



Republic of the Philippines  
Supreme Court  
Manila

**FIRST DIVISION**

**CICL XXX, CHILD IN CONFLICT  
WITH THE LAW,**

**G.R. No. 246146**

Petitioner,

- *versus* -

**PEOPLE OF THE PHILIPPINES,**  
Respondent.

**Present:**

PERALTA, C.J., *Chairperson*,  
CAGUIOA,  
CARANDANG,  
ZALAMEDA, AND  
GAERLAN, JJ.

**Promulgated:**

MAR 18 2021

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**DECISION**

**PERALTA, C.J.:**

This petition for review on *certiorari* challenges the September 27, 2018 Decision<sup>1</sup> and the March 4, 2019 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 40165, which affirmed the June 2, 2017 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 94, finding petitioner CICL XXX guilty beyond reasonable doubt of the crime of Acts of Lasciviousness.

**Factual Antecedents**

In Criminal Case No. R-QZN-15-06050-CR, CICL XXX was charged with the crime of Acts of Lasciviousness:

<sup>1</sup> Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Manuel M. Barrios and Henri Jean Paul B. Inting (now a Member of the Supreme Court) concurring; *rollo*, pp. 23-29.

<sup>2</sup> *Id.* at 30-31.

<sup>3</sup> *Id.* at 32-38.

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That on or about the 30<sup>th</sup> day of August 2012, in Quezon City, Philippines, the above-named accused CICL XXX, 15 years of age, a minor, but acting with discernment, armed with an icepick, with force and intimidation and with lewd design, did then and there, willfully, unlawfully and feloniously commit acts of lasciviousness upon the person of one AAA<sup>4</sup> 15 years of age, a minor by then and there pointing an icepick at her and embracing and kissing her lips down to her neck and mashing both her breast all against her will and without her consent, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.<sup>5</sup>

Upon arraignment, CICL XXX pleaded not guilty to the charge. Thereafter, the case proceeded to trial.

The evidence of the prosecution is summarized in the assailed decision of the CA as follows:

At around 7:45 o'clock in the evening of 30 August 2012, private complainant AAA was walking inside the campus of the [REDACTED]. To her consternation, CICL XXX suddenly grabbed and pulled her towards a corner. He poked an icepick on the right side of her body and uttered: "Wag ka sisigaw." CICL XXX kissed AAA on the lips down to her neck while unbuttoning her blouse. He proceeded by taking off her *sando* and bra. Uncontented, he pulled down her panties and mashed her breasts. When a teacher passed by, CICL XXX ran away, giving AAA the chance to escape. She immediately went home. She was so afraid, but a week after the incident, she mustered courage and confessed her ordeal to a priest who encouraged her to report what happened to her. She informed her aunt, BBB, about what CICL XXX did to her. They reported the incident to the school authorities but nothing happened so they referred the matter to the *barangay* office of [REDACTED]. In turn, they were told to proceed to the Women's Desk of the Batasan Hills Police Station.<sup>6</sup>

Controverting the prosecution's theory, the defense proffered its position, summarized by the CA as follows:

CICL XXX denied the accusations against him. On the date of the fateful incident, he was in school attending classes at [REDACTED] from 1:30 o'clock to 8:00 o'clock in the evening. From 6:45 o'clock to 8:00 o'clock in the evening, he was inside the classroom for his MAPEH class together with 50 other students. The dismissal time for the said class was 7:45 o'clock in the evening. She dismissed them, however, at 8:00

<sup>4</sup> In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims.

<sup>5</sup> *Rollo*, p. 24.

<sup>6</sup> *Id.* at 24-25.



o'clock. After dismissal and along with CCC, DDD and EEE, he immediately proceeded to their service vehicle. He arrived at home at 8:30 o'clock in the evening. He did not have any quarrel with or grudge against private complainant AAA or her family.<sup>7</sup>

To support its position, the defense presented CICL XXX, as well as his MAPEH teacher FFF, and classmates DDD and CCC.<sup>8</sup> FFF testified that petitioner was seated in front of her during the MAPEH class on August 30, 2012, and that she dismissed the class at 7:45 p.m., while DDD and CCC corroborated the testimony of CICL XXX.<sup>9</sup>

### Ruling of the RTC

After trial on the merits, the RTC promulgated its Decision dated June 2, 2017,<sup>10</sup> finding CICL XXX guilty beyond reasonable doubt of the crime of Acts of Lasciviousness. The dispositive portion of the decision reads, as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding CICL XXX guilty beyond reasonable doubt of the crime of Acts of Lasciviousness and is hereby sentenced to suffer a straight penalty of twenty (20) days of *arresto menor*.

