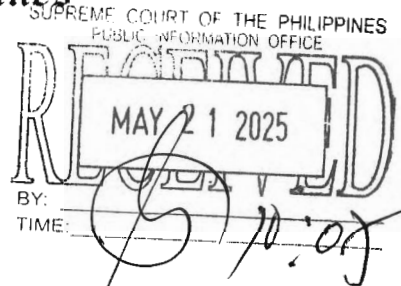




Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION



JHOPET TORALDE y  
HERNANDEZ,\*  
Petitioner,

G.R. No. 264724

Present:

-versus-

LEONEN, *SAJ.*, Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, *JJ.*

PEOPLE OF THE  
PHILIPPINES,  
Respondent.

Promulgated:

FEB 03 2025

X-----X

DECISION

LOPEZ, J., *J.*:

This Court, as sworn protector of human rights and the conscience of society, is once again called to reaffirm its constitutional commitment to promote the physical, moral, spiritual, intellectual, and social well-being of the youth<sup>1</sup> and to defend the right of children against neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.<sup>2</sup>

Fully aware of modern teenage psychology and this generation's prevailing views on sexual intercourse, it is recognized that case law involving consensual sex with minors exist. Nevertheless, the factual antecedents of this case remind this Court of its decisive task to strictly scrutinize the evidence allegedly demonstrating a minor's consent, lest it unwittingly frustrate the

\* Also referred to as "Jhophet Toralde y Hernandez" and "Jopet Toralde y Hernandez" in some parts of the *rollo* and records.

<sup>1</sup> CONST., art. II, sec. 13.

<sup>2</sup> CONST., art. XV, sec. 3(2).

lofty objectives of our laws that grant special protection for children against abuse, exploitation, and discrimination.

This Court resolves a Petition for Review on *Certiorari*<sup>3</sup> assailing the Decision<sup>4</sup> and Resolution<sup>5</sup> of the Court of Appeals (CA), which affirmed with modification the Judgment<sup>6</sup> of the Regional Trial Court (RTC) convicting Jhopet Toralde y Hernandez (Toralde) of violation of Republic Act No. 7610, otherwise known as the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act.

### The Antecedents

The instant case stemmed from an Information<sup>7</sup> charging Toralde with sexual abuse, the accusatory portion of which reads:

That on or about October 26, 2017, in [REDACTED],<sup>8</sup> Philippines, and within the jurisdiction of this Honorable Court, the said accused, through coercion as adult, did then and there willfully, unlawfully succeed in having carnal knowledge of [AAA264724], 14 years old, thereby subjecting the said minor girl to sexual abuse, which is prejudicial to her growth and development.

CONTRARY TO LAW.<sup>9</sup>

Upon arraignment, Toralde pleaded not guilty to the charge.<sup>10</sup> Pre-trial was conducted, and trial on the merits subsequently ensued.<sup>11</sup>

The prosecution's collective evidence established the following:

The private complainant, AAA264724, was born on June 18, 2003.<sup>12</sup> In the evening of October 26, 2017, AAA264724 was alone at home in [REDACTED]. At around 8:30 p.m., Toralde paid her a surprise

<sup>3</sup> *Rollo*, pp. 13–38.

<sup>4</sup> *Id.* at 40–75. The May 4, 2022 Decision in CA-G.R. CR No. 45533 was penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Tita Marilyn B. Payoyo-Villordon and Rex Bernardo L. Pascual of the Twelfth Division, Court of Appeals, Manila.

<sup>5</sup> *Id.* at 77–81. The November 24, 2022 Resolution in CA-G.R. CR No. 45533 was penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Tita Marilyn B. Payoyo-Villordon and Rex Bernardo L. Pascual of the Former Twelfth Division, Court of Appeals, Manila.

<sup>6</sup> *Id.* at 100–112. The September 7, 2020 Judgment in Criminal Case No. ML-086 FC was penned by Presiding Judge Ma. Teresa Pagtalunan Mauleon of Branch [REDACTED], Family Court, [REDACTED].

<sup>7</sup> RTC records, pp. 1–2.

<sup>8</sup> In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>9</sup> *Id.* at 1.

<sup>10</sup> *Id.* at 25.

<sup>11</sup> *Rollo*, p. 41.

<sup>12</sup> RTC records, p. 15.

visit. Despite his unannounced arrival, AAA264724 did not think much of it, as they were in a romantic relationship since June 2017.<sup>13</sup> While sitting beside her, Toralde began insisting that both of them engage in sexual intercourse. AAA264724 denied his request as she was having her menstrual period.<sup>14</sup>

Persistent, Toralde dragged AAA264724 towards her bedroom, threatening her that if she did not give in to his bestial desires, he would be releasing a video of them kissing, and show the same to her relatives.<sup>15</sup> Perplexed, AAA264724 acceded to his request, and the two eventually consummated the sexual act. For fear of Toralde's threats, AAA264724 chose not to divulge her molestation to anyone.<sup>16</sup>

Two days after the incident, AAA264724's grandmother, BBB264724, discovered her blood-stained undershirt and confronted her about it. AAA264724 then disclosed the ordeal to BBB264724, telling her that the undershirt was on the bed when she and Toralde had sexual intercourse. BBB264724 then accompanied AAA264724 to the nearest police station to execute an affidavit, which led to the filing of the instant case.<sup>17</sup>

AAA264724 also underwent medical examination. In the Medico-Legal Certificate<sup>18</sup> issued by Dr. Maria Almira R. Kiat (Dr. Kiat) of the Women and Child Protection Unit of the [REDACTED], AAA264724 was found to have sustained blunt force or penetrating trauma in her genitals.<sup>19</sup>

On cross-examination, AAA264724 admitted that two weeks after the incident, she was forced to elope with Toralde, as he reiterated his threats to expose their video to her relatives. During the time that they were together, Toralde also had carnal knowledge of her. After a week with him, AAA264724 decided to leave Toralde, thinking that it would be better if her family knew what happened to her.<sup>20</sup>

The defense vehemently denied the prosecution's version of the facts. In lieu of Toralde, who waived his right to testify,<sup>21</sup> the defense presented Jeyson R. Toralde (Jeyson),<sup>22</sup> Toralde's father, and Merly Dorado (Dorado), a social worker from the Municipal Social Welfare and Development Office of [REDACTED].

<sup>13</sup> TSN, [REDACTED], June 17, 2019, pp. 10–11.

<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Id.* at 13.

<sup>16</sup> *Id.* at 14.

<sup>17</sup> *Id.* at 15.

<sup>18</sup> Records, p. 14.

<sup>19</sup> *Id.*

<sup>20</sup> TSN, [REDACTED], June 17, 2019, pp. 27–28.

<sup>21</sup> RTC records, p. 213.

<sup>22</sup> Also referred to as "Jayson R. Toralde" in some parts of the *rollo*.

The totality of the defense's arguments revolved around the sweetheart defense.

In his Judicial Affidavit<sup>23</sup> verified during trial, Jeyson averred that Toralde did not coerce AAA264724 to engage in sexual intercourse, as they were in a romantic relationship. After learning of their relationship, Jeyson advised Toralde for him to part ways with AAA264724 to prioritize their education. Toralde agreed and replied that they had actually ended their relationship sometime in November 2017.<sup>24</sup>

Jeyson also narrated that he only came to know about the case filed against his son on December 4, 2017. A few days later, Jeyson's wife informed him that Toralde and AAA264724 eloped to [REDACTED]. Jeyson immediately traveled to [REDACTED] where he was able to locate Toralde and AAA264724's whereabouts. AAA264724 explained that she only eloped with Toralde to evade any possible legal action, having predicted that a criminal case would be filed against him. AAA264724 also forwarded a video to Jeyson's cellphone, claiming that she was not raped by Toralde and that in truth, it was her relatives who wanted to move forward with the case. A few days after, AAA264724 gave Jeyson an undated letter,<sup>25</sup> where she professed that she was not forced to have sexual intercourse with Toralde, as they did it out of love.<sup>26</sup>

Dorado affirmed that she was able to talk to AAA264724, Toralde, and his family in [REDACTED]. She testified that AAA264724 expressly told her that she was not forced by Toralde to elope, and that she was not raped by Toralde. While talking, Dorado observed that AAA264724 was at ease, and that AAA264724 and Toralde were very sweet to each other.<sup>27</sup>

In its Judgment,<sup>28</sup> the RTC found Toralde guilty beyond reasonable doubt of sexual abuse under Section 5(b) of Republic Act No. 7610. The dispositive portion of the Judgment reads:

**WHEREFORE, in view of all the foregoing,** the prosecution having sufficiently established the guilt of the accused beyond reasonable doubt, this Court finds the accused, **JHOPET TORALDE y HERNANDEZ, GUILTY** of the crime of [s]exual [a]buse under [Section 5(b)] of [Republic Act No.] 7610.

Under [Section 5(b)] of [Republic Act No.] 7610, the prescribed penalty for *lascivious conduct* is *reclusion temporal* in its medium period[,] to *reclusion perpetua*. In the absence of mitigating or aggravating

<sup>23</sup> RTC records, pp. 178–183.

<sup>24</sup> *Id.* at 179.

<sup>25</sup> *Id.* at 184.

<sup>26</sup> *Id.*

<sup>27</sup> TSN, Merly Dorado, August 11, 2020, pp. 4–8.

<sup>28</sup> *Rollo*, pp. 100–112.

circumstances, the maximum term of the sentence shall be taken from the medium period thereof. Applying the Indeterminate Sentence Law, the minimum term shall be taken within the range of the penalty next lower in degree, which is *prision mayor* in its medium period[,] to *reclusion temporal* in its minimum period. Accordingly, accused **JHOPET TORALDE y HERNANDEZ** is sentenced to suffer an indeterminate penalty of imprisonment ranging from a period of ten (10) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years and one (1) day of *reclusion temporal*, as maximum.

The accused is likewise ordered to pay the victim the following sums: [PHP] 75,000.00 as civil indemnity; [PHP] 50,000.00 as moral damages; Exemplary damages are likewise called for by way of public example and to protect the young from sexual abuse[,] which is the amount of [PHP] 30,000.00. Lastly, in accordance with current jurisprudence, the damages awarded shall earn legal interest at the rate of six percent (6%) per annum to be reckoned from the date of finality of this judgment until fully paid.<sup>29</sup>

SO ORDERED.<sup>30</sup> (Emphasis in the original, citations omitted)

The RTC held that all the elements of Section 5(b) of Republic Act No. 7610 were present. First, Toralde admitted having sexual intercourse with AAA264724. As proven by her Birth Certificate,<sup>31</sup> AAA264724 was merely 14 years old when she was subjected to sexual abuse under the coercion or influence of Toralde, an 18-year-old adult.<sup>32</sup> The RTC also found convincing AAA264724's straightforward testimony that she was coerced by Toralde to engage in sexual intercourse under the threat that he would spread the video of them kissing, which he took without her permission.

The RTC gave scant consideration to the sweetheart defense proffered by Toralde, considering that AAA264724 was not fully capable of giving intelligent consent. Further, the testimonies of Jeyson and Dorado were not given weight, considering that they had no personal knowledge of the rape incident, and that Dorado had no proof that AAA264724 and Toralde had indeed visited her office.<sup>33</sup>

Eager for his exoneration, Toralde appealed to the CA.<sup>34</sup>

In a Decision,<sup>35</sup> the CA affirmed the RTC's conviction of Toralde, disposing as follows:

<sup>29</sup> *Id.* at 111–112.

<sup>30</sup> *Id.*

<sup>31</sup> RTC records, p. 15.

<sup>32</sup> *Id.* at 106–109.

<sup>33</sup> *Id.* at 109–111.

<sup>34</sup> CA *rollo*, pp. 12–13.

<sup>35</sup> *Rollo*, pp. 40–75.

**WHEREFORE**, the instant **APPEAL** is hereby **DENIED**. Nonetheless, the Decision dated September 7, 2020 in Criminal Case No. ML-086 FC, finding accused-appellant **JHOPET TORALDE y HERNANDEZ** guilty beyond reasonable doubt of sexual abuse under [Section 5(b)] of [Republic Act No.] 7610, is hereby **AFFIRMED with MODIFICATION**, by ordering appellant to pay private complainant the amounts of [PHP] 50,000.00 as civil indemnity, [PHP] 50,000.00 as moral damages, and [PHP] 50,000.00 as exemplary damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until full payment.

**SO ORDERED.**<sup>36</sup> (Emphasis in the original)

The CA agreed with the RTC that all the elements of the crime charged were present. Succinctly, Toralde succeeded in having sexual intercourse with AAA264724, a minor, through coercion. It also ruled that the compulsion employed in cases of Republic Act No. 7610 need not be irresistible, considering the immaturity and innocence of minors.<sup>37</sup>

The CA also concurred with the RTC that the sweetheart theory could hardly be a valid defense. Granted that they were in a relationship, one cannot force his lover to submit to his carnal desires.<sup>38</sup> Finally, the CA set aside the video and the letter of recantation sent by AAA264724, being unsubstantiated and of doubtful origin.<sup>39</sup>

Toralde moved for reconsideration,<sup>40</sup> but it was denied by the CA in a Resolution.<sup>41</sup>

Hence, Toralde filed this Petition.

In insisting on his innocence, Toralde casts doubt on AAA264724's credibility as a witness due to the glaring inconsistencies in her testimony. Toralde raises that AAA264724 failed to report the incident to her family or the authorities at the soonest possible time. Further, there was no evidence proffered to show that AAA264724 resisted or even fought back against petitioner's sexual advances. While AAA264724 asseverated that she only agreed to have sex with Toralde due to his threat of exposing their video, her statements clearly contradict her video and the letter sent to Jeyson, confessing that she had consented to the sexual act.<sup>42</sup>

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<sup>36</sup> *Id.* at 74–75.

<sup>37</sup> *Id.* at 49–56.

<sup>38</sup> *Id.* at 58–60.

<sup>39</sup> *Id.* at 66–71.

<sup>40</sup> *CA rollo*, pp. 138–148.

<sup>41</sup> *Rollo*, pp. 77–81.

<sup>42</sup> *Id.* at 22–23.

In its Comment,<sup>43</sup> the Office of the Solicitor General (OSG) maintains that the CA correctly upheld Toralde's conviction, given that AAA264724 was categorical, straightforward, and direct in her testimony in open court. Further, the OSG opines that Toralde's reliance on the sweetheart theory is misplaced, given AAA264724's minority, and the fact that she had pursued the instant criminal case and had freely testified against him.<sup>44</sup>

### Issue

Whether the CA correctly sustained the conviction of petitioner Jhopet Toralde y Hernandez.

### This Court's Ruling

The Petition lacks merit.

At the outset, this Court points out that the issue raised by petitioner is clearly a question of fact. Whether petitioner is innocent from criminal culpability due to the victim's consent to the sexual act requires that this Court recalibrate the evidence already passed upon by the courts below, which are proscribed in appeals by *certiorari*. "As a rule, only questions of law, not questions of fact, may be raised in a petition for review on *certiorari* under Rule 45."<sup>45</sup> "Factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record."<sup>46</sup>

However, this rule is not iron-clad and is subject to well-known exceptions<sup>47</sup> that allow this Court to revisit the factual bases of the lower courts. Lamentably, none such exceptions are obtaining in this case. Thus, a deviation from the general rule is not warranted.

In any event, the Petition must still be denied for lack of merit. After a review of the merits, this Court finds no reason to overturn the verdict of guilt concerning the act committed by petitioner against AAA264724. Nonetheless, the crime committed must be modified.

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<sup>43</sup> *Id.* at 152–167.

<sup>44</sup> *Id.* at 161–162.

<sup>45</sup> *Legal Heirs of the Late Edwin B. Deauna v. Fil-Star Maritime Corp.*, 688 Phil. 582, 600 (2012) [Per J. Reyes, Second Division]. (Citation omitted)

<sup>46</sup> *People v. Esteban*, 735 Phil. 663, 670–671 (2014) [Per J. Reyes, First Division].

<sup>47</sup> *Coson v. People*, 818 Phil. 271, 283 (2017) [Per J. Del Castillo, First Division].

*The designation of the crime  
must be changed to rape*

In deciding rape cases against minors, this Court is not oblivious that such crime is a serious transgression of the most grievous nature, which entails the gravest consequences not only on the perpetrator, but more so on the victim, whose life is forever shattered. As emphatically described in *People v. Lopez*,<sup>48</sup> “[r]ape is particularly odious, one which figuratively scrapes the bottom of the barrel of moral depravity, when committed against a minor.”<sup>49</sup>

While this Court agrees with petitioner’s guilt, the nomenclature of the crime as designated by the CA should be rectified. To recall, the CA convicted petitioner of lascivious conduct under Section 5(b) of Republic Act No. 7610, in accordance with the landmark case of *People v. Tulagan*.<sup>50</sup> Section 2(h) of the Implementing Rules and Regulations of Republic Act No. 7610 define lascivious conduct as:

(h) “*Lascivious conduct*” means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus[,] or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person. (Emphasis supplied)

However, it must be pointed out that what is involved in this case is not lascivious conduct, but carnal knowledge. Thus, petitioner must be convicted of rape. Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, defines the crime of rape as follows:

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

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

- a. Through force, threat, or intimidation;
- b. When the offended party is deprived of reason or otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

<sup>48</sup> 617 Phil. 733 (2009) [Per J. Peralta, Third Division].

<sup>49</sup> *Id.* at 736. (Citation omitted)

<sup>50</sup> 849 Phil. 197, 228 (2019) [Per J. Peralta, *En Banc*].



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

To sustain a charge of rape, the confluence of the following elements must be proven by the prosecution: "(1) the offender had carnal knowledge of a woman[;] and (2) he accomplished the act through force, threat or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented."<sup>51</sup> In the present case, this Court observes that all the elements of rape are present. The evidence proves that petitioner, through threats and intimidation, had carnal knowledge of AAA264724 on the evening of October 26, 2017, when the latter was only 14 years old, as confirmed by her Birth Certificate. As clearly testified by AAA264724:

COURT                      And then, on that particular day of October 26, 2017,  
[Toralde] go [sic] to your house, and then when you  
asked him, he said that he just wanted to be with you?  
WITNESS                  Yes, Your Honor.

COURT                      Thereafter, what happened?  
WITNESS                  When he sat beside me, he opened the thing that I  
don't want to do.

COURT                      What exactly did he say to you?  
WITNESS                  He asked me to have sexual intercourse.

COURT                      What did you reply?  
WITNESS                  I answered "I do not like[.]"

COURT                      What did he say?  
WITNESS                  He asked me if I don't trust him.

COURT                      What was your reply?  
WITNESS                  I said, "I have but I don't really like to do it[.]"

COURT                      What happened next when he insisted that you don't  
want it to happen?  
WITNESS                  After that, he insisted in doing it then he held my left  
hand, Ma'am.

COURT                      How did he force you to have a sexual intercourse?  
WITNESS                  During that time, he pulled me towards the bedroom  
and he told me that if I will not do it with him, he will  
expose a picture of me or a scandal.

COURT                      What's that scandal, do you know that?  
WITNESS                  I only know about that scandal when grandmother  
saw that scandal, Ma'am.

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<sup>51</sup> *People v. Cañada*, 617 Phil. 587, 598 (2009) [Per J. Brion, Second Division].

COURT Was that scandal true?  
WITNESS They showed it to me Your Honor, and when I saw it, I did not know that he was taking a video during that time.

COURT What's that video all about?  
WITNESS A video of me kissing him, Your Honor.

COURT That was prior to October 26, 2017?  
WITNESS Yes, Your Honor.

COURT Is it the video was only [sic] at that time kissing with each other? Is that what you are saying?  
WITNESS *Yung nakuha nya pong video, yun lang po.*

COURT You [were] just kissing each other?  
WITNESS The one that was taken in the video is that part that we were kissing, Your Honor.

COURT And when you were told that he will expose the video, what did you do?  
WITNESS I am startled that time and I don't know what to do because he is going to show the video to my relatives and they will know that something is already happened between us. [sic]

COURT So, you said you were held by the hand, then you were pulled to the bedroom, and then he was forcing you to have sexual intercourse, otherwise he will expose the video, thereafter you agreed[,] or you resisted?  
WITNESS The truth is, I don't like Your Honor, but because of too much fear, I gave in, Your Honor.

COURT So what happened after that, in the bedroom, it was it [sic], the sexual intercourse was done?  
WITNESS Yes, Your Honor.

COURT And thereafter, after the sexual intercourse, what happened?  
WITNESS After that, he went home, Your Honor.

COURT He did not tell you anything after?  
WITNESS None, Your Honor.

COURT What about you, you did not tell anything?  
WITNESS None Your Honor, because during that time[,] I was so afraid that he might expose the video.<sup>52</sup>

As further proven by the records, petitioner, who was senior to the victim by four years, manipulated and subjected her to molestation, under the threat of ruining her reputation by exposing her explicit video to her relatives. It is not difficult to imagine that such imminent threat weakened

<sup>52</sup> TSN, [REDACTED], June 17, 2019, pp. 11-14.

AAA264724's resistance and deprived her of the will to escape, leaving her with no choice but to submit to petitioner's carnal desires.

Given the sincere and truthful testimony of AAA264724, this Court finds no reason to depart from the RTC and the CA's findings of AAA264724's credibility. Indeed, this Court has frequently held that "a conviction for rape may issue upon the sole basis of the complainant's testimony. This is so because no decent and sensible woman will publicly admit being a rape victim and, thus, run the risk of public contempt—the dire consequence of a rape charge—unless she is, in fact, a rape victim."<sup>53</sup> On the same score, this Court adheres to the rule that the credibility of witnesses are exclusively under the ambit of a trial judge, whose findings are accorded great respect, "since the trial judge had the opportunity of observing the deportment and demeanor of witnesses while listening to them speak, enabling [them] to form at [firsthand] a judgment as to whether witnesses were telling the truth or not."<sup>54</sup>

*The sweetheart theory and the age of sexual consent, explained*

In destroying the credibility of AAA264724, petitioner attempts to impress upon this Court that whatever sexual relations he may have with her was purely consensual and voluntary. Simply put, petitioner relies on the sweetheart theory to exculpate himself from liability.

This Court is not persuaded.

The sweetheart theory is a defense in this jurisdiction that is oft applied in acts of lasciviousness and rape, "felonies committed against or without the consent of the victim."<sup>55</sup> Well-engrained in jurisprudence, the exculpatory value of the sweetheart theory has long since diminished, as it is known to be a "much abused defense that rashly derides the intelligence of this Court and sorely tests its patience."<sup>56</sup>

To pass muster, this Court, in *People v. Olesco*,<sup>57</sup> requires that the defense must prove with compelling evidence the following elements: "*first*, that the accused and the victim were lovers; and *second*, that she consented to the alleged sexual relations."<sup>58</sup> As *indicia* of the purported relationship between the accused and the victim, evidence such as letters, documents, photographs, "or any concrete proof of a romantic nature" must be proffered.<sup>59</sup>

<sup>53</sup> *People v. Delamar*, 403 Phil. 665, 673 (2001) [Per J. Bellosillo, *En Banc*]. (Citation omitted)

<sup>54</sup> *People v. Nagita*, 284 Phil. 332, 338 (1992) [Per J. Feliciano, Third Division]. (Citation omitted)

<sup>55</sup> *People v. Malto*, 560 Phil. 119, 139 (2007) [Per J. Corona, First Division].

<sup>56</sup> *People v. Apostol*, 378 Phil. 61, 75 (1999) [Per J. Pardo, First Division]. (Citation omitted)

<sup>57</sup> 663 Phil. 15 (2011) [Per J. Del Castillo, First Division].

<sup>58</sup> *Id.* at 16. (Emphasis in the original)

<sup>59</sup> *People v. Pingol*, 889 Phil. 116, 144 (2020) [Per J. Leonen, Third Division].

In a number of cases, this Court has rejected the sweetheart defense for the failure of the accused to meet these standards.

In *People v. Loyola*,<sup>60</sup> this Court rejected the sweetheart defense advanced by the accused, as he failed to present any proof other than his self-serving statements to show that they were indeed lovers, that he courted her, and that she had accepted him. This Court likewise went as far as declaring that such argument was “but a mere concoction by appellant in order to exculpate himself from any criminal liability.”<sup>61</sup>

This Court, in *People v. Napudo*,<sup>62</sup> emphasized the kind of evidence necessary to prove the existence of an amorous relationship. While the accused introduced the testimonies of several persons into evidence, this Court ruled that their eyewitness accounts were merely neutral, as they collectively failed to indicate the presence of a relationship. Particularly, there were no “intimacies such as loving caresses, cuddling, tender smiles, sweet murmurs[,] or any other affectionate gestures that one bestows upon his or her lover.”<sup>63</sup>

Finally, in *People v. Tuando*,<sup>64</sup> this Court took into consideration the variance in age and the relationship between the accused and the victim in setting aside the sweetheart defense. Here, this Court found it difficult to fathom that the victim, a 13-year-old girl, would enter into a relationship with a man thrice her age, and worse, a former common-law spouse of her own mother.<sup>65</sup>

In this case, this Court observes that while there were no mementos or photographs introduced into evidence, the parties’ amorous relationship was expressly admitted by AAA264724 herself in open court:

COURT	So[,] when [Toralde] entered [your house], you were surprised, did you not ask him why are you here, what are you doing here, did you not ask him?
WITNESS	I asked, Ma’am.
COURT	What did he say?
WITNESS	And he said, he just wanted to be with me, Ma’am.
COURT	Was he courting you?
WITNESS	During that time, were [sic] in a relationship, Your Honor.
COURT	Is he your boyfriend at that time?

<sup>60</sup> 404 Phil. 71 (2001) [Per J. Pardo, First Division].

<sup>61</sup> *Id.* at 77.

<sup>62</sup> 589 Phil. 201 (2008) [Per J. Brion, Second Division].

<sup>63</sup> *Id.* at 213.

<sup>64</sup> 781 Phil. 687 (2016) [Per J. Perez, Third Division].

<sup>65</sup> *Id.* at 697.

WITNESS Yes, Your Honor.

COURT When was the start of your girlfriend[-]boyfriend relationship?

WITNESS June 2017, Your Honor.

COURT June 2017, you became sweetheart[s]?

WITNESS Yes, Your Honor.<sup>66</sup>

Notwithstanding the proven fact of their relationship, this Court adds posthaste that this would not necessarily establish consent. As ruled in *Olesco*, it is insufficient to merely prove that the accused and the victim were lovers; it must likewise be shown via compelling evidence that the victim consented to the sexual relations: “[t]he second [element] is as important as the first [element], because this Court has held often enough that love is not a license for lust.”<sup>67</sup> Consistently, “a love affair does not justify rape, for the beloved cannot be sexually violated against her will.”<sup>68</sup> Harping on this principle, this Court, in *People v. Gecomo*,<sup>69</sup> held:

It should be borne in mind that love is not a license for carnal intercourse through force or intimidation. *Even granting that appellant and complainant were really sweethearts, that fact alone would not negate the commission of rape. A sweetheart cannot be forced to have sex against her will.* From a mere fiancée, definitely a man cannot demand sexual submission and, worse, employ violence upon her on a mere justification of love. A man can even be convicted for the rape of his common-law wife.<sup>70</sup> (Emphasis supplied, citations omitted)

Prescinding from these concepts, the linchpin in successfully invoking the sweetheart defense is the victim’s consent to the sexual congress. Stated differently, in order to destroy the prosecution’s theory of rape, it is incumbent upon the defense to prove that the sexual intercourse was consensual.

*The sweetheart theory advanced by the defense cannot be given credence due to lack of consent*

Under the aegis of the foregoing framework, this Court cannot extend credence to petitioner’s invocation of the sweetheart theory, due to AAA264724’s lack of consent.

That AAA264724 was a minor does not militate the weight and credibility of her testimony. On the contrary, her version of the facts as relayed

<sup>66</sup> TSN, [REDACTED], June 17, 2019, pp. 10–11.

<sup>67</sup> *People v. Olesco*, 663 Phil. 15, 16 (2011) [Per J. Del Castillo, First Division]. (Citation omitted)

<sup>68</sup> *People v. Shareff Ali El Akhtar*, 368 Phil. 206, 219 (1999) [Per J. Quisumbing, *En Banc*]. (Citation omitted)

<sup>69</sup> 324 Phil. 297 (1996) [Per J. Regalado, Second Division].

<sup>70</sup> *Id.* at 329.

in open court is more convincing. To reiterate an earlier invoked principle, “[t]he revelation of an innocent child whose chastity has been abused deserves full credit, as her willingness to undergo the trouble and the humiliation of a public trial is an eloquent testament to the truth of her complaint.”<sup>71</sup> Given AAA264724’s straightforward and candid testimony that petitioner, through coercion, took advantage of her, this Court finds no doubt in her credibility. To iterate the ruling in *People v. Talan*,<sup>72</sup> “[w]hen the victim’s testimony is credible, it may be the sole basis for the accused’s conviction.”<sup>73</sup>

For another, this Court is cognizant that case law exists, which involve consensual sex with minors and where the accused was eventually acquitted, as in the case of *Monroy v. People*<sup>74</sup> and *Bangayan v. People*.<sup>75</sup> Markedly, the special circumstances that exist in *Monroy* and *Bangayan* that ultimately swayed this Court to conclude that the victim gave her consent, do not obtain in this case.

In *Monroy*, the accused was acquitted as the evidence presented by the prosecution fell short of the quantum of proof required to support a conviction. Particularly, this Court found crucial the undated letter submitted into evidence, whose authorship was expressly admitted by private complainant on cross-examination. In the letter, she unequivocally declared, among others, that she loved petitioner, that the charge of rape was concocted to retaliate against petitioner who wanted to go home to the province and to break his family apart, and that she attempted to commit suicide because of him.<sup>76</sup>

Here, while the defense makes much of the existence of a video and a letter allegedly authored by AAA264724, where she explicitly admitted their relationship and her consent to the sexual congress, nowhere in her testimony did she expressly identify or admit the veracity or authenticity of such evidence. Interestingly, the defense did not raise the existence of such pieces of evidence on cross-examination. While petitioner’s father, Jeyson, attested to the existence of the alleged video, he admitted in open court to being uncertain on the video’s origin, having no knowledge of who took the alleged recording.<sup>77</sup> As affirmed by this Court in *People v. Concepcion*,<sup>78</sup> the person presented in court to authenticate video recordings or footages must account for “(i) its origin; (ii) how it was transferred to a storage device; and (iii) how it reached the trial court for its presentation.”<sup>79</sup> Given the dearth of any convincing testimony from any witness, the genuineness of such recording casts much doubt and carry no evidentiary value to support the defense’s cause.

<sup>71</sup> *Navarrete v. People*, 542 Phil. 496, 512 (2007) [Per J. Corona, First Division]. (Citation omitted)

<sup>72</sup> 591 Phil. 812 (2008) [Per J. Carpio, First Division].

<sup>73</sup> *Id.* at 819. (Citation omitted)

<sup>74</sup> 858 Phil. 376, 393 (2019) [Per J. Perlas-Bernabe, Second Division].

<sup>75</sup> 885 Phil. 405, 439 (2020) [Per J. Carandang, Third Division].

<sup>76</sup> *Monroy v. People*, 858 Phil. 376, 389 (2019) [Per J. Perlas-Bernabe, Second Division].

<sup>77</sup> TSN, Jeyson R. Toralde, June 30, 2020, p. 10; *rollo*, p. 68.

<sup>78</sup> 917 Phil. 693, 710 (2021) [Per J. Carandang, Third Division].

<sup>79</sup> *Id.*

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The letter purportedly written by AAA264724 likewise suffers the same fate. Aside from the lack of authentication, a perusal of the letter itself does nothing for the defense. Upon review of the contents of the letter, the CA pointed out that aside from being undated, AAA264724 never affirmed the genuineness of the signature affixed, and she did not “confirm that the sexual encounter between her and [petitioner] alluded to in the video and the letter was the alleged sexual abuse incident that occurred on October 26, 2017.”<sup>80</sup> In fine, the allegations of the defense on the veracity and authenticity of the video and the letter, without more, leaves this Court unpersuaded that AAA264724 had indeed consented to the sexual act. To reiterate, while this Court recognizes that petitioner and AAA264724 were engaged in a romantic relationship, this does not negate or rule out the commission of rape.

On another point, the letter and the video proffered by the defense partakes of the nature of a recantation, which is usually taken *ex parte* and is considered inferior to the testimony given in open court. *Apropos* is the ruling in *People v. Nardo*<sup>81</sup> that it would be a dangerous rule to “reject the testimony taken before a court of justice simply because the witness who gave it later on changed [their] mind for one reason or another. Such a rule would make a solemn trial a mockery, and place the proceedings at the mercy of unscrupulous witnesses.”<sup>82</sup> Corollarily, recantations such as AAA264724’s supposed letter and video are usually viewed with disfavor, not only due to their unreliability, but also because there is always the possibility that intimidation or monetary considerations have caused such retraction. Worse, recantations trivialize court proceedings, especially since persons giving their testimony are enjoined to be truthful in all circumstances.<sup>83</sup>

Neither can AAA264724’s belated disclosure of the incident nor her supposed failure to resist petitioner’s advances, erode the credibility of her testimony, especially given the threats instilled to destroy her reputation by exposing her video to her relatives. To be sure, such “[d]elay or vacillation in making a criminal accusation does not necessarily impair the credibility of the witness if such delay is satisfactorily explained.”<sup>84</sup> As a minor, AAA264724 cannot be expected to act like an adult “or a mature and experienced woman who would have the courage and intelligence to disregard a threat to her life and complain immediately that she had been sexually assaulted.”<sup>85</sup> After all, it is not beyond reason for “young girls to conceal for sometime the assaults on their virtue because of the rapist’s threats on their lives.”<sup>86</sup>

Dissimilar to *Bangayan’s* exceptional antecedents, AAA264724’s subsequent actions do not point to the conclusion that she had freely consented

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<sup>80</sup> *Rollo*, p. 69.

<sup>81</sup> 405 Phil. 826 (2001) [*Per Curiam, En Banc*].

<sup>82</sup> *Id.* at 843. (Citation omitted)

<sup>83</sup> *People v. Bensurto*, 802 Phil. 766, 775 (2016) [Per J. Peralta, Third Division].

<sup>84</sup> *People v. Rostata*, 291-A Phil. 693, 712 (1993) [Per J. Davide, Jr., Third Division]. (Citation omitted)

<sup>85</sup> *People v. Olivar*, 290 Phil. 253, 261 (1992) [Per J. Melo, Third Division].

<sup>86</sup> *People v. Dabon*, 290-A Phil. 449, 458 (1992) [Per J. Regalado, Second Division]. (Citation omitted)

to her defloration. In *Bangayan*, this Court attributed consent of the private complainant by reason of the execution of an affidavit of desistance during arraignment, coupled with her refusal to testify against petitioner. Also, it was admitted that they were living together without the benefit of marriage, even after the complaint was filed against petitioner. More significant, their union produced two children, with the private complainant giving birth to her second child from petitioner while the latter was still incarcerated.

No such conduct is conceivable in the instant case. While it may be true that AAA264724 had eloped with petitioner subsequent to the incident, she had sufficiently explained that petitioner had continued to make threats against her, which constrained her to accede to the latter's request. Fed up, she finally chose to separate from him, resolving that it would be better for her family to find out about her ordeal instead of staying with him against her will:

ATTY. POGONGAN WITNESS	You did not elope for one (1) week? I eloped with him, Ma'am.
COURT	So you mean after the incident, how many days have passed before you said that you eloped with the accused?
WITNESS	<i>Weeks din po yung nakalipas.</i>
COURT WITNESS	One (1) week, two (2) weeks, three (3) weeks? Two (2) weeks have passed, Ma'am.
COURT WITNESS	Why did you elope with him? <i>Yun nga po, tinakot nya po kasi ako noon, sobrang nataranta po ako.</i>
COURT WITNESS	After the incident? <i>Sabi nya po sa akin kapag hindi ka sumama.</i>
COURT WITNESS	<i>Kapag hindi ka sumama?</i> He threatened me that if I will not elope with him, he will expose the video.
COURT	So, you were with him for how long, one (1) week?
WITNESS	One (1) week, Your Honor. <sup>87</sup>
....	
COURT	Why did you decide to separate with him after a week?
WITNESS	Because I thought that it is better if my grandmother will be the [one] to discover what happened, Your Honor.
COURT	To discover what?

<sup>87</sup> TSN, [REDACTED], June 17, 2019, pp. 27-28.



WITNESS

To discover what [Toralde] is doing.

COURT

The threat that [Toralde] is making on you?

WITNESS

Yes, Your Honor.<sup>88</sup> (Emphasis supplied)

Distinctly, AAA264724 presented evidence against petitioner. She even mustered the courage to take the stand to testify against her defiler. As declared in *People v. De Guzman*:<sup>89</sup>

Well-established is the rule that testimonies of rape victims, especially child victims, are given full weight and credit. It bears emphasis that the victim was barely seven years old when she was raped. In a litany of cases, we have applied the well[-]settled rule that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation[,] and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.

The embarrassment and stigma of allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rule out the possibility of a false accusation of rape by the complainant.<sup>90</sup> (Citations omitted)

In fine, the particular circumstances in this case prove that contrary to the facts in *Bangayan* and *Monroy*, no consent can be attributed to AAA264724 when she was defiled by petitioner to gratify his selfish desires. While this Court cannot close its eyes to the sexual predisposition and awareness of this generation's youth, its duty to uphold the welfare and protection of children against any and all forms of abuse still remains. Accordingly, petitioner must be convicted of rape.

*The penalty and the award of  
damages are modified*

With the modification of petitioner's crime to rape, this Court imposes the penalty of *reclusion perpetua* under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353.<sup>91</sup>

<sup>88</sup> *Id.* at 28.

<sup>89</sup> 423 Phil. 313 (2001) [*Per Curiam, En Banc*].

<sup>90</sup> *Id.* at 330.

<sup>91</sup> Republic Act No. 8353, art. 266-B. *Penalties*. — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Finally, this Court imposes the following damages in consonance with *People v. Juguetta*,<sup>92</sup> as follows: (1) PHP 75,000.00 as civil indemnity; (2) PHP 75,000.00 as moral damages; and (3) PHP 75,000.00 as exemplary damages. All damages shall earn interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.

**ACCORDINGLY**, the Petition is **DENIED**. The May 4, 2022 Decision and the November 24, 2022 Resolution of the Court of Appeals in CA-G.R. CR No. 45533 are **AFFIRMED with MODIFICATION**.


Petitioner Jhopet Toralde y Hernandez is **GUILTY** beyond reasonable doubt of rape under Article 266-A(1), in relation to Article 266-B of the Revised Penal Code, and is sentenced to suffer the penalty of *reclusion perpetua*. He is **ORDERED to PAY** private complainant AAA264724 the following amounts: (1) PHP 75,000.00 as civil indemnity; (2) PHP 75,000.00 as moral damages; and (3) PHP 75,000.00 as exemplary damages.

Legal interest at the rate of 6% per annum is imposed on all damages awarded from the date of finality of this Decision until fully paid.

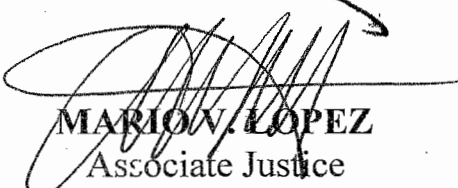
**SO ORDERED.**

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**WE CONCUR:**

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

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

  
**MARION V. LOPEZ**  
Associate Justice

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

<sup>92</sup> 783 Phil. 806, 849 (2016) [Per J. Peralta, *En Banc*].

**ATTESTATION**

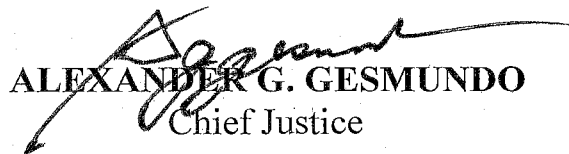
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court's Division.

**MARVIC M.V. F. LEONEN**

Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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

