sup>105</sup> In that case, the majority members of the Court convicted the accused of qualified rape committed against the victim who was below 7 years old. The dissenting opinion believed that the crime committed is only attempted rape contrary to the “[d]ecision of the court a quo finding accused-appellant . . . guilty of qualified statutory rape and sentencing him to death and to pay damages.”<sup>106</sup> Yet, there is no discussion how and why the trial court arrived at such nomenclature. The phraseology appeared again in *People v. Villanueva*<sup>107</sup> when the facts quoted the CA judgment convicting the accused of qualified statutory rape for having carnal knowledge against the will of his 15-year-old daughter. The Court affirmed the conviction but modified the designation of the crime to qualified rape.

The initial string of jurisprudence that used the term qualified statutory rape came only in 2014 in *People v. Bantolo*<sup>108</sup> (*Bantolo*), *People v. Reyes*<sup>109</sup> (*Reyes*), and *People v. Laceste*<sup>110</sup> (*Laceste*). In *Bantolo* and *Reyes*, the accused committed rape against the victims who were below 12 years old and attended by the special qualifying circumstances of minority and relationship. In *Laceste*, the accused perpetrated the crime of rape against a child below 7 years old. **These cases coined the term qualified statutory rape after discussing the elements of both statutory rape and qualified rape without further explanation. These cases deviated from the previous rulings of the Court that the designation of the crime as qualified rape stands although the circumstances of statutory rape are present.**

<sup>98</sup> 569 Phil. 684 (2008) [Per J. Chico-Nazario, Third Division].

<sup>99</sup> 786 Phil. 126 (2016) [Per J. Perez, Third Division].

<sup>100</sup> 619 Phil. 268 (2009) [Per J. Nachura, Third Division].

<sup>101</sup> 661 Phil. 224 (2011) [Per J. Perez, First Division].

<sup>102</sup> 700 Phil. 368 (2012) [Per J. Leonardo-De Castro, First Division].

<sup>103</sup> 788 Phil. 115 (2016) [Per J. Perez, Third Division].

<sup>104</sup> 788 Phil. 633 (2016) [Per J. Perez, Third Division].

<sup>105</sup> 423 Phil. 966 (2001) [*Per Curiam, En Banc*].

<sup>106</sup> *Id.* at 1003.

<sup>107</sup> 549 Phil. 747 (2007) [Per J. Callejo, Sr., *En Banc*].

<sup>108</sup> G.R. No. 208715, April 21, 2014 [Notice, Third Division].

<sup>109</sup> 741 Phil. 773 (2014) [Per J. Reyes, First Division].

<sup>110</sup> G.R. No. 194838, September 3, 2014 [Notice, First Division].

Nevertheless, subsequent jurisprudence adopted the nomenclature of qualified statutory rape if the elements of both statutory rape and qualified rape are present. In *People v. Deliola*,<sup>111</sup> *People v. Gaa*,<sup>112</sup> *People v. Descartin, Jr.*,<sup>113</sup> *People v. Austria*,<sup>114</sup> *People v. BBB[249260]*,<sup>115</sup> *People v. XXX[255491]*,<sup>116</sup> and *People v. XXX256213*,<sup>117</sup> the Court convicted the accused of qualified statutory rape after it appreciated the special qualifying circumstances of minority and relationship, and considered the age of the victims being below 12 years old at the time of the sexual violations. In *People v. XXX[242684]*,<sup>118</sup> *People v. Manuel, Jr.*,<sup>119</sup> and *People v. Rabelas*,<sup>120</sup> the Court denominated the offense as qualified statutory rape if the victim is suffering from mental retardation comparable to the intellectual capacity of a child below 12 years old, and that the accused knew the mental disability of the victim at the time of the commission of the crime.