Accused is further ordered to pay private complainant AAA [P]20,000.00 as civil indemnity, [P]30,000.00 as moral damages and [P]2,000.00 as exemplary damages.

Considering that CICL XXX was a minor at the time of the commission of the offense and he is still below 21 years of age, his sentence is hereby suspended.

The amount of damages awarded are subject further to interest of six (6%) percent per annum from the date of finality of this judgment until they are fully paid.

SO ORDERED.<sup>11</sup> (Italics in the original)

CICL XXX filed an appeal before the CA, raising the sole ground that the prosecution's evidence is insufficient to prove his guilt beyond reasonable doubt.<sup>12</sup>

<sup>7</sup> *Id.* at 25.

<sup>8</sup> *Id.* at 35.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 32-38.

<sup>11</sup> *Id.* at 37-38.

<sup>12</sup> *Id.* at 25.

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### **Ruling of the CA**

In its Decision<sup>13</sup> dated September 27, 2018, the CA denied CICL XXX's appeal, finding no reversible error in the RTC's judgment of conviction. Aggrieved, CICL XXX filed a motion for reconsideration, which was denied by the CA in its Resolution<sup>14</sup> dated March 4, 2019.

Thus, CICL XXX filed this petition for review on *certiorari*, raising the following assignment of errors:

The [CA] erred in giving credence to the self-serving testimony of the lone prosecution witness;

The [CA] erred in not acquitting petitioner despite the overwhelming, uncontroverted evidence in his favor.<sup>15</sup>

### **The Issue**

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT FOUND PETITIONER GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ACTS OF LASCIVIOUSNESS

### **Our Ruling**

The petition must be denied for lack of merit.

It is a settled rule that the Supreme Court is not a trier of facts, and it is not its function to examine, review or evaluate the evidence all over again.<sup>16</sup> The issue raised before the Court on whether the prosecution's evidence proved the guilt of the accused beyond reasonable doubt is a question of fact.<sup>17</sup>

Factual findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. This rule carries a more stringent application when the factual findings are sustained by the CA,<sup>18</sup> as in the instant case:

<sup>13</sup> *Id.* at 23-29.

<sup>14</sup> *Id.* at 30-31.

<sup>15</sup> *Id.* at 10.

<sup>16</sup> *Cedeño v. People, et al.*, 820 Phil. 575, 600 (2017).

<sup>17</sup> *Typoco, Jr. v. People*, 816 Phil. 914, 929 (2017).

<sup>18</sup> *People v. Tulagan*, G.R. No. 227363, March 12, 2019.



Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless **certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.**<sup>19</sup> (Emphasis supplied)

CICL XXX raises an exception from this rule by claiming that the lower courts misapprehended the facts.<sup>20</sup> CICL XXX argues that "the lower court **totally ignored some of the key, material arguments** of the defense and focused on alleged holes in the defense. The lower courts gave credence to the allegations of the complainants while totally failing to discuss how the key arguments of the defense did not merit any consideration."<sup>21</sup>

CICL XXX's argument fails to impress. We find no cogent reason to disturb the factual findings of the lower courts, which have been sustained by the CA.<sup>22</sup>

#### ***Credibility of AAA's testimony***

The lower courts did not err in giving credence to the testimony of complainant AAA.

CICL XXX seeks to discredit complainant AAA's testimony by raising the following:

<sup>19</sup> *Id.*, citing *People v. Gahi*, 727 Phil. 642, 658 (2014).

<sup>20</sup> *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, 665 Phil. 784, 789 (2011).

<sup>21</sup> *Rollo*, p. 11. (Emphasis in the original)

<sup>22</sup> *People v. Tuballas*, 811 Phil. 201, 211 (2017).



First, in her initiatory statement, she stated that she was on her way home from school when she was pulled into a dark room and she was molested.

