

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XXX277728, ACCUSED-APPELLANT.

G.R. No. 277728, October 06, 2025

Ponente: KHO, JR., J.

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KHO, JR., J.:

Assailed in this ordinary appeal[1] is the Decision[2] dated March 27, 2024 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 14632, which upheld with modification the Decision[3] dated March 19, 2020 of Branch xxxxxxxxxxxx, Regional Trial Court, xxxxxxxxxxxx, xxxxxxxxxxxx (RTC) in Criminal Case No. 21458-17. The RTC found accused-appellant XXX277728 guilty beyond reasonable doubt of lascivious conduct, as defined and penalized under Section 5(b) of Republic Act No. 7610.

The Facts

This case stemmed from an Information[4] filed before the RTC charging XXX277728 of raping his then-14-year-old daughter, AAA277728. The accusatory portion of the Information reads:

That on the 24[th] day of July 2017, at Brgy. xxxxxxxxxxxx, xxxxxxxxxxxx, xxxxxxxxxxxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of the minor complainant, by means of force, intimidation and threats, and with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge with one AAA277728, a minor, 14 years old, that is, by removing her leggings and panty and inserting his finger and his penis in and out into the vagina of AAA277728, and had sexual intercourse with the latter, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.[5]

Upon arraignment, XXX277728 entered a plea of "not guilty" for all charges. During pre-trial, the parties stipulated on, inter alia, XXX277728's identity as the accused; that XXX277728 is AAA277728's biological father; and that at the time of the supposed crime, AAA277728 was just 14 years old and that they are living together in one house. Trial then ensued.[6]

The prosecution alleged that at about midnight of July 24, 2017, AAA277728, her then-9-year-old brother, and XXX277728 were sleeping on a mattress foam inside their house, with said brother positioned between her and her father. Sometime later, AAA277728 was awakened when she felt XXX277728 lie down beside her and embrace her. AAA277728 tried removing XXX277728's hands, but the latter was insistent in hugging her. XXX277728 then touched, fondled, and sucked her breasts; kissed her neck; pulled down her lower garments; touched and inserted his finger into her vagina and made a push and pull movement; and forced her to touch his penis. When XXX277728 spread her legs and placed his penis over her vagina and told her that he would do "it" slowly, AAA277728 was able to cover her vagina with her hands and close her legs while crying and weeping quietly. Suddenly, her brother moved, prompting XXX277728 to stop his advances. XXX277728 threatened AAA277728 not to tell anyone about the incident because he would go to jail.[7]

The following morning, AAA277728 went to school and reported the incident to her teacher who, in turn, contacted her mother who was then working in Singapore. Thereafter, AAA277728's teacher accompanied her to the authorities to report the matter and to have her undergo a medico-legal examination.[8]

After the prosecution rested its case, XXX277728 moved that he be allowed to plead guilty to a lesser offense of acts of lasciviousness, to which AAA277728 expressed her conformity. However, since the public prosecutor opposed the plea bargaining proposal, the court a quo denied it and directed the defense to present its evidence.[9]

The defense also presented AAA277728 who, this time, expressed that she was retracting her earlier testimony. She claimed that she merely fabricated the charges against her father because he was being too strict with her; and that when she falsely reported the sexual abuse incident to her teacher, she did not realize the gravity of her accusations. Finally, she insisted that she was neither forced nor intimidated into recanting her testimony, and that she only wanted to help her father and to put things in order so that everyone would have peace.[10]

The RTC Ruling

In a Decision[11] dated March 19, 2020, the RTC found XXX277728 guilty beyond reasonable doubt of qualified rape, and accordingly, sentenced him to suffer the penalty of reclusion perpetua without eligibility for parole; and ordered him to pay AAA277728 the amounts of PHP 100,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 50,000.00 as exemplary damages, all with legal interest rate of 6% per annum from finality of the ruling until fully paid.[12]

