

## **PEDRO PEREZ PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

*G.R. No. 201414. April 18, 2018*

Ponente: LEONEN, J.

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### **LEONEN, J.:**

Inserting a finger in a 12-year-old girl's vagina and mashing her breasts are not only acts of lasciviousness but also amount to child abuse punished under Republic Act No. 7610.

This is a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, praying that the September 30, 2011 Decision[2] and April 10, 2012 Resolution[3] of the Court of Appeals in CA-G.R. CR No. 33290 be reversed and set aside.[4] The Court of Appeals affirmed the March 8, 2010 Judgment[5] of the Regional Trial Court, which found Pedro Perez (Perez) guilty beyond reasonable doubt of violation of Section S(b) of Republic Act No. 7610.

On March 29, 1999, an Information was filed against Perez, charging him with violation of Section S(b) of Republic Act No. 7610 or the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act:[6]

[T]hat on or about the 7[th] day of November 1998, in Quezon City, Philippines, the said accused, with lewd design, did, then and there willfully, unlawfully, feloniously commit an act of sexual abuse upon the person of [AAA], a minor, 12 years of age, by then and there inserting his finger [into] her private organ while mashing her breast against her will and without her consent which act debases, degrades or demeans the intrinsic worth and dignity of complainant as a human being, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.[7]

Perez pleaded not guilty during arraignment.[8] Pre-trial was held, wherein the prosecution and the defense stipulated the following:

- That at the time of the commission of the crime, the minor, the victim in this case was only 12 years of age; and
- That the accused was residing at that time at No. 4, Pangasinan Street, Luzviminda Street, Brgy. Batasan Hills, Quezon City.[9]

Thereafter, trial on the merits ensued.[10] The prosecution presented AAA,[11] SPO4 Mila Billones (SPO4 Billones), and Dr. Winston Tan (Dr. Tan) as its witnesses.[12]

AAA testified that she met Perez for the first time on November 6, 1998 when she attended her cousin BBB's birthday party. The next day, November 7, 1998, she saw Perez again when she visited her friend CCC at her house. Aside from her, Perez, and CCC, their other companions inside the house were BBB, DDD, and EEE.[13]

AAA recalled that she was wearing a sleeveless blouse, a skirt, and cycling shorts under her skirt that day.[14]

AAA narrated that she "went to the kitchen to drink water." [15] She saw Perez following her. [16] After drinking, Perez "kissed her on the nape and simultaneously told her to keep silent." [17] Then, Perez slid his finger in her vagina while massaging her breasts. AAA stated that it was painful when Perez inserted his finger. She attempted to remove his hands but he forced himself. Because she was very afraid, she failed to fight back. Perez succeeded in his sexual advances, which lasted for around ten seconds. He then told her not to tell anybody about what happened. [18]

AAA later narrated what happened to her other cousin FFF, who disclosed the incident to AAA's parents. Her parents reported the incident to the barangay officials, who eventually referred the matter to the police for investigation. [19]

SPO4 Billones testified that she was the women's desk officer who interviewed AAA. At first, AAA hesitated to answer the questions but eventually disclosed what happened. SPO4 Billones observed that AAA almost cried when she narrated that Perez inserted his finger into her vagina. After the interview, she prepared AAA's statement and thereafter filed the case. She also recommended AAA to undergo further medical examination. [20]

Dr. Tan testified that he was a Medico-Legal Officer of the Philippine National Police Crime Laboratory in Camp Crame, Quezon City. [21] He examined AAA and stated in his Medico Legal Report that there were "signs of physical abuse, particularly, deep healed laceration at three (3) o'clock on the hymen of [AAA] and ecchymosis in the right mammary region." [22] He noted that the laceration was consistent with AAA's allegation of sexual abuse and that the ecchymosis or bruising matched with the date of the alleged incident. [23] However, he also testified that the "injuries can likewise be inflicted in a consensual relationship." [24]

Meanwhile, the defense presented Perez; his sister, Alma Perez (Alma); and CCC as its witnesses. [25]

At the time of his testimony on May 23, 2005, Perez mentioned that he was 26 years old. Thus, he was about 19 years old in 1998 when the offense was committed. [26]