In her reply, the complainant changed her story. This time, she alleged that she was on her way to school because a math teacher summoned her so they can discuss her low grades.

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Second, the complainant alleges that the school was dark and empty at 7:45pm. This is highly [improbable], if not downright impossible.

As repeatedly established and is undisputed, the afternoon shift of [REDACTED] has 70 sections of 45-50 students each. Assuming that the sections were all dismissed on time, at 7:45pm, the complainant's allegations would already crumble in the face of reality. **Three Thousand Five Hundred students would be at the school grounds at that particular time** contrary to the complainant's outrageous claim that the school was already deserted.

Of the thousands of students lingering around the school yards at that hour, at least some would have seen the incident or its immediate aftermath.

In fact, if the school were deserted as she claims, it is improbable for her to be just on her way to school for a meeting with a teacher at such a late hour.

Third, it is likewise established that the CICL was in class in full view of the credible defense witnesses at least from the start of the last period until they were each brought home by their school service.<sup>23</sup>

Notably, CICL XXX has not proven that the testimony of complainant AAA is false, but has only raised doubts on her credibility based on his opinion of what is believable. CICL XXX argued that there were thousands of students at the time of the incident, and if the incident did happen, they should have seen the same or the immediate aftermath thereof.<sup>24</sup> CICL XXX's argument fails to impress. The number of students present at the school grounds, or other circumstances of time and place have no bearing on the probability of the crime having been committed. The Court has emphasized that "lust is no respecter of time and place."<sup>25</sup> The graver offense of "rape can be committed even in places where people congregate, in parks, along the roadside, within school premises and even inside a house where there are other occupants or where other members of the family are also sleeping."<sup>26</sup>

<sup>23</sup> *Rollo*, pp. 17-18.

<sup>24</sup> *Id.* at 18.

<sup>25</sup> *Perez v. People*, 830 Phil. 162, 177 (2018).

<sup>26</sup> *Id.* at 177-178.

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In any case, the alleged discrepancies raised by petitioner refer only to minor details and collateral matters, which do not affect the veracity or detract from the essential credibility of complainant AAA's declarations, as long as her testimony is coherent and intrinsically believable as a whole.<sup>27</sup> As the Court held in *People v. Tulagan*,<sup>28</sup> "what remains paramount is the witness' consistency in relating the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same."<sup>29</sup> Despite the alleged discrepancies raised by CICL XXX, the RTC found complainant AAA to be a credible witness, and held "AAA clearly stated the events that transpired and identified the person who abused her. The court finds the direct, clear and straightforward testimony of AAA credible, convincing, and in accordance with the testimony of a victim crying for justice."

It bears emphasis that the question of credibility of witnesses is primarily for the trial court to determine. In the absence of any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily,<sup>30</sup> we shall not disturb the RTC's findings on the credibility of complainant AAA.

#### *Application of the women's honor doctrine*

CICL XXX alleges that the RTC essentially applied the Maria Clara doctrine in giving credence to AAA's testimony, which he argues has been abandoned in *People v. Amarela*.<sup>31</sup> In the instant petition, CICL XXX cites the RTC's decision as follows:

The court finds the direct, clear and straightforward testimony of AAA credible, convincing, and in accordance with the testimony of a victim crying for justice. In the absence of any proof showing that AA (sic) had ill-motive to falsely impute lascivious conduct on CICL XXX, her testimony deserves full faith and credence. Well settled is the rule that courts are inclined to give credence to the version of a young and immature girl of what transpired. Aside from her vulnerability, she would also be exposed to shame, and embarrassment if her testimony is not true.<sup>32</sup>

At the onset, we clarify that the Court did not completely abandon the women's honor doctrine in the case of *People v. Amarela*,<sup>33</sup> but has

<sup>27</sup> *People v. Bensurto, Jr.*, 802 Phil. 766, 774 (2016).

<sup>28</sup> *People v. Tulagan*, *supra* note 18.

<sup>29</sup> *Id.*

<sup>30</sup> *People v. Parba-Rural*, G.R. No. 231884, June 27, 2018.

<sup>31</sup> *People v. Amarela, et al.*, 823 Phil. 1188 (2018).

<sup>32</sup> *Rollo* p. 11.