In *People v. Famudulan*,<sup>121</sup> *People v. Ramirez*,<sup>122</sup> *People v. Bay-od*,<sup>123</sup> *People v. Orgula*<sup>124</sup> (*Orgula*), and *People v. YYY[252865]*,<sup>125</sup> the Court convicted the accused of qualified statutory rape committed against children below 7 years old. Particularly, *Orgula* expounded that “*People v. Tulagan*<sup>126</sup> [(*Tulagan*)] decreed that if sexual intercourse is committed with a child below seven (7) years old, the proper designation of the crime is always ‘qualified statutory rape’ for which the imposable penalty is death.”<sup>127</sup> However, it must be clarified that *Tulagan* never mentioned the term qualified statutory rape. For proper reference, the correct and complete statement from *Tulagan* is that “if sexual intercourse is committed with an offended party who is a child less than 12 years old or is demented, whether or not exploited in prostitution, it is always a crime of statutory rape; more so when the child is below 7 years old, in which case the crime is always qualified rape.”<sup>128</sup>

Given these conflicting case law, the Court deems it imperative to clarify the appropriate taxonomic designation of the offense if the elements of both statutory rape, *i.e.*, *victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age*, and qualified rape, *i.e.*, *twin circumstances of minority and relationship, or the accused’s knowledge of the mental disability of the victim*

<sup>111</sup> 794 Phil. 194 (2016) [Per J. Perez, Third Division].

<sup>112</sup> 810 Phil. 860 (2017) [Per J. Tijam, Third Division].

<sup>113</sup> 810 Phil. 881 (2017) [Per J. Tijam, Third Division].

<sup>114</sup> 820 Phil. 747 (2017) [Per J. Leonen, Third Division].

<sup>115</sup> G.R. No. 249260, May 5, 2021 [Per J. Inting, Third Division].

<sup>116</sup> G.R. No. 255491, April 18, 2022 [Per J. Hernando, Second Division].

<sup>117</sup> G.R. No. 256213, August 22, 2022 [Notice, Second Division].

<sup>118</sup> G.R. No. 242684, February 17, 2021 [Per J. Caguioa, First Division].

<sup>119</sup> G.R. No. 247976, May 14, 2021 [Per C.J. Gesmundo, First Division].

<sup>120</sup> G.R. No. 253603, June 14, 2021 [Notice, Second Division].

<sup>121</sup> 763 Phil. 138 (2015) [Per J. Villarama, Jr., Third Division].

<sup>122</sup> 827 Phil. 203 (2018) [Per J. Del Castillo, First Division].

<sup>123</sup> 845 Phil. 644 (2019) [Per J. Peralta, Third Division].

<sup>124</sup> G.R. No. 249186, September 8, 2020 [Notice, First Division].

<sup>125</sup> G.R. No. 252865, August 4, 2021 [Per J. Inting, Second Division].

<sup>126</sup> 849 Phil. 197 (2019) [Per J. Peralta, *En Banc*].

<sup>127</sup> *People v. Orgula*, G.R. No. 249186, September 8, 2020 [Notice, First Division].

<sup>128</sup> *People v. Tulagan*, 849 Phil. 197, 241–242 (2019) [Per J. Peralta, *En Banc*].

at the time of the commission of rape, or the age of the victim being below 7 years old, are present. Essentially, this task begs the question: “is the term qualified statutory rape consistent with the basic precepts of criminal law in defining and treating the nature of crimes?” To settle this query, the Court directs its attention to the different kinds of aggravating circumstances.

*The nature, classifications, and effects of aggravating circumstances, and their proper appreciation in the crimes of statutory rape and qualified rape*

Aggravating circumstances represent a greater degree of malice on the part of the offender and viciousness in the commission of a crime. The perversity is manifested in the motivating power itself, the place of commission, the means and ways employed, the time, or the personal circumstances of the accused or the victim or both. The attendance of aggravating circumstances serves to increase the penalty as well as to justify an award of exemplary or corrective damages.<sup>129</sup> Aggravating circumstances may be classified as “generic,” “specific,” “qualifying,” “inherent,” or “special.”<sup>130</sup> Moreover, Republic Act No. 7659 introduced a separate and distinct species of aggravating circumstance referred to as “special qualifying aggravating circumstances” that warrant the imposition of capital punishment for certain heinous crimes.

A **generic aggravating circumstance** applies to all crimes. It has the effect of increasing the punishment for the crime to the maximum period of the prescribed penalty and can be offset by an ordinary mitigating circumstance.<sup>131</sup> Those enumerated in Article 14 of the RPC, with exceptions, are generic aggravating circumstances like disrespect due the offended party on account of his or her age,<sup>132</sup> dwelling,<sup>133</sup> recidivism,<sup>134</sup> and nocturnity.<sup>135</sup>

A **specific aggravating circumstance** applies only to a particular crime as expressly provided by law or jurisprudence but does not change the character of the offense. It has the effect of increasing the penalty like a generic aggravating circumstance and can be offset by an ordinary mitigating circumstance. Under Article 14 of the RPC, some of the aggravating circumstances such as treachery, cruelty, and abuse of superior strength are applicable only to crimes against persons.<sup>136</sup> In other provisions of the RPC,

<sup>129</sup> *People v. Orilla*, 467 Phil. 253, 283 (2004) [Per J. Carpio, *En Banc*]; and *People v. Catubig*, 416 Phil. 102, 116 (2001) [Per J. Vitug, *En Banc*].

