

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. YYY262360 (CA-G.R. CR-HC NO. 14883 [FORMERLY CRIMINAL CASE NOS. 10501-12 AND 10802-12]), ACCUSED-APPELLANT.

G.R. No. 262360, April 07, 2026

Ponente: SINGH, J.

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SINGH, J.:

This is an Appeal from the Decision,[1] dated December 14, 2021, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 14883. The CA affirmed, with modification, the Joint Decision,[2] dated February 11, 2020, of Branch XXXX Regional Trial Court (RTC), XXXX Cavite, convicting YYY262360 of the crimes of: (a) Qualified Rape, punished under Article 266-A(1) of the Revised Penal Code, and sentencing him to suffer the penalty of reclusion perpetua without eligibility for parole, and payment of PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages, subject to 6% interest per annum; and (b) Lascivious Conduct punished under Section 5(b) of Republic Act No. 7610,[3] and sentencing him to suffer the penalty of reclusion perpetua, and payment of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages, subject to 6% interest per annum.

The Facts

Before the RTC, YYY262360 was charged with four criminal indictments. In Criminal Case Nos. 10501-12 and 10803-12, YYY262360 was charged with two counts of Rape committed against his minor daughter, AAA262360. The accusatory portions of the two Informations read:

Criminal Case No. 10501-12

That on or about the 5[th] day of April 2012 in the XXXXX Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and actuated by lust, taking advantage of his superior strength, and through force, threat and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with his daughter [AAA262360], a [14] year old minor born on XXXX, against her will and consent, and accused has moral ascendancy over her, thus debasing, degrading and demeaning her intrinsic worth and dignity as a child, to her damage and prejudice.

Contrary to law.[4] (Citation omitted)

Criminal Case No. 10803-12

That on or about the 2[nd] day of April 2012, in the XXXX Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and motivated by lust, with the use of force and by taking advantage of his moral ascendancy over his [14] year old daughter [AAA262360] ([b]orn on XXXX), did then and there, willfully, unlawfully and feloniously have carnal knowledge of the latter, against her will and consent, thus debasing, degrading and demeaning her intrinsic worth and integrity as a child, to her damage and prejudice.

Contrary to law.[5] (Citation omitted)

In Criminal Case Nos. 10801-12 and 10802-12, YYY262360 was charged with two counts of Violation of Section 10(a) of Republic Act No. 7610. The accusatory portions of the two Informations read:

Criminal Case No. 10801-12

That on or about the 1st day of April 2012 in the XXXX Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously commit acts of abuse upon his [14] year old daughter [AAA262360] (born on XXXX), by then and there ordering her to sniff shabu, against her will and consent, said act being prejudicial to the development of said complainant as a child and thereby debasing, demeaning and degrading her intrinsic worth and integrity as a child, to her damage and prejudice.

Contrary to law.[6] (Citation omitted)

Criminal Case No. 10802-12

That on or about the 2nd day of April 2012 in the XXXX Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously commit acts of cruelty and abuse upon his [14] year old daughter [AAA262360] (born on XXXX), by then and there ordering the latter to perform a sexual act ("blow job") on him, against her will and consent, thereby debasing, demeaning and degrading her intrinsic worth and integrity as a child, to her damage and prejudice of said complainant.

Contrary to law.[7] (Citation omitted)

Upon his arraignment, YYY262360 pleaded "not guilty" to the charges.[8] During pre-trial, the prosecution and defense stipulated on the jurisdiction of the RTC, YYY262360's identity, and that AAA262360 was only 14 years old at the time the incidents occurred.[9] Thereafter, trial ensued.

The prosecution presented the following witnesses: (a) the victim AAA262360, YYY262360's daughter; (b) BBB262360, YYY262360's son and brother of AAA262360;[10] (c) Barangay Kagawad CCC262360; and (d) Barangay Captain DDD262360. On the other hand, the defense presented the testimony of YYY262360.[11]

The testimonies of the following witnesses were stipulated by both the prosecution and defense and were thereafter dispensed with:

(a) GGG262360, AAA262360's grandmother, who testified that he assisted AAA262360 in filing the complaint against YYY262360 and that she has no personal knowledge of the allegations in the Informations; and

(b) Dr. Merle Tan (Dr. Tan), who testified that: (1) she is an expert witness; (2) she examined AAA262360 on April 10, 2012; (3) as stated in her Final Medico Legal Report No. 2012-10281, she found that AAA262360 had "Breast Tanner Stage: 4, Upper [Extremities]: Forearm: Anterior Surface of Distal Third - right 4 x 3 cm yellowish brown bruise", "Hymen - Crescentic, Estrogenized, generalized absent hymen," and "Findings noted on right forearm is consistent with fingertip bruise, consistent with physical injuries that were inflicted by non-accidental means. Anogenital findings are diagnostic of blunt force or penetrating trauma;" (4) she can identify her Report; and (5) she has no personal knowledge of the allegations in the Informations.[12]

The Version of the Prosecution

AAA262360 is the eldest child of YYY262360. AAA262360 recounted that her ordeal began when she was eight years old, when she would often wake up with YYY262360 on top of her, undressed, with his penis near her vagina, while her mother, HHH262360, took a bath. AAA262360 alleged that YYY262360 would have sexual

intercourse with her every time he was home. YYY262360 would rape AAA262360 at noon when she got home from school, or on other occasions, at nighttime. There were also instances when YYY262360 forced AAA262360 to sniff shabu, and sexual intercourse between AAA262360 and YYY262360 would follow thereafter. AAA262360 did not tell her mother about the incidents because YYY262360 threatened AAA262360 that he will take her away from her mother.[13]