<sup>33</sup> *Supra* note 31.



tempered the application of the doctrine according to the times. In fact, the women's honor doctrine was considered by the Court in jurisprudence promulgated after *People v. Amarela*, such as *People v. Tuyor*<sup>34</sup> and *People v. Nocido*.<sup>35</sup>

Notably, *People v. Amarela* was decided by the Third Division of the Supreme Court. The Constitution provides, "that no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc*."<sup>36</sup> Thus, since *People v. Amarela* was not decided by the Supreme Court *en banc*, it cannot be considered to have completely abandoned the women's honor doctrine introduced sometime in 1960 by the Court speaking through Justice Alejo Labrador in *People v. Taño*:<sup>37</sup>

It is a well-known fact that women, especially Filipinos, would not admit that they have been abused unless that abuse had actually happened. This is due to their natural instinct to protect their honor. We can not believe that the offended party would have positively stated that intercourse took place unless it did actually take place.<sup>38</sup>

The Court in *People v. Amarela*<sup>39</sup> made a fair and timely recognition that the women's honor doctrine borders on the fallacy of non-sequitur. However, while the Court tempered any gender bias or cultural misconception in evaluating the testimony of a victim of sexual depredation, it still maintained that an accused may be convicted solely on the testimony of the victim, provided that the testimony is credible, to *wit*:

In this way, we can evaluate the testimony of a private complainant of rape without gender bias or cultural misconception. **It is important to weed out these unnecessary notions because an accused may be convicted solely on the testimony of the victim, provided of course, that the testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.** Thus, in order for us to affirm a conviction for rape, we must believe beyond reasonable doubt the version of events narrated by the victim.<sup>40</sup> (Emphasis supplied)

To better understand how the women's doctrine is applied, We are guided by Our decision in *People v. Nocido*, which was promulgated in 2020, over two years after the promulgation of *People v. Amarela*:

<sup>34</sup> G.R. No. 241780, October 12, 2020.

<sup>35</sup> G.R. No. 240229, June 17, 2020.

<sup>36</sup> CONSTITUTION, Art. VIII, Sec. 4, par. (3).

<sup>37</sup> 109 Phil. 912 (1960).

<sup>38</sup> *Id.* at 914-915.

<sup>39</sup> *Supra* note 31.

<sup>40</sup> *Id.* at 1200.

As to whether AAA's testimony should be given due weight and credence, **it is important to take into consideration the Women's Honor doctrine.** The doctrine recognizes the "well-known fact that women, especially Filipinos, would not admit that they have been abused unless that abuse had actually happened, [because it is] their natural instinct to protect their honor."

However, as discussed in *People v. Amarela*, the opinion enshrined under the Women's Honor doctrine borders on the fallacy of *non-sequitur*, to wit:

While the factual setting back then would have been appropriate to say it is natural for a woman to be reluctant in disclosing a sexual assault; today we simply cannot be stuck to the *Maria Clara* stereotype of a demure and reserved Filipino woman. We should stay away from such mindset and accept the realities of a woman's dynamic role in society today; she who has over the years transformed into a strong and confidently intelligent and beautiful person, willing to fight for her rights.

Through this, the Court can evaluate the weight and credibility of a private complainant of rape without gender bias or cultural misconception.

**It is a settled rule that rape may be proven by the sole and uncorroborated testimony of the offended party, provided that her testimony is clear, positive, and probable.<sup>41</sup>** (Citations omitted and emphasis supplied)

Moreover, apart from giving consideration to the women's honor doctrine, the Court has also affirmed the weight and credence given to testimonies of young victims, such as in *People v. Tulagan*,<sup>42</sup> to wit:

As for Tulagan's imputation of ill motive on the part of AAA's grandmother, absent any concrete supporting evidence, said allegation will not convince us that the trial court's assessment of the credibility of the victim and her supporting witness was tainted with arbitrariness or blindness to a fact of consequence. We reiterate the principle that no young girl, such as AAA, would concoct a sordid tale, on her own or through the influence of her grandmother as per Tulagan's intimation, undergo an invasive medical examination then subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice. In *People v. Garcia*, we held:

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

<sup>41</sup> *People v. Nocido*, *supra* note 35.