<sup>130</sup> FLORENZ D. REGALADO, CRIMINAL LAW CONSPECTUS 80–82 (3<sup>rd</sup> ed., 2007).

<sup>131</sup> *Palaganas v. People*, 533 Phil. 169, 194 (2006) [Per J. Chico-Nazario, First Division].

<sup>132</sup> *People v. Bugho*, 279 Phil. 174, 179 (1991) [Per J. Sarmiento, Second Division].

<sup>133</sup> *People v. Molina*, 370 Phil. 546, 556–557 (1999) [Per J. Romeo, *En Banc*].

<sup>134</sup> *Abalos v. CA*, 378 Phil. 1059, 1072 (1999) [Per J. Bellosillo, Second Division].

<sup>135</sup> *United States v. Samonte*, 8 Phil. 286, 291 (1907) [Per J. Torres, First Division].

<sup>136</sup> *People v. Balondo*, 140 Phil. 618, 623 (1969) [Per J. Zaldivar, *En Banc*]; and *People v. Clamania*, 85 Phil. 350, 353 (1950) [Per J. Tuason, *En Banc*].

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that the victim is a person in authority in physical injuries,<sup>137</sup> unlicensed firearms in robbery in band,<sup>138</sup> and abuse of authority or confidential relations in seduction and acts of lasciviousness<sup>139</sup> are regarded as specific aggravating circumstances.

A **qualifying aggravating circumstance** changes the nature or designation of the crime and must be provided in the definition of the offense. It warrants the increase of the imposable penalty even to the next higher degrees as provided by law and cannot be offset by an ordinary mitigating circumstance.<sup>140</sup> The circumstances enumerated in Article 248 of the RPC elevate the crime from homicide to murder. Other species of qualifying aggravating circumstances are those present in qualified theft<sup>141</sup> and qualified seduction.<sup>142</sup> Notably, if one of the aggravating circumstances is used to qualify the crime, the others will be deemed as generic aggravating circumstances. For example, where treachery has already been appreciated to qualify the crime as murder, the presence of evident premeditation should be considered only as a generic aggravating circumstance.<sup>143</sup>

An **inherent aggravating circumstance** necessarily accompanies the commission of the offense. It is an element of the crime and is no longer considered in the determination of penalty.<sup>144</sup> For instance, abuse of public office in bribery, breaking of wall or unlawful entry in robbery with use of force upon things, fraud in estafa, fire in arson, by a band in brigandage, and ignominy in rape are inherent in the commission of these crimes.

A **special aggravating circumstance** arises under special conditions to increase the penalty for the offense and cannot be offset by an ordinary mitigating circumstance. Quasi-recidivism,<sup>145</sup> complex crimes,<sup>146</sup> mistake in the identity of the victim,<sup>147</sup> taking advantage of public position, and membership in an organized or syndicated crime group<sup>148</sup> are considered special aggravating circumstances.

<sup>137</sup> REV. PEN. CODE, art. 265, par. 3.

<sup>138</sup> REV. PEN. CODE, art. 296.

<sup>139</sup> REV. PEN. CODE, art. 346.

<sup>140</sup> *People v. Ramos*, 357 Phil. 559, 573–574 (1998) [Per J. Regalado, *En Banc*], citing *People v. Bayot*, 64 Phil. 269, 272–273 (1937) [Per J. Diaz, First Division].

<sup>141</sup> REV. PEN. CODE, art. 310 provides that: “The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.”

<sup>142</sup> REV. PEN. CODE, art. 337 provides that: “The penalty next higher in degree shall be imposed upon any person who shall seduce his sister or descendant, whether or not she be a virgin or over eighteen years of age.”

<sup>143</sup> *People v. Fabros*, 289 Phil. 310, 317 (1992) [Per J. Cruz, First Division].