On April 2, 2012, YYY262360 and AAA262360 were living in the house of AAA262360's grandparents in XXXX Cavite. When YYY262360 came home around 11:00 p.m., he told AAA262360 that he heard from his friend that AAA262360 was good in giving a blow job. AAA262360 denied it because she never did that to anybody except YYY262360. When AAA262360 was already sleeping, YYY262360 laid down naked beside AAA262360 and tried to insert his penis into AAA262360's vagina. AAA262360 resisted by turning her back at YYY262360 and pulling back her shorts. YYY262360 repeatedly demanded that AAA262360 give him a blowjob and threatened AAA262360 that if she did not follow he will file a child abuse case against JJJ262360, AAA262360's boyfriend. Intimidated, AAA262360 was forced to do a blow job for YYY262360. AAA262360 fought with YYY262360 until 3:00 a.m. the following day. YYY262360 then slapped AAA262360, pulled her hair and held her tightly.[14]

During this time, BBB262360 was also in the same room with YYY262360 and AAA262360 but he was already sleeping, and AAA262360 did not attempt to shout and run to ask for help because YYY262360 kept on threatening AAA262360 that doing so would put her grandparents in danger.[15]

AAA262360 also recalled that on April 2, 2012, from 11:00 p.m. until 5:00 a.m. the next day, YYY262360 forced her to sniff shabu. She then felt weak and sleepy but she did not fall asleep. Instead, YYY262360 had sex with her.[16]

Another incident took place on the night of April 5, 2012, when AAA262360, who was asleep, felt that someone was removing her shorts. When she opened her eyes, she saw YYY262360 naked who continued to pull down her shorts. AAA262360 fought YYY262360 but the latter forced her to sniff shabu and later on inserted his penis to her vagina. Thereafter, YYY262360 left while AAA262360 also went out and joined her friends. In the morning of April 6, 2012, AAA262360 received text messages from YYY262360 threatening her. AAA262360's friends asked why AAA262360 did not want to go home, which forced AAA262360 to tell her friends about the rape incidents. In the afternoon of the same day, AAA262360, accompanied by her friends, filed a complaint against YYY262360.[17]

YYY262360 was then arrested by the police with the assistance of Barangay Kagawad CCC262360 and Barangay Captain DDD262360. The physical examination of AAA262360 found a fingertip bruise on AAA262360's right forearm and anogenital findings which are indicative of blunt force or penetrating trauma.[18]

AAA262360's testimony was corroborated by her brother and YYY262360's younger son, BBB262360, who recalled an incident when he was 11 years old, and while they were staying in the house of their grandparents in XXXX Cavite. In that incident, BBB262360 stated that he was awoken one early morning where he saw his father naked and forcing his sister, AAA262360. He saw that YYY262360 was looking at him while YYY262360 was inserting his penis into the vagina of AAA262360, who was resisting the advances of YYY262360. YYY262360 threatened AAA262360 that if she did not consent, he will bring her and BBB262360 to XXXX Cavite. Out of fear, BBB262360 pretended to be asleep. In another incident, while BBB262360 was sweeping the floor of their bedroom, BBB262360 saw a used condom which YYY262360 immediately took upon seeing it on the floor. On another occasion, BBB262360 also recalled seeing an aluminum foil and a weighing scale, presumably used to weigh drugs.[19]

The Version of the Defense

YYY262360 denied the allegations against him. He maintained that AAA262360 is a problem child—that she was hard-headed and would always leave the house to drink or hang-out with her friends and boyfriend, JJJ262360. He claimed that AAA262360 filed the criminal cases against him because he threatened her that he would file a case against JJJ262360 for child abuse. He also claimed that he did not force AAA262360 to sniff shabu on April 1, 2012 as shabu cannot be sniffed but only ingested. Likewise, at that time, AAA262360 went out of the house allegedly to have a haircut but she was actually with her boyfriend, JJJ262360.[20]

YYY262360 denied the averments that took place on April 2, 2012 as he claimed that he was at work at that time as a tourist driver. When he arrived home in the morning of the next day, he immediately went to the market with AAA262360 who even asked to buy her a purse. In the afternoon, YYY262360 went out to get a haircut, where the barber told him that he should not trust JJJ262360 with AAA262360 because JJJ262360 is a playboy.[21] In the evening, YYY262360 asked, while buying a cigarette at a nearby store, a group of youngsters if they knew JJJ262360. The youngsters told him that JJJ262360 relayed to them that AAA262360 was good at giving blow jobs. YYY262360 immediately went home, woke AAA262360 up, and confronted her about what he heard. He threatened AAA262360 that if she does not prioritize her studies over her boyfriend, he would put JJJ262360 to jail or he would kill him. AAA262360 chose JJJ262360, which led YYY262360 to slap AAA262360. Thereafter, they went to sleep.[22]

On April 5, 2012, YYY262360 went to work and returned home in the afternoon of the following day. He found that AAA262360 went with JJJ262360 to the beach and has not yet returned. He then contacted JJJ262360 and threatened him that if he would not bring AAA262360 back home he would file a case against him. Later that day, police officers arrived at his house and arrested YYY262360. He was brought to the police precinct where he subsequently learned that AAA262360 had filed a complaint against him for rape and child abuse.[23]

During YYY262360's cross-examination, he explained that he could not present any proof of his whereabouts at the time the alleged crimes were committed because he has been incarcerated and his other relatives do not know the details of his work. He also cannot remember the names of his co-workers because he was in jail already for eight years at the time trial took place.