In so ruling, the RTC found that the prosecution, through AAA277728's positive, candid, and certain testimony, had established beyond reasonable doubt that XXX277728 indeed sexually abused his own biological daughter. On this score, the RTC pointed out that AAA277728 was profusely weeping while testifying about her ordeal, thereby indicating that she indeed horribly and dreadfully suffered in the hands of her own father.[13] On the other hand, the RTC gave little weight and credence to AAA277728's retraction. In this regard, the court a quo opined that her detailed and straightforward testimony when she testified for the prosecution could not have been the subject of fabrication, especially considering that she had undergone and survived the rigors of cross-examination from the defense counsel.[14]

Aggrieved, XXX277728 appealed to the CA.

The CA Ruling

In a Decision[15] dated March 27, 2024, the CA upheld XXX277728's conviction with modifications. Particularly, the CA changed the designation of XXX277728's offense to lascivious conduct under Section 5(b) of Republic Act No. 7610, and consequently: (i) sentenced him to suffer the penalty of reclusion perpetua; and (ii) ordered him to pay AAA277728 the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, PHP 75,000.00 as exemplary damages, and PHP 15,000.00 as fine, all damages awarded with legal interest rate of 6% per annum from finality of the ruling until full payment.[16]

In downgrading the crime from qualified rape to lascivious conduct, the CA pointed out that while the Information alleged that XXX277728 inserted his finger and thereafter his penis into AAA277728's vagina, what was only established beyond reasonable doubt during trial was the former. This is considering that AAA277728 testified that XXX277728 was only able to put his penis over her vagina before she was able to cover her vagina and close her legs. To the CA, this constitutes reasonable doubt as to whether XXX277728's penis was indeed inserted or went inside and touched at least the labia majora or the vulval cleft of AAA277728's sex organ.[17]

Hence, this appeal.[18]

The Issue Before the Court

The issues for the Court's resolution are: first, whether XXX277728 should be convicted for sexually abusing AAA277728; and second, if in the affirmative, what is the proper designation of the offense.

The Court's Ruling

The appeal is without merit.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.[19]

Guided by this parameter, the Court sustains XXX277728's conviction with modifications, as will be explained hereunder.

XXX277728's guilt was proven beyond reasonable doubt

Article III, Section 5(b) of R.A. No. 7610 provides:

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;

Notably, Section 2(h) of the Implementing Rules and Regulations of Republic Act No. 7610 defines lascivious conduct 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."

Relatedly, sexual abuse cases are, more often than not, solely decided based on the credibility of the testimony of the private complainant. As such, in order for the Court to affirm a conviction for rape, whether by sexual intercourse or by sexual assault, the version of the events as narrated by the victim should be credible and be believed beyond reasonable doubt. Thus, in evaluating the credibility of witnesses, the Court should abide by the following guidelines: (a) the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses; (b) absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances affecting the outcome of the case are shown to have been overlooked or disregarded; and (c) the rule is even more

stringently applied if the CA concurred with the RTC.[20]

In this case, the Court agrees with the CA's observation that while the Information explicitly alleged that XXX277728 inserted his finger and thereafter his penis into AAA277728's vagina, only the former act was sufficiently established by the prosecution during trial. To be sure, pertinent portions of AAA277728's testimony read:

FISCAL STA. MARIA:

Q: And what happened when you felt that your father laid down beside you?

A: He was embracing me and I was trying to remove his hand but then he again embraced me, ma'am.

Q: After he embraced you again, what happened next?

A: His hands are moving and then he touched my breast, ma'am.

Q: And after touching your breast, what happened next?

A: He sucked my breast and then he kissed me on my neck, ma'am.

Q: And after that, what happened next?

A: He pulled down my undergarments and then he touched my vagina and he inserted a finger and made a push and pull movement, ma'am.

FISCAL STA. MARIA:

May we manifest your Honor, that this witness is crying at this juncture.