<sup>144</sup> REV. PEN. CODE, art. 62(2).

<sup>145</sup> REV. PEN. CODE, art. 160.

<sup>146</sup> REV. PEN. CODE, art. 48.

<sup>147</sup> REV. PEN. CODE, art. 49.

<sup>148</sup> REV. PEN. CODE, art. 62(1)(a).

Lastly, a **special qualifying aggravating circumstance** includes those mentioned in Republic Act No. 7659 which amended crimes under the RPC and special penal laws to impose death penalty under certain circumstances. For instance, Republic Act No. 7659 prescribes death penalty on the following crimes: (a) qualified bribery, when it is the public officer who asks or demands the gift or present; (b) kidnapping and serious illegal detention: (1) when the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person; (2) when the victim is killed or dies as a consequence of the detention; (3) when the victim is raped, subjected to torture or dehumanizing acts; and (c) destructive arson, when death results as a consequence of the commission of any of the acts penalized under Article 320. Specifically, Republic Act No. 7659, as amended by Republic Act No. 8353, provides 10 circumstances where death penalty may be imposed for qualified rape. Jurisprudence consistently referred to these 10 attendant circumstances as “*special qualifying aggravating circumstances*” distinctly applicable to the crime of qualified rape punishable with the supreme penalty of death.<sup>149</sup> Verily, a special qualifying aggravating circumstance is different from a mere “qualifying aggravating circumstance” that warrants the increase of the imposable penalty even to the next higher degrees provided by law but not necessarily death penalty. The distinction between these two classes of aggravating circumstances is necessary to preserve the legal effects of “special qualifying aggravating circumstance” both as to the criminal and civil liabilities of the accused. With the enactment of Republic Act No. 9346,<sup>150</sup> the following shall be imposed in lieu of the death penalty: (a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the RPC; or (b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the RPC. In both cases, the penalty of *reclusion perpetua* or life imprisonment shall be imposed without eligibility for parole. Anent the civil liability, the

<sup>149</sup> In *People v. Garcia*, 346 Phil. 475, 502 (1997) [Per J. Regalado, Second Division], the Court held that “the additional attendant circumstances introduced by Republic Act No. 7659 should be considered as special qualifying circumstances specifically applicable to the crime of rape and, accordingly, cannot be offset by mitigating circumstances.” In *People v. Lomaque*, 710 Phil. 338, 359 (2013) [Per J. Del Castillo, Second Division], the Court categorically characterized that “the 10 attendant circumstances partake the nature of special qualifying circumstances.” See also *People v. XXX[252351]*, G.R. No. 252351, July 7, 2021 [Per J. Lazaro-Javier, Second Division]; *People v. Padin*, 892 Phil. 558, 568 (2020) [Per J. Delos Santos, Third Division]; *People v. XXX[225781]*, 890 Phil. 216, 236 (2020) [Per J. Hernando, Third Division]; *People v. Barcelá*, 734 Phil. 332, 347 (2014) [Per J. Mendoza, Third Division]; *People v. Dalisay*, 620 Phil. 831, 841 (2009) [Per J. Nachura, Third Division]; *People v. Ulit*, 467 Phil. 852, 884 (2004) [Per J. Callejo, Sr., *En Banc*]; *People v. Fucio*, 467 Phil. 327, 335–336 (2004) [Per C.J. Davide, Jr., *En Banc*]; *People v. Orilla*, 467 Phil. 253, 283–284 (2004) [Per J. Carpio, *En Banc*]; *People v. Tagud, Sr.*, 425 Phil. 928, 948–949 (2002) [Per J. Carpio, *En Banc*]; *People v. Dela Peña*, 421 Phil. 262, 268 (2001) [Per J. Ynares-Santiago, *En Banc*]; *People v. Acosta*, 419 Phil. 784, 791 (2001) [Per J. Bellosillo, *En Banc*]; *People v. Catubig*, 416 Phil. 102, 117 (2001) [Per J. Vitug, *En Banc*]; *People v. Surilla*, 391 Phil. 257, 269 (2000) [Per J. De Leon, Jr., *En Banc*]; *People v. Mamac*, 388 Phil. 342, 351 (2000) [Per J. Puno, *En Banc*]; *People v. Pailanco*, 379 Phil. 869, 885 (2000) [Per J. Ynares-Santiago, *En Banc*]; *People v. Gallo*, 374 Phil. 59, 62 (1999) [Per Curiam, *En Banc*]; and *People v. Larena*, 368 Phil. 614, 632–633 (1999) [Per J. Ynares-Santiago, *En Banc*].

