

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IVAN Q. CERVANTES, DEFENDANT-APPELLANT.

Ponente: PAREDES, J.

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PAREDES, J.:

THE CASE

Subject of this Appeal is the Joint Judgment[1] dated July 20, 2011 of the Regional Trial Court (RTC), Branch 59, Baguio City, in Criminal Cases Nos. 27254-R and 27255-R finding Ivan Q. Cervantes (accused-appellant, for brevity) guilty beyond reasonable doubt of the crimes of (1) Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development under Section 10(a) of Republic Act No. 7610 (RA 7610) otherwise known as “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act”, and (2) Acts of Lasciviousness in relation to RA 7610.

THE ANTECEDENTS

Accused-appellant was charged before the RTC under the following Information:

CRIMINAL CASE NO. 27254-R[2]

That on or about the 25[th] day of April, 2007, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of complainant “AAA”[3], a minor, 15 years old, did then and there willfully, unlawfully and feloniously commit acts of child abuse against his daughter “AAA”, by inducing her to sniff [a] shabu which he was heating with a lighter, placed in a small tube, thereby causing traumatic experience to said child, in that the acts of the accused debased, degraded and demeaned the intrinsic worth and dignity of the complainant as a human being.

CONTRARY TO LAW.

CRIMINAL CASE NO. 27255-R[4]

That on or about the 25[th] day of April, 2007, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to cause malice and satisfy his lascivious desire, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness on the person of “AAA”, a minor, 15 years old, by pulling her toward him and thereafter trapped her between his legs while he was naked, thereby inflicting traumatic experience to said child, that the acts of the accused debased, degraded and demeaned the intrinsic worth of the complainant as a human being.

That in the commission of the crime aggravating circumstance is present considering that the accused is the father of the complainant.

CONTRARY TO LAW.

Upon arraignment, accused-appellant entered a plea of not guilty to both charges[5]. Thereafter, pre-trial was

conducted where the parties admitted the following facts:[6]

- The identity of the accused as the same person who was named, charged and arraigned in these cases;
- The minority of the complainant she having been born on April 23, 1992;
- That the private complainant is the daughter of the accused;
- That the parents of the private complainant are not living together now;
- That the private complainant is living with her mother at Tuding, Itogon, Benguet.[7]

Thereafter, trial on the merits ensued.

The prosecution presented the testimonies of AAA[8] and her mother, BBB[9].

AAA is the minor daughter of BBB and accused-appellant, who, per their marriage certificate[10], were married on January 15, 1990. Her birth certificate[11] shows that AAA was born on April 23, 1992. BBB and accused appellant have been separated and living apart. AAA lives with her mother at Bua, Tuding, Itogon, Benguet, while accused-appellant lives with his mistress at Quirino Hill, Baguio City.

In the afternoon of April 25, 2007, AAA and her sister, CCC, were home and planning a joint birthday party. AAA received a text message from her father, accused-appellant, inviting her for some night swimming; she acquiesced. He promised AAA that they would pass by the grocery to buy food items for the party. Accused-appellant fetched her and they rode the van he came in.

Instead of going to the grocery first as planned, accused-appellant drove to Dominican Hill where he met somebody from whom he received something. They proceeded to Tacay Lodge where accused-appellant was going to meet someone. Accused-appellant inveigled upon AAA to go with him inside a room.

Inside, accused-appellant kept going in and out of the bathroom. AAA took this opportunity to text her mother, BBB, where she was and with whom. From where she was, she could hear her father sniffing something which she believed was shabu. Now genuinely afraid that she may be harmed, she texted her mother about her fear. BBB told her to get out of the room. At that moment, accused-appellant stepped out of the bathroom, undressed, went back to the bathroom, and took a shower. A short while thereafter, accused-appellant, with a towel around his waist, emerged from the bathroom, carrying what appeared to be a test tube. He lighted the thing he held and told her to sniff the smoke. As she sniffed, her father lay on the bed. Immediately, AAA felt dizzy and sat on a chair. Her father told her to sit on the bed and massage his hands. AAA complied. Then, he told her to massage his feet. As she was doing so, accused-appellant moved the towel covering his waist up to his abdomen. At that time, AAA's cellphone rang. It was CCC calling. Accused-appellant stood up and turned off AAA's cellphone. As he did so, the towel fell off and accused-appellant stood naked. Astounded and afraid, AAA moved away from the bed. Accused-appellant asked AAA if she does not feel like having sex; AAA told him "no" and cried. Accused-appellant pulled a pillow from the bed and covered his genitals. He pulled AAA towards the bed and told her to massage him again. AAA refused and cried. Accused-appellant embraced her and placed his leg over her body making her more frightened. She continued to cry, stood up, went as far away from him as possible and insisted that he bring her home. Accused-appellant asked her if she thinks that he would rape her. AAA replied "why are you doing that to me?". Accused-appellant told her "ok" and put on his clothes. After getting dressed, accused-appellant embraced her and apologized. He brought her home and left. AAA related what happened to BBB.