COURT:

Yes, let it be recorded.

FISCAL STA. MARIA:

Q: And what did you feel Madam witness when your father inserted his finger into your vagina?

A: I felt pain and was angry at him, ma'am.

Q: And after that, what happened?

A: He got my hand and he forced me to hold his penis and then he spread my legs and placed his penis over my vagina, ma'am.

Q: And after placing his penis over your vagina Madam witness, what happened next?

A: He told me that he would do it slowly and I covered my vagina with my hand and I clipped my legs, ma'am.

Q: And after doing that, what happened next?

COURT:

Place it on record that this witness is profusely weeping.

Q: Noong mapagdikit mo na iha yung mga hita mo, ano ang sumunod na nangyari?

A: I was already crying then but I was weeping quietly so he probably did not notice it and my younger brother suddenly moved so he stopped, sir.

Q: So tumigil siya noong makitang gumalaw ang kapatid mo?

A: Yes, sir.

FISCAL STA. MARIA:

Q: And after that, what happened?

A: And he told me not to tell anyone about what happened especially to my mother because according to him we would go to jail and at that time I did not want him to go to jail because I love him as my father, ma'am.

Q: And after that, what happened?

A: He stopped what he was doing and then I do not remember what happened next because I continued weeping until I fell asleep, ma'am.[21](Emphasis supplied)

In *People v. Agao*[22] the Court En Banc emphasized that for as long as the prosecutorial evidence is able to establish that the penis of the accused penetrated the vulval cleft or the cleft of the labia majora (i.e., the cleft of the fleshy outer lip of the victim's vagina), however slight the introduction may be, the commission of rape already crossed the threshold of the attempted stage and into its consummation.[23]

As may be gleaned from AAA277728's own testimony, XXX277728 was only able to put his penis "over" her vagina before she was able to cover her vagina with her hand and close her legs. From this statement alone, it is uncertain whether XXX277728's act of putting his penis "over" AAA277728's vagina had achieved the consummation threshold as delineated in *Agao*. Thus, and pursuant to the equipoise rule—which provides that "where inculpatory facts and circumstances are capable of two or more interpretations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction"[24]—the Court is constrained to rule that the fact of insertion of XXX277728's penis into AAA277728's vagina was not established beyond reasonable doubt.

Be that as it may, and since it was stated in the Information and established during trial that XXX277728 indeed inserted his finger into AAA277728's vagina, he should still be held criminally liable therefor.

AAA277728's retraction could not be given credence

It bears recalling that in an attempt to exculpate XXX277728 from any criminal liability, the defense also presented AAA277728, who at that point in time, stated that she was retracting her earlier testimony; claimed that the accusations she made against her father were all fabricated and that she didn't realize the gravity of her acts; and insisted that her retraction was made voluntarily to help her father and for everyone to have peace.[25]

However, and after a judicious scrutiny of the records, the Court agrees with the trial court in giving little weight to AAA277728's retraction.

In *Galindez v. Salamanca-Guzman*,[26] the Court explained that mere retractions by witnesses do not necessarily vitiate their original testimonies, if the latter are credible, to wit:

However, mere retraction by a witness does not necessarily vitiate the original testimony if credible. The rule is settled that in cases where a previous testimony is retracted and a subsequent different, if not contrary, testimony is made by the same witness, the test to decide which testimony to believe is one of comparison coupled with the application of the general rules of evidence. A testimony solemnly given in court should not be set aside and disregarded lightly, and before this can be done, both the previous testimony and the subsequent one should be carefully compared and juxtaposed, the circumstances under which each was made, carefully and keenly scrutinized, and the reasons or motives for the change, discriminatingly analyzed.[27]

In this case, AAA277728's retraction partakes of a recantation which is aimed to renounce her earlier testimony and withdraw it formally and publicly. Recantations are viewed with suspicion and reservation, and the Court looks with disfavor upon retractions of testimonies given in court. This is primarily because recanted testimonies are exceedingly unreliable and there is always the probability that it will later be repudiated.[28]

