



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

FERDINAND “VHONG” H. G.R. No. 263329  
NAVARRO,

*Petitioner,* Present:

- versus -

CAGUIOA, J., Chairperson  
INTING,  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

Promulgated:

DENIECE MILINETTE\* CORNEJO,  
THE SECRETARY OF JUSTICE,  
and HON. VINCENT VILLENA, in  
his capacity as City Prosecutor of  
Taguig,

February 8, 2023

*Mist DC Batt*

*Respondents.*

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DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari* with Application for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, Preliminary Mandatory Injunction, and Status *Quo Ante* Order<sup>1</sup> assailing the Decision<sup>2</sup> dated July 21, 2022 and the Resolution<sup>3</sup> dated September 20, 2022 of the Court of Appeals (CA) in CA-G.R. SP No. 166222.

\* Also referred to as Deniece “Millinette” Cornejo in some parts of the *rollo*.

<sup>1</sup> *Rollo*, pp. 3-98. Filed under Rule 45 of the Rules of Court.

<sup>2</sup> *Id.* at 103-128. Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Victoria Isabel A. Paredes and Mary Charlene V. Hernandez-Azura.

<sup>3</sup> *Id.* at 130-136. Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Walter S. Ong and Mary Charlene V. Hernandez-Azura.

The CA reversed and set aside the Resolutions dated April 30, 2018<sup>4</sup> and July 14, 2020<sup>5</sup> of the Department of Justice (DOJ) in NPS Docket Nos. XVI-INV-16E-00174 and XVI-INV-15J-00815, which dismissed the complaints of Deniece Milinette Cornejo (Cornejo) for Rape and Attempted Rape against Ferdinand “Vhong” H. Navarro for lack of probable cause. The CA directed the Office of the City Prosecutor of Taguig City (OCP Taguig) to file Informations against Navarro for (a) Rape by Sexual Intercourse under paragraph 1, Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353; and (b) Acts of Lasciviousness under Article 336 of the RPC.

### *The Antecedents*

The case stemmed from three separate complaints filed by Cornejo against Navarro before the OCP Taguig as follows:

1) First Complaint dated January 29, 2014, docketed as NPS Docket No. XV-16-INV-14A-00096 for Rape under Article 266-A of the RPC in relation to RA 9262;<sup>6</sup>

2) Second Complaint dated February 27, 2014, docketed as NPS No. XV-16-INV-14B-00190 for Rape under Article 266-A of the RPC in relation to RA 9262;<sup>7</sup> and

3) Third Complaint dated October 16, 2015, docketed as NPS Docket Nos. XVI-INV-16E-00174 and XVI-INV-15J-00815 for the crimes of Rape and Attempted Rape.<sup>8</sup>

The DOJ Panel of Prosecutors dismissed the First Complaint on April 4, 2014<sup>9</sup> for lack of probable cause while the OCP Taguig dismissed the Second Complaint on July 4, 2014.<sup>10</sup> On September 6, 2017, the Third Complaint was similarly dismissed for lack of probable cause;<sup>11</sup> the CA’s

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<sup>4</sup> Id. at 1176-1194.

<sup>5</sup> Id. at 1287-1294.

<sup>6</sup> Id. at 528-537.

<sup>7</sup> Id. at 538-546.

<sup>8</sup> Id. at 410-422.

<sup>9</sup> See Consolidated Resolution dated April 4, 2014 issued by DOJ Panel of Prosecutors, id. at 238-279.

<sup>10</sup> See Resolution dated July 1, 2014 penned by Assistant City Prosecutor Patrick Noel P. De Dios and approved by City Prosecutor Archimedes V. Manabat on July 4, 2014, id. at 403-405.

<sup>11</sup> See Review Resolution dated September 6, 2017 issued by OIC-Prosecutor General, SDSP Severino H. Gaña, Jr., id. at 706-729.



reversal of this dismissal is the subject of the present petition before the Court.

The three complaints pertain to the alleged incidents of January 17, 2014 and January 22, 2014. In all the complaints, Cornejo averred that she first met Navarro in a product launch sometime in the year 2011. After communicating via phone on a semi-regular basis, they became friends.<sup>12</sup>

#### The First Complaint

*(Rape under Article 266-A of the RPC, in relation to RA 9262,  
pertaining to the January 22, 2014 incident)*

In the First Complaint, Cornejo alleged that (a) she met with Navarro on January 17, 2014 and (b) Navarro raped her on January 22, 2014; and that both instances took place in her condominium unit.

#### *Cornejo's allegations*

*[Re: January 17, 2014 incident]*

Cornejo alleged that she accepted Navarro's invitation to go out on a date with him on January 17, 2014. As she already made plans to meet up with a girl friend on that night, Cornejo averred that she accepted Navarro's invitation because she knew that she would not be alone with him. Concerned about being the subject of "tsismis" by reason of Navarro's celebrity status, they decided not to go out in public and, instead, agreed that they would stay at her condominium unit at Forbeswood, Bonifacio Global City, Taguig City.<sup>13</sup>

Cornejo narrated:

14. On 17 January 2014, I went out for dinner with a couple of friends in the Fort area. Later that night, my girl friend called me and said that she will try her best to come over that night and I told her that I would wait for her. After a few minutes, Kuya Vhong called me up and said that he was already downstairs in the lobby. I went down to the lobby to meet him and even introduced him to the guard on duty.

15. When we reached my unit, Kuya Vhong went inside and sat down on the sofa while I closed the door behind me, but leaving it

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<sup>12</sup> Id. at 528-530, 538-540 and 411-412.

<sup>13</sup> Id. at 530.

unlocked x x x. I went over my study table and continued doing some work on my laptop while waiting for my girl friend to arrive.

16. Kuya Vhong had brought a bottle of wine with him and offered it to me. He poured some wine for himself and I declined since I am not really a drinker. During this time, I was still pre-occupied with some work and did not join Kuya Vhong in the living area, which is why he commented to me, "*Ano ba yan...magkikita tayo tapos trabaho ng trabaho. Hindi ka na nag-eentertain ah.*"

17. I replied that we were still waiting for my girl friend to arrive x x x. Kuya Vhong remarked, "*Ah talaga, akala ko tayong dalawa lng.*" I told him no, my friend said she's still coming over. So I continued with my work while Kuya Vhong tried to make light conversation with me.

18. After some time, my girl friend called and said that she wouldn't be able to join us anymore because it was late. I told Kuya Vhong x x x, "*I'm sorry but you have to go na rin. Maaga pa ako bukas, pasensiya na kasi late na rin.*" Kuya Vhong teased me saying, "*Ikaw ha, kala mo parang hindi naman kapatidtrato ko sayo. Anong feeling mo may gagawin ako sayo?*" I asked him to leave.

19. He tried to insist that I let him stay longer and even made jokes about sleeping over, which I dismissed as a playful banter. I told him, "*No, di talaga pwede*" so finally Kuya Vhong conceded and said, "*Cge, next time na lang. Bumawi ka sa akin.*" Thereafter, Kuya Vhong left my unit by himself.<sup>14</sup> (Italics and underscoring supplied.)

### *Cornejo's allegations*

*[Re: January 22, 2014 incident]*

Over the next few days, Navarro and Cornejo continued exchanging messages via text and Viber. At around 8:00 to 9:00 p.m. of January 22, 2014, Navarro called her asking, "*Pwede ba akong dumaan diyan? May dala kasi akong food eh.*"<sup>15</sup> Cornejo agreed and told the lobby guard that he was an expected visitor to save him the hassle of calling her unit upon his arrival. A few minutes later, Navarro called and asked her to meet him at the lobby because he forgot her unit number.<sup>16</sup>

Cornejo then proceeded to the elevator and was surprised to see that Navarro was already inside the elevator when it opened. Together, they went to her unit. While she was busy in the kitchen, Navarro started joking

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<sup>14</sup> Id. at 530-531.

<sup>15</sup> Id. at 531.

<sup>16</sup> Id.

around and began stroking her hair and back. Feeling uneasy and uncomfortable, Cornejo told him, “*Kuya, ayaw ko. Sorry hindi ko talaga ito magagawa.*”<sup>17</sup> Navarro then got irritated.

As to what transpired thereafter, Cornejo recalled:

24. Kuya Vhong became irritated. I was shocked because he brusquely pulled at my hair and dragged me towards the sofa and tried to get on top of me. I tried to pull away from him by kicking and flailing around and I was able to get away from his clutches and my first instinct was to run to my bedroom to get my cellular phone.

25. My bedroom and the living area is separated only by a curtain so it really didn't provide me any protection against Kuya Vhong and he was able to reach me again before I could grab my cellular phone.

26. Kuya Vhong pinned me down to the bed and was kissing me all over while I kept on kicking, shouting and trying to get myself free from him. Kuya Vhong again roughly pulled at my hair with one hand while pulling down his pants and underwear with the other. Kuya Vhong was already on top of me, half-naked and he tried to unzip my shorts but it wouldn't budge because it was jammed or stuck. All this time, I could hear my phone ringing but I couldn't reach it.

27. Kuya Vhong still had his hands clutched tightly to my hair and tried to push my head towards his genitals. I tried to resist but the hair pulling was really painful and it felt like my scalp was going to be pulled out of my head. He succeeded in mashing my entire face, my mouth, my nose and chin right into his genitals. I couldn't get free because he was pinning me down with his weight and pulling on my hair the entire time.

28. Kuya Vhong continued to pull my hair and forced my face into his genitals, despite my cries of “*No, huwag po.*” He kept pushing his penis into my mouth and I tried with all my might to push him away but as he was on top of me with his full weight, my protests were to no avail. He began unzipping my shorts with the obvious intention of inserting his penis to my private part. At this point, I was already very hysterical and scared because I knew that he was not going to stop until he successfully did what he was planning to do, which was to rape me.

29. Unable to unzip my shorts, he somehow managed to lift one leg of my shorts and pulled at my underwear exposing my private part and allowing him to force his penis towards my private part. At that point, I felt his hard penis was already touching private part as I continued to try to push him away from me. He was forcing his hard

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<sup>17</sup> Id. at 532.

penis into my vagina, leaving me without any other recourse except to continuously struggle, I was certain that Kuya Vhong was going to have his way with me. While all of this was happening, I was trying with all my might to shout and call for help.

30. It was only by a miracle that my friends suddenly appeared to help me. I suddenly felt the weight of Kuya Vhong taken away from me and when I was free, I ran to the first person I saw who was a female friend of mine. I was crying, inconsolable and hysterical.

31. As I tried to understand what went on, my friend took me out of my condominium unit down by the poolside to console me and to allow me to gather my senses.

32. x x x When I was over the initial shock of everything that just happened, we went back inside and I insisted to my friends that we had to report what happened. I told them that we had to bring Kuya Vhong to the police station. I demanded that we bring him to the police station because I was so angry, humiliated and violated. I was not about to just let the incident go as if nothing had happened.

33. While we were in the elevator, I saw Kuya Vhong, and I felt I was so betrayed and hurt, I just kept crying quietly to myself the whole time we were in the elevator.<sup>18</sup>

At the police station, Cornejo and her friends gave their statements, while Navarro incessantly begged them to keep the incident private for the sake of his children and career. To save himself from humiliation, Navarro initially offered to pay them the amount of ₱200,000.00, which was thereafter increased to ₱500,000.00, and eventually to ₱800,000.00. Feeling too exhausted and confused, Cornejo decided not to pursue the rape case. Instead, she only had Navarro's name entered into the police blotter.<sup>19</sup>

From the police station, they parted ways. Cornejo went back to her condominium unit for a few moments. She thereafter left and decided to sleep over at a friend's place. The next day, she returned to her condominium unit and found that it was ransacked and robbed.<sup>20</sup>

#### *Navarro's counter-allegations*

Relative to the incident of January 22, 2014, Navarro filed the

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<sup>18</sup> Id. at 532-533.

<sup>19</sup> Id. at 533-534.

<sup>20</sup> Id. at 534.

following charges: (a) complaints for Serious Illegal Detention, Serious Physical Injuries, Grave Threats, Grave Coercion, Illegal Arrest, and threatening to publish and offer to prevent such publication for a compensation (docketed as NPS Docket No. XVI-INV-14A-0022) against Cornejo and her friends: Cedric Lee, Bernice Cua Lee (Bernice Lee), Ferdinand Guerrero (Guerrero), Simeon “Zimmer” Palma Raz, Jr. (Raz), Jose Paolo Gregorio A. Calma (Calma), Sajed Fernandez Abuhijleh (Fernandez), and other John Does; (b) complaint for Perjury (docketed as I.S.No. XV-07-INV-14C-01437) against Cornejo; and (c) complaint for Perjury against Cedric Lee and Raz.<sup>21</sup>

Navarro confirmed that he met with Cornejo at her condominium unit in the evening of January 17, 2014. According to him, Cornejo voluntarily performed oral sex on him on that night.

Navarro averred that they consumed a bottle of wine and engaged in casual flirting. When they reached her bed, Navarro undressed Cornejo and thereafter put his penis into her mouth. At about 1:30 in the morning of the following day, Navarro left her unit. After parting ways, she texted him, “*bad boy ka,*” to which he replied, “*sorry talaga, bawi ako.*” She called him when he got home at around 2:35 a.m.<sup>22</sup>

After their first encounter, the two continued exchanging messages and agreed to meet again at her place on January 22, 2014. When Navarro arrived at the condominium lobby at around 10:45 p.m., Cornejo told him to proceed to her unit at the second floor as she already advised the lobby guard that he was coming. Cornejo then met him by the second-floor elevator before they proceeded to her unit. When they got inside her unit, Navarro placed some takeout food on the table and proceeded to sit on the sofa.<sup>23</sup>

Shortly thereafter, Navarro saw Cornejo leave the unit. When he stood up, two men suddenly came out of her room. One poked a gun at him, while the other, whom he subsequently identified as Raz, started punching and kicking him. The two men made him lie prone on the floor. They blindfolded him and tied his hands and feet with duct tape. While continuously receiving beatings, he overheard several persons arrive. He was then gagged, told to lie down on the floor, and ordered to keep quiet. The group threatened to kill him and his family. Thereafter, he was made

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<sup>21</sup> Id. at 108.

<sup>22</sup> Id. at 240.

<sup>23</sup> Id. at 241.

to sit on the sofa with his pants lowered to his knees. When his blindfold was removed, he saw Cornejo, Bernice Lee, Cedric Lee, and six other men.<sup>24</sup>

Still at gunpoint and while a video was being taken of him, Navarro was compelled to say, "*Ako si Vhong Navarro, ni-rape ko ang kaibigan ko.*" Cedric Lee then demanded that Navarro pay Cornejo the amount of ₱500,000.00. Navarro agreed out of fear. Thereafter, the group boarded him on a black Ford E150. While in the car, Cedric Lee increased the demand to ₱1,000,000.00 to which Navarro acquiesced. Navarro overheard them conversing that they would take him to the police precinct with no people for blotter purposes.<sup>25</sup>

At the police station, Navarro was made to sign a logbook. Cedric Lee and his companions told the police authorities that they caught Navarro on top of Cornejo. Cedric Lee again increased the amount Navarro promised to pay Cornejo to ₱2,000,000.00. Navarro refused because he could only afford the amount of ₱1,000,000.00. The group blackmailed Navarro with the video, threatening him not to complain or take actions against them. Fearing that Cedric Lee and his companions would hurt him, Navarro declined to give any statement to the police officers. Cedric Lee then instructed him to deposit the money to a bank account, the details of which were to be given the following day.<sup>26</sup>

Upon his request, the police officers brought Navarro back to Forbeswood Condominium on board their police car. They were accompanied by Fernandez and another person. On their way to the condominium, Fernandez asked for Navarro's mobile number. When Fernandez and his companion left, the police officers asked Navarro for his statements. Navarro declined out of fear, recalling Fernandez's reminder that he must deposit the money demanded from him to Cornejo's bank account so that the video and the blotter be kept in private.<sup>27</sup>

The following day, Cedric Lee sent Navarro a text message demanding that he pay Cornejo damages for the broken fixtures in her condominium unit. Cedric Lee sent the details of Cornejo's bank account threatening him, "*Pag inulit mo pa yan, di lang yan ang mangyayari sayo.*" Later that day, Cedric Lee texted him invectives and threats after learning

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<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id. at 242.

<sup>27</sup> Id.



that Navarro filed a complaint against them before the National Bureau of Investigation.<sup>28</sup>

Pending the resolution of the First Complaint, respondent filed the Second Complaint.<sup>29</sup>

The Second Complaint  
(*Rape under Article 266-A of RPC, in relation to RA 9262,  
pertaining to the January 17, 2014 incident*)

In the Second Complaint, Cornejo alleged that Navarro raped her on January 17, 2014 in her condominium unit. Notably, it is silent about the January 22, 2014 incident alleged in her First Complaint.

*Cornejo's allegations*  
[*Re: January 17, 2014 incident*]

Cornejo reiterated her allegations in her First Complaint that Navarro went to her condominium unit on January 17, 2014 bringing with him a bottle of wine.

When Navarro arrived, Cornejo proceeded to her study table and worked on her laptop while waiting for her friend to arrive. Navarro poured some wine for himself and offered her a drink which she declined. Seeing her very pre-occupied with her work, Navarro commented, "*Ano ba yan...magkikita tayo tapos trabaho ng trabaho. Hindi ka nag-eentertain ah.*"<sup>30</sup> She replied that they should wait for her friend. Navarro remarked, "*Ah talaga, akala ko tayong dalawa lang.*"<sup>31</sup>

After some time, Cornejo's friend called her saying that she could no longer join them because it was already late. Cornejo then told Navarro, "*I'm sorry but you have to go na rin. Maaga pa ako bukas, pasensya na kasi late na rin.*"<sup>32</sup> Navarro teased her saying, "*Ikaw ah, kala mo parang hindi naman kapatidtrato ko sayo. Anong feeling mo may gagawin ako sayo?*"<sup>33</sup> Cornejo asked him to leave. Navarro then tried to insist on

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<sup>28</sup> Id.

<sup>29</sup> Id. at 111.

<sup>30</sup> Id. at 540.

<sup>31</sup> Id. at 541.

<sup>32</sup> Id.

<sup>33</sup> Id.

staying longer. Cornejo dismissed his jokes about sleeping over as a playful banter. She told him, “*No, di talaga pwede.*”<sup>34</sup> Suddenly, Navarro became aggressive.<sup>35</sup>

Quoted from Cornejo’s complaint is her recollection of what transpired thereafter:

19. x x x He started becoming more aggressive and caressing my arms and my hair. I politely told him “no” and moved away from him and got my phone. I asked for help from Cedric Lee (“Cedric”) and Ferdinand Guerrero (“Ferdie”) as I was being harassed and taken advantage of and I needed help.

20. He lunged at me and managed to raise my shirt exposing my breasts and he started touching my private parts. As I was struggling to stop his advances, he managed to force his penis into my mouth. I tried my best to free myself from his clutches to no avail. x x x.

x x x x

22. He then removed his pants and inserted his penis inside my vagina. I was pleading “no”, struggling and crying, begging him to stop and pushing him as best I could. Eventually he stopped and left my unit.

23. I tried to compose myself and struggled to absorb everything that had happened. I was so shocked and disappointed at Kuya Vhong that I sent him a message saying “*bad boy ka*”. I did not know what to think. I remember being able to send a message to Tatay Ferdie saying “Someone take advantage of me” and sent another message to my friend that I was harassed or I was raped. I cannot remember exactly what I texted to my friend but it was something to that effect.

x x x x

26. I initially did not say anything about the rape on the 17<sup>th</sup> because I was very ashamed about it. I did not want everyone to know that Kuya Vhong had entered me and had forced himself upon me twice. However, after reading Kuya Vhong’s web of outright lies, even alleging that I voluntarily performed oral sex on him, I realized that I have to be strong and I have to set the record straight and say what really happened. It disgusts me that Kuya Vhong would even have the nerve to assert that I would put his penis into my mouth voluntarily.

27. I am advised that Kuya Vhong is liable for Rape under Article 266-A for the incident which took place on 17 January 2014...

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<sup>34</sup> Id.

<sup>35</sup> Id.

x x x x

30. I am further advised that Kuya Vhong is also liable under Section 5 of the Anti-Violence Against Women and Their Children Act of 2004 or RA 9262 x x x.<sup>36</sup>

Relative to Navarro's counter-allegations in his counter-affidavit to the First Complaint, Cornejo denied that the January 17, 2014 incident was consensual. She invoked her text messages crying for help, which she sent to her friends, Cedric Lee and Guerrero, during the incident.<sup>37</sup>

*The Dismissal of the First and Second Complaints*

On April 4, 2014, the DOJ panel of prosecutors issued a Consolidated Resolution<sup>38</sup> dismissing Cornejo's First Complaint against Navarro for lack of probable cause, while finding probable cause against Cornejo, Cedric Lee, Bernice Lee, Raz, Calma, Guerrero, and Fernandez for serious illegal detention and grave coercion. The panel of prosecutors disposed as follows:

WHEREFORE, the undersigned Assistant State Prosecutors respectfully recommend that:

- (1) In NPS Docket No. XVI-INV 14A-00022:

An INFORMATION for violation of Article 267 of the Revised Penal Code otherwise known as Serious Illegal Detention, be filed against respondents Deniece Millinette Cornejo, Cedric Cua Lee, Bernice Cua Lee a.k.a. Marie, Simeon Palma Raz, Jr. a.k.a. Zimmer Raz, Jose Paolo Gregorio A. Calma, Ferdinand Guerrero and Sajed Fernandez Abuhijleh a.k.a. Jed Fernandez; and;

An INFORMATION for violation of Article 286 of the Revised Penal Code or Grave Coercion, be filed against respondents Deniece Millinette Cornejo, Cedric Cua Lee, Bernice Cua Lee a.k.a. Marie, Simeon Palma Raz, Jr. a.k.a. Zimmer Raz, Jose Paolo Gregorio A. Calma, Ferdinand Guerrero and Sajed Fernandez Abuhijleh a.k.a. Jed Fernandez, while the charge for

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<sup>36</sup> Id. at 541-543.

<sup>37</sup> Id. at 541.

<sup>38</sup> Id. at 239-276. Signed by Assistant State Prosecutors Olivia L. Torrevillas, Hazel Decena-Valdez and Mari Elveri B. Herrera and approved by Senior Deputy State Prosecutor Theodore M. Villanueva, all of the Office of the City Prosecutor of Taguig City.



serious physical injuries, grave threats, and illegal arrest are already absorbed in the charge for serious illegal detention, and;

The charge for [t]hreatening to publish and offer to prevent publication for compensation against respondents Deniece Millinette Cornejo, Cedric Cua Lee, Bernice Cua Lee, Jr., Simeon Palma Raz, Jr. a.k.a. Zimmer Raz, Jose Paolo Gregorio A. Calma, Ferdinand Guerrero and Sajed Fernandez Abuhijleh a.k.a. Jed Fernandez, be DISMISSED for lack of probable cause.

- (2) In NPS Docket No. XV-16-INV-14A-00096:

The charge for rape or violation of Article 266-A [of the RPC] in relation to Section 3 (a) of R.A. 9262 against respondent Ferdinand Hipolito Navarro a.k.a. Vhong Navarro be DISMISSED for lack of probable cause.

x x x x<sup>39</sup>

In dismissing Cornejo's First Complaint against Navarro, the panel observed:

It appears from the above given scenario that there were two different charges for rape committed against complainant Cornejo on the same night, one contemplates sexual assault and the other, with carnal knowledge.

Complainant Cornejo's perfect recitation of what had transpired between her and respondent Navarro in a matter of minutes before respondent Raz, Jr. came barging into her room is extremely difficult to comprehend under the circumstances. Her narration implies that nobody heard her shouts for help from outside a condominium unit with an open door, for how can respondent Raz, Jr. enter her room, without first having to open the door of the unit.

Moreover, complainant Cornejo's narrative that she was pinned down on the bed by respondent Navarro, who had removed his short pants using his hand, and was clutching tightly and painfully pulling complainant Cornejo's hair with her other hand, while mashing her face, mouth, nose, and chin on his genitals, where Navarro even kept on pushing his genitals into her mouth and then Navarro was allegedly able to lift her underwear and expose her vagina and at that point felt his hard penis towards her private part, while she struggles with all her might, demonstrates physical improbability.

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<sup>39</sup> Id. at 109.

We find extremely difficult to comprehend how such scenario of shouting and struggling and running to the lobby of Forbeswood Heights Condominium could have escaped the ears of the people in the neighboring units in the said condominium or in the halls of the same, and how all that could have happened without causing nary a scratch on the complainant Cornejo who claims to have ran (sic) to the lobby of the hotel when she was met by respondent Bernice Lee. More so baffling, was how she could have refused to be brought to a hospital for evaluation, after she was told by the police officers of such policy in instances of rape complaints, and simply opted to have the complaint placed on a blotter report.

It is true that people react to situations differently, where one could be so insistent in filing a case against a perpetrator, another could be so forgiving, but whatever the case may be, only complainant Cornejo knows why she refused a police policy that requires victims of rape to be brought to a hospital for evaluation, considering the physical and emotional trauma she experienced. A complaint for rape may so easily be concocted to tailor fit it into any given situation and guided by the principle that a case for rape may be tried, and conviction may be had, with only the lone testimony of a credible witness, we cannot with moral certainty conclude that respondent Navarro could have committed rape against complainant Cornejo on the night that respondent Navarro was physically detained and money was demanded from him, by complainant Cornejo together with respondents Cedric Lee, Bernice Lee, Raz, Jr., Fernandez Abuhijleh, Guerrero and Calma.

Moreover, it bears to stress that complainant's acts after the incident is purely inconsistent with and hardly persuades to be the reaction of someone who had just experienced probably one of the worst days in her life. But the fact that her actuations after such a nerve-racking and tormenting experience, when she admitted still going out for dinner with her friends that include Cedric Lee, Bernice Lee and Guerrero, who went back to the unit at 3:00 in the morning of 23 January 2014, to fix her abode which she had also left minutes thereafter, is to a certain degree astonishing and incredible as it is contrary to human frailty.

x x x x

Conclusions can only be drawn from established facts. Since complainant was unable to provide us with a logical story on her alleged rape, the said case should be dismissed. So too, is the charge relative to R.A. No. 9262, considering that the said law only applies to parties who admit that prior to, during, and after, the commission of the crime or offense they had a dating relationship. Since by her own admission, complainant said that she and respondent Navarro are just friends, but that respondent Navarro had sexually abused her, as stated in both her complaint-affidavit and counter-affidavit, respondent Navarro could not have committed a violation of R.A. 9262. Because the dating relationship was not clearly established even by the

complainant herself, the said offense should not have been considered in the first place.<sup>40</sup>

On July 1, 2014, Assistant City Prosecutor Patrick Noel P. De Dios (ACP De Dios) issued a Resolution<sup>41</sup> recommending the dismissal of the Second Complaint similarly for lack of probable cause. ACP De Dios found that the sexual encounter between Cornejo and Navarro on January 17, 2014 was consensual.<sup>42</sup>

Finding incredible Cornejo's narration of rape, ACP De Dios observed as follows:

Although there may have been an initial resistance, the sexual intercourse was consensual. There is nothing to prove that [Cornejo] physically resisted [Navarro's] advances. [Cornejo] did not report the incident to the proper authorities. She has no medical certificate to show injuries obtained from fighting off [Navarro] or show the condition of her private parts after the alleged incident. If indeed [Cornejo] was raped January 17 or 18, 2014; why would she still invite [Navarro] on January 22, 2014 to her condominium?<sup>43</sup>

On July 4, 2014, the foregoing Resolution was approved by City Prosecutor Archimedes V. Manabat.

Cornejo filed a formal protest<sup>44</sup> with motion for reconsideration of the Resolution dated July 4, 2014.

Cornejo protested the dismissal of her Second Complaint averring that on July 4, 2014, her new counsel filed an entry of appearance with urgent *ex-parte* motion to withdraw the complaint. She argued that despite the entry of appearance and the withdrawal of her complaint, the Resolution dismissing her complaint was still sent to her former counsel.<sup>45</sup>

On the merits, Cornejo argued against the dismissal of her Second Complaint. She averred as follows: (1) Navarro's claim of consensual sex cannot prevail over her positive declaration that she was sexually assaulted; (2) the texts messages she sent to her friends served as

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<sup>40</sup> Id. at 268-270.

<sup>41</sup> Id. at 403-405.

<sup>42</sup> Id. at 112-113.

<sup>43</sup> Id. at 405.

<sup>44</sup> Id. at 452-460.

<sup>45</sup> Id. at 113.

additional proof that she was forced by Navarro to have sexual intercourse with him; (3) Cedric and his companions were seen smiling inside the elevator before rescuing her is irrelevant; and, (4) a rape victim such as herself need not show injuries to show resistance.<sup>46</sup>

In a Resolution<sup>47</sup> dated January 7, 2014, Cornejo's motion for reconsideration was denied.

### The Third Complaint

*(Rape and Attempted Rape pertaining to the incidents of January 17, 2014 and January 22, 2014, respectively)*

In the Third Complaint, Cornejo alleged that Navarro *(a)* raped her on January 17, 2014; and *(b)* attempted to rape her on January 22, 2014.

#### *Cornejo's allegations*

*[Re: January 17, 2014 incident]*

Cornejo reiterated that she acceded to Navarro's request to pay her a visit on January 17, 2014 at her condominium unit in Taguig City. Ensuring that she would not be alone with Navarro, Cornejo also invited her friend to go to her place. This time, Cornejo specifically named her friend, Ana Roma "Niña" F. Peña. On the agreed date, Navarro showed up with a bottle of wine. However, Cornejo politely asked him to leave when Niña called that she could not make it to her place.<sup>48</sup>

Cornejo's narration of what transpired thereafter is as follows:

15. Since [Navarro] said that he just wanted to chat a little more, I felt guilty for not entertaining him so I stayed in the living area to chat with [Navarro] before asking him to leave. [Navarro] offered me the wine he had brought and I took a sip from the glass.

16. After a short while, I once again politely asked [Navarro] to leave. [Navarro] pleaded with me to let him stay longer and even made jokes about sleeping over. I replied by saying, "*No, di talaga pwede.*" At that point, I started feeling dizzy. I felt my head is spinning and realized that I found it difficult to move. I wonder why I felt that way.

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<sup>46</sup> Id.

<sup>47</sup> Id. at 406-407.

<sup>48</sup> Id. at 412-413.

considering that I only took a sip from the glass of wine offered by [Navarro].

17. [Navarro] then started to get aggressive as he suddenly reached for me and started caressing my arms and my hair. I, who was then feeling nauseous told him, “No,” and moved away to get my mobile phone. I began to feel scared so I decided to send text messages to my friend, Cedric Lee ... to ask for help. I told him that I was being harassed.

x x x x

18. All of a sudden, [Navarro] lunged at me and tried to kiss me. I moved away and tried to escape but I found it very difficult to move. My legs started feeling numb and I could not walk nor run towards the door to escape. I started to crawl on the floor but [Navarro] followed me and led m[e] towards the bed, which was just a few feet from the couch, considering that my condominium unit was a studio-type.

19. I tried to stand up but [Navarro] pulled me to the bed saying, “*Baby, isa lang.*” [Navarro] raised my shirt and mashed my breasts while trying to kiss me on my mouth. I struggled and tried to shout but felt so weak because of the nausea and was overpowered by [Navarro]. [Navarro] then tried to remove my shorts but could not do so. But since my shorts were a bit loose on one leg, [Navarro] inserted his hand inside my shorts and started touching my private part. He inserted his fingers forcefully into my private part. I felt so much pain and tried to struggle away from [him] who was on top of me, but to no avail. Thereafter, [Navarro] pulled down his pants. With kneeling on the bed, he grabbed my head by pulling my hair, forcing me to sit while he tried to force his penis into my mouth. Still dizzy and not being able to protect myself, I cried and struggled to breathe. I could remember a foul smelling odor emanating from [Navarro’s] penis. Thereafter, [Navarro] pushed me to lie down on the bed again, inserted his penis into the loose part of my shorts and forced his penis into my vagina repeatedly while I struggled and cried. After [Navarro] had his way with me, he immediately left the condominium unit leaving me in shock as to what had just happened.<sup>49</sup> (Underscoring supplied.)

According to Cornejo, she thereafter gathered enough courage to get her mobile phone and sent a text message to her friend, Ferdinand Guerrero, saying, “*Someone take (sic) advantage of me.*”<sup>50</sup> Cornejo then received a call from her friend, Cedric Lee, who thereafter went to her unit with some friends. Cedric Lee offered to help her report the incident to the police. Cornejo refused, claiming that she was still nauseous, in a state of

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<sup>49</sup> Id. at 413-414.

<sup>50</sup> Id. at 414.



shock, confused, and just wanted to take a rest.<sup>51</sup>

*Cornejo's allegations*  
*[Re: January 22, 2014 incident]*

Cornejo averred that on January 22, 2014, respondent agreed to meet with Cedric Lee and her other friends, Raz, Bernice Lee, and Edgardo Sampana (Raz, *et al.*). They were to discuss what actions she could take against Navarro. Raz, *et al.* were with Cornejo in her condominium unit waiting for her to get dressed. Cedric Lee, on the other hand, was having dinner elsewhere with his friends.<sup>52</sup>

In her own words, Cornejo recalled as follows:

24. On 22 January 2014, Cedric Lee and [Cornejo] agreed to discuss what actions [she] could take against [Navarro]. We were to be accompanied first by friends before the discussion, so Simeon Palma Raz, Bernice Lee and Edgardo Sampana were with me in my condominium unit while I was getting dressed. Cedric Lee and his other friends, on the other hand, were having dinner elsewhere while waiting for me to get ready to be fetched.

25. All of a sudden, [Navarro] called me and said that he was in the area and that he wanted to drop by my unit to apologize for the incident on the 17<sup>th</sup> of January. I thought it was the perfect opportunity for my friends to witness [Navarro's] apology.

26. Simeon Raz, et al., left my condominium unit for a few minutes to smoke cigarettes at the fire escape. Thereafter, I went out of my unit to meet [Navarro] downstairs who texted me that he has arrived already but when I reached the elevator, I was surprised to see [Navarro] there so I just invited him inside my condo unit, so we can talk and he start explaining and apologizing to me. As soon as we reached and opened the door of my unit however, I was shocked when [Navarro] all of a sudden pushed me to the living area and immediately **pressed the entire weight of his body on top of me.**

27. Simeon Raz, et al., went back to the unit and saw [Navarro] on top of me while I was struggling to free myself. They immediately restrained [Navarro] who fought back. I went down the lobby to inform the guards but saw Cedric and his companions. I immediately told them that [Navarro] was in my unit being restrained by Simeon Palma Raz because [Navarro] **tried to rape me again.** Cedric Lee and his friends then went up to assist the others to effect a citizen's arrest. Thereafter,

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<sup>51</sup> Id.

<sup>52</sup> Id. at 415.

[Navarro] was brought by my friends to the police station where he admitted that he raped me.

x x x x

28. When the parties were at the police station, [Navarro] kept on pleading with the parties as well as the PNP officers to keep quiet about the incident and not to release any statement to the media. x x x.

x x x x

29. While the police officers were gathering information from me and my friends, the latter surrendered the items that were gathered from [Navarro] when he was struggling to prevent [his] arrest. Aside from his wallet, cellphone, and a candy tin can of sex pills, that [Navarro] himself identified as such to the Police Officers, the police officers found a small bottle of strange liquid from [Navarro], which they inquired from him, and he eventually inferred to be some sort of a “date rape drug,” or more popularly known as, “GBL” or “GHB”, used to spike drinks in order to render the victim unconscious. I then understood that the wine, which [Navarro] offered me on 17 January 2014, was spiked with that liquid drug; so that when I took a little sip, I started to feel dizzy and could hardly move.<sup>53</sup> (Emphases omitted and supplied; underscoring supplied.)

#### *Navarro’s counter-allegations*

For his part, Navarro invoked the dismissal of Cornejo’s First and Second Complaints pertaining to the alleged January 22, 2014 and January 17, 2014 incidents, respectively, for lack of probable cause.

Navarro characterized the Third Complaint as nothing but an embellished version of the previously dismissed complaints. Imputing incredibility to Cornejo’s allegations of Rape, Navarro pointed out that Cornejo was facing charges of Serious Illegal Detention and Perjury before the trial courts relating to the incidents. To Navarro, the filing of the Third Complaint was Cornejo’s vain hope to exculpate herself from liability for the criminal charges against her.<sup>54</sup>

Further, Navarro pointed out that Cornejo’s pertinent allegations in the Third Complaint were not originally found in her previous sworn statements. Navarro underscored that in her First Complaint, as well as in her verified Petition for the Issuance of a Temporary/Permanent

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<sup>53</sup> Id. at 415-417.

<sup>54</sup> Id. at 710.

Protection Order<sup>55</sup> dated January 30, 2014 in connection with JDRC Case No. 10363 (TG), Cornejo failed to allege or mention that she was raped on January 17, 2014. To Navarro, Cornejo's explanation as to why she did not mention in her First Complaint about the alleged rape incident on January 17, 2014—that she was “very ashamed about it”—is ridiculous. He pointed out that in the same affidavit, she accused him of rape committed on January 22, 2014. Navarro maintained that Cornejo voluntarily performed oral sex on him on January 17, 2012 after some talks and wine.<sup>56</sup>

Lastly, Navarro averred that Cornejo accused him of consummated Rape in the First Complaint pertaining to the January 22, 2014 incident, only to revise the accusation to Attempted Rape in the Third Complaint.<sup>57</sup>

*Cornejo's reply-affidavit on the attributed inconsistencies*

Cornejo admitted having previously filed two complaints against Navarro involving the incidents of January 17, 2014 and January 22, 2014. She averred: (a) that she signed the First Complaint dated January 29, 2014 without completely reading and fully understanding it because she was then feeling confused and traumatized; and (b) that she and her counsel tried to withdraw the Second Complaint dated February 27, 2014 in order for them to file a corrected one.<sup>58</sup>

Cornejo attributed the inconsistencies in her First and Second Complaints to a miscommunication with her former counsel, Atty. Calleja. She explained that they were so focused on their defense as regards the charges of illegal detention, perjury and coercion against her and her friends. She averred that she was in a state of panic then and was not able to read the affidavits hurriedly prepared by Atty. Calleja.<sup>59</sup>

Cornejo averred that she was only able to give a more thorough and detailed account of the January 17, 2014 and January 22, 2014 incidents in her Third Complaint when she was already out on bail and the social media bashing against her had already died down. Thus, Cornejo invoked

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<sup>55</sup> Id at. 342-354

<sup>56</sup> Id at. 710.

<sup>57</sup> Id. at 711.

<sup>58</sup> Id. at 717.

<sup>59</sup> Id.

that the Third Complaint was replete with more detailed facts and new stronger pieces of evidence sufficient to indict Navarro for Rape and Attempted Rape.<sup>60</sup>

Cornejo argued that the inconsistencies in her previous complaint-affidavits do not disprove her allegations that Navarro raped and attempted to rape her on January 17, 2014 and January 22, 2014, respectively. She maintained that the questions relating to the credibility of her allegations is a matter of evidence that should be weighed by a judge in a full-blown trial.<sup>61</sup>

According to Cornejo, the Third Complaint should be treated separately from her previous two complaints to allow the Office of the City Prosecutor to make its independent finding of probable cause—that is, one free from the influence of the previous Resolutions dismissing her previous complaints.<sup>62</sup>

#### *The Prosecutor's Dismissal of the Third Complaint*

On September 6, 2017, Prosecutor General Severino H. Gaña, Jr. (Prosecutor Gaña) issued a Review Resolution<sup>63</sup> dismissing the complaints for Rape and Attempted Rape against Navarro for want of probable cause:

WHEREFORE, in view of the foregoing, the complaints for rape and attempted rape against respondent are hereby DISMISSED for want of probable cause.<sup>64</sup>

Prosecutor Gaña found the need to scrutinize the contents of Cornejo's two previous complaints *vis-à-vis* her allegations in her Third Complaint, emphasizing that all complaints pertain to the same incidents. Ascribing serious incredibility to Cornejo's allegations, Prosecutor Gaña underscored as follows:

In the instant case, however, complainant – the storyteller – suffers from a very serious credibility issue for the following reasons:

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<sup>60</sup> Id. at 580.

<sup>61</sup> Id. at 583.

<sup>62</sup> Id.

<sup>63</sup> Id. at 706-729.

<sup>64</sup> Id. at 729.

1) She executed three (3) separate Complaints-Affidavits concerning the same incidents, and changed her story each time. [C]omplainant's story about the incident on January 17, 2014 changed from no rape (or anything amorous for that matter) happening (first Complaint-Affidavit), to rape being committed by force (second Complaint-Affidavit), and finally to rape being committed by rendering her dizzy and weak due to a date rape drug-laced wine (third Complaint-Affidavit). On the other hand, complainant's story about the incident on January 22, 2014 (sic) started from rape being committed by force (first Complaint-Affidavit), to absolutely having no mention about any incident (second Complaint-Affidavit), until the events morphed into a mere attempt to rape her (second [sic] Complaint-Affidavit).

2) Her latest statement – the Complaint-Affidavit in this case – which narrates the incidents that transpired on January 17, 2014 and January 22, 2014 contains a lot more details than the previous ones which were executed closer to the incidents in question (first Complaint-Affidavit on January 29, 2014 and second Complaint-Affidavit on February 27, 2014). Common human experience dictates that a narration given close to the incident usually contains more details than one that is given later. This is because in the former, the events or details are still fresh in the narrator's mind, while the passage of time will make a person forget details.

3) Complainant's actuations after the supposed rape incident on January 22, 2014 as disclosed by the CCTV footages are inconsistent with the actuations and demeanor of a person who has just been violated. For instance, while complainant alleges that after her friends caught respondent on top of her, she immediately went down from her condominium unit in order to report the incident to the guards, she did not actually do this. Instead, she says that she met Cedric on his way up to her condominium unit and reported to him instead. As a matter of fact, there is no evidence to show that complainant ever reported to the security guards of the condominium that respondent attempted to rape her. Also, how come Cedric Lee was kissing complainant in the elevator after they had brought respondent to the police station?

It is also mind-boggling why complainant had to spend the night at another friend's house (whose name she never mentioned) and not with one of those close friends (with Bernice Lee perhaps) who were with her on the night of January 22, 2014 and knew about her supposed ordeal.

4) Complainant's explanation as to the major inconsistencies among her Complaint-Affidavits does not hold water. Indeed, we cannot fathom complainant's reasoning that she was embarrassed to report that respondent raped her on January 17, 2014 and yet she did



not feel the same way in reporting that respondent also raped on January 22, 2014.<sup>65</sup>

Relative to the two previous complaints, Prosecutor Gaña found “no sufficient and convincing new or additional evidence” adduced by Cornejo in her Third Complaint. He underscored that at least three investigations had already been conducted passing upon Cornejo’s story and finding it to be questionable. *First*, the three-member DOJ investigating panel dismissed respondent’s First Complaint and, instead, filed Informations for Serious Illegal Detention and Grave Coercion against Cornejo and her friends; *second*, the OCP Taguig found her allegations in her Second Complaint incredible; and *third*, the OCP Manila filed a criminal Information for Perjury against respondent pertaining to the same incidents.<sup>66</sup>

Feeling aggrieved, Cornejo filed a Petition for Review<sup>67</sup> with the DOJ.

#### *The Ruling of the DOJ*

In the Resolution<sup>68</sup> dated April 30, 2018, the DOJ denied Cornejo’s petition for review.

The DOJ found it unwise to ignore the previous dismissals of Cornejo’s complaints and the factual findings in support thereof, pointing out that much time, effort, and resources had been spent therefor. It thus characterized Prosecutor Gaña’s evaluation of the inconsistencies in Cornejo’s allegations in her three complaints as a mark of prudence. It underscored that the filing of complaints for preliminary investigation is not a hit-or-miss endeavor where Cornejo could file complaints one after another until she gets the desired results.<sup>69</sup>

In the Resolution dated July 14, 2020, the DOJ denied Cornejo’s motion for reconsideration.

Cornejo then elevated the case to the CA *via* a petition for

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<sup>65</sup> Id. at 727-728.

<sup>66</sup> Id. at 728.

<sup>67</sup> Id. at 730-775.

<sup>68</sup> Id. at 1176-1195.

<sup>69</sup> Id. at 1180-1183.

*certiorari*.<sup>70</sup> Ascribing grave abuse of discretion amounting to lack or excess of jurisdiction to the DOJ, Cornejo argued that it deviated from the jurisprudential parameters of probable cause. Cornejo invoked that “when a woman says she has been raped, she is saying, in effect, all that is necessary to show that rape has indeed been committed.”<sup>71</sup>

Navarro, on the other hand, argued that Cornejo’s petition for *certiorari* should be dismissed for being the wrong remedy to question the DOJ’s ruling. He asserted that Cornejo should have first filed an appeal or petition for review before the Office of the President. On substance, Navarro maintained that Cornejo’s narration of events is inherently implausible and inconsistent with human nature, and the falsity of her accusations is very apparent based on the allegations in her three complaint-affidavits.<sup>72</sup>

Meanwhile, Branch 74 of the Metropolitan Trial Court (MeTC) of Taguig City rendered a Judgment<sup>73</sup> dated July 27, 2018 in Criminal Case No. 26741 finding Cornejo, Cedric Lee and Fernandez guilty beyond reasonable doubt of Grave Coercion relating to the January 22, 2014 incident. On July 31, 2019, Branch 266 of the Regional Trial Court (RTC) of Taguig City rendered a Judgment<sup>74</sup> denying the appeal of Cornejo and Cedric Lee from the MeTC Judgment, while acquitting Fernandez.

### *The Ruling of the CA*

On July 21, 2022, the CA issued the assailed Decision granting Cornejo’s petition for *certiorari*. It disposed:

WHEREFORE, the petition is GRANTED. The Resolutions promulgated on April 30, 2018 and July 14, 2020 of the Department of Justice in NPS Docket No. XVI-INV-16E-00174 and XVI-INV-15J00815 are hereby REVERSED AND SET ASIDE. The Office of the City Prosecutor of Taguig City is thus DIRECTED to file Informations against Ferdinand “Vhong” H. Navarro for: (1) Rape by Sexual Intercourse under Article 266-A (1) of the Revised Penal Code, as amended by Republic Act No. 8353; and (2) Acts of Lasciviousness under Article 336 of the Revised Penal Code.

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<sup>70</sup> Filed under Rule 65 of the Rules of Court.

<sup>71</sup> *Rollo*, pp. 120-121.

<sup>72</sup> *Id.* at 1183-1184.

<sup>73</sup> *Id.* at 2646-2705. Penned by Presiding Judge Bernard Pineda Bernal.

<sup>74</sup> *Id.* at 2706-2732. Penned by Presiding Judge Marivic C. Vitor.

SO ORDERED.<sup>75</sup>

*First*, the CA ruled that it has jurisdiction to review the resolution issued by the DOJ through a petition for *certiorari* under Rule 65 of the Rules of Court, *i.e.*, to determine whether the DOJ committed grave abuse of discretion amounting to excess or lack of jurisdiction in issuing its Resolutions sustaining the lack of probable cause against Navarro for the crimes of rape and attempted rape under the Third Complaint. The CA held that the Third Complaint sufficiently alleged all the elements of rape by sexual intercourse under paragraph 1 of Article 266-A of the RPC, as amended.<sup>76</sup>

*Second*, the CA faulted the DOJ with error in denying Cornejo's petition for review on the ground that her statements in the complaint-affidavits are inconsistent and incredible. For the CA, the determination of probable cause does not depend on the validity or merits of a party's accusation or defense, or on the admissibility or veracity of testimonies presented. It added that issues relating to credibility should be adjudged during the trial proper.<sup>77</sup> The CA underscored:

Issues of credibility should be adjudged during the trial proper. It goes without saying that *it is the trial court that has the unique power and position to observe the witnesses' deportment, manner of testifying, emphasis, gesture, and inflection of the voice, all of which are potent aids in ascertaining the witness' credibility.* There is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. *However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony.*

X X X X

Ultimately, it falls upon the trial court to determine who between Navarro and Cornejo speaks the truth. Cornejo decries attempted rape on the night of January 22, 2014 while Navarro denies any wrongdoing on his part. We reiterate once more that the preliminary investigation is not the proper venue to rule on the respondent's guilt or innocence. Likewise, whether the other pieces of documentary or electronic evidence presented at the preliminary

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<sup>75</sup> Id. at 127.

<sup>76</sup> Id. at 121-122.

<sup>77</sup> Id. at 118-120.



investigation level is enough to impeach the credibility of the alleged rape victim so as to exculpate the respondent of the crime imputed against him is a matter best left to the scrutiny of the trial court.

Finally, it must be borne in mind that the admissibility or inadmissibility of the parties' evidence should be ventilated before the trial court during the trial proper and not in the preliminary investigation. There need not be an inquiry into whether there is sufficient evidence to procure a conviction. *What is merely required is probability of guilt, the determination of which does not call for the application of rules or standards of proof that a judgment of conviction requires after trial on the merits.* It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge.<sup>78</sup> (Italics supplied.)

Accordingly, the CA directed the OCP Taguig to file Informations against Navarro for: (a) Rape by Sexual Intercourse under paragraph 1, Article 266-A of the RPC, as amended by RA 8353, relative to the January 17, 2014 incident; and, (b) Acts of Lasciviousness under Article 336 of the RPC, pertaining to the January 22, 2014 incident.

As regards the January 22, 2014 incident, the CA directed the filing of Information for Acts of Lasciviousness instead of Attempted Rape. It underscored that in the Third Complaint, Cornejo merely alleged that Navarro "*pushed her into the living area and pressed his entire weight on her body*" before her friends timely arrived to save her from another horrific ordeal without proof or allegation that Navarro's erectile penis was in the position to penetrate her vagina.<sup>79</sup>

In the Resolution<sup>80</sup> dated September 20, 2022, the CA denied Navarro's motion for reconsideration.

Hence, the petition praying that the assailed Decision dated July 21, 2022 and the Resolution dated September 20, 2022 of the CA be reversed and set aside and that the Resolutions dated April 30, 2018 and July 14, 2020 of the DOJ finding lack of probable cause against Navarro be reinstated.<sup>81</sup>

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<sup>78</sup> Id. at 126-127.

<sup>79</sup> Id. at 126.

<sup>80</sup> Id. at 130-136.

<sup>81</sup> Id. at 85-86.



In accordance with the pronouncements of the CA, the OCP Taguig filed the subject Informations against Navarro on August 31, 2022. The cases were raffled to Branch 116, MeTC, Taguig City (MeTC Br. 116)<sup>82</sup> for the crime of Acts of Lasciviousness on September 5, 2022; and to Branch 69, RTC, Taguig City (RTC Br. 69) for the crime of Rape on September 8, 2022.

In support of his application for injunctive reliefs before the Court, Navarro prays for the issuance of a writ of preliminary injunction seeking to *enjoin* both the MeTC Br. 16 and the RTC Br. 69 *from proceeding* with the cases for rape and acts of lasciviousness, respectively; and the DOJ and the OCP Taguig *from further prosecuting* the cases.”<sup>83</sup>

On November 21, 2022, Cornejo, through her counsel, filed her Comment on the petition.

On the basis of the parties’ submissions, the Court deems the case ready for resolution.

#### *The Issue*

The case rests upon the resolution of the core issue: whether the CA erred in finding that the DOJ committed grave abuse of discretion in sustaining the findings of Prosecutor Gaña (hereinafter, “the prosecutor”) and dismissing the Third Complaint against Navarro for lack of probable cause.

#### *Ruling of the Court*

The petition is impressed with merit.

The CA erred in finding that the DOJ committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the Third Complaint for rape and attempted rape against Navarro for lack of probable cause.

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<sup>82</sup> Id. at 85-86.

<sup>83</sup> In a Resolution dated September 23, 2022, Presiding Judge Angela Francesca M. Din voluntarily inhibited herself from further handling the case; id. at 2985-2997.



*Judicial Policy of Non-interference in  
the Prosecutorial Prerogative of  
Determining Probable Cause*

The determination of probable cause during preliminary investigation for the purpose of filing an information in court is a function that belongs to the public prosecutor, who directs and controls the prosecution of all criminal actions commenced by a complaint.<sup>84</sup> It is *executive* in nature, the correctness of which is a matter that the courts *ordinarily* do not, and may not be compelled to, pass upon.<sup>85</sup>

By reason of the executive nature of this prosecutorial prerogative, courts cannot compel the prosecution of a person against whom the public prosecutor has found no sufficient evidence to establish probable cause for indictment.<sup>86</sup> Courts cannot substitute their own judgment for that which is fundamentally in the domain of the Executive branch.<sup>87</sup> In the same vein, an accused may not be permitted to file a motion with the trial court for the quashal or dismissal of the indictment on the ground that the evidence upon which it is based is inadequate.<sup>88</sup> Put simply, whether the evidence would rise or fall on its face is the sole prerogative of the public prosecutor to assess.

This *judicial policy of non-interference* is anchored on the inherently factual nature of the prosecutor's determination of probable cause, requiring the examination of the "existence of such facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he [or she] was prosecuted."<sup>89</sup> Armed with the power to investigate, prosecuting officers are in a better position to assess the strength and weakness of the evidence on hand for purposes of filing the corresponding information in court. Necessary deference by the reviewing courts to the factual findings of the prosecutorial bodies serves a practical, if not paramount, purpose.<sup>90</sup> Otherwise, the courts will be grievously swamped with numerous petitions compelling them to review the prosecutor's exercise of discretion relating to the dismissal of

<sup>84</sup> *Rural Bank of Mabitac, Laguna, Inc. v. Canon*, 834 Phil. 346, 365 (2018), citing *Aguilar v. Department of Justice*, 717 Phil. 789, 798 (2013).

<sup>85</sup> *Id.*

<sup>86</sup> *Hasegawa v. Giron*, 716 Phil. 364, 373 (2013).

<sup>87</sup> *Aguirre v. Secretary of the Department of Justice*, 571 Phil. 138 (2008).

<sup>88</sup> *Roberts, Jr. v. CA*, 324 Phil. 568, 621 (1996).

<sup>89</sup> *Jalandoni v. Ombudsman*, G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, May 10, 2021, citing *Diachaves v. Ombudsman*, 802 Phil. 564, 589-590 (2016).

<sup>90</sup> *Republic v. Desierto*, 541 Phil. 57, 67-68 (2007).

a complaint filed by a private complainant or to the filing of related information in court.<sup>91</sup>

While the determination of probable cause in preliminary investigations is a prosecutorial prerogative, judicial intrusion is justified when the exercise of such authority is tainted with grave abuse of discretion amounting to lack or excess of jurisdiction. This *exception* on the judicial policy of non-interference applies when it is shown that the prosecutor exercised his or her power in an “arbitrary and despotic manner by reason of passion or personal hostility; and it must be so patent and gross as to amount to an evasion or to a unilateral refusal to perform the duty enjoined or to act in contemplation of law.”<sup>92</sup>

Hence, the primordial question in the case—whether the DOJ gravely abused its discretion in sustaining the prosecutor’s finding of lack of probable cause against Navarro for both rape and attempted rape.

The CA ruled that the DOJ erred in denying Cornejo’s petition for review on the ground that her statements in her three complaints are inconsistent and incredible. Citing *Hasegawa v. Gairon*,<sup>93</sup> the CA concluded that the DOJ deviated from the jurisprudential parameters of probable cause, i.e., that the DOJ already touched on the validity or merits of her accusation, as well as Navarro’s defense, and on the admissibility or veracity of the testimonies presented. From this premise, the CA underscored that issues of credibility should be adjudged during trial subject to the judge’s “unique power and position to observe the witnesses’ deportment, manner of testifying, emphasis, gesture, and inflection of the voice, all of which are potent aids in ascertaining the witness’ credibility.”<sup>94</sup>

The foregoing ratiocination of the CA begs the following questions:

*First.* Within the sphere of the quantum of probability, what matters or evidence may be passed upon and evaluated by the prosecutors during preliminary investigations to convince themselves to file the corresponding Informations in court?

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<sup>91</sup> Id.

<sup>92</sup> *Elma v. Jacobi*, 689 Phil. 307 (2012).

<sup>93</sup> 716 Phil. 364 (2013).

<sup>94</sup> *Rollo*, p. 125.

*Second.* When confronted with inconsistencies in the allegations of a complaint, deficient and unclear recollections of the complainant, *etc.*, are the prosecutors precluded from making findings thereon on the premise that they would already relate to an assessment of the complainant's credibility, which should be adjudged in a full-blown trial as suggested by the CA?

*Third.* Would such evaluation, necessarily touching on credibility, set the standards too high as would amount to a deviation of the jurisprudential parameters of probability of the commission of the crime by the potential accused in a complaint?

The Court clarifies the legal yardsticks in preliminary investigations particularly relating to the authority of the prosecutors to assess the veracity of the accusations in a complaint which necessarily touches on the credibility of the complainant's allegations.

As underscored in the following discussion, the CA erred in holding that the DOJ deviated from the jurisprudential parameters of probable cause.

*Prosecutors are duty-bound to make a realistic judicial appraisal of the merits of the case during preliminary investigation.*

In *Duterte v. Sandiganbayan*,<sup>95</sup> the Court pointed out the two-fold purpose of a preliminary investigation: *first*, the paramount purpose "to secure the innocent against hasty, malicious and oppressive prosecution and to protect him from an open and public accusation of a crime, from the trouble, expenses and anxiety of a public trial;"<sup>96</sup> and *second*, the practical purpose "to protect the state from having to conduct useless and expensive trials."<sup>97</sup>

Designed to screen cases for trial, a preliminary investigation, albeit summary in nature, must be conducted in a scrupulous manner "to prevent material damage to a potential accused's constitutional right of liberty and

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<sup>95</sup> 352 Phil. 557 (1998).

<sup>96</sup> *Id.* at 576, citing *Rodis, Sr. v. Sandiganbayan*, 248 Phil. 854, 859 (1988) and *People v. Pocularan*, 249 Phil. 173, 189 (1988).

<sup>97</sup> *Id.*, citing *Tandoc v. Resultan*, 256 Phil. 485 (1989).

the guarantees of freedom and fair play.”<sup>98</sup> It is not a casual affair.<sup>99</sup> This crucial sieve in the criminal justice system “spells for an individual the difference between months if not years of agonizing trial and possibly jail term, on the one hand, and peace of mind and liberty, on the other.”<sup>100</sup> Factors such as the gravity of the crime charged and the resulting deprivation of liberty during the pendency of the case, necessitate careful and deliberate evaluation of evidence by the prosecutor to determine the existence of probable cause before filing the information in court.<sup>101</sup> In other words—

[I]t is not enough that the preliminary investigation is conducted in the sense of making sure that a transgressor shall not escape with impunity. A preliminary investigation serves not only the purposes of the State. More important, it is a part of the *guarantee of freedom and fair play* which are the birthrights of all who live in our country. It is therefore imperative upon the fiscal or the judge, as the case may be, to relieve the accused from the pain of going through a trial once it is ascertained that x x x **no probable cause exists to form a sufficient belief as to the guilt of the accused.** Although there is no general formula or fixed rule for the determination of probable cause since the same must be decided in the light of the conditions obtaining in given situations and its existence depends to a large degree upon the finding or opinion of the judge conducting the examination, *such a finding should not disregard the facts before the judge nor run counter to the clear dictates of reason.*<sup>102</sup> (Italics in the original and supplied; emphases supplied.)

Probable cause is defined as “the existence of such facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he [or she] was prosecuted.”<sup>103</sup> A finding of probable cause requires “enough reason to believe that [the imputed crime] was committed by the accused.”<sup>104</sup>

In *Sales v. Sandiganbayan*,<sup>105</sup> the Court characterized a preliminary

<sup>98</sup> *Hon. Drilon v. CA*, 327 Phil. 916, 923 (1996), citing *Webb v. Hon. De Leon*, 317 Phil. 758, 803 (1995) and *Salonga v. Hon. Paño*, 219 Phil. 402, 428 (1985).

<sup>99</sup> *Sales v. Sandiganbayan*, 421 Phil. 176, 187 (2001).

<sup>100</sup> *Ang-Abaya v. Ang*, 593 Phil. 530, 546 (2008).

<sup>101</sup> *Bernardo v. Mendoza*, 179 Phil. 179, 184 (1979).

<sup>102</sup> *Sales v. Sandiganbayan*, 421 Phil. 176, 188 (2001), citing Herrera, O.M., *Remedial Law, Vol. IV*, 2001 ed., p. 231, further citing *La Chemise Lacoste S.A. v. Fernandez*, 214 Phil 332 (1984) and *Ortiz v. Palaypon*, 304 Phil. 554 (1994).

<sup>103</sup> *Joson v. Office of the Ombudsman*, 784 Phil. 172, 185 (2017).

<sup>104</sup> *Arroyo v. Sandiganbayan Fifth Division*, G.R. No. 210488, January 27, 2020, citing *Ganaden v. Ombudsman*, 665 Phil. 224, 230 (2011).

<sup>105</sup> 421 Phil. 176 (2001).

investigation as effectively “a realistic judicial appraisal of the merits of the case”:<sup>106</sup>

Although a *preliminary investigation* is not a trial and is not intended to usurp the function of the trial court, *it is not a casual affair*. The officer conducting the same investigates or inquires into the facts concerning the commission of the crime with the end in view of determining whether or not an information may be prepared against the accused. Indeed, *preliminary investigation is in effect a realistic judicial appraisal of the merits of the case*. Sufficient proof of the guilt of the accused must be adduced so that when the case is tried, the trial court may not be bound as a matter of law to order an acquittal. A preliminary investigation has been called a judicial inquiry. It is a judicial proceeding. An act becomes a judicial proceeding when there is an opportunity to be heard and for the production of and weighing of evidence, and a decision is rendered thereon.

The authority of a prosecutor or investigating officer duly empowered to preside or to conduct a preliminary investigation is no less than a municipal judge or even a regional trial court judge. While the investigating officer, strictly speaking, is not a “judge” by the nature of his functions, he is and must be considered to be a quasi-judicial officer because a preliminary investigation is considered a judicial proceeding. *A preliminary investigation should therefore be scrupulously conducted so that the constitutional right to liberty of a potential accused can be protected from any material damage.*<sup>107</sup> (Italics and underscoring supplied.)

In the case, the Court finds that the prosecutor’s findings of lack of probable cause against Navarro for the imputed crimes proceed from an adherence to the foregoing legal yardsticks, thus negating grave abuse of discretion on the part of the DOJ in denying Cornejo’s petition for review. The prosecutor’s findings appear to have been arrived at objectively. The prosecutor carefully, exhaustively, and deliberately evaluated the evidence on hand and the circumstances attending the case:

In summary, [Cornejo’s] allegations with respect to the January 17, 2014 incident vis-à-vis her allegations in the [Third Complaint] are as follows:

a. In her first Complaint-Affidavit dated January 29, 2014: [Navarro] went to her condominium in the evening of this date, bringing with him a bottle of wine; [Navarro] offered her to drink but she declined; she barely entertained [Navarro] since she was busy on

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<sup>106</sup> Id. at 187.

<sup>107</sup> Id. at 187-188. Citations omitted.

her laptop computer; after her friend called that she cannot make it to her condominium anymore, **she asked [Navarro] to leave, and he did.**

b. In her second Complaint-Affidavit dated February 27, 2014: The same events as narrated above, **but instead of [Navarro] leaving [Cornejo's] condominium after she asked him to**, she now says that after she asked [Navarro] to leave, he became aggressive and started caressing her arms and hair. Then, she adds that she moved away from him and got her phone and sent text messages to her friends asking for help. **[Navarro] lunged at her and started touching her private parts. Despite her struggles, [Navarro] managed to force his penis into her mouth, and thereafter removed his pants and inserted his penis into her vagina.** x x x.

On the other hand, below is a summary of [Cornejo's] previous narrations with respect to the January 22, 2014 incident:

a. In her first Complaint-Affidavit dated January 29, 2014: [Cornejo] says that [Navarro] again paid her a visit at her condominium unit, this time with some food. After she declined [his] advances, [Navarro] pulled her by her hair, dragged her towards the sofa and tried to get on top of her. She was able to run to the bedroom but [Navarro] followed and pin her down to the bed, went completely on top of her with his full weight, and mashed her entire face against his genitals. Unable to unzip her shorts, [Navarro] lifted one leg of her shorts, pulled at (sic) her underwear and forced his hard penis towards her private part. Suddenly, her friends arrived and freed her from [Navarro's] weight. She ran to her female friend who took her to the poolside to console her as she was crying, inconsolable and hysterical.

b. In her second Complaint-Affidavit dated February 27, 2014: **No mention was made about any incident that happened on January 22, 2014.**

Based on the foregoing, **it is right away apparent that: (1) [Cornejo's] story about the incident on January 17, 2014 changed from no rape being committed against her by [Navarro] [under the First Complaint], to being raped [in the Second Complaint], and finally to being drugged and eventually raped [under the Third Complaint]; (2) [Cornejo's] story about the incident on January 22, 2014 changed from [Navarro] actually raping her [under the First Complaint], to making no mention about the incident on the said day [under the Second Complaint], to [Navarro] merely attempting to rape her [under the Third Complaint].**

We likewise notice right away that [Cornejo's] third and latest Complaint-Affidavit contains more details than the first two (2) that she executed closer to the incidents in question. Some of the additional details or allegations not found in the first two (2) Complaint-Affidavits [are] the following:



x x x x

ii. That [Cornejo] took a sip from the glass of wine that [Navarro] offered her. This is direct opposite [to] her allegations in the first two (2) Complaint-Affidavits that she declined the wine [Navarro] offered her since she was not a drinker. **This allegation entirely changed [Cornejo's] story about what happened on January 17, 2014 as it became the 'basis' for her narration that she became dizzy, felt her head spinning, and had a hard time moving after she sipped the wine that respondent brought that night.**

iii. That during the incident on January 17, 2014, she struggled and tried to escape from [Navarro] by crawling on the floor but [Navarro] pulled her towards the bed, raised her shirt, mashed her breasts and tried to kiss her on her mouth.

iv. After [Navarro] succeeded in forcing his penis [into] her mouth, she smelled something foul smelling "emanate" from [his] penis.

v. During the investigation at the police station after the incident on January 22, 2014, [Cornejo's] friends surrendered to the police [Navarro's] personal belongings consisting of his wallet, cellphone, and **sex pills in a candy tin can.**

vi. Likewise during the investigation on January 22, 2014, the police investigators found a small bottle of strange liquid from [Navarro] x x x 'inferred' to a 'date rape drug', more particularly known as 'GBL' or 'GHB', used to spike drinks to render a person unconscious.

x x x x

viii. On January 22, 2014, [Cornejo] and her friend Cedric Lee agreed to discuss actions that she could take against [Navarro]. Before she could meet with Cedric, and while their friends Simeon Palma Raz, Bernice Lee and Edgardo Sampana were fetching her from her condominium, [Navarro] called up wanting to drop by to apologize for what happened on January 17, 2014.

Aside from these additional details, the following are some glaring **contradictions/inconsistencies** in her three (3) Complaints-Affidavits, to wit:

x x x x

ii. Among her three (3) Complaints-Affidavits as to whether or not she was indeed raped on January 1[7], 2014: she claims in her first Complaint-Affidavit that nothing happened between her and [Navarro] because [he] left after she politely asked him to when her friend called up that she was no longer coming to her condominium unit to hang out. In her second Complaint-Affidavit, [Cornejo] says that [Navarro] raped

her after she asked him to leave when her friend called up that she was no longer coming. In her third Complaint-Affidavit, [Cornejo] alleges that [Navarro] raped her after she became dizzy, nauseous, and weak with the wine that she sipped.

iii. Between [Cornejo's] first and second Complaints-Affidavits and her third Complaint-Affidavit, as to whether or not she sipped the wine brought and offered to her by [Navarro]: under the former, [Cornejo] says that [Navarro] offered her wine but she refused as she is not a drinker, while under the latter, [she] claims that she did sip of the wine which [Navarro] offered her.<sup>108</sup> (Emphases and underscoring in the original and supplied.)

The inconsistencies pointed out by the prosecutor are illustrated as follows:<sup>109</sup>

Alleged Incidents	First Complaint dated January 29, 2014	Second Complaint dated February 27, 2014	Third Complaint dated October 16, 2015
<b>January 17, 2014</b>	<p><u>No allegations of Rape</u></p> <p>When Navarro arrived, Cornejo proceeded to her study table and worked on her laptop.</p> <p>Navarro poured some wine for himself and offered her a drink. She respectfully declined, telling him that they should wait for her friend.</p> <p>When her friend called that she could no longer make it to her place, Cornejo told Navarro to leave.</p>	<p><u>Allegations of Rape</u></p> <p>When Navarro arrived, Cornejo proceeded to her study table and worked on her laptop.</p> <p>Navarro poured some wine for himself and offered her a drink which she declined.</p> <p>After some time, Cornejo's friend called saying that she could no longer join them. Cornejo then asked Navarro to leave.</p>	<p><u>Allegations of Rape</u></p> <p>Feeling a little guilty for not entertaining Navarro, Cornejo stayed in the living area to chat with him before asking him again to leave. She took a sip from the glass of wine he offered. After a while, she felt dizzy and found it difficult to move.</p> <p>Suddenly, he lunged at her and started kissing her. She tried to escape but her legs were numb that she could</p>

<sup>108</sup> Id. at 717-721.

<sup>109</sup> See First Complaint dated January 29, 2014, id. at 530-533; Second Complaint dated February 27, 2014, id. at 540-543; Third Complaint dated October 16, 2015, id. at 413-416.

	<p>Cornejo dismissed his jokes about sleeping over as a playful banter and told him to leave. <u>Navarro conceded and left her unit.</u></p>	<p>Navarro tried to insist on staying longer. When Cornejo dismissed his jokes about sleeping over, <u>he became aggressive.</u></p> <p>Navarro then lunged at her. As she was struggling to stop his advances, he managed to force his penis into her mouth. She tried her best to free herself from his clutches but to no avail.</p> <p>Navarro removed his pants and inserted his penis into her vagina.</p> <p>She pushed him away, <u>struggling, crying and pleading him to stop.</u> Eventually he stopped and left his unit.</p>	<p>barely run or walk. She crawled, but petitioner pulled her towards the bed.</p> <p><u>Feeling nauseous and weak,</u> Navarro overpowered her resistance.</p> <p>Navarro inserted his hand inside her shorts and succeeded to touch, and later on, forcefully insert, his finger into her private part. Navarro then pulled down his pants and forced his penis into her mouth while she was crying and struggling to breathe until something foul smelling came out from his penis.</p> <p>Thereafter, he pushed Cornejo to the bed again and inserted his penis into the loose part of her shorts and repeatedly forced it into her vagina as she struggled and cried. Thereafter, Navarro immediately left her condominium unit.</p>
Alleged Incidents	<b>First Complaint</b> dated January 29, 2014	<b>Second Complaint</b> dated February 27, 2014	<b>Third Complaint</b> dated October 16, 2015
<b>January 22, 2014</b>	<u>Allegations of Rape</u>  Over the next few days, Navarro and Cornejo continued exchanging messages	<u>No Allegations of Rape</u>	<u>Allegations of Attempted Rape</u>  Cornejo averred that on January 22, 2014, she <u>agreed to meet with Cedric Lee</u>

<p>via text and Viber. At around 8 o'clock to 9 o'clock in the evening of January 22, 2014, Navarro called her asking, "<i>Pwede ba akong dumaan diyan? May dala kasi akong food eh.</i>" Cornejo agreed and told the lobby guard that he was an expected visitor.</p> <p>While she was busy in the kitchen, Navarro started joking around and began stroking her hair and back.</p> <p>Feeling uneasy and uncomfortable, she told him to stop. Irritated, Navarro brusquely pulled her hair, dragged her towards the sofa, and tried to lay on top of her. Having <u>managed to free herself from his clasps by kicking him and flailing around</u>, Cornejo ran towards her bedroom to get her phone. Before she could grab her phone, Navarro caught up with her. He then pinned her down to the bed and kissed her, while <u>she kept on kicking, shouting, and trying to free herself from him.</u></p> <p>Navarro then pushed Cornejo's head towards his genitals. <u>She tried to resist, but the hair-pulling was so painful that she could</u></p>		<p><u>and her friends (Raz, et al.).</u> They were to discuss what actions she could take against Navarro.</p> <p><u>Raz, et al. were with her in her condominium unit waiting for her to get dressed.</u> Cedric Lee, on the other hand, was having dinner elsewhere with his friends.</p> <p>While dressing up, Navarro called her and said that he was just in the area, and that he wanted to drop by her unit to apologize about the January 17, 2014 incident. Cornejo thought it was a perfect opportunity for her friends to witness his apology.</p> <p>Cornejo then went out of her condominium unit to meet Navarro, while Raz, et al. also went out to smoke cigarettes at the fire escape.</p> <p>As soon as Navarro and Cornejo reached the door of her unit, Navarro "<u>all of a sudden pushed her to the living area and immediately pressed the entire weight of his body on top of her.</u>"</p>
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	<p><u>feel her scalp being pulled out from her head.</u> Pressing his entire weight over her while pulling her hair, Navarro succeeded in mashing her face, mouth, nose, and chin into his genitals, despite her cries, “<i>No, huwag po.</i>”</p> <p>Navarro proceeded to unzip Cornejo’s shorts with the obvious intention of inserting his penis into her private part.</p> <p>Cornejo felt Navarro’s hard penis already touching her private part as she continued to push him away. Navarro forced his hard penis into her vagina, while she continuously struggled. <u>Cornejo tried with all her might to shout and call for help.</u></p> <p>Cornejo averred that <u>it was only by a miracle that miracle that friends appeared to her rescue.</u></p>		<p>Meanwhile, Raz, <i>et al.</i> went back to Cornejo’s unit and saw Navarro on top of her while she struggled to free herself. They restrained Navarro and effected a citizen’s arrest upon him.</p>
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As regards the incident of January 17, 2014, Cornejo alleged in her First Complaint that nothing happened between her and Navarro. This is contrary to her allegations in her Second and Third Complaints that Navarro raped her. In her First and Second Complaints, Cornejo maintained that she did not take a sip from the glass of wine offered by Navarro, which she contradicted in her Third Complaint.

Notably, Cornejo changed her theory. *First*, she alleged that she was

not raped in the evening of January 17, 2014. *Second*, she averred that Navarro raped her and “she was struggling to stop his advances,” but he still “managed to force his penis into [her] mouth. She “tried [her] best to free [herself] from his clutches to no avail.”<sup>110</sup> This theory suggests overt physical altercation between Navarro and Cornejo. *Third*, she stated that Navarro raped her and she tried to resist, but she became dizzy, felt her head spinning and had a hard time moving. She then wondered “why [she] felt that way, considering that [she] only took a sip from the glass of wine offered by [Navarro].<sup>111</sup>

The question whether Cornejo took a sip of wine from the glass offered by Navarro cannot be simply ignored. Indeed, the lack of physical injuries notwithstanding Cornejo’s purported overt physical resistance against Navarro’s advances is conveniently explained or justified by her new allegation in her Third Complaint that she felt dizzy and nauseous. From this new allegation, she inferred that the wine she sipped was mixed with a “date rape” substance used to spike drinks to render a person unconscious.<sup>112</sup>

Anent the incident of January 22, 2014, Cornejo recalled in her First Complaint that she was raped by Navarro, but she failed to allege it in her Second Complaint. In her Third Complaint, she again changed her theory and averred that Navarro merely attempted to rape her, “*that [Navarro] all of a sudden pushed [her] to the living area and immediately pressed the entire weight of his body on top of [her].*”<sup>113</sup>

In her First Complaint, Cornejo recalled that “[i]t was only by a miracle that [her] friends suddenly appeared to help [her]” and that, thereafter, she “suddenly felt the weight of [Navarro] taken away from [her]. Her friends purportedly effected a citizen’s arrest upon the person of Navarro.”<sup>114</sup> However, in her Third Complaint, Cornejo declared that her friends, Raz, *et al.*, were already with her in her unit when Navarro called her on the phone that he wanted to drop by her unit purportedly to apologize for the January 17, 2014 incident. Cornejo then saw it a perfect opportunity for her friends to witness his supposed apology.<sup>115</sup> In her Third Complaint, Cornejo alleged that her friends surrendered the items they recovered from him, one of which was a small bottle of liquid

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<sup>110</sup> Id. at 541-543.

<sup>111</sup> Id. at 413-414.

<sup>112</sup> Id. at 720.

<sup>113</sup> Id. at 415-417.

<sup>114</sup> Id. at 531-532.

<sup>115</sup> Id. at 415-417.

inferred to be some sort of a “date rape drug.” Notably, this allegation was never mentioned in her two previously dismissed complaints.<sup>116</sup>

As underscored by the DOJ, a preliminary investigation is not a hit-or-miss endeavor where one could file complaints one after another until he or she gets the desired results. Justice and fair play dictate that Cornejo should not be permitted to materially change her theory in her two previous complaints in a deliberate attempt to address or rectify the weaknesses of her theories, as pointed out by the prosecutor in the dismissal thereof, or worse, supplant or add new material allegations.

Indeed, the noted inconsistencies in all three complaints reveal Cornejo’s highly deficient, unclear, and doubtful accounts of her purported harrowing experience in the hands of Navarro. The CA, however, faulted the prosecutor with error in relying on the inconsistencies, opining that these already touched on the issue of her credibility. It declared:

Issues of credibility should be adjudged during the trial proper. It goes without saying that it is *the trial court that has the unique power and position to observe the witnesses’ deportment, manner of testifying, emphasis, gesture, and inflection of the voice, all of which are potent aids in ascertaining the witness’ credibility.* There is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. *However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony.*

Besides, We cannot ignore the on-the-ground reality that an affidavit is oftentimes incomplete. The affiant may be asked standard questions coupled with ready suggestions intended to elicit answers, that later turn out not to be wholly descriptive of the series of events as he or she knows them. Worse, the process of affidavit-taking may sometimes amount to putting words into the affiant’s mouth, thus allowing the whole statement to be taken out of context. This is exactly why discrepancies between the statements of the affiant in his or her affidavit and those made while he or she is at the witness stand do not necessarily impair his or her credibility.<sup>117</sup> (Italics supplied.)

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<sup>116</sup> Id.

<sup>117</sup> Id. at 125-126.

The CA gravely erred.

True, deference to the trial court's findings of credibility of a witness is anchored on the unique ability of the trial court judge to observe the demeanor and comportment of witnesses when they testify in court. This principle, however, does not apply in the case which involves inconsistent allegations which are too glaring and manifest to be missed. It bears underscoring that in determining probable cause, "the average [person] weighs facts and circumstances without resorting to calibrations of the rules of evidence of which he [or she] has no technical knowledge. He [or she] relies on common sense."<sup>118</sup>

Here, the prosecutor had reasons to doubt the veracity of Cornejo's accusations, as the glaring and manifest inconsistencies pointed out in her complaints are readily discernible by common sense without need of rigorous examination or an expertise of a trial court judge for such purpose. To suggest that a prosecutor turn a blind eye to such glaring and manifest inconsistencies—under the premise that the evaluation thereof would already touch on the complainant's credibility to be solely assessed in a full-blown trial—would be to compel the prosecutor to satisfy himself or herself to mere allegations in a complaint, and abdicate his or her bounden duty to screen cases for trial, thus passing the buck to the trial courts.

Contrary to the proposition of the CA, the inconsistencies in her allegations are not trivial, minor, or inconsequential. Indeed, no amount of skillful or artful deportment, manner of speaking, or portrayal in a subsequent court proceeding could supplant Cornejo's manifestly inconsistent and highly deficient, doubtful, and unclear accounts of her supposed harrowing experience in the hands of Navarro. Otherwise, she would be allowed to deliberately change, or worse concoct and fabricate, theories in order to rectify the weakness of her accusations as pointed out by the prosecutors in the dismissal of her previous complaints.

Under the circumstances, the CA simply had no basis to reverse the prosecutor's finding of lack of probable cause. On the contrary, it is the CA that disregarded such parameters when it substituted its own judgment for that of the prosecutor's finding of lack of probable cause against Navarro. Notably, the ruling of the CA is premised on a *mere* attribution of *error* committed by the DOJ when it supposedly deviated from the jurisprudential parameters of probable cause, without any findings, much

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<sup>118</sup> *Fenequito v. Vergara, Jr.*, 691 Phil. 335, 345-346 (2012).





less attribution, of grave abuse of discretion on its (DOJ) part in sustaining the prosecutor's findings.

Indeed, the extraordinary remedy of *certiorari* does not lie against any perceived errors of law or fact by a tribunal exercising judicial or quasi-judicial powers.<sup>119</sup> Resort thereto is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void."<sup>120</sup> As underscored earlier, the DOJ's affirmance of the prosecutor's finding of lack of probable cause was not arrived at in a "capricious, whimsical, arbitrary or despotic manner" so as to oust the DOJ of jurisdiction. In the case, what Cornejo raised in her petition for *certiorari* before the CA are not errors of jurisdiction, but perceived errors in the prosecutor's finding of lack of probable cause. Erroneous conclusions based on evidence, *if at all*, do not, by the mere fact that errors were committed, rise to the level of grave abuse of discretion.<sup>121</sup>

In *Cabahug v. People*,<sup>122</sup> the Court ordered the dismissal of a case already filed for want of probable cause:

Dismissing the case against the accused for *palpable want of probable cause* not only spares her the expense, rigors and embarrassment of trial, but also prevents needless waste of the courts' time and saves the precious resources of the government

x x x the very purpose of a preliminary investigation is to shield the innocent from precipitate, spiteful and burdensome prosecution x x x [and] spare the innocent the trouble, expense and torment of a public trial [as well as] unnecessary expense on the part of the State for useless and expensive trials. Thus, *when at the outset x x x the existence of probable cause to form a sufficient belief as to the guilt of the accused cannot be ascertained, the prosecution must desist from inflicting on any person the trauma of going through a trial.*<sup>123</sup> (Italics and underscoring supplied.)

Having determined that the DOJ committed no grave abuse of discretion in affirming the finding of lack of probable cause against Navarro, the Court, in the interest of justice and fair play, is constrained to dismiss the subject Informations against him.

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<sup>119</sup> *People v. Abalos*, G.R. No. 228281, June 14, 2021.

<sup>120</sup> *Id.*, citing *Miranda v. Sandiganbayan*, 815 Phil. 123, 142-143 (2017).

<sup>121</sup> *Id.*

<sup>122</sup> 426 Phil. 490 (2002).

<sup>123</sup> *Id.* at 510-511, citing *Salonga v. Hon. Paño*, 219 Phil. 402, 428 (1985).

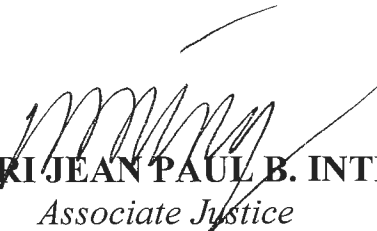
**WHEREFORE**, the petition is **GRANTED**. The Decision dated July 21, 2022 and the Resolution dated September 20, 2022 of the Court of Appeals in CA-G.R. SP No. 166222 are **REVERSED** and **SET ASIDE**.

Accordingly, the Court **DISMISSES** the following Informations against Ferdinand “Vhong” H. Navarro for lack of probable cause:

(a) Rape by Sexual Intercourse under paragraph 1, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, in NPS Docket No. XVI-INV-16E-00174 pending before Branch 69, Regional Trial Court, Taguig City; and

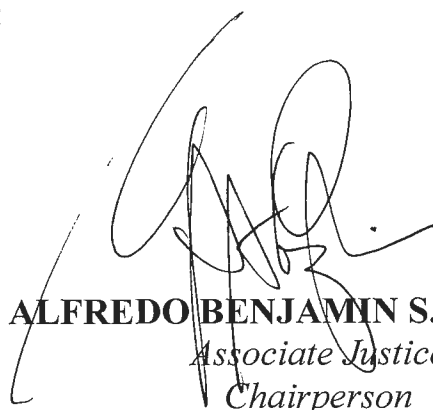
(b) Acts of Lasciviousness under Article 336 of the Revised Penal Code in NPS Docket No. XVI-INV-15J-00815 pending before Branch 116, Metropolitan Trial Court, Taguig City.

**SO ORDERED.**

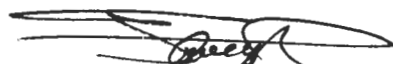



**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson*

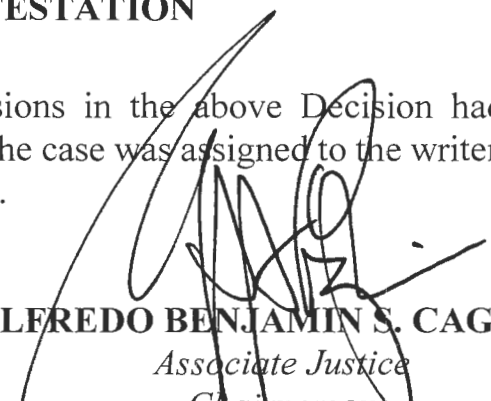
  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

  
**MARIA FILOMENA D. SINGH**  
*Associate Justice*

**ATTESTATION**

I attest 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.

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*