After the testimony of the witnesses, the prosecution formally offered[12]: the affidavit-complaint[13] of AAA, her birth certificate[14], the affidavit[15] of BBB, and the marriage certificate[16] of BBB and accused-appellant.

Accused-appellant testified[17] in his defense, denying the charges.

On April 25, 2007, he passed by the house of BBB to give her the children's allowance. While at the house, AAA and CCC were planning a joint birthday celebration because their birthdays were close to each other's, AAA on April 23, while CCC's was on April 26. They asked him if he could contribute to the party. Since he did not have the money, accused-appellant told them that he would pawn his newly purchased watch which he bought for P15,000.00. Because he had a vehicle, he and AAA proceeded to Baguio City but they first passed by a friend at Dominican Hills with whom he thought he could pawn the watch. His friend did not have money. They also passed by San Carlos Heights to borrow money from his younger brother, but his brother did not have money, too. He called Junior, the person who sold him the watch, and told Junior that he would return the watch for P10,000.00. Junior agreed and told him that they will meet at Tacay Lodge. He and AAA arrived at Tacay Lodge at around 7 o'clock in the evening. Since there was no place to wait at Tacay Lodge, he checked-in. He and AAA went to the room to wait for Junior. He called Junior who told him to wait. Accused-appellant used the bathroom to take a shower. Then, he called Junior to tell him that they were still waiting for him. After an hour, he called Junior for the third time because the latter was taking too long to arrive, and told him that they will just go home. Nothing untoward happened the whole time. They left Tacay Lodge and arrived at Bua, Tuding at past 8 o'clock in the evening. After dropping off AAA, he went home to Camp 7.

He and his family have maintained cordial relations after April 25, 2007. In fact, he and BBB reconciled sometime in November or December of 2007. Their family stayed at San Carlos Heights at the house of his younger brother.

On July 20, 2011, the RTC rendered the Joint Judgment, the dispositive portion[18] of which reads:

WHEREFORE, premises all duly considered, the court finds that the prosecution has established the guilt of the accused beyond all reasonable doubt of the crimes charged against him and hereby imposes the following penalties considering the presence of aggravating circumstances of relationship and minority -

- Criminal Case No. 27254-R for violation of Section 10 (a) of R.A. 7610, the accused is sentenced to serve the Indeterminate penalty of 6 years of Prision Correccional as the minimum penalty to 10 years of Prision Mayor as the maximum penalty, to indemnify "AAA" the amount of P15,000.00 as moral damages, and P15,000.00 as exemplary damages and to pay a fine of P10,000.00 as a cash fund for the Department of Social Welfare and development in accordance with Article XII Section 31 (f) of R.A. 7610.

- Criminal Case No. 27255-R for Acts of Lasciviousness in relation to R.A. 7610, the accused is sentenced to serve the Indeterminate penalty of 12 years and 1 day of Prision Mayor as the minimum penalty to 15 years of Reclusion Temporal as the maximum penalty and ordered to pay "AAA" the amount of P20,000.00 as civil indemnity, P15,000.00 as moral damages, P15,000.00 as exemplary damages and pay a fine of P10,000.00 as a cash fund for the Department of Social Welfare and Development in accordance with Article XII Section 31 (f) of R.A. 7610.

In the service of his sentences, accused shall served (sic) them successively.

The penalties shall carry the accessory penalty of civil interdiction for life.

SO ORDERED.

Hence, this Appeal.