<sup>150</sup> Entitled “An Act Prohibiting the Imposition of Death Penalty in the Philippines” (2006). Section 2 thereof mandates that in lieu of the death penalty, the penalty of *reclusion perpetua* shall be imposed. Correspondingly, the Court can no longer uphold the death sentences imposed by lower courts, but must, if the guilt of the accused is affirmed, impose instead the penalty of *reclusion perpetua*, or life imprisonment when appropriate.



imposable penalty as provided by Republic Act No. 7569 must be used as the basis for awarding damages and not the actual penalty imposed.<sup>151</sup>

Following these distinctions, it becomes clear that the circumstance of the victim being below the statutory age or the mental retardation of the victim comparable to the intellectual capacity of a child below the statutory age **is an inherent aggravating circumstance that necessarily accompanies the commission of statutory rape.** These circumstances neither change the nature of the crime of rape nor increase the penalty. At most, these circumstances only dispense proof of force, threat, or intimidation, deprivation of reason or unconsciousness of the victim, and fraudulent machination or grave abuse of authority in the commission of the crime. Whereas, as the Court coherently pronounced, the twin circumstances of minority and relationship, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape, or the age of the victim being below 7 years old **is a special qualifying aggravating circumstance in qualified rape.** These circumstances alter the nature of the crime and elevate the imposable penalty. Relevantly, it is a fundamental rule in criminal law that aggravating circumstances cannot be appreciated more than once since it will be prejudicial to the accused. To be sure, once a circumstance is used to qualify the crime, the same could no longer be considered anew as an aggravating circumstance. Also, when one circumstance absorbed another, only the former will be appreciated.<sup>152</sup> Logically, the courts must reflect these precepts to give an accurate nomenclature or designation of the crimes.

Corollary, the victim being below the statutory age or the mental retardation of the victim comparable to the intellectual capacity of a child below the statutory age **cannot be appreciated as an inherent and special qualifying aggravating circumstance at the same time.** Indeed, the special qualifying aggravating circumstances of minority and relationship and the age of the victim being below 7 years old absorb the inherent circumstance of the victim being under the statutory age. Similarly, the special qualifying aggravating circumstance of the accused's knowledge of the mental disability of the victim at the time of the commission of rape absorbs the inherent circumstance of the mental retardation of the victim comparable to the intellectual capacity of a child below the statutory age. As such, the proper designation of the crime must be qualified rape and not qualified statutory rape. **The Court affirms its previous rulings that the presence of special qualifying circumstances under Article 266-B of the RPC raises the crime of statutory rape to qualified rape.**<sup>153</sup>

<sup>151</sup> *People v. Jugueta*, 783 Phil. 806, 839 (2016) [Per J. Peralta, *En Banc*].

<sup>152</sup> See *People v. Delmo*, 439 Phil. 212, 261–262 (2002) [Per J. Quisumbing, *En Banc*]; *People v. Reynes*, 423 Phil. 363, 384–385 (2001) [Per J. Carpio, *En Banc*]; and *People v. Mobe*, 81 Phil. 58, 63 (1948) [Per J. Tuason, *En Banc*].

<sup>153</sup> *People v. Pacayra*, 810 Phil. 275, 294–295 (2017) [Per J. Tijam, Third Division]; and *People v. Besmonte*, 735 Phil. 234, 253–255 (2014) [Per J. Leonardo-De Castro, First Division].