<sup>42</sup> *Supra* note 18.

true. Youth and immaturity are generally badges of truth and sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.<sup>43</sup> (Citations omitted and emphasis supplied)

Thus, considering our pronouncements in *People v. Nocido* and *People v. Tulagan*, we find no error in the RTC giving credence to complainant AAA's testimony while recognizing the circumstances of her womanhood and youth.

In any case, the RTC did not base its findings solely on those circumstances, but on its finding that complainant AAA's testimony is credible. A closer look at the RTC's decision would show that CICL XXX, in citing the RTC's decision in the instant petition, as reproduced above, omitted the first sentence of the cited paragraph. The entire paragraph cited reads as follows:

AAA clearly stated the events that transpired and identified the person who abused her. The court finds the direct, clear and straightforward testimony of AAA credible, convincing, and in accordance with the testimony of a victim crying for justice. In the absence of any proof showing that AAA had ill-motive to falsely impute lascivious conduct on CICL XXX, her testimony deserves full faith and credence. Well settled is the rule that courts are inclined to give credence to the version of a young and immature girl of what transpired. Aside from her vulnerability, she would also be exposed to shame, and embarrassment if her testimony is not true.<sup>44</sup> (Emphasis and underscoring supplied)

Thus, the RTC found that complainant AAA's testimony clearly established the events that transpired, and the person who abused her. The Court has ruled that in case of acts of lasciviousness, the lone testimony of the offended party, if credible, is sufficient to establish the guilt of the accused.<sup>45</sup> In this case, the lower courts found complainant AAA's testimony to be sufficient to establish the guilt of petitioner.

#### *Defense of denial and alibi*

CICL XXX raises the defense of denial and alibi, and argues that he was in his MAPEH class, in full view of the defense witnesses, at the time of the incident.<sup>46</sup> This is decrepitly weak and specious.

<sup>43</sup> *Id.*

<sup>44</sup> *Rollo*, p. 36.

<sup>45</sup> *Awas v. People*, 811 Phil. 700, 707-708 (2017); *Garingara v. People*, 669 Phil. 512, 522 (2011).

<sup>46</sup> *Rollo*, p. 18.

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It is settled that denial is an intrinsically weak defense which must be supported by strong evidence of non-culpability to merit credibility. Alibi is the weakest defense for it is easy to contrive and difficult to disprove, and thus, should be rejected. For the defense of alibi to prosper, the accused must establish the physical impossibility for him to be at the *locus delicti* or scene of the crime at the time the crime was committed.<sup>47</sup> "Physical impossibility" refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed.<sup>48</sup>

The lower courts correctly rejected the defense of alibi proffered by petitioner, especially given the proximity of time and place. We adopt the findings of the CA as follows:

Here, the records are devoid of any indication of such physical impossibility that appellant was at the scene of the crime at the time it was committed. His bare alibi that he was no longer inside the school premises at the time of the alleged incident and that he was already at home at about 8:30 o'clock in the evening is exiguously patchy to prove the alleged physical impossibility. Suffice it to say that appellant's teacher categorically declared that they were dismissed from their MAPEH class at about 7:45 in the evening. As aptly held by the court *a quo*, appellant was not able to establish his physical impossibility to be at the campus of [REDACTED] at the time of the commission of the offense and that he was in fact in the same area at the time the offense was committed.<sup>49</sup>

Thus, given CICL XXX's failure to establish the physical impossibility of the crime, CICL XXX's denial could not prevail over complainant AAA's direct, positive, and categorical assertion.

In view of the foregoing, the Court affirms the finding of guilt beyond reasonable doubt of CICL XXX for the crime of acts of lasciviousness. However, a modification of the nomenclature of the crime, the penalty imposed, and the damages awarded, is in order.

### ***The crime committed***

The RTC held that the prosecution has proven the lascivious conduct of petitioner: "Clearly, CICL XXX's acts of kissing AAA on her lips and neck, mashing her breasts, removing her upper garments and panties, are morally inappropriate and indecent designed to abuse the latter."<sup>50</sup> Thus, the

<sup>47</sup> *People v. Regaspi*, 768 Phil. 593, 598-599 (2015).

<sup>48</sup> *People v. Tulagan*, *supra* note 18.