ISSUES

I.

WHETHER OR NOT THE PROSECUTION HAD PROVED BEYOND REASONABLE DOUBT THAT ACCUSED COMMITTED ACTS PUNISHABLE UNDER SECTION 10(a) OF R.A. NO. 7610.

II.

WHETHER OR NOT THE ACCUSED CAN BE CONVICTED FOR ACTS OF LASCIVIOUSNESS IN RELATION TO R.A. NO. 7610.[19]

THE COURT'S RULING

The appeal is without merit.

Criminal Case No. 27254-R for
violation of Section 10(a) of R.A.
7610

Accused-appellant claims[20] that the prosecution failed to prove that what was heated in the tube was indeed shabu. Further, the act of forcing AAA to sniff something against her will only qualifies as Grave Coercion under Article 286 of the Revised Penal Code. The argument fails to convince.

In Sanchez vs. People,[21] the Supreme Court rejected appellant's claim that the act should not be considered as child abuse but merely slight physical injuries under the Revised Penal Code. According to the Supreme Court, when the incident happened, the victim was a child entitled to the protection extended by RA 7610, as mandated by the Constitution.

Section 10(a), Article VI of RA 7610, penalizes other acts of abuse, to wit:

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. -

(a) Any person who shall commit any other acts of abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period. (Emphasis supplied)

In this case, AAA narrated the incident in sufficient detail during direct examination, viz:

Q

When your father went out of the bathroom, what happened?

A

He was only covered with towel, Ma'am.

Q

And then, what happened?

A

He was letting me try to smell something from a tube, Ma'am.

Q

This tube that you are referring to, how long is it?

A

It is like a size of a test tube but only thinner, Ma'am.

Q

Was there anything inside the test tube?

A

A Small powder-like substance in it.

x x x

COURT

Q

Is it white substance?

A

A Powder, Your Honor.

Q

White powder?

A

Yes, Your Honor.

PROS. SORIANO

Q

White powder inside?

COURT:

Q

What exactly in Tagalog or in English or in Ilocano did your father tell you when he was asking you to smell that substance inside that tube?

WITNESS

A

First, he lighted the tube then he told me – “angutem diay asuk nga rumrumuar” – you smell the smoke

coming out from the tube.

PROS. SORIANO

Q

What did he use in lighting that tube?

A

A Lighter, Ma'am.

Q

When he lighted the tube, was there a smoke which came out from the tube?

A

Yes, Ma'am.

Q

With respect to the order of your father to smell the smoke coming out from the tube, did you actually smell the smoke?

A

First I did not smell because I am not sure if that is for cough as what he has said but he was insisting for me to smell it because it is good for my cough.

Q

Why Madam witness at that time, were you suffering from cough?

A

No more, Ma'am because my asthma was not active then at that time.

COURT:

Q

So you are suffering from asthma?

A

Yes, Your Honor.

Q

And you have attacks once in a while?

A

Yes, Your Honor.

Q

Does the Court understand that your father was asking you to smell the smoke coming out from the tube because it is good for your asthma?

A

Yes, Your Honor.

PROS. SORIANO

Q

So when you declined to smell the smoke coming from the tube, what did your father do?

A

He instructed me how to smell it and so I was forced to smell that smoke, Ma'am.

Q

What exactly was the instruction given you by your father?

A

He said – “angutem diay asuk, kitaem ta haan nga rumuar diay asuk ta haan nga masayang” meaning – you smell the smoke and see to it that the smoke will not come out so that the smoke will not be wasted.

Q

Aside from that Madam witness, did your father instructed (sic) you how to sniff properly the smoke coming out from the tube?

A

Yes, Ma'am.

COURT

Q

How?

A

He told me to smell the smoke directly in my nose, Your Honor.

PROS. SORIANO

Q

Did you follow the instruction of your father?

A

Yes, Ma'am.

Q

How many times did you sniff the smoke coming out from the tube?

A

Twice, Ma'am.

Q

How many times did your father light the tube?

A

Three times, Ma'am.

Q

After you sniffed the smoke coming out from the tube, what happened?

A

I felt a little dizzy, Ma'am.

PROS. SORIANO

Q

Anyway Madam witness, what was the odor of the smoke coming out of the tube, if there is any?