The courts may be confronted with a situation where the crime of rape is attended with two or more special qualifying aggravating circumstances. For instance, the victim of rape is below 7 years old and the offender is a relative who has knowledge of the mental disability of the victim at the time of the commission of rape. In such case, the age of the victim being below 7 years old or knowledge of the offender of mental disability of the victim at the time of commission of rape is sufficient to qualify the crime. The relationship between the parties and the unutilized special qualifying aggravating circumstances will be treated as generic aggravating circumstances. This is consistent with the rule that only one of the aggravating circumstances may be used to qualify the crime while the others will be deemed as generic aggravating circumstances. This is especially significant in cases where the offender is entitled to a privilege mitigating circumstance under Article 69 of the RPC that authorizes the courts to reduce the prescribed penalty by one or two degrees in view of the number and nature of the conditions of exemption present or lacking.<sup>154</sup> Similarly, Articles 50 to 57 of the RPC provided a penalty lower by one, two, three, or four degrees from the prescribed penalty in cases of frustrated and attempted felonies, and for accomplices and accessories. With the enactment of Republic Act No. 9346, the highest remaining penalty in the scale of penalties under Article 71 of the RPC is *reclusion perpetua*.<sup>155</sup> Consequently, the penalty lower by any degree from *reclusion perpetua* will result in a divisible penalty. Hence, the court must appreciate the generic aggravating circumstance following Article 64 of the RPC on the application of penalties which contain three periods in determining the correct punishment.

At last, the Court now ends its expedition in determining the appropriate taxonomic designation of the offense if the elements of both statutory rape and qualified rape are present. **The Court categorically rules that the term qualified statutory rape is not consistent with the basic precepts of criminal law in defining and treating the nature of crimes, and hereby abandons the set of case law adopting such nomenclature.** In Criminal Case No. 17006, the Court affirms the criminal liability of ABC260708 for having carnal knowledge with his 8-year-old daughter AAA260708. Pursuant to the above pronouncement, the proper nomenclature of the crime is qualified rape of a minor and not qualified statutory rape. As to the civil liability of the accused, the law and jurisprudence set the minimum amounts of civil indemnity and damages but do not provide for a ceiling. Thus, the minimum amounts can be validly increased when the circumstances warrant. Here, in view of the depravity of qualified rape that ABC260708 committed against the minor AAA260708, we deem it proper to modify the awards of civil indemnity, moral damages, and exemplary damages from PHP 100,000.00 to PHP 150,000.00 each. The purpose is to deter parents with perverse or aberrant sexual behavior from sexually abusing their children.<sup>156</sup>

<sup>154</sup> REV. PEN. CODE, art. 69.

<sup>155</sup> *People v. Bon*, 536 Phil. 897, 921–922 (2006) [Per J. Tinga, *En Banc*]. See also *People v. Abellera*, 553 Phil. 307, 321–322 (2007) [Per J. Corona, *En Banc*].

<sup>156</sup> *People v. Buclao*, 736 Phil. 325, 341 (2014) [Per J. Leonen, Third Division].

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For clarity and uniformity, the Court now fixes the guidelines as to the proper designation of the offense when the elements of both statutory rape, *i.e., victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age*, and qualified rape, *i.e., twin circumstances of minority and relationship, or the age of the victim being below 7 years old, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape*, are present, thus:

1. The crime shall be denominated as **QUALIFIED RAPE of a minor** and not qualified statutory rape if any of the special qualifying aggravating circumstances is present, *i.e., twin circumstances of minority and relationship, or the age of the victim being below 7 years old, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape*. This rule shall apply whether the victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age.

2. The crime shall be denominated as **QUALIFIED RAPE of a minor** and not qualified statutory rape if the crime is attended with two or more special qualifying aggravating circumstances, *i.e., twin circumstances of minority and relationship, or the age of the victim being below 7 years old, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape*. One of these aggravating circumstances is sufficient to qualify the crime. The unutilized special qualifying aggravating circumstances will be deemed as generic aggravating circumstances which may be appreciated if the facts warrant the imposition of a divisible penalty, *i.e., existence of privileged mitigating circumstances under Article 69 of the RPC, and penalties in cases of frustrated and attempted felonies, and for accomplices and accessories pursuant to Articles 50 to 57 of the RPC*. Otherwise, any unutilized aggravating circumstances shall not be considered in the application of penalties.

3. The term "*statutory age*" in these guidelines shall mean either "*below 12 years old*" or "*under 16 years old*" depending on whether the crime of rape was committed before or after the effectivity of Republic Act No. 11648, respectively.