<sup>49</sup> *Rollo*, p. 28.

<sup>50</sup> *Id.* at 36.



RTC found CICL XXX guilty beyond reasonable doubt of the crime of Acts of Lasciviousness under Article 336 of the Revised Penal Code (*RPC*).<sup>51</sup>

While we agree with the lower courts that CICL XXX committed acts of lasciviousness, we must modify the nomenclature of the crime to align with prevailing law and jurisprudence on acts of lasciviousness committed upon minors. The Court has emphasized that the erroneous specification of the law violated does not vitiate the information if the facts alleged clearly recite the facts constituting the crime charged. The actual facts recited in the information are controlling and not the title of the information or designation of the offense.<sup>52</sup> Thus, in *People v. Nocido*,<sup>53</sup> the Court modified the ruling of the lower court that the accused therein was guilty of Rape by Sexual Assault under Article 266-A (2) of the *RPC*, and instead found the accused guilty of Lascivious Conduct under Section 5(b) of Republic Act (*R.A.*) No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

The case of *People v. Tulagan*<sup>54</sup> clarified the guidelines in designating the proper offense for lascivious conduct, and identified when lascivious conduct is charged under *R.A.* No. 7610, or under Article 336 of the *RPC*, to wit:

Based on the *Caoili* guidelines, it is only when the victim of the lascivious conduct is 18 years old and above that such crime would be designated as "Acts of Lasciviousness under Article 336 of the *RPC*" with the imposable penalty of *prision correccional*.

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Whereas if the victim is 12 years old and under 18 years old, or 18 years old and above under special circumstances, the nomenclature of the crime should be "Lascivious Conduct under Section 5 (b) of *R.A.* No. 7610" with the imposable penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, but it should not make any reference to the provisions of the *RPC*.<sup>55</sup>

The table provided by the Court in *People v. Tulagan* is instructive:

**Designation of the Crime & Imposable Penalty<sup>56</sup>**

<sup>51</sup> *Id.* at 36-37.

<sup>52</sup> *People v. Nocido*, *supra* note 35.

<sup>53</sup> *Id.*

<sup>54</sup> *People v. Tulagan*, *supra* note 18.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

*JV*

Crime Committed:	Age of Victim:	Under 12 years old or demented	12 years old or below 18, or 18 under special circumstances	18 years old and above
Acts of Lasciviousness committed against children exploited in prostitution or other sexual abuse		Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period	Lascivious conduct under Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Not applicable
Sexual Assault committed against children exploited in prostitution or other sexual abuse		Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period	Lascivious Conduct under Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Not applicable
Sexual Intercourse committed against children exploited in prostitution or other sexual abuse		Rape under Article 266-A (1) of the RPC: <i>reclusion perpetua</i> , except when the victim is below 7 years old in which case death penalty shall be imposed	Sexual Abuse 77 under Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Not applicable
Rape by carnal knowledge		Rape under Article 266-A (1) in relation to Art. 266-B of the RPC: <i>reclusion perpetua</i> , except when the victim is below 7 years old in which case death penalty shall be imposed	Rape under Article 266-A (1) in relation to Art. 266-B of the RPC: <i>reclusion perpetua</i>	Rape under Article 266-A (1) of the RPC: <i>reclusion perpetua</i>
Rape by Sexual Assault		Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period	Lascivious Conduct under Section 5 (b) of R.A. No. 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Sexual Assault under Article 266-A (2) of the RPC: <i>prisión mayor</i>

While Section 5(b) of R.A. No. 7610 is entitled “Child Prostitution and Other Sexual Abuse”, the Court has already acknowledged that R.A. No. 7610 is not only applicable to children exploited in prostitution or subjected to other sexual abuse. This is aligned with the State’s policy to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development.<sup>57</sup> The Court held in *People v. Tulagan*:<sup>58</sup>

<sup>57</sup> *People v. Nocido*, *supra* note 35.

<sup>58</sup> *Supra* note 18.