The Ruling of the RTC

In the Joint Decision, dated February 11, 2020, the RTC found YYY262360 guilty of the crimes of Qualified Rape in Criminal Case No. 10501-12 and Child Abuse in Criminal Case No. 10802-12. Meanwhile, YYY262360 was acquitted in Criminal Case Nos. 10801-12 and 10803-12. The dispositive portion of the Joint Decision reads, as follows:

WHEREFORE, the foregoing premises considered:

1. Accused YYY262360, in Criminal Case No. 10501-12 is here found GUILTY beyond reasonable doubt of the crime of QUALIFIED RAPE and is hereby sentenced to suffer, in lieu of death penalty, the penalty of [r]eclusion [p]erpetua of [30] years. Accused will not be eligible for parole pursuant to Section 3, Republic Act No. 9346.

He is hereby further ordered to pay [AAA262360] the amount of [PHP] 75,000.00 as civil indemnity, [PHP] 75,000.00 as moral damages and [PHP] 30,000.00 as exemplary damages.

In line with existing jurisprudence, interest at the rate of [6%] per annum shall be imposed on all damages awarded from the date of finality of judgment until fully paid in the instant case.

2. In Criminal Case No. 10801-12, for failure of the prosecution to measure up to the standard of moral

certainty, this Court hereby orders the ACQUITTAL of the accused for the charge of violating Section 10(a)[,] [Article] VI of [Republic Act No.] 7610.

3. Accused, in Criminal Case No. 10802-12 is hereby found GUILTY beyond reasonable doubt of child abuse as defined in Section 3, [paragraph] (b), sub-paragraph (1) in relation to Section 10(a) of [Republic Act No.] 7610 and is hereby sentenced to suffer the indeterminate sentence of [six] years and [one] day to [eight] years.

He is hereby further ordered to pay [AAA262360] the amount of [PHP] 50,000.00 as civil indemnity, [PHP] 50,000.00 as moral damages and [PHP] 30,000.00 as exemplary damages.

4. In Criminal Case No. 10803-12, for failure of the prosecution to measure up to the standard of moral certainty, this Court hereby orders the ACQUITTAL of the accused for the charge of Rape under Article 266-A, paragraph (1) of the Revised Penal Code in relation to [Republic Act No.] 7610.

Let a commitment order be issued against the accused to the National Bilibid Prison for his conviction in Criminal Case[] Nos. 10501-12 and 10802-12.

SO ORDERED.[24] (Emphasis in the original)

The RTC held that all the elements of Qualified Rape were present. First, the accused YYY262360 was a man. Second, the prosecution was able to prove that he had carnal knowledge with a woman, his own minor daughter. The RTC found the testimony of AAA262360 to be credible, which was corroborated by the testimony of BBB262360 and the Medico-Legal Report of Dr. Tan. Third, YYY262360 had moral ascendancy over AAA262360, which is a recognized substitute for the requirement of force, threat or intimidation. Fourth, the minority of AAA262360 was stipulated during pre-trial, i.e., AAA262360 was only 14 years old at the time the crime took place. Finally, it was established that YYY262360 was the biological father of AAA262360.[25] Thus, the RTC found YYY262360 guilty of the crime of Qualified Rape committed on April 5, 2012 as alleged in Criminal Case No. 10501-12.

The RTC likewise found that YYY262360 was guilty of the crime of Child Abuse for ordering AAA262360 to perform a blow job. The RTC found that all the elements of the offense were met. First, AAA262360 was only 14 years old at that time—a child in the eyes of the law. Second, the testimony of AAA262360 was credible and can be given full weight that she was ordered by her father to perform the deed. Third, the prosecution was able to present proof that AAA262360 was abused on different occasions, but with the specific abuse alleged in this case, the same was established by proof beyond reasonable doubt. Whether or not the maltreatment of AAA262360 was habitual, the prosecution was able to prove that the sexual abuse committed by YYY262360 falls within the definition of Child Abuse under Republic Act No. 7610.[26]

However, in Criminal Case No. 10801-12, the trial court acquitted YYY262360 of the crime charged, i.e., Child Abuse by ordering AAA262360 to sniff shabu. The RTC found that, during the cross-examination of AAA262360, she testified that YYY262360 inflicted physical injuries against her. While this is a form of physical abuse punished under the law, the Information in this case alleged that AAA262360 suffered abuse because she was forced by YYY262360 to sniff shabu. Thus, the evidence presented did not match the allegations in the Information.[27]

Also, in Criminal Case No. 10803-12, the RTC acquitted YYY262360 of the crime of Rape. During the direct examination of AAA262360, she claimed that, on April 2, 2012, she was forced to sniff shabu and have sexual intercourse with YYY262360. However, during cross-examination, while she confirmed that she performed a blow job on YYY262360, she stated that she could no longer remember whether she was raped on that date. Thus, the guilt of the accused was not proven beyond reasonable doubt.[28]

In all, the RTC found that the testimonies of AAA262360 and BBB262360 were credible, and YYY262360 did not offer any defense other than denial and alibi. Thus, full weight and credit were given to the testimonies of AAA262360 and BBB262360, and their positive identification of YYY262360 as the perpetrator of the crimes charged compelled the trial court to convict him in the two cases.[29]

The Ruling of the CA

In the Decision, dated December 14, 2021, the CA affirmed with modifications the judgment of the RTC. The dispositive portion of the said Decision reads:

WHEREFORE, the instant appeal is DENIED. The February 11, 2020 Joint Decision of [Branch XX, Regional Trial Court,] XXXX, Cavite in Criminal Case Nos. 10501-12 and 10802-12 is AFFIRMED with the following MODIFICATIONS:

1. In Criminal Case No. 10501-12, accused-appellant YYY262360 is hereby found GUILTY beyond reasonable doubt of the crime of qualified rape and is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. He is hereby further ordered to pay AAA262360 the amount of [PHP] 100,000.00 as civil indemnity, [PHP] 100,000.00 as moral damages[,] and [PHP] 100,000.00 as exemplary damages, which shall earn 6% interest [per annum] from the date of finality of this Decision until fully paid.