A

Smells like [a] burned plastic, I cannot describe it, Ma'am.

Q

But before the tube was heated by your father, was there any odor coming out of the tube?

A

None, Ma'am.[22]

There was no necessity for the prosecution to specifically identify the “white powder” as shabu. What is controlling is that AAA believed it was an illegal drug; and, her belief was not without basis for, by the looks of it, and the manner in which it was taken – burning and sniffing - it can reasonably be presumed that the “white powder” was shabu. When accused-appellant forced AAA, by lying to her and telling her that it was good for her asthma when he knew it was not, to sniff the smoke coming from the burnt white powder, the prosecution had sufficiently and satisfactorily established that accused-appellant had committed acts of abuse prejudicial to the child's development.

Accused-appellant relies on the following statement to convince this Court that AAA was not ordered to sniff the shabu, or that she had recanted her previous testimony, that:

Q

He never offered you to sniff something in a test tube at that time when he went out for the fourth time?

A

Yes, sir.[23]

The question is confusing and unclear, not to mention that it is duplicitous. At any rate, the RTC, which is in a better position to determine the weight and impact on the credibility of AAA's answer to the said question, taking into consideration her deportment and demeanor on the stand, has found that AAA's testimony was given in a clear, positive and straightforward manner[24]. Time and again, it has been ruled that factual findings of the trial court and the assessment of witnesses' credibility, when supported by the evidence on record, and absent any indication or showing that the trial court overlooked some material facts or gravely abused its discretion, is conclusive on this Court[25]. We have scoured the record for any evidence of oversight or abuse of discretion of the RTC for a reversal of its findings and assessment of credibility, and have found none in this case.

Criminal Case No. 27255-R for
Acts of Lasciviousness

It is axiomatic that an appeal, once accepted by this Court, throws the entire case open to review, and that this Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case[26].

The Information recites the charge, thus:

The undersigned accuses IVAN Q. CERVANTES of the crime of ACTS OF LASCIVIOUSNESS IN
RELATION TO RA 7610 xxx

That on or about the 25[th] day of April, 2007, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to cause malice and satisfy his lascivious desire, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness on the person of "AAA", a minor, 15 years old, by pulling her toward him and thereafter trapped her between his legs while he was naked, thereby inflicting traumatic experience to said child, that the acts of the accused debased, degraded and demeaned the intrinsic worth of the complainant as a human being. (Emphasis ours)

That in the commission of the crime aggravating circumstance is present considering that the accused is the father of the complainant.

CONTRARY TO LAW.

There has been an erroneous specification of the provision of law alleged to have been violated.

The real nature of the criminal charge is determined not from the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated, they being conclusions of law, but by the actual recital of facts in the complaint or information; it is not the technical name given by the Fiscal appearing in the title of the information that determines the character of the crime but the facts alleged in the body of the Information[27].

A mere perusal of the body of the Information reveals that what is actually charged is child abuse, defined in Section 3 (b)(2), Article I, RA 7610, as "the maltreatment, whether habitual or not, of the child which includes....any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being", in violation of Section 10 (a), RA 7610[28].

In the case of *Christian Caballo vs. People*[29], the accused was charged with, and found guilty by the RTC, of violation of Section 10(a), Article VI of RA 7610, in relation to Section 2 of the Rules on Child Abuse Cases; on appeal to the Court of Appeals (CA), the CA dismissed the appeal and affirmed with modification the RTC's

ruling, finding Caballo guilty of violating Section 5(b), Article III of RA 7610; it ruled that while the Amended Information denominated the crime charged as violation of Section 10(a), Article VI of RA 7610, the statements in its body actually support a charge of violation of Section 5(b), Article III of RA 7610. On the merits of the case, it found that the evidence adduced by the prosecution clearly showed that Caballo persuaded, induced and enticed AAA, then a minor, to have carnal knowledge with him. Towards this end, Caballo repeatedly assured AAA of his love and even went on to promise marriage to her. He also assured AAA that she would not get pregnant because he would be using the "withdrawal method." Thus, it was upon these repeated coaxing and assuring words that AAA succumbed to Caballo's evil desires which deflowered and got her pregnant. On this score, it observed that consent is immaterial in child abuse cases involving sexual intercourse and lascivious conduct and therefore, the sweetheart defense remains unacceptable. The Supreme Court affirmed the CA and further elucidated, that:

To put things in proper perspective, it must be pointed out that RA 7610 was meant to advance the state policy of affording "special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development" and in such regard, "provide sanctions for their commission." It also furthers the "best interests of children" and as such, its provisions are guided by this standard. xxx

A child cannot give consent to a contract under our civil laws. This is on the rationale that she can easily be the victim of fraud as she is not capable of fully understanding or knowing the nature or import of her actions. The State, as *parens patriae*, is under the obligation to minimize the risk of harm to those who, because of their minority, are as yet unable to take care of themselves fully. Those of tender years deserve its protection.

The harm which results from a child's bad decision in a sexual encounter may be infinitely more damaging to her than a bad business deal. Thus, the law should protect her from the harmful consequences of her attempts at adult sexual behavior. For this reason, a child should not be deemed to have validly consented to adult sexual activity and to surrender herself in the act of ultimate physical intimacy under a law which seeks to afford her special protection against abuse, exploitation and discrimination. (Otherwise, sexual predators like petitioner will be justified, or even unwittingly tempted by the law, to view her as fair game and vulnerable prey). In other words, a child is presumed by law to be incapable of giving rational consent to any lascivious conduct or sexual intercourse. xxx

The Information alleges that the acts allegedly constitutive of the offense of acts of lasciviousness, are "by pulling her (AAA) toward him (AAA's father, accused-appellant) and thereafter trapped her between his legs while he was naked", allegations which were proven, and even demonstrated[30], at the trial on the merits. We submit that these acts are not lascivious.

Lascivious conduct is defined under Section 2(h) of the Implementing Rules and Regulations of RA 7610, thus:

"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.

Pulling AAA toward him and trapping her between his legs while naked, is skin-crawling, gut-wrenching disgusting, but it does not constitute lascivious conduct. However, it did inflict a traumatic experience on AAA, demeaned and debased her intrinsic worth as a human being, and is undeniably prejudicial to her development; acts constitutive of child abuse, defined under Section 3(b), Article I of RA 7610, viz:

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the

following:

xxx

(2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; xxx

and penalized under Section 10(a), Article VI of RA 7610.

Penalties and Damages

In conclusion, accused-appellant is held liable for two counts of violation of Section 10(a), Article VI, RA 7610, the imposable penalty being prision mayor in its minimum period.

Article 65 of the RPC requires the division of the time included in the prescribed penalty into three equal periods of time, forming one period for each of the three portions[31]. In the instant case, the penalty prescribed under Section 10(a), Article VI of RA 7610 is prision mayor in its minimum period (6 years and 1 day to 8 years). The maximum, medium and minimum periods of the prescribed penalty are therefore:

Minimum – 6 years and 1 day to 6 years and 8 months;

Medium – 6 years, 8 months and 1 day to 7 years, 4 months;

Maximum – 7 years, 4 months, 1 day to 8 years

Section 31(c) of RA 7610 provides that the penalty shall be imposed in its maximum period when the perpetrator is a parent; and since the Indeterminate Sentence Law applies to offenses[32] the nomenclature for the penalties of which are adopted from the Revised Penal Code, as in this case, accused-appellant is sentenced to an indeterminate sentence the maximum of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum of which shall be within the range of the penalty next lower in degree[33]. In view of the aggravating circumstance of relationship, the maximum penalty to be imposed upon accused-appellant shall be within the maximum period of prision mayor minimum, while the minimum shall be within the medium period of prision mayor minimum. Therefore, accused-appellant is hereby imposed the indeterminate penalty of 6 years, 8 months and 1 day as minimum, to 8 years as maximum of Prision Mayor.

In accordance with jurisprudence[34], We affirm the award, for each count, of P15,000.00 as moral damages, and P15,000.00 as exemplary damages in view of the presence of the aggravating circumstance of relationship. However, We deem it proper to modify the amount of the fine in that the same should be increased from P10,000.00 to P15,000.00. In addition, accused-appellant shall be held liable for civil indemnity in the amount of P20,000[35].

