

JAMEL BANDAS Y CAVITE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 272503, April 16, 2026*

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

This resolves the Motion for Reconsideration[1] filed by petitioner Jamel Bandas y Cavite (Bandas), seeking a reexamination of the Court's Resolution[2] which affirmed his conviction for acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Article III, Section 5(b) of Republic Act No. 7610. In an earlier Decision[3] and Resolution[4] of the Court of Appeals, his appeal urging the reversal of the guilty verdict against him in the said crime, was denied.

Bandas insists that the prosecution failed to prove all the elements of violation of Section 5(b)[5] of Republic Act No. 7610.[6] According to him, "the alleged touching was merely accidental as it reeks impossibility for the petitioner to have intentionally committed it[.]"[7] Viewed as a purely accidental act, the prosecution failed to prove that this act debased and demeaned the intrinsic worth and dignity of the child as a human being, considering that it failed to adduce any proof of abuse of moral ascendancy, or employment of coercion or intimidation against AAA272503.[8]

For its part, respondent People of the Philippines, represented by the Office of the Solicitor General (OSG), maintains that Bandas's plea for reconsideration should be denied as the issues raised merely reiterated those previously presented in his petition, which the Court had already thoroughly considered and resolved.[9]

The Motion must be denied.

There is no compelling reason to reverse the judgment of conviction against Bandas. In essence, the arguments he advances are a repetition of matters that have already been squarely addressed and judiciously resolved in the assailed Resolution.

The prosecution duly proved all the elements of the crime. AAA272503 was 10 years old at the time of the incident.[10] She positively identified Bandas as her molester[11] and she testified that he repeatedly fondled her breast when they visited her ninongs.[12] The fact that he did such act repeatedly belies his claim that the touching was simply accidental.

Evidently, Bandas employed intimidation as would annul or subdue the free exercise of AAA272503's will.[13] In *Dela Cruz v. People*,[14] the Court clarified such required intimidation, viz.:

Case law clarifies that intimidation need not necessarily be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. This is especially true in the case of young, innocent, and immature girls who could not be expected to act with equanimity of disposition and with nerves of steel. Young girls cannot be expected to act like adults under the same circumstances or to have the courage and intelligence to disregard the threat.[15] (Citation omitted)

Notably, during the pendency of this case, the Court promulgated its ruling in *Gramatica v. People*.^[16] Under Article 8 of the Civil Code, "judicial decisions applying or interpreting the law shall form part of the legal system of the land." Moreover, penal laws favorable to the accused are accorded retroactive application.^[17] Consequently, the doctrine and guidelines laid down in *Gramatica* must perforce be applied retroactively in this case, the ruling being favorable to *Bandas*, who is not shown to be a habitual criminal. In light of this development, the Court finds it proper to modify his criminal liability.

In *Gramatica*, the Court clarified the scope of Section 5(b) of Republic Act No. 7610 in relation to similar offenses punished under the Revised Penal Code and set forth the following guidelines:

In clarifying the proper application of Section 5(b) of Republic Act No. 7610, particularly in relation to acts of lasciviousness involving minors, the Court finds it necessary to delineate the scope of this provision and distinguish it from the related crimes under the Revised Penal Code. The following guidelines are thus issued to aid in the uniform and consistent prosecution of such cases, especially in the light of the amendments introduced by Republic Act No. 11648 and the relevant jurisprudence.

First, Section 5(b) of Republic Act No. 7610, as amended by Republic Act No. 11648 (which raised the age of sexual consent to 16), applies to minors aged 16 and above but below 18 years old who are subjected to other forms of sexual abuse. This provision specifically covers situations where a minor engages in sexual intercourse or lascivious conduct due to the coercion or influence of an adult, even when the minor appears to "consent" to the act.

Second, the provision contemplates a semblance of consent that is defective or vitiated—where the minor allows, yields, or participates in the act not through free will but because of the coercion or influence exerted by an adult. Such coercion or influence is distinct from the concepts of force or intimidation under the Revised Penal Code. Therefore, when the minor's participation is induced by pressure, manipulation, or abuse of authority that does not rise to the level of force or intimidation, Section 5(b) properly applies.

Third, Section 5(b) does not apply when the lascivious conduct is committed through force or intimidation, or when the victim is deprived of reason, unconscious, or otherwise subjected to fraudulent machination or grave abuse of authority. In such cases, the proper charge is acts of lasciviousness under Article 336 of the Revised Penal Code, and Republic Act No. 7610 does not find application.

Fourth, suppose the victim is below 12 years old, or below 16 years old, and the case does not fall under the specific conditions of Section 5(b). In that case, the offense should be prosecuted as either rape or acts of lasciviousness, as the case may be, under the provisions of the Revised Penal Code, as amended.