2. In Criminal Case No. 10802-12, YYY262360 is hereby found GUILTY beyond reasonable doubt of lascivious conduct under Section 5(b) of [Republic Act] No. 7610 and is sentenced to suffer the penalty of reclusion perpetua. He is ordered to pay AAA262360 the amount of [PHP] 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages and PHP 75,000.00 as exemplary damages, which shall earn 6% interest [per annum] from the date of finality of this Decision until fully paid.

SO ORDERED.[30] (Emphasis in the original)

The CA affirmed the RTC's findings that the prosecution was able to prove that YYY262360 committed the crime of Qualified Rape. The CA held that AAA262360's minority and relationship with YYY262360 were undisputed. It also held that AAA262360's clear and categorical testimony established that on April 5, 2012, YYY262360 had carnal knowledge of AAA262360 against her will. Her testimony was a candid narration of her ordeal at the hands of YYY262360. On the other hand, any alleged inconsistency in AAA262360's testimony on the exact time and sequence of events that transpired on April 5, 2012 is too trivial to merit serious consideration. Too, the testimony of BBB262360 was credible as it would be highly inconceivable for a son to testify against his own father unless the imputation is true. Even without BBB262360's testimony, YYY262360's culpability had been established by AAA262360's candid and clear testimony. Her positive assertion that YYY262360 raped her is therefore entitled to great weight. Thus, the RTC did not err in finding YYY262360 guilty of Qualified Rape in Criminal Case No. 10501-12.[31]

With respect to the crime of Child Abuse under Republic Act No. 7610, the CA held that the proper nomenclature of the charge should be Lascivious Conduct as enunciated in *People v. Caoili*,[32] and reiterated in *People v. Tulagan*. [33] Notwithstanding, the CA held that all the elements of the crime were established beyond reasonable doubt that: (a) AAA262360 is minor at the time of the incident on April 2, 2012; (b) she categorically testified that YYY262360 forced her to insert his penis inside her mouth in order to sexually gratify himself; (c) she is a child subjected to sexual abuse; and (d) she was coerced to perform oral sex. The CA modified the penalty imposed against YYY262360 by increasing the penalty of imprisonment to reclusion perpetua.[34]

The CA likewise imposed interest at six percent per annum on the monetary awards granted to AAA262360 in accordance with prevailing jurisprudence.[35]

The Issue

Did the CA commit a reversible error in affirming the conviction of YYY262360 for the crimes of Qualified Rape and Lascivious Conduct?

The Ruling of the Court

There is no merit in the appeal.

YYY262360 is guilty beyond reasonable doubt of the crime of Qualified Rape in Criminal Case No. 10501-12

Rape by sexual intercourse, also known "organ rape" or "penile rape" where carnal knowledge is the central element,[36] is committed, as follows:

ART. 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 circumstances:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- d. When the offended party is under [12] years of age or is demented, even though none of the circumstances mentioned above be present.[37]

Rape is qualified when the victim is under 18 years old, 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. The statute provides:

ART. 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

....

The death penalty shall be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under [18] years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the civil degree, or the common law spouse of the parent of the victim.[38]

Verily, the elements of Qualified Rape are: (a) sexual congress; (b) with a woman; (c) done by force, threat or intimidation and without consent; (d) the victim is under 18 years of age at the time of the rape; and (e) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.[39]

The Court affirms the findings of the RTC and the CA that all the elements of the crime have been established beyond reasonable doubt.

First, the act of "sexual congress" or the statutory euphemism of "carnal knowledge" was proved by the prosecution. This refers to "the act of a man having sexual intercourse or sexual bodily connections with a woman." [40] It is of no importance whether the penetration lasted only for a short period of time since the slightest penetration of the genitalia is sufficient for rape to be consummated.[41]

In rape cases, the primary consideration is the victim's testimony. The case may rise or fall depending on such

evidence. The accused may be convicted even on the lone, uncorroborated testimony of the victim if it is clear, natural, convincing, and consistent with human nature and the normal course of things.[42]

The credibility of the victim is a purely factual matter that is best addressed by the trial court due to its unique position of ascertaining the sincerity and spontaneity of witnesses through their manner of testifying, their demeanor, and their behavior in court. Thus, the Court accords great weight and respect, and even finality in certain instances, to the trial court's determination of the witnesses' credibility, particularly when upheld by the CA and absent any showing of arbitrariness, or that certain facts were overlooked, misapprehended, or mis-appreciated.[43]

Here, AAA262360 testified clearly and categorically that on April 5, 2012, YYY262360 had carnal knowledge of her without her consent. She stated that:

Q:

Do you recall what incident occurred on April 5, 2012?

A:

Yes, [S]ir.

Q:

What is this incident that you are referring to?

A:

He was raping me, Sir.

Q:

Who is this person that you are referring to as "niya"?

A:

My father, Sir.

....

Q:

Madam Witness, can you please tell this Honorable Court what did your father do to you on April 5, 2012?