WHEREFORE, premises considered, the Appeal is DENIED. The Joint Judgment dated July 20, 2011 of the Regional Trial Court, Branch 59, Baguio City, in Criminal Cases Nos. 27254-R and 27255-R, is AFFIRMED with MODIFICATIONS. The Court finds accused-appellant Ivan Q. Cervantes:

- GUILTY beyond reasonable doubt of violation of Section 10(a), Article VI of RA 7610, in Criminal Case No. 27254-R. Accused-appellant is sentenced to suffer the indeterminate penalty of 6 years, 8 months and 1 day, as minimum, to 8 years, as maximum, of Prision Mayor, and ordered to pay AAA P20,000.00 as civil indemnity, P15,000.00 as moral damages, P15,000.00 as exemplary damages, and P15,000.00 as fine.

- GUILTY beyond reasonable doubt of violation of Section 10(a), Article VI of R.A. 7610, in Criminal Case No. 27255-R. Accused-appellant is sentenced to suffer the indeterminate penalty of 6 years, 8 months and 1 day, as

minimum, to 8 years, as maximum, of Prison Mayor, and ordered to pay AAA P20,000.00 as civil indemnity, P15,000.00 as moral damages, P15,000.00 as exemplary damages, and P15,000.00 as fine.

SO ORDERED.

Didican (Chairperson) and Elbinias, JJ., concur.

[1] Record of Criminal Case No. 27254-R, pp. 258-77.

[2] Id., p. 1.

[3] This, pursuant to the ruling in *People vs. Cabalquinto*, G.R. No. 167693, September 19, 2006, where the Supreme Court, citing Sec. 40, Rule on Violence Against Women and their Children; Sec. 63, Rule XI, Rules and Regulations Implementing Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act of 2004", withheld the real name of the victim and used fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed.

[4] Record of Criminal Case No. 27255-R, p. 1.

[5] *Supra*, note 1, p. 32.

[6] See Pre-Trial Order dated April 7, 2010, Id., pp. 41-3.

[7] Id., p. 41.

[8] TSN, June 29, 2010, id., pp. 154-74; TSN, August 4, 2010, id., pp. 175-83; TSN, August 17, 2010, id., pp. 187-98; TSN, August 25, 2010, id., pp. 199-209.

[9] TSN, September 6, 2010, id., pp.212-24; TSN, September 13, 2010, id., pp.225-29.

[10] Exh. "D", id., p. 74.

[11] Exh. "B", id., p. 75.

[12] Id., pp. 115-16.

[13] Exh. "A", id., pp. 5-8.

[14] Exh. "B", id., p. 75.

[15] Exh. "C", id., pp. 9-10.

[16] Exh. "D", id., p. 74.

[17] TSNs, November 24, 2010, id., pp. 230-36; December 8, 2010, id., pp. 237-46; and March 28, 2011, id., pp. 247-53.

[18] Joint Judgment, *supra*, note 1, pp. 275-76.

[19] Rollo, p. 72.

[20] Id., p. 74.

[21] GR No. 179090, June 05, 2009.

[22] TSN, June 29, 2010, pp. 12-5, record of Criminal Case No. 27254-R, pp. 165-8.

[23] TSN, August 25, 2010, p. 4, id., p. 202.

[24] See Joint Judgment, id., pp.258-77, 270.

[25] See *People vs. Corpuz*, G.R. No. 191068, July 17, 2013.

[26] *Mylene Carvajal vs. Luzon Development Bank and/or Oscar Z. Ramirez*, G.R. No. 186169, August 1, 2012.

[27] *Eduardo P. Pilapil vs. Sandiganbayan, Francis E. Garchitorena and People of the Philippines*, G.R. No. 101978. April 7, 1993.

[28] Sec. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. (a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

[29] G.R. No. 198732, June 10, 2013.

[30] See TSN, August 4, 2010, p. 4; record, Crim. Case No. 27254-R, p. 178.

[31] See *Bonifacio vs. People*, GR No. 153198, June 11, 2006.

[32] *Nilo vs. People*, GR No. 179090, June 5, 2009.

[33] Section 1, Act No. 4103 as amended by Act No. 4225.

[34] *People vs. Fragante*, GR No. 182521, February 09, 2011.

[35] Id..

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