Perez denied abusing AAA. He stated that he first met AAA on October 17, 1998. AAA purportedly informed him that she was already 16 years old. He testified that he was not romantically involved with AAA. However, AAA supposedly gave him a love letter through Alma but he did not reciprocate her affection. He admitted that he met AAA again at BBB's birthday on November 6, 1998. [27]

Perez narrated that on the day of the alleged incident, he and his aunt, Nena Rodrigo, went to a school in New Manila. He left her aunt around 6:00p.m. and went straight home. [28]

Perez added that on November 11, 1998, AAA filed a complaint against him for slander before the barangay. They were able to settle the matter, and their agreement was put in writing. [29]

Alma testified that she noticed that AAA liked her brother Perez. She was also surprised when AAA gave her a love letter for her brother. She stated that AAA went to their place frequently and that she talked to her at BBB's party. [30]

CCC testified that she, AAA, and BBB were together on the day of the alleged incident. However, she swore that she did not see Perez enter her house. She also did not see anything unusual with AAA that day. She claimed that they just slept for five (5) hours the whole time they were together. [31]

On March 8, 2010, the Regional Trial Court rendered a Judgment, [32] finding Perez guilty beyond reasonable doubt of violation of Section S(b) of Republic Act No. 7610, in relation to Article 336 of the Revised Penal Code. [33] It held that the prosecution was able to establish the presence of all elements of violation of Section S(b). Perez likewise failed to provide proof of his alibi. [34] Lastly, it noted that "the location as well as the

presence of other persons [are] not a barometer that a rapist will be deterred in his lustful intentions to commit the crime of rape if and when his urgings call for it." [35]

The dispositive portion of the trial court Judgment provided:

WHEREFORE, judgment is hereby rendered finding accused Pedro Perez GUILTY beyond reasonable doubt of Violation of R.A. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act in relation to Article 336 of the Revised Penal Code, as amended, and is sentenced to suffer an indeterminate penalty of EIGHT (8) YEARS and ONE (1) DAY OF PRISION MAYOR IN ITS MEDIUM PERIOD AS MINIMUM TO FOURTEEN (14) YEARS and EIGHT (8) MONTHS OF RECLUSION TEMPORAL IN ITS MINIMUM PERIOD AS MAXIMUM.

Accused Pedro Perez is likewise ordered to pay FIFTY THOUSAND PESOS (P50,000.00) as moral damages and TWENTY[-]FIVE THOUSAND PESOS (P25,000.00) as exemplary damages plus costs of suit.

SO ORDERED. [36] (Emphasis in the original)

Perez filed an appeal [37] before the Court of Appeals. [38]

On September 30, 2011, the Court of Appeals promulgated a Decision, [39] dismissing the appeal and affirming the trial court's Judgment. [40] The dispositive portion of this Decision provided:

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED. Accordingly, the assailed Judgment of the Regional Trial Court of Quezon City (RTC), Branch 94, dated March 8, 2010 is AFFIRMED in toto.

SO ORDERED. [41] (Emphasis in the original)

Perez moved for reconsideration, [42] which was denied by the Court of Appeals in its April 10, 2012 Resolution. [43]

On May 30, 2012, Perez filed a Petition for Review [44] before this Court. Respondent People of the Philippines, through the Office of the Solicitor General, filed its Comment [45] on September 6, 2013. Meanwhile, petitioner filed a Manifestation and Motion (In Lieu of Reply) [46] on September 30, 2013.

On April 7, 2014, this Court issued a Resolution [47] giving due course to the petition. The parties subsequently submitted their respective Memoranda. [48]

In his pleadings, petitioner asserts that the situation created by AAA is improbable and not in line with common human experience, given her tight-fitting clothes at the time of the incident. Although not impenetrable, her attire was restricting and the time needed to consummate the alleged act was enough for her to ask for help from her companions. AAA likewise fails to mention how petitioner subdued her in spite of her resistance. Petitioner stresses that the alleged crime occurred in close proximity of other persons. It is then impossible that nobody noticed what was happening. [49]

Petitioner points out that the medico-legal officer testified that there was a possibility that the injuries sustained by AAA were inflicted with her consent in a sexual relationship. [50] In addition to his denial of any romantic relationship with AAA, [51] he claims that "the medico-legal report did not conclusively prove that [he] was responsible for [AAA's] vaginal laceration." [52]

Finally, petitioner contends that assuming a crime was committed, it should only be acts of lasciviousness under Article 336 of the Revised Penal Code since the prosecution failed to prove beyond reasonable doubt the presence of the elements of child abuse. [53] Petitioner explains:

[B]efore an accused may be convicted of child abuse through lascivious conduct involving a minor below twelve (12) years of age, the requisites for acts of lasciviousness under Article 336 of the Revised Penal Code must be met IN ADDITION to the requisites for sexual abuse under Section 5 of R.A. No. 7610. The elements of the offense aforementioned, are as follows:

"1.