A:

When my father arrived on that evening [sic], [he] told [me] that he heard from his friend that I was good in "blow job" (oral sex).

Q:

Madam Witness, what was your response when your father asked you if you were good at "blow job"?

A:

I told him "no" because there was no one else who was doing that to me, Sir.

Q:

Madam Witness, what do you mean by the statement, "no one else was doing that you"?

A:

He was the only one who was doing that to me. I have a boyfriend then but we never did that, Sir.

Q:

Madam Witness, when you say "did that", what are you referring to as "did that" or "doing it to you"?

A:

There was no sex that was happening between me and my boyfriend, Sir.

Q:

If your boyfriend was not having sex with you, who was having sex with you, if you can recall?

A:

Only my father, Sir.

Q:

After telling that to your [father], what was his response, if you can recall?

A:

He got angrier [sic], and he was forcing the issue, Sir.

Q:

What was you[r] response when he got angry and he tried to force the issue on you?

A:

We were shouting at each other at that time already, and [I] told [him] if [he] was threatening [me], that I will tell on him.

Q:

What do you mean by "tell on him"?

A:

That I was going to tell what he was doing to me because I could no longer bear it, Sir.

Q:

What happened next after you had verbal argument with your father?

A:

There was sex that transpired.

Q:

With whom, Madam Witness?

A:

With my father, Sir.

Q:

What did your father do to you when you said that you had sex him?

A:

He inserted his penis inside by private part, Sir.

....

Q:

Can you please tell this Honorable Court why you did not do anything when your father was raping you on April 5, 2012 at around 2:00 to 3:00 o'clock in the morning?

A:

I was trying to make noise during that time so that my grandmother will be awaken. [sic]

Q:

What do you mean by you were trying to make noise, Madam Witness?

A:

When we were talking I was speaking in a loud voice and after something happened to us, I was crying loudly.

Q:

What do you mean that "something happened to us"?

A:

After our verbal disagreement, we had sex and while we were having sex that was when I was crying.

Q:

Madam Witness, when you say you had sex, are you telling this Honorable Court that you consented to it?

A:

Because I could not do anything about it, Sir. He was threatening me, Sir.

Q:

What do you mean by he was threatening you, Madam Witness?

A:

He told me that if my mother found out about it she will [feel] bad and she was in another country and he told me that he will also send my boyfriend to jail, Sir.

Q:

How many times did your father force you to have sex with him on that day?

....

A:

I think [two or three], Sir.

Q:

Madam Witness, in those [two or three] occasions, how many times did you consent?

A:

None, Sir.[44]

On cross-examination, AAA262360 remained steadfast in her narration that she was raped by her father, thus:

Q:

In April 5, 2012, what did your father do which prompted the filing of one of the cases in this particular case?

A:

That was the time when something happened between us, that was the early morning of April 5.

Q:

What happened between you?

A:

He inserted his private part to my private part and had me sniff shabu.

Q:

Which came first, the sniff of shabu or inserting his private part into your vagina?

A:

The sniffing of shabu.[45]

It can be seen that AAA262360 was candid about the ordeal she experienced from her father. Her testimony was positive and firm that YYY262360 had carnal knowledge of her on April 5, 2012.

The defense asserted that the testimony of AAA262360 was grossly inconsistent and irreconcilable because she did not state, during her direct examination, that she was forced to sniff shabu, as compared to her admission during cross-examination. The defense claimed that this omission is material to the case. Moreover, the defense asserted that AAA262360 narrated a completely different factual narration in her Sinumpaang Salaysay filed before the prosecutor.[46]

As correctly held by the CA, the alleged inconsistency in the chronological sequence of events that transpired on April 5, 2012 deserves scant consideration. Whether AAA262360 was forced to sniff shabu or not during that incident is immaterial to the charge. The inconsistency does not touch upon the central fact of the crime of Rape. Thus, "neither inconsistencies on trivial matters nor innocent lapses affect the credibility of witnesses and the veracity of their declarations." [47] These inconsistencies can even be considered "badges of truth on material points in the testimony." [48] It remains that AAA262360's testimony on a material point, i.e., the fact YYY262360 committed carnal knowledge of her without her consent, remains to be clear, consistent and

categorical. The allegation on the use of shabu is not indispensable in proving the element of carnal knowledge.

Compared to the testimony of AAA262360, which was also corroborated by the testimony of BBB262360, the defense of denial and alibi by YYY262360 cannot be given credence and due weight. The Court has consistently held that denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credibility.[49] For alibi to prosper, it must be established that: (a) the accused was not at the locus delicti at the time the offense was committed; and (b) it was physically impossible for the accused to be at the scene at the time of its commission.[50] As the RTC found and the CA affirmed, YYY262360 failed to present any proof to support his claim that he was at work during the time the crime was committed. Thus, the defense was not able to satisfy the requirements for a valid defense of alibi.

Second, that AAA262360 is a woman is not in question.

Third, with respect specifically to incestuous rape, where the assailant is the father and the victim is his minor child, as in this case, moral ascendancy or influence supplants the element of violence or intimidation. As illustrated in *People v. ZZZ*:^[51]

A child simply cannot be expected to resist her own father's abuse. The father-assailant's dominance over the child-victim is complete in cases like this. Not only is the father physically superior as a grown male adult compared to a physically immature child, he also asserts moral authority over the child. As children are raised and taught to obey their parents, it would be difficult for a child not to follow her own father's orders, no matter how perverted. The internal turmoil that a child suffers at the realization that her own father wishes to harm her is unimaginable. This is particularly underscored in this case where [AAA262360] knows that her father is abusive and has even repeatedly beat her own mother. The fear in [AAA262360]'s mind was undoubtedly real and paralyzing.^[52] (Emphasis supplied)

Thus, the relationship of the accused and the victim—that of father and daughter, respectively—established the presence of moral ascendancy that replaced the requirement of force, threat and intimidation.