Fittingly, recantations are viewed unfavorably especially in cases of rape and other sexual abuse. Circumstances in which the recantation "was made must be thoroughly examined before the evidence of retraction could be given any weight.[29] Thus, in *People v. XXX*,[30] the Court held:

In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony. By the very nature of this crime, it is generally unwitnessed, and usually the victim is left to testify for herself. When a rape victim's testimony is clear, consistent and credible to establish the crime beyond reasonable doubt, a conviction may be based on it, notwithstanding its subsequent retraction. Mere retraction by a prosecution witness does not necessarily vitiate her original testimony. Recantation is frowned upon by the courts. *People v. Teodoro* held, thus: As a rule, recantation is viewed with disfavor firstly because the recantation of her testimony by a vital witness of the State like AAA is exceedingly unreliable, and secondly because there is always the possibility that such recantation may later be repudiated. Indeed, to disregard testimony solemnly given in court simply because the witness recants it ignores the possibility that intimidation or monetary considerations may have caused the recantation. Court proceedings, in which testimony upon oath or affirmation is required to be truthful under all circumstances, are trivialized by the recantation. The trial in which the recanted testimony was given is made a mockery, and the investigation is placed at the mercy of an unscrupulous witness. Before allowing the recantation, therefore, the court must not be too willing to accept it, but must test its value in a public trial with sufficient opportunity given to the party adversely affected to cross-examine the recanting witness both upon the substance of the recantation and the motivations for it. The recantation, like any other testimony, is subject to the test of credibility based on the relevant circumstances, including the demeanor of the recanting witness on the stand. In that respect, the finding of the trial court on the credibility of witnesses is entitled to great weight on appeal unless cogent reasons necessitate its re-examination, the reason being that the trial court is in a better position

to hear first-hand and observe the deportment, conduct and attitude of the witnesses.[31]

In this case, the Court is of the considered view that as opposed to AAA277728's seemingly hollow recantation testimony on defense, her prosecution testimony was detailed, straightforward, and categorical. As may be gleaned from the earlier-cited transcript of her testimony, she even turned emotional as she detailed how her own biological father sexually abused her despite her clear protestations. Moreover, AAA277728 allowed herself to be subjected to a medico-legal examination. On this score, it is worthy to emphasize that "[y]outh and immaturity are generally badges of truth and sincerity. No young girl would usually concoct a tale of [sexual abuse], publicly admit to having been ravished and her honor being tainted, allow the examination of her private parts, and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been [sexually abused] and been truly moved to protect and preserve her honor and motivated by the desire to obtain justice for the wicked acts committed against her." [32]

Thus, the Court agrees with the RTC's disquisition that AAA277728's original testimony as presented by the prosecution could not have been the subject of fabrication, especially considering that she had undergone and survived the rigors of cross-examination from the defense counsel. Thus, it is only appropriate that AAA277728's recantation should not be given any credence nor weight, and hence, rightly disregarded.

Proper designation of offense;
criminal penalties; civil liability ex
delicto

Given the foregoing, the Court finds no reason to deviate from the findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. In fact, the RTC was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.[33] Thus, the finding of criminal liability against XXX277728 must be sustained.

At this juncture, it is well to recognize the recent case of *Gramatica v. People*, [34] where the Court En Banc modified the doctrine laid down in *People v. Tulagan* [35] insofar as the proper application of either Section 5(b) of Republic Act No. 7610 or Articles 336 or 266-A of the RPC in cases of sexual abuse cases involving children. It bears stressing, however, that *Gramatica* explicitly ruled that the guidelines stated therein "pertain solely to acts of lasciviousness committed against minors aged [12/] 16 and above but below 18 years old" and that *Tulagan* "remains controlling as to other crimes discussed therein, particularly those involving rape by carnal knowledge and rape by sexual assault committed against minors."