The accused commits the acts of sexual intercourse or lascivious conduct.

2.

The said act is performed with a child exploited in prostitution or subjected to other sexual abuse.

3.

The child, whether male or female, is below 18 years of age."[54] (Emphasis in the original, citations omitted)

Petitioner claims that the prosecution failed to allege the second element either in the Complaint or in the Information. According to petitioner, the prosecution must also prove that AAA was "exploited in prostitution or subjected to other sexual abuse" aside from being subjected to acts of lasciviousness since these are separate and distinct elements.[55]

On the other hand, respondent avers that petitioner tried to challenge the credibility of the prosecution's witnesses when he raised the matter of the attire worn by AAA and when he questioned her reaction during the incident. However, respondent pointed out that the trial court already found its witnesses credible. Hence, the trial court's findings should be given great weight considering that it did not commit any misappreciation of facts.[56]

Respondent maintains that AAA's garment, no matter how tight-fitting as petitioner claims, is not unpiercable and petitioner could have easily slid his hand inside it. AAA's inaction is also understandable since she was only 12 years old when the incident happened and fear already overcame her when petitioner threatened her not to speak or shout.[57]

In addition, the medico-legal report verifies AAA's claim that she was sexually assaulted. This report and Dr. Tan's testimony corroborate AAA's allegation that it was petitioner who committed the crime.[58]

Respondent also counters that petitioner failed to timely question the nature of his indictment since he only raised it for the first time on appeal. Moreover, the allegations contained in the Information sufficiently support a conviction for Child Abuse under Section 5(b) of Republic Act No. 7610 in relation to Article 336 of the Revised Penal Code.[59]

There are two (2) issues for this Court's resolution:

First, whether the evidence sufficiently establishes AAA's narrative; and

Second, whether all the elements charged in the Information are sufficiently proven beyond reasonable doubt.

## I

Petitioner advances the seeming impossibility of AAA's allegation of child abuse considering AAA's outfit that day, her inaction during and after the commission of the alleged act, and the presence of other persons in the house where it happened.

Petitioner's contention has no merit.

This Court cannot accept this reasoning of petitioner. As correctly found by the Court of Appeals:

This type of reasoning borders on the preposterous in that the accused literally made it sound like the victim's cycling shorts were made of impenetrable steel like a chastity belt. That, or he is trying to portray himself as a hapless human being with wispy cotton for arms such that the act of lifting a child's blouse or adjusting her undergarment's waistband (to accommodate his hand) pose a serious physical challenge that a man of his age and built cannot hope to accomplish. This, at all, does not run afoul with human experience as the accused so conveniently puts it. On the contrary, this particular act of indecency is easily attainable given the disparity in his strength and that of the child's, the unique access by which the accused succeeded in his dastardly act and, for good measure, the customary ascendancy that adults have over children.

As so clearly described by the victim, the manner by which the accused committed lasciviousness against her is not far removed from the [other victims of acts of lasciviousness] before her. She stated that the accused sneaked in after her when she walked toward the kitchen to fetch herself a glass of water. There, hidden from everyone else (the living room and the kitchen [were] separated by a room), the accused took advantage of the situation by inserting his fingers from behind her and fumbled her breast that visibly resulted in a bruise. Young as she is, she struggled as best as she could to remove herself from his grip but the accused warned her not to scream or shout for help. For a child of tenders (sic) age, such a stern warning from a fully grown man was enough to kill off whatever courage she might have had to scream for the others for assistance.[60]

In *Awas v. People*,<sup>[61]</sup> the 10-year-old victim likewise failed to shout for help when the accused touched her vagina.<sup>[62]</sup> This Court held that "[t]here is no standard behavior for a victim of a crime against chastity."<sup>[63]</sup> Moreover, "[b]ehavioral psychology teaches that people react to similar situations dissimilarly."<sup>[64]</sup>