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*The prosecution established the elements of sexual assault under Article 266-A(2) of the RPC in relation to Section 5(b) of Republic Act No. 7610 in Criminal Case No. 17007*

The elements of rape through sexual assault under the second paragraph of Article 266-A of the RPC are as follows: (1) the offender commits an act of sexual assault (a) **by inserting his penis into another person's mouth or anal orifice**, or (b) by inserting any instrument or object into the genital or anal orifice of another person; (2) the act of sexual assault is accomplished (a) by using force and intimidation; or (b) when the woman is deprived of reason or otherwise unconscious; or (c) by means of fraudulent machination or grave abuse of authority; or (d) **when the woman is under 12 years of age or demented**.<sup>157</sup>

The prosecution proved all the elements of rape through sexual assault. AAA260708 was able to narrate in detail her traumatic experience in the hands of her father ABC260708 who sexually molested her. AAA260708 clearly testified that ABC260708 "inserted his penis into her mouth after consummating carnal knowledge of her. As with other sexual abuses, it is recognized that the father has moral ascendancy or influence over his minor daughter. Hence, there is no need to prove that ABC260708 exercised force or intimidation over AAA260708 during the commission of the felony."<sup>158</sup> Moreover, there is no question that AAA260708 was only 8 years old on the date of the incident. In *Tulagan*, the Court held that if the victim of rape through sexual assault is below 12 years old, the nomenclature of the crime should be "*Sexual Assault under Article 266-A(2) of the RPC in relation to Section 5(b) of [Republic Act] No. 7610*"<sup>159</sup> with the prescribed penalty of *reclusion temporal* in its medium period which has a range of 14 years, eight months and one day to 17 years and four months. Applying the Indeterminate Sentence Law and considering that there are neither mitigating nor aggravating circumstance, the maximum term of the indeterminate sentence should be taken from the medium period of the prescribed penalty or between 15 years, six months, and 21 days to 16 years, five months, and 10 days. On the other hand, the minimum term must be within the range of the penalty next lower in degree to that prescribed for the offense or *reclusion temporal* in its minimum period, which has a range of 12 years and one day to 14 years and eight months.<sup>160</sup>

<sup>157</sup> Republic Act No. 8353 (1997), sec. 2

<sup>158</sup> *XXX[243151] v. People*, 861 Phil. 77, 91 (2019) [Per J. Caguioa, Second Division].

<sup>159</sup> *People v. Tulagan*, 849 Phil. 197, 249 (2019) [Per J. Peralta, *En Banc*].

<sup>160</sup> *People v. Jalosjos*, 421 Phil. 43, 92 (2001) [Per J. Ynares-Santiago, *En Banc*], citing *Dulla v. CA (Dulla)*, 382 Phil. 791, 809-810 (2000) [Per J. Mendoza, Second Division]. In the aforesaid case of *Dulla*, the Court held that the penalty next lower in degree to *reclusion temporal* medium is *reclusion temporal* minimum, the range of which is from 12 years and one day to 14 years and eight months.

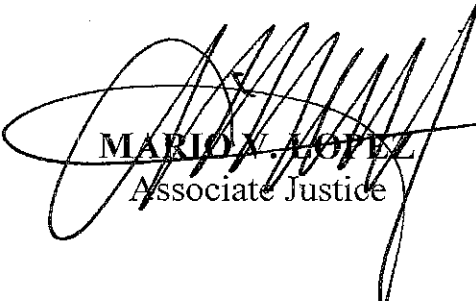
Here, the CA correctly imposed the indeterminate sentence of 13 years, nine months, and 11 days of *reclusion temporal*, as minimum, to 16 years, five months, and 10 days of *reclusion temporal*, as maximum. The CA also properly imposed a fine of PHP 15,000.00 pursuant to Section 31(f) of Republic Act No. 7610. As regards ABC260708's civil liability *ex-delicto*, the CA correctly awarded civil indemnity, moral damages, and exemplary damages of PHP 50,000.00 each, with interest at the rate of 6% per annum from the date of finality of this Decision until full payment, following prevailing jurisprudence.

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated October 14, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 13463 is **AFFIRMED** with **MODIFICATIONS** as to the proper designation of the crimes and the amounts of civil indemnity and damages.

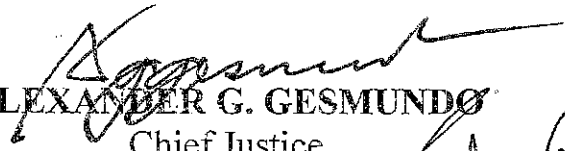
In Criminal Case No. 17006, ABC260708 is found **GUILTY** of **qualified rape of a minor** and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is also **DIRECTED** to pay the victim the amounts of PHP 150,000.00 as civil indemnity, PHP 150,000.00 as moral damages, and PHP 150,000.00 as exemplary damages, all with legal interest at the rate of 6% per annum from the finality of this Decision until full payment.