Fourth, AAA262360's minority at the time of the commission of the crime, i.e., she was 14 years old, was also undisputed.^[53]

Finally, it has been alleged in the Information and established by evidence that YYY262360 is the biological father of AAA262360.^[54]

In all, the prosecution was able to prove that all elements of the crime of Qualified Rape were present in this case. The RTC was correct to convict YYY262360 of the crime charged, and the CA did not commit a reversible error when it affirmed such conviction.

YYY262360 is guilty beyond reasonable doubt of the crime of Sexual Assault in Criminal Case No. 10802-12

Section 5(b) of Republic Act No. 7610 provides for the crime of Sexual Abuse and the applicable penalty for its commission. The provision reads:

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 [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 [12] years of age shall be reclusion temporal in its medium period[.]

The elements of the crime of Sexual Abuse under Section 5(b) of Republic Act No. 7610 are as follows: (a) the accused commits the act of sexual intercourse or lascivious conduct; (b) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (c) the child, whether male or female, is below 18 years of age.[55]

With regard to the first element, "lascivious conduct" is defined as "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." [56]

As may be gleaned from the definition quoted above, "lascivious conduct" covers a broad range of sexual activities that may be committed against a child. This includes the "introduction of any object into the ... mouth, of any person, whether of the same or opposite sex, with an intent to ... gratify the sexual desire of any person." Consequently, the act of committing a "blow job," or the sexual gratification of a person through the inserting of the penis of the perpetrator to the mouth of the victim, falls under the definition of "lascivious conduct."

As the clear and categorical testimony of AAA262360 shows, YYY262360 committed lascivious conduct on AAA262360 against her will when he ordered AAA262360 to perform oral sex on him. AAA262360's testimony was firm even during her cross-examination and re-direct examination, which showed:

Q:

The incident [that] happened [o]n April 2, 2012, what happened?

A:

He was forcing me.

Q:

I am asking April 2, 2012.

A:

He was forcing me to blow job.

Q:

But did not happen?

A:

It happened?

Q:

The blow job?

A:

Yes[,] [S]ir.

Q:

And this happened April 2, 2012 at what time?

A:

11:00 midnight [sic].[57]

....

Q:

When you refused to do what he was telling you, what did he do to you if you can still remember?

A:

I lie down [sic], and he lie down [sic] beside me. He was not wearing any clothes during that time and he told me to do it to him.

Q:

After he lie down [sic], what did you do, if any?

A:

He was forcing trying to insert his private parts on my private part but I was fighting him of [sic].

Q:

Was he able to insert his private part to your private part?

A:

No, [M]a'am.

....

Q:

After you refused, what happened next?

A:

He repeatedly told me to do the blow job.

Q:

So that happened in April 2, 2010? [sic]

A:

April 2 until the early morning of April 3.[58]

The Court is convinced with AAA262360's testimony that YYY262360 ordered AAA262360 to perform oral sex on him. Indeed, "no young girl would concoct a sordid tale of so serious a crime as sexual molestation at the hands of her own father, undergo gynecological examination, subject herself to the stigma and embarrassment of a public trial, if her motive were other than a fervent desire to seek justice." [59] AAA262360's unqualified testimony shows that YYY262360 forced her to perform the despicable act in order to sexually gratify him. This act thus falls within the ambit of "lascivious conduct" under Section 5(b) of Republic Act No. 7610.

However, the second element of the crime requires that the lascivious conduct be performed with a child "exploited in prostitution or subjected to other sexual abuse." In the recent case of *Gramatica v. People*, [60] the Court clarified that for there to be successful prosecution under Section 5(b) of Republic Act No. 7610, it must be proved that the victim consented, albeit defectively, to the lascivious conduct done against them. The Court explained:

The Court finds that the term "sexual abuse," as defined under Republic Act No. 7610, encompasses situations wherein a minor indulges—or, put differently, consents, albeit defectively—to engage in sexual intercourse or lascivious conduct as a result of coercion or undue influence exerted by an adult.

The presence—or, at the very least, the semblance—of consent on the part of the minor, which justifies the application of Republic Act No. 7610, is further reinforced by Section 2(g) of the law's Implementing Rules and Regulations (IRR). The IRR defines sexual abuse as including the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children.

A review of Section 2(g) leads to the conclusion that the word "engage" suggests active participation by the child, who is not merely a passive victim of sexual abuse but engages in it precisely due to the "employment,

use, persuasion, inducement, enticement, or coercion" exerted by the adult.

....

Indeed, the use of the word "engage" clearly indicates the legislature's intent for Republic Act No. 7610 to cover situations where a child consents, albeit with the consent being defective. It is not designed to cover acts where the minor is completely unconscious, overpowered, or unwilling from the outset.[61]

The Court summarized the rule, thus:

[I]f the victim is 12 years old (now at least 16 years old, following Republic Act No. 11648) or less than 18 and is deemed to be a child "exploited to prostitution and other sexual abuse" because she agreed to the sexual intercourse "for money, profit or any other consideration or due to coercion or influence of any adult, syndicate or group," the crime could not be Rape under the Revised Penal Code as there is consent. Instead, the offender should be penalized under Section 5(b) of Republic Act No. 7610. The law, in effect, acknowledges that minors subjected to such circumstances may have consented to the act or the transaction. Still, their consent cannot be deemed free, genuine, and fully informed. Accordingly, the law recognizes the child's inherent vulnerability and the exploitative nature of the situation.