In *People v. Lomaque*,<sup>[65]</sup> the accused sexually abused the victim since she was eight (8) years old until she was 14 years old.<sup>[66]</sup> The accused inserted either his penis or his finger in the victim's vagina in more than 10 instances.<sup>[67]</sup> The victim also failed to cry for help.<sup>[68]</sup> This Court held:

Neither the failure of "AAA" to struggle nor at least offer resistance during the rape incidents would tarnish her credibility. "Physical resistance need not be established when intimidation is brought to bear on the victim and the latter submits herself out of fear. As has been held, the failure to shout or offer tenuous resistance does not make voluntary the victim's submission to the criminal acts of the accused." Rape is subjective and not everyone responds in the same way to an attack by a sexual fiend. Although an older person may have shouted for help under similar circumstances, a young victim such as "AAA" is easily overcome by fear and may not be able to cry for help.

We have consistently ruled that "no standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. People react differently to emotional stress and rape victims are no different from them."<sup>[69]</sup> (Citations omitted)

*People v. Barcelá*<sup>[70]</sup> further elucidated the reaction of a minor when something extremely and unexpectedly dreadful happens to him or her:

Behavioral psychology teaches us that, even among adults, people react to similar situations differently, and there is no standard form of human behavioral response when one is confronted with a startling or frightful experience. Let it be underscored that these cases involve victims of tender years, and with their simple, unsophisticated minds, they must not have fully understood and realized at first the repercussions of the contemptible nature of the acts committed against them. This Court has repeatedly stated that no standard form of behavior could be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult.<sup>[71]</sup> (Citations omitted)

It is also not impossible for petitioner to commit the crime even if there were other people nearby. In *Barcelá*, the accused was able to insert his finger inside the vagina of his 14-year-old stepdaughter while the victim's mother

and her other sister were sleeping in the same room.[72] In *People v. Divinagracia, Sr.*,[73] the accused inserted his finger in the vagina of his eight (8)-year-old daughter and raped her afterwards while his nine (9)-year-old daughter was lying beside her.[74] In *People v. Gaduyon*,[75] the accused inserted his finger into the vagina of his 12-year-old daughter who was then sleeping on the upper portion of a double-deck bed while his other daughter was on the lower portion.[76]

This Court cannot emphasize enough that "lust is no respecter of time and place." [77] Thus, "rape can be committed even in places where people congregate, in parks, along the roadside, within school premises and even inside a house where there are other occupants or where other members of the family are also sleeping." [78]

Furthermore, the victim in this case was able to positively identify her assailant. She made a clear and categorical statement that petitioner was the person who committed the crime against her. Aside from petitioner's denial, he failed to present his aunt as a witness or other documentary evidence to corroborate his alibi that he went to a school on the day of the incident. In light of AAA's positive declaration, petitioner's unsubstantiated defense must fail following the doctrine that "positive identification prevails over denial and alibi." [79]

In *People v. Amarela*, [80] this Court had occasion to correct a generalization of all women, which amounted to a stereotype, thus:

More often than not, where the alleged victim survives to tell her story of sexual depredation, rape cases are solely decided based on the credibility of the testimony of the private complainant. In doing so, we have hinged on the impression that no young Filipina of decent repute would publicly admit that she has been sexually abused, unless that is the truth, for it is her natural instinct to protect her honor. However, this misconception, particularly in this day and age, not only puts the accused at an unfair disadvantage, but creates a travesty of justice.

The "women's honor" doctrine surfaced in our jurisprudence sometime in 1960. In the case of *People v. Taño*, the Court affirmed the conviction of three (3) armed robbers who took turns raping a person named Herminigilda Domingo. The Court, speaking through Justice Alejo Labrador, said:

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

This opinion borders on the fallacy of non sequitor. And while the factual setting back then would have been appropriate to say it is natural for a woman to be reluctant in disclosing a sexual assault[,], today, we simply cannot be stuck to the Maria Clara stereotype of a demure and reserved Filipino woman. We, should stay away from such mindset and accept the realities of a woman's dynamic role in society today; she who has over the years transformed into a strong and confidently intelligent and beautiful person, willing to fight for her rights. [81] (Emphasis in the original, citations omitted)

This Court then found the alleged victim's statement as less credible than the inferences from the other established evidence and proceeded to acquit the accused.

This Court in *Amarela*, however, did not go as far as denying the existence of patriarchal dominance in many social relationships. Courts must continue to be sensitive to the power relations that come clothed in gender roles. In many instances, it does take courage for girls or women to come forward and testify against the boys or men in their lives who, perhaps due to cultural roles, dominate them. Courts must continue to acknowledge that the dastardly illicit and lustful acts of men are often veiled in either the power of coercive threat or the inconvenience inherent in patriarchy as a culture.

Even if it were true that AAA was infatuated with the accused, it did not justify the indignity done to her. At the

tender age of 12, adolescents will nonnally be misled by their hormones and mistake regard or adoration for love. The aggressive expression of infatuation from a 12-year-old girl is never an invitation for sexual indignities. Certainly, it does not deserve the accused's mashing of her breasts or the insertion of his finger into her vagina.

Consistent with our pronouncement in *Amarela*, AAA was no Maria Clara. Not being the fictitious and generalized demure girl, it does not make her testimony less credible especially when supported by the other pieces of evidence presented in this case.

## II

Petitioner asserts that even assuming that he is liable, he is only liable for acts of lasciviousness since the prosecution failed to prove all elements of child abuse under Section S(b) of Republic Act No. 7610.

Petitioner is mistaken.

Article III, Section S(b) of Republic Act No. 7610 provides:

### ARTICLE III CHILD PROSTITUTION AND OTHER SEXUAL ABUSE

Section 5. Child Prostitution and Other Sexual Abuse. - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

....

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period[.] (Emphasis supplied)

Under Section 5(b), the elements of sexual abuse are:

- (1) The accused commits the act of sexual intercourse or lascivious conduct[;]
- (2) The said act is performed with a child exploited in prostitution or subjected to other sexual abuse[; and]
- (3) The child, whether male or female, is below 18 years of age.[82]

The presence of the first and third elements is already established. Petitioner admits in the pre-trial that AAA was only 12 years old at the commission of the crime. He also concedes that if ever he is liable, he is liable only for acts of lasciviousness. However, petitioner claims that the second element is wanting. For petitioner, the prosecution must show that AAA was "exploited in prostitution or subjected to other sexual abuse."

A thorough review of the records reveals that the second element is present in this case.

This Court in *People v. Villacampa*[83] explained:

[T]he second element is that the act is performed with a child exploited in prostitution or subjected to other

sexual abuse. To meet this element, the child victim must either be exploited in prostitution or subjected to other sexual abuse. In *Quimvel v. People*, the Court held that the fact that a child is under the coercion and influence of an adult is sufficient to satisfy this second element and will classify the child victim as one subjected to other sexual abuse. The Court held:

To the mind of the Court, the allegations are sufficient to classify the victim as one "exploited in prostitution or subject to other sexual abuse." This is anchored on the very definition of the phrase in Sec. 5 of RA 7610, which encompasses children who indulge in sexual intercourse or lascivious conduct (a) for money, profit, or any other consideration; or (b) under the coercion or influence of any adult, syndicate or group.

Correlatively, Sec. S(a) of RA 7610 punishes acts pertaining to or connected with child prostitution wherein the child is abused primarily for profit. On the other hand, paragraph (b) punishes sexual intercourse or lascivious conduct committed on a child subjected to other sexual abuse. It covers not only a situation where a child is abused for profit but also one in which a child, through coercion, intimidation or influence, engages in sexual intercourse or lascivious conduct. Hence, the law punishes not only child prostitution but also other forms of sexual abuse against children....[84] (Emphasis supplied, citations omitted)

In *Ricalde v. People*,[85] this Court clarified:

The first paragraph of Article III, Section 5 of Republic Act No. 7610 clearly provides that "children ... who ... due to the coercion ... of any adult ... indulge in sexual intercourse ... are deemed to be children exploited in prostitution and other sexual abuse." The label "children exploited in ... other sexual abuse" inheres in a child who has been the subject of coercion and sexual intercourse.

Thus, paragraph (b) refers to a specification only as to who is liable and the penalty to be imposed. The person who engages in sexual intercourse with a child already coerced is liable.[86] (Underscoring in the original)

By analogy with the ruling in *Ricalde*, children who are likewise coerced in lascivious conduct are "deemed to be children exploited in prostitution and other sexual abuse." When petitioner inserted his finger into the vagina of AAA, a minor, with the use of threat and coercion, he is already liable for sexual abuse.

### III

This Court affirms the finding of guilt beyond reasonable doubt of petitioner for the charge of child abuse under Section 5(b) of Republic Act No. 7610. However, this Court modifies the penalty imposed by the trial court, as affirmed by the Court of Appeals.

Under Section 5(b), "the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period." Reclusion temporal in its medium period is fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months.

In *People v. Pusing*,[87] this Court imposed the indeterminate penalty of fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal as minimum, to seventeen (17) years and four (4) months of reclusion temporal as maximum for the criminal case of child abuse.[88] This Court also awarded P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.[89] Additionally, "interest at the legal rate of 6% per annum [was imposed on all damages awarded] from the date of finality of [the] judgment until fully paid." [90]

WHEREFORE, this Court ADOPTS the findings of fact and conclusions of law of the Court of Appeals September 30, 2011 Decision in CA-G.R. CR No. 33290, with MODIFICATION as follows:

WHEREFORE, judgment is hereby rendered finding accused Pedro Perez GUILTY beyond reasonable doubt of violation of R.A. 7610, otherwise known as the "Special Protection of Children Against Child Abuse,

Exploitation and Discrimination Act in relation to Article 336 of the Revised Penal Code, as amended, and is sentenced to suffer an indeterminate penalty of FOURTEEN (14) YEARS, EIGHT (8) MONTHS, and ONE (1) DAY OF RECLUSION TEMPORAL AS MINIMUM TO SEVENTEEN (17) YEARS and FOUR (4) MONTHS OF RECLUSION TEMPORAL AS MAXIMUM.

Accused Pedro Perez is likewise ordered to pay FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity, FIFTY THOUSAND PESOS (P50,000.00) as moral damages, and THIRTY THOUSAND PESOS (P30,000.00) as exemplary damages plus costs of suit.

All awards for damages shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.

**SO ORDERED.**

Velasco, Jr. (Chairperson), Bersamin, Martires, and Gesmundo, JJ., concur.

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[1] Rollo, pp. 9-29.

[2] Id. at 85-95. The Decision was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Isaias P. Dicdican and Rodil V. Zalameda of the Special Sixteenth Division, Court of Appeals, Manila.

[3] Id. at 103-104. The Resolution was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Isaias P. Dicdican and Rodil V. Zalameda of the Former Special Sixteenth Division, Court of Appeals, Manila.

[4] Id. at 25.

[5] Id. at 48-58. The Judgment, docketed as Criminal Case No. Q-99-84282, was penned by Presiding Judge Roslyn M. Rabara-Tria of Branch 94, Regional Trial Court, Quezon City.

[6] Id. at 48 and 85-86.

[7] Id. at 48.

[8] Id.

[9] Id.

[10] Id.

[11] The fictitious initials "AAA" represent the victim-survivor's real name. In *People v. Cabalquinto* (533 Phil. 703 (2006) [Per J. Tinga, En Banc]), this Court discussed the need to withhold the victim's real name and other information that would compromise the victim's identity, applying the confidentiality provisions of: (1) Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and its implementing rules; (2) Republic Act No. 9262 (Anti-Violence Against Women and their Children Act of 2004) and its implementing rules; and (3) this Court's October 19, 2004 resolution in A.M. No. 04-10-11-SC (Rule on Violence Against Women and their Children).

[12] Rollo, p. 49 and 87-88.

[13] Id. at 49.

- [14] Id.
- [15] Id.
- [16] Id.
- [17] Id.
- [18] Id. at 49-50 and 87.
- [19] Id. at 50 and 87.
- [20] Id. at 50 and 88.
- [21] Id. at 50.
- [22] Id.
- [23] Id. at 50 and 87.
- [24] Id. at 50.
- [25] Id. at 50-51 and 86-87.
- [26] Id. at 54.
- [27] Id. at 50-51 and 86.
- [28] Id.
- [29] Id. at 51.
- [30] Id.
- [31] Id. at 86-87.
- [32] Id. at 48-58.
- [33] Id. at 57.
- [34] Id. at 51-57.
- [35] Id. at 56.
- [36] Id. at 57.
- [37] Id. at 30-47.
- [38] Id. at 85.
- [39] Id. at 85-95.
- [40] Id. at 94.
- [41] Id.
- [42] Id. at 96-99.
- [43] Id. at 103-104.
- [44] Id. at 9-29.