In Criminal Case No. 17007, ABC260708 is found **GUILTY** of **sexual assault under Article 266-A(2) of the RPC in relation to Section 5(b) of Republic Act No. 7610**. He is sentenced to suffer an indeterminate penalty of 13 years, 9 months and 11 day of *reclusion temporal*, as minimum, to 16 years, five months, and 10 days of *reclusion temporal*, as maximum, and to pay a fine of PHP 15,000.00. Also, he is ordered to pay the victim PHP 50,000.00 civil indemnity, PHP 50,000.00 moral damages, and PHP 50,000.00 exemplary damages, which shall all earn interest at the rate of 6% per annum from the date of finality of this Decision until full payment.

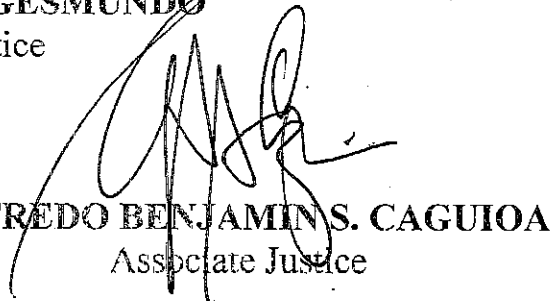
**SO ORDERED.**

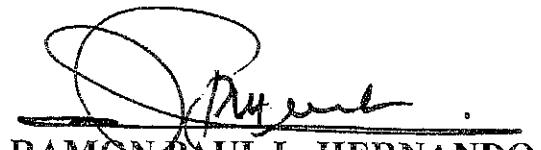
  
MARIOA. LOPEZ  
Associate Justice

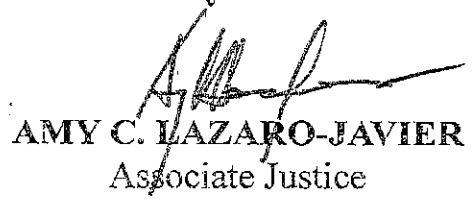
**WE CONCUR:**

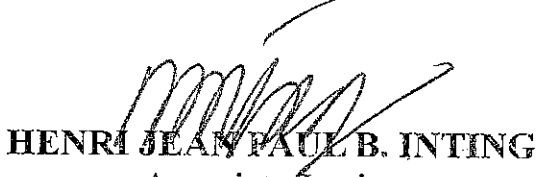
  
**ALEXANDER G. GESMUNDO**  
Chief Justice

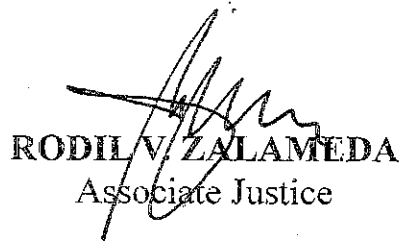
  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice


  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

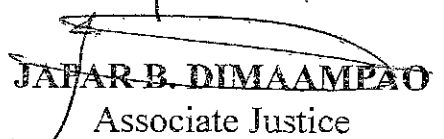
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

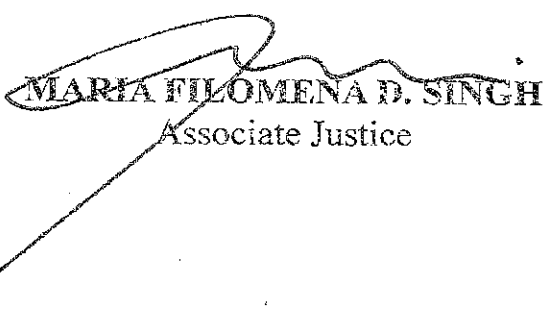
  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP V. LOPEZ**  
Associate Justice

  
**JAFAR B. DIMAAMPAO**  
Associate Justice

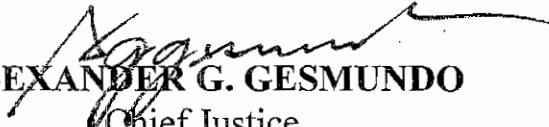
  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

  
**MARIA FILOMENA D. SINGH**  
Associate Justice

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice