REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **03 February 2021** *which reads as follows*:

"**G.R. No. 252858 (People of the Philippines *v.* XXX[1])**. – After a judicious study of the case, the Court resolves to **DISMISS** the appeal[2] for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in affirming the conviction of accused-appellant XXX (accused-appellant) for the crime of Simple Rape, as defined and penalized under Article 266-A, in relation to Article 266-B, of the Revised Penal Code (RPC).

'For a charge of Rape by sexual intercourse under Article 266-A (1) of the RPC, as amended by [Republic Act No. (RA)] 8353, to prosper, the prosecution must prove that: (*a*) the offender had carnal knowledge of a woman; and (*b*) he accomplished this act under the circumstances mentioned in the provision, *e.g.*, through force, threat or intimidation. The gravamen of Rape is sexual intercourse with a woman against her will.'[3]

In this case, the Court agrees with the findings[4] of the courts *a quo* that the prosecution was able to prove beyond reasonable doubt that accused-appellant had carnal knowledge of his then-fifteen (15)-year-old grandniece, AAA, through force and intimidation. It is settled that a young girl would not concoct a sordid tale of a crime as serious as rape, allow the examination of her private part, and subject

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[1] The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled 'AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,' approved on June 17, 1992; RA 9262, entitled 'AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES,' approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the 'Rule on Violence against Women and Their Children' (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled 'PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES,' dated September 5, 2017.)

[2] *Rollo*, pp. 13-15.

[3] *People v. Ejercito*, G.R. No. 229861, July 2, 2018, 869 SCRA 353, 366, citing *People v. Bagamano*, 793 Phil. 602, 608 (2016).

[4] *Rollo*, pp. 3-12.

herself to the stigma and embarrassment of a public trial, if her motive were other than a fervent desire to seek justice. Hence, there is no plausible reason why AAA would testify against accused-appellant, who is her grand-uncle, imputing to him the grave crime of Rape, if this crime did not happen.[5]

On a related matter,Article 266-B of the RPC provides that rape becomes qualified if, *inter alia*, 'the victim is below eighteen (18) years of age ***and*** the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.' On this note, case law instructs that in order to appreciate the qualifying circumstance of minority and relationship in the crime of Rape, the same must be ***alleged in the information and proven during trial***.[6] In *People v. Lapore*,[7] the Court reiterated the importance of alleging the presence of qualifying and aggravating circumstances in the complaint or information against an accused, and discussed the effect of the failure to do so, to wit:

> Sections 8 and 9 of Rule 110 of the [Revised] Rules on Criminal Procedure provide that for qualifying and aggravating circumstances to be appreciated, **it must be alleged in the complaint or information. This is in line with the constitutional right of an accused to be informed of the nature and cause of the accusation against him. Even if the prosecution has duly proven the presence of the circumstances, the Court cannot appreciate the same if they were not alleged in the Information.** Hence, although the prosecution has duly established the presence of the aforesaid circumstances, which, however, were not alleged in the Information, this Court cannot appreciate the same.[8] (Emphasis and underscoring supplied)

In this case, while it was proven during trial that accused-appellant is the grand-uncle of the 15-year-old victim, such relationship, however, was not alleged in the Information. To be sure, the accusatory portion of the information readily shows that it was only able to allege the fact of minority, and glaringly omitted the relationship between accused-appellant and the victim:

> That sometime in the evening of January 16, 2015, in [redacted], Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, said accused, with lewd design and by means of force, threat and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge with one AAA, a minor, fifteen (15) years old, against her will and consent, to her damage and prejudice.

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[5] See *People v. De Guzman*, G.R. No. 234190, October 1, 2018, citing *People v Bagamano*, 782 Phil. 187, 198 (2016).

[6] 'Rape is qualified and punished with death when committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent. However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim's over 12 years but under 18 years of age and her relationship with him. The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances. As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.' (*People v. Arcillas*, 692 Phil. 40,52 [2012]; citations omitted)

[7] 761 Phil. 196, 203 (2015).

[8] Id.; citations omitted.

CONTRARY TO LAW.[9]

In view of the foregoing, accused-appellant can only be convicted of Simple Rape and penalized accordingly.

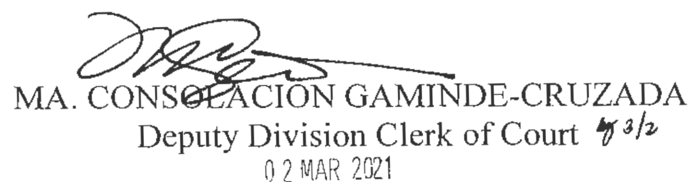
WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision[10] dated December 3, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11802 and **AFFIRMS** said Decision finding accused-appellant XXX **GUILTY** beyond reasonable doubt of the crime of Simple Rape, as defined and penalized under Article 266-A, in relation to Article 266-B, of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. In addition, all monetary awards shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.

SO ORDERED. (Delos Santos, *J.*, designated Additional Member vice Lopez, M., *J.*, per Raffle dated November 11, 2020)."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
02 MAR 2021

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[9] *Rollo*, pp. 3-4.

[10] Id. at. 3-12. Penned by Associate Justice Mario V. Lopez (now a member of the Court) with Associate Justices Ma. Luisa Quijano Padilla and Ronaldo Roberto B. Martin, concurring.

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 47
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(Crim. Case No. 31210)

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*with copy of the CA Decision dated 3 December 2019.
Please notify the Court of any change in your address.
GR252858. 02/03/2021(181)URES(m)