Meanwhile, when the victim consents to the sexual intercourse, and no consideration, coercion, or influence is involved, then no crime is committed, except: (1) where "force, threat or intimidation" as an element of rape is substituted by "moral ascendancy or moral authority;" and (2) in cases involving qualified seduction under Article 337, or simple seduction under Article 338 of the Revised Penal Code.[62]

Under Gramatica, it is important to determine whether consent is present. If there is consent on the part of the victim, notwithstanding that it is defective since the victim is a minor, then the offense may be prosecuted under Section 5(b) of Republic Act No. 7610. If consent is lacking, such that there is force, threat or intimidation, or in certain instances where there is moral ascendancy of the perpetrator who is a parent of the victim, then the offense may be prosecuted under the Revised Penal Code. In the latter case, the specific form of lascivious conduct will have to be ascertained, i.e., whether it is Rape by Carnal Knowledge, Sexual Assault, Acts of Lasciviousness, or Seduction (Qualified or Simple).

The crime of Sexual Assault is defined in Article 266-A(2) of the Revised Penal Code, which reads:

ART. 266-A. Rape, When and How Committed. – Rape is committed –

....

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.

Here, the RTC found, and the CA affirmed, that AAA262360 did not give consent to the order for her to perform oral sex on YYY262360. AAA262360 categorically testified that YYY262360 coerced her to perform oral sex, and that she complied because he was making threats against her. There is indisputable coercion or influence exerted by YYY262360 on AAA262360, by virtue of the former's moral ascendancy on the latter. In other words, AAA262360 did not consent to the sexual act as she was forced to perform the deed without the promise of payment or exchange of any monetary or material consideration. It is through the moral ascendancy of her father that she was compelled to perform the act. Under the Gramatica guidelines, YYY262360 committed the crime of Sexual Assault under Article 266-A(2) of the Revised Penal Code, and not Lascivious Conduct under Section 5(b) of Republic Act No. 7610.

Thus, it is proper to modify the offense for which YYY262360 is convicted, including the penalty imposed on

him.

Imposition of the proper penalty

Under Section 266-B of the Revised Penal Code, the penalty for Qualified Rape is death.[63] However, the death penalty has been suspended and reduced to reclusion perpetua.[64] To emphasize that YYY262360 should have been sentenced to suffer the death penalty had it not been for the enactment of Republic Act No. 9346, the phrase "without eligibility for parole" is appended to reclusion perpetua.[65] Also, the Indeterminate Sentence Law is not applicable since the original penalty to be imposed was death.[66] Thus, the penalty imposed on YYY262360 in Criminal Case No. 10501-12 for Qualified Rape, i.e., reclusion perpetua without eligibility for parole, is proper.

Section 266-B of the Revised Penal Code also provides that the penalty for Sexual Assault is prision mayor. However, if it is attended by any of the qualifying circumstances, then the penalty imposed is reclusion temporal.[67] Considering that minority and relationship were duly proven, they will be considered as qualifying circumstances. Applying the Indeterminate Sentence Law, the maximum term of the indeterminate penalty shall be that which is imposed by the Revised Penal Code, which is reclusion temporal, or 12 years and one day to 20 years. The minimum term shall be taken from within the range of the penalty next lower in degree, which is prision mayor, or six years and one day to 12 years. Accordingly, YYY262360 should be sentenced to suffer imprisonment in the indeterminate period of eight years and one day of prision mayor, as minimum, to 17 years and four months of reclusion temporal, as maximum.[68]

With regard to the monetary awards in Criminal Case No. 10501-12, the Court deems it proper to increase such awards in accordance with *People v. XXX258054*,[69] for the purpose of deterring parents with perverse or aberrant sexual behavior from sexually abusing their children. Thus, AAA262360 is entitled to receive PHP 150,000.00 as civil indemnity, PHP 150,000.00 as moral damages, and PHP 150,000.00 as exemplary damages. In Criminal Case No. 10802-12, it is proper to award PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages, similar to the monetary awards for Sexual Abuse or Lascivious Conduct under Section 5(b) of Republic Act No. 7610, in line with *People v. Tulagan*. [70] The imposition of six percent interest per annum on such monetary awards is likewise proper per prevailing jurisprudence.[71]

ACCORDINGLY, the Appeal is DENIED. The Decision, dated December 14, 2021, of the Court of Appeals in CA-G.R. CR-HC No. 14883, is AFFIRMED WITH MODIFICATIONS:

- In Criminal Case No. 10501-12, accused-appellant YYY262360 is found GUILTY beyond reasonable doubt of the crime of Qualified Rape under Article 266-A(1), in relation to Article 266-B, of the Revised Penal Code, and he is SENTENCED to suffer the penalty of reclusion perpetua without eligibility for parole, and is ORDERED to pay AAA262360 the amounts of PHP 150,000.00 as civil indemnity, PHP 150,000.00 as moral damages, and PHP 150,000.00 as exemplary damages; and
- In Criminal Case No. 10802-12, accused-appellant YYY262360 is found GUILTY beyond reasonable doubt of the crime of Sexual Assault under Article 266-A(2), in relation to Article 266-B, of the Revised Penal Code, qualified by the circumstances of minority and relationship, and he is SENTENCED to suffer the indeterminate penalty of eight years and one day of prision mayor, as minimum, to 17 years and four months of reclusion temporal, as maximum, and is ORDERED to pay AAA262360 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 rate of 6% per annum from the date of finality of this Decision until full payment.