[45] Id. at 127-153.

[46] Id. at 154-157.

[47] Id. at 161.

[48] Id. at 166-192, People of the Philippines' Memorandum filed on July 7, 2014, and 198-213, Pedro Perez's Memorandum filed on August 4, 2014.

[49] Id. at 203-205.

[50] Id. at 206.

[51] Id. at 86.

[52] Id. at 206.

[53] Id. at 206-210.

[54] Id. at 208-210.

[55] Id.

[56] Id. at 171-180.

[57] Id.

[58] Id. at 180-181.

[59] Id. at 181-188.

[60] Id. at 89-90. There was no finding in the trial court or in the Court of Appeals as to the physical built of the accused in relation to that of the victim's physique.

[61] G.R. No. 203114, June 28, 2017  
<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/june2017/203114.pdf>> [Per J. Bersamin, Third Division].

[62] Id. at 5.

[63] Id.

[64] Id.

[65] 710 Phil. 338 (2013) [Per J. Del Castillo, Second Division].

[66] Id. at 344-346.

[67] Id.

[68] Id. at 351.

[69] Id. at 352.

[70] 734 Phil. 332 (2014) [Per J. Mendoza, Third Division].

[71] Id. at 344.

[72] Id. at 338.

[73] G.R. No. 207765, July 26, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/july2017/207765.pdf>> [Per J. Leonen, Second Division].

[74] Id. at 3.

[75] 720 Phil. 750 (2013) [Per J. Del Castillo, Second Division].

[76] Id. at 758.

[77] People v. Cesista, 435 Phil. 250, 267 (2002) [Per J. Kapunan, En Banc]. See also People v. Evina, 453 Phil. 25, 41 (2003) [Per J. Callejo, Sr., Second Division], People v. Calamlam, 451 Phil. 283, 296 (2003) [Per J. Carpio Morales, Third Division], People v. Besmonte, 445 Phil. 555, 564 (2003) [Per J. Quisumbing, Second Division], and People v. Lomaque, 710 Phil. 338, 353 (2013) [Per J. Del Castillo, Second Division].

[78] People v. Evina, 453 Phil. 25, 41 (2003) [Per J. Callejo, Sr., Second Division].

[79] People v. Lubong, 388 Phil. 474, 491 (2000) [Per J. Gonzaga-Reyes, Third Division].

[80] G.R. Nos. 225642-43, January 17, 2018 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/january2018/225642-43.pdf>> [Per J. Martires, Third Division].

[81] Id. at 7.

[82] People v. Villacampa, G.R. No. 216057, January 8, 2018 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/january2018/pdf/web/viewer.html?file=/jurisprudence/2018/january2018/216057.pdf>> [Per J. Carpio, Second Division]. See also People v. Gaduyon, 720 Phil. 750, 768-769 (2013) [Per J. Del Castillo, Second Division]; People v. Fragante, 657 Phil. 577, 596 (2011) [Per J. Carpio, Second Division]; Awas v. People, G.R. No. 203114, June 28, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/june2017/203114.pdf>> 6 [Per J. Bersamin, Third Division].

[83] G.R. No. 216057, January 8, 2018 [Per J. Carpio, Second Division].

[84] Id.

[85] 751 Phil. 793 (2015) [Per J. Leonen, Second Division].

[86] Id. at 813-814.

[87] 789 Phil. 541 (2016) [Per J. Leonen, Second Division]. See also People v. Gaduyon, 720 Phil. 750, 780 (2013) [Per J. Del Castillo, Second Division], wherein this Court initially imposed the penalty of reclusion temporal for violation of Section 5 of Republic Act No. 7610 but was later increased to reclusion perpetua due to the aggravating circumstance of relationship.

[88] People v. Pusing, 789 Phil. 541, 563 (2016) [Per J. Leonen, Second, Division].

[89] Id.

[90] Id. at 562.

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