We are unconvinced that R.A. No. 7610 only protects a special class of children, *i.e.*, those who are “exploited in prostitution or subjected to other sexual abuse,” and does not cover all crimes against them that are already punished by existing laws. It is hard to understand why the legislature would enact a penal law on child abuse that would create an unreasonable classification between those who are considered as “exploited in prostitution and other sexual abuse” or EPSOSA and those who are not. After all, the policy is to provide stronger deterrence and special protection to children from all forms of abuse, neglect, cruelty, exploitation, discrimination and other conditions prejudicial to their development.<sup>59</sup>

Thus, following the guidelines discussed above, considering that petitioner committed acts of lasciviousness on complainant AAA, who was 15 years of age at the time of the commission of the crime,<sup>60</sup> the nomenclature of the crime should be Lascivious Conduct under Section 5(b) of R.A. No. 7610.

### ***The penalty imposed***

Lascivious Conduct under Section 5(b) of R.A. No. 7610 has a penalty of *reclusion temporal* in its medium period to *reclusion perpetua*. While the prescribed penalty is provided under a special penal law, the Court has ruled that when the penalties prescribed by a special penal law adopt the technical nomenclature of the penalties provided in the Revised Penal Code, mitigating circumstances can be appreciated and the imposable penalty can be graduated.<sup>61</sup> Since petitioner was 15 years old at the time of the commission of the crime,<sup>62</sup> he is entitled to the privileged mitigating circumstance of minority.<sup>63</sup> Thus, the imposable penalty should be the penalty next lower than that prescribed by law, which in this case would be *prisión mayor* medium to *reclusion temporal* minimum.

Applying the Indeterminate Sentence Law, the minimum term shall be taken from the penalty next lower in degree which is *prisión correccional* medium to *prisión mayor* minimum, and the maximum term to be taken from the medium period of *prisión mayor* medium to *reclusion temporal* minimum, there being no ordinary mitigating or aggravating circumstances present.<sup>64</sup>

Considering that petitioner was 15 years old at the time of the commission the crime and below 21 years old at the time the RTC

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<sup>59</sup> *Id.*

<sup>60</sup> *Rollo*, p. 32.

<sup>61</sup> *People v. Mantalaba*, 669 Phil. 461, 482-483 (2011).

<sup>62</sup> *Rollo*, p. 32.

<sup>63</sup> REVISED PENAL CODE, Art. 68.

<sup>64</sup> REVISED PENAL CODE, Art. 64.

promulgated its decision, his sentence was properly suspended<sup>65</sup> pursuant to Section 38 of R.A. No. 9344, or the Juvenile Justice and Welfare Act of 2006.<sup>66</sup> However, Section 40 of R.A. No. 9344 limits the said suspension until the child reaches the maximum age of twenty-one (21). The provision states:

SEC. 40. Return of the Child in Conflict with the Law to Court. — If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the condition of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

Hence, petitioner, who is now beyond the age of 21 years can no longer avail of the suspension of sentence under Section 38.

Nevertheless, the Court has already extended the application of R.A. No. 9344 beyond the age of 21 years old to give meaning to the legislative intent of the said law.<sup>67</sup> Petitioner shall be entitled to appropriate disposition under Section 51, which provides for the confinement of convicted children as follows:

SEC. 51. Confinement of Convicted Children in Agricultural Camps and other Training Facilities. — A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

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<sup>65</sup> *Rollo*, p. 37.

<sup>66</sup> Republic Act No. 9344 (2006), Sec. 38 provides:

SEC. 38. Automatic Suspension of Sentence. - Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: Provided, however, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

<sup>67</sup> *People v. Ancajas, et al.*, 772 Phil. 166, 189 (2015).

The case shall thus be remanded to the RTC to effect petitioner's confinement in an agricultural camp or other training facility, following the Court's pronouncement in *People v. Sarcia*.<sup>68</sup>

***The damages awarded***

The RTC ordered CICL XXX to pay private complainant AAA ₱20,000.00 as civil indemnity, ₱30,000.00 as moral damages and ₱2,000.00 as exemplary damages.<sup>69</sup> We find it proper to modify the amount of damages awarded in light of the guidelines provided in *People v. Tulagan*<sup>70</sup> concerning the award of civil indemnity, moral damages and exemplary damages:

Crime	Civil Indemnity	Moral Damages	Exemplary Damages
Acts of Lasciviousness under Article 336 of the RPC [Victim is of legal age]	₱20,000.00	₱20,000.00	₱20,000.00
Acts of lasciviousness in relation to Section 5 (b) of R.A. No. 7610 [Victim is a child under 12 years old or is demented]	₱50,000.00	₱50,000.00	₱50,000.00
Sexual Abuse or Lascivious Conduct under Section 5 (b) of R.A. No. 7610 [Victim is a child 12 years old and below 18, or above 18 under special circumstances]	₱75,000.00 (If penalty imposed is <i>reclusion perpetua</i> ) ₱50,000.00 (If penalty imposed is within the range of <i>reclusion temporal medium</i> )	₱75,000.00 (If penalty imposed is <i>reclusion perpetua</i> ) ₱50,000.00 (If penalty imposed is within the range of <i>reclusion temporal medium</i> )	₱75,000.00 (If penalty imposed is <i>reclusion perpetua</i> ) ₱50,000.00 (If penalty imposed is within the range of <i>reclusion temporal medium</i> )
Sexual Assault under Article 266-A (2) of the RPC [Victim is of legal age]	₱30,000.00	₱30,000.00	₱30,000.00
Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of R.A. No. 7610 [Victim is a child under 12 years old or is demented]	₱50,000.00	₱50,000.00	₱50,000.00

<sup>68</sup> 615 Phil. 97, 130 (2009).

<sup>69</sup> *Rollo*, p. 37.

<sup>70</sup> *Supra* note 18.



Thus, for Lascivious Conduct under Section 5(b) of R.A. No. 7610 when the victim is below eighteen (18) years old, as in the instant case, the proper amount of damages is as follows: ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages.

In consonance with prevailing jurisprudence, the amount of damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the finality of this judgment until said amounts are fully paid.<sup>71</sup>

**WHEREFORE**, premises considered, the petition for review is **DISMISSED**. The Decision dated June 2, 2017 of the Regional Trial Court in Criminal Case No. R-QZN-15-06050-CR, as affirmed by the Court of Appeals in its Decision dated September 27, 2018 and the Resolution dated March 4, 2019 in CA-G.R. CR No. 40165, is **AFFIRMED** with **MODIFICATIONS**. We find petitioner **CICL XXX** guilty beyond reasonable doubt of **Lascivious Conduct under Section 5(b) of Republic Act No. 7610**, and is sentenced to suffer the penalty of two (2) years, four (4) months and (1) day of *prisión correccional* medium as the minimum term, to ten (10) years, two (2) months and twenty-one (21) days of *prisión mayor* maximum, as the maximum term, with modification as to the award of damages. Petitioner is **ORDERED** to **PAY** complainant AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.

Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this Decision until fully paid.

The case against petitioner **CICL XXX** shall be **REMANDED** to the trial court for appropriate disposition in accordance with Section 5 of Republic Act No. 9344.

**SO ORDERED.**

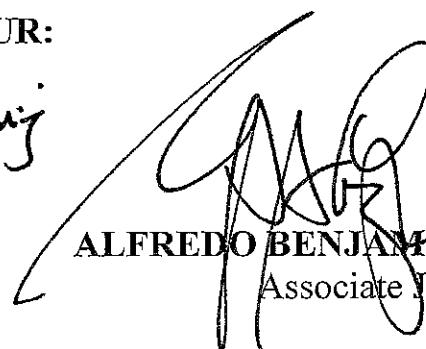


**DIOSDADO M. PERALTA**  
Chief Justice

<sup>71</sup> *People v. Nocido*, *supra* note 35.

**WE CONCUR:**

*See Concurring  
Decision  
Opinion*



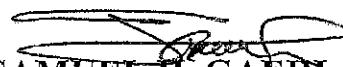
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ROSMARIE D. CARANDANG**  
Associate Justice



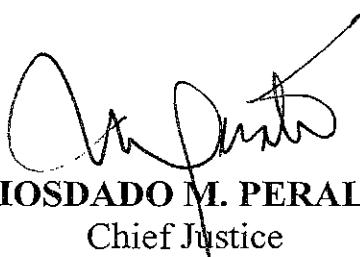
**RODIL N. ZALAMEDA**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice

## **C E R T I F I C A T I O N**

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



**DIOSDADO M. PERALTA**  
Chief Justice