The Department of Social Welfare and Development is DIRECTED to refer AAA262360 to the appropriate rape crisis center, through Branch XX, Regional Trial Court, XXXX Cavite, for the necessary assistance to be rendered to her and her family, in line with Republic Act No. 8505, otherwise known as the Rape Victim Assistance and Protection Act of 1998.

SO ORDERED.

Caguioa (Chairperson), Inting, Gaerlan, and Dimaampao, JJ., concur.

[*] The identities of the victim or any information which could establish or compromise their identity, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. 7610 (1992), An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; Republic Act No. 9262 (2004), An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes; and A.M. No. 04-10-11-SC (2004), sec. 40, Rule on Violence Against Women and Their Children. (See *People v. Cadano, Jr.*, 729 Phil. 576, 578 (2014) [Per J. Perlas-Bernabe, Second Division], citing *People v. Lomaque*, 710 Phil. 338,342 (2013) [Per J. Del Castillo, Second Division]. See also Amended Administrative Circular No. 83-2015 (2017) Protocols and Procedures in the Promulgation, Publication, and Posting on the Website of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances).

[1] Rollo, pp. 8-33. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Alfredo D. Ampuan and Bonifacio S. Pascua of the Sixteenth Division, Court of Appeals, Manila.

[2] *Id.* at 36-62. Penned by Executive Judge Mary Charlene V. Hernandez-Azura.

[3] Republic Act No. 7610 (1992), An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes.

[4] Rollo, p. 9.

[5] *Id.* at 9-10.

[6] *Id.* at 10.

[7] *Id.* at 10-11.

[8] *Id.* at 11.

[9] *Id.*

[10] Also referred to as "BBB262360" in some parts of the rollo.

[11] Rollo, p. 11.

[12] *Id.*

[13] *Id.* at 12.

[14] *Id.* at 12-13.

[15] *Id.* at 13.

[16] *Id.*

- [17] Id.
- [18] Id.
- [19] Id. at 14.
- [20] Id.
- [21] Id. at 15.
- [22] Id.
- [23] Id.
- [24] Id. at 61-62.
- [25] Id. at 50-55.
- [26] Id. at 56-58.
- [27] Id. at 55.
- [28] Id. at 58-59.
- [29] Id. at 59-61.
- [30] Id. at 32-33.
- [31] Id. at 21-28.
- [32] 815 Phil. 839 (2017) [Per J. Tijam, En Banc].
- [33] 849 Phil. 197 (2019) [Per J. Peralta, En Banc].
- [34] Rollo, pp. 28-32.
- [35] Id. at 32.
- [36] *People v. Pareja*, 724 Phil. 759, 782 (2014) [Per J. Leonardo-De Castro, First Division].
- [37] REV. PEN. CODE, art. 266-A(1).
- [38] REV. PEN. CODE, art. 266-8(1).
- [39] *People v. Marmol*, 800 Phil. 813, 825 (2016) [Per J. Perez, Third Division].
- [40] *People v. XXX*, 944 Phil. 517, 525 (2023) [Per C.J. Gesmundo, First Division].
- [41] Id.
- [42] *People v. Sps. XXX262581 & YYY262581*, 946 Phil. 131, 140 (2023) [Per J.M. Lopez, Second Division].
- [43] Id. at 140-141.
- [44] Rollo, pp. 21-24.
- [45] Id. at 24.
- [46] Id. at 49-50.
- [47] *XXX v. People*, 863 Phil. 146, 155 (2019) [Per J. Caguioa, Second Division].

[48] Id.

[49] *People v. Regalado*, 793 Phil. 493, 502 (2016) [Per J. Perez, Third Division].

[50] Id. at 502-503.

[51] 955 Phil. 733 (2024) [Per J. Singh, Third Division].

[52] Id. at 755.

[53] Rollo, p. 21.

[54] Id.

[55] *People v. Joven*, 955 Phil. 203, 214 (2024) [Per J. Leonen, Second Division].

[56] *Carbonell v. People*, 901 Phil. 501, 508 (2021) [Per J. Delos Santos, Third Division].

[57] CA rollo, pp. 58-59.

[58] Id. at 59.

[59] *People v. Manlolo*, 879 Phil. 190, 203 (2020) [Per J. J. Reyes, Jr., First Division].

[60] G.R. Nos. 260233 & 266039, August 12, 2025 [Per J. Inting, En Banc].

[61] Id. at 24-25. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[62] Id. at 31.

[63] REV. PEN. CODE, sec. 266-8 states:

ART. 266-B. Penalty. - . . .

. . . .

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under [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[.]

[64] Republic Act No. 9346 (2006), An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[65] A.M. No. 15-08-02-SC (2015), Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties.

[66] Act No. 4103 (1933), sec. 2.

[67] REV. PEN. CODE, sec. 266-B states:

ART. 266-B. Penalty. - . . .

. . . .

Rape under paragraph 2 of the next preceding article shall be punished by prision mayor.

. . . .

Reclusion temporal shall be imposed if the rape is committed with any of the ten aggravating/ qualifying circumstances mentioned in this article.

[68] See *People v. Arraz*, 952 Phil. 685, 716 (2024) [Per J. Dimaampao, Third Division].

[69] 948 Phil. 685, 706 (2023) [Per J. M. Lopez, Second Division].

[70] 849 Phil. 197, 290-291 (2019) [Per J. Peralta, En Banc].

[71] *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, 929 Phil. 754, 781-782 (2022) [Per J. Leonen, En Banc].

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