The rules are summarized as follows:

Lascivious conduct committed through force, threat, or intimidation, or where the victim is deprived of reason or otherwise unconscious, or by fraudulent machination or grave abuse of authority

Where the child indulges and engages in lascivious conduct, thus subjected to sexual abuse, through the adult's employment of coercion and influence, or in other words, when the child gives defective "consent"

A child below 12 years old

Statutory Acts of Lasciviousness under Article 336 of the Revised Penal Code

Statutory Acts of Lasciviousness under Article 336 of the Revised Penal Code

A child 12 years old or above but below 18 years old

Acts of Lasciviousness under Article 366 of the Revised Penal Code

Sexual abuse under Section 5(b) of Republic Act No. 7610

These principles on the delineation of the elements of force and intimidation on one hand, and coercion and influence on the other, and the applicability of Republic Act No. 7610 only as to minors who are EPSOSA, shall also apply to other similar crimes sexual in nature, including rape by carnal knowledge and rape by sexual assault.[18] (Emphasis in the original)

Any lascivious conduct committed against a child below 12 years old through force, threat, or intimidation is statutory acts of lasciviousness under Article 336[19] of the Revised Penal Code. Here, Bandas committed lascivious conduct against AAA272503, a 10-year-old girl, through intimidation. Thusly, he should be held criminally liable for statutory acts of lasciviousness under Article 336 of the Revised Penal Code.

Correlatively, Article 336 prescribes the penalty of prisión correccional. In the absence of any mitigating or aggravating circumstance, the maximum term of the indeterminate sentence should be taken from the medium period of the penalty prescribed under Article 336, or two years, four months, and one day to four years and two months of prisión correccional. Meanwhile, the minimum term shall be taken from the penalty next lower in degree, which is arresto mayor, ranging from one month and one day to six months.

Along this vein, the Court modifies the penalty of imprisonment imposed upon Bandas to the indeterminate penalty of six months of arresto mayor, as minimum, and four years and two months of prisión correccional, as maximum.

Pursuant to Gramatica, the awards of civil indemnity, moral damages and exemplary damages are increased to PHP 100,000.00 each, in view of the offender's close familial relationship with the victim and the disparity between the penalty imposed under the Revised Penal Code and the heavier penalty that would have applied under Republic Act No. 7610. These monetary awards shall earn interest at the rate of 6% per annum from the date of finality of this Resolution until fully paid.

ACCORDINGLY, the Motion for Reconsideration is DENIED with FINALITY. The November 25, 2024 Resolution of the Court is AFFIRMED with MODIFICATION in that petitioner Jamel Bandas y Cavite is found GUILTY beyond reasonable doubt of statutory acts of lasciviousness under Article 336 of the Revised Penal Code.

Petitioner Jamel Bandas y Cavite is SENTENCED to SUFFER the indeterminate penalty of six months of arresto mayor, as minimum, to four years and two months of prisión correccional, as maximum. He is further ORDERED to PAY the victim, AAA272503 the following sums: (1) PHP 100,000.00 by way of civil indemnity; (2) PHP 100,000.00 by way of moral damages; and (3) PHP 100,000.00 by way of exemplary damages. All monetary awards shall earn a 6% interest per annum from the date of finality of this Resolution until full payment.

No further pleadings or motions shall be entertained in this case. Let entry of judgment be ISSUED IMMEDIATELY.

SO ORDERED.

Caguioa (Chairperson), Inting, and Gaerlan, JJ., concur.
Singh,[**] J., on leave.

[*] The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Amended Administrative

Circular No. 83-2015, entitled: Protocols and Procedures in the Promulgation, Publication and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances dated September 5, 2017.

[**] On leave.

[1] Rollo, pp. 126-135.

[2] Id. at 120-124. *Jamel Bandas y Cavite v. People of the Philippines*, G.R. No. 272503, November 25, 2024 [Unsigned Resolution, Third Division].

[3] Id. at 36-47. The July 28, 2023 Decision in CA-G.R. CR No. 46395 was penned by Associate Justice Germano Francisco D. Legaspi, with the concurrence of Associate Justices Mariflor P. Punzalan Castillo and Roberto P. Quiroz of the Third Division, Court of Appeals, Manila.

[4] Id. at 49-50. Dated February 15, 2024.

[5] SEC. 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[.]

[6] Republic Act No. 7610 (1992), Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

[7] Rollo, p. 128, Motion for Reconsideration. (Emphasis in the original)

[8] Id. at 129-131.

[9] Id. at 114-116, Comment (On the Motion for Reconsideration).

[10] Id. at 122.

[11] Id.

[12] Id. at 38.

[13] Id. at 122.

[14] 903 Phil. 801 (2021) [Per J. J. Lopez, Third Division].

[15] Id. at 817.

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

[17] REV. PEN. CODE, art. 22.

[18] *Gramatica v. People*, G.R. Nos. 260233 & 266039, August 12, 2025 [Per J. Inting, En Banc] at 52-54. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[19] ART. 336. Acts of lasciviousness. — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by prisión correccional.

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