On this score, it bears reiterating *Tulagan*'s instruction that in instances where the lascivious conduct committed against a minor victim is covered by sexual assault under Article 266-A(2) of the RPC, and the act is likewise covered by the definition of lascivious conduct under Section 5(b) of R.A. No. 7610, i.e., "introduction of any object into the genitalia, anus or mouth of any person," the offender should be held liable for lascivious conduct under Section 5(b) of Republic Act No. 7610.

Thus, the CA was correct in declaring the proper designation of XXX277728's offense to be lascivious conduct under Section 5(b) of Republic Act No. 7610.

Under Section 5(b) of Republic Act No. 7610, lascivious conduct has the prescribed penalty of reclusion temporal in its medium period to reclusion perpetua. Relatedly: first, Section 31(c) of Republic Act No. 7610 states that the penalty provided under the law shall be imposed in its maximum period when the perpetrator is, among others, a parent of the victim; and second, Section 31(f) of the same law also prescribes the imposition of fine in addition to

imprisonment. Taking into consideration the Indeterminate Sentence Law and the fact that XXX277728 is AAA277728's biological father, the CA correctly sentenced XXX277728 to suffer the penalty of reclusion perpetua. However, while the CA correctly imposed a fine of PHP 15,000.00 on XXX277728, it mistakenly ordered it to be paid to AAA277728. In *People v. Dapitan*,^[36] the Court had the opportunity to clarify that while fine is among the pecuniary liabilities which may be imposed against a convict, it is in the nature of a criminal penalty and is not considered as civil liability; and as such, it does not earn interest.

Finally, the monetary awards given to AAA277728 in the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages, all with legal interest rate of 6% per annum from finality of the ruling until full payment, are upheld as well for being in accord with prevailing law and jurisprudence.

FOR THESE REASONS, the instant appeal is DENIED. The Decision dated March 27, 2024 of the Court of Appeals in CA-G.R. CR-HC No. 14632 is AFFIRMED with MODIFICATION. Accused-appellant XXX277728 is found GUILTY beyond reasonable doubt of lascivious conduct under Section 5(b) of Republic Act No. 7610. He is sentenced to suffer the penalties of reclusion perpetua and a fine of PHP 15,000.00; and is ordered to PAY the victim, AAA277728, the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages, all with legal interest of 6% per annum from finality of this Resolution until full payment.

SO ORDERED."

Leonen, SAJ., (Chairperson) and Villanueva, J., concur.

Lazaro-Javier and Lopez, J., JJ., On official business.

[*] In line with 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, as mandated by Revised Penal Code, Article 266-A, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

[**] On official business.

[1]Rollo, pp. 3-5. See Notice of Appeal dated April 29, 2024.

[2]Id. at 8-32. Penned by Associate Justice Angelene Mary W. Quimpo-Sale and concurred in by Associate justices Maria Elisa Sempio Diy and Wilhelmina B. Jorge-Wagan of the Fifteenth Division, Court of Appeals, Manila.

[3]Id. at 34-49. Penned by Presiding Judge Elenita N. Evangelista-Casipit.

[4]Id. at 9. See also id. at 34.

[5]Id.

[6]Id. at 9-10.

[7]Id. at 10— 11.

[8]Id. at 11.

[9]Id. at 12.

[10]Id. at 12-13.

[11]Id. at 34-49.

[12]Id. at 48.

[13]Id. at 43-47.

[14]Id. at 40-43.

[15]Id. at 8-32.

[16]Id. at 30.

[17]Id. at 15-29.

[18]Id. at 3-5.

[19]People v. Bernardo, 890 Phil 97, 110 (2020) [Per J. Perlas-Bernabe, Second Division], citing Arambulo v. People, 857 Phil. 828, 836 (2019) [Per J. Perlas-Bernabe, Second Division].

[20]People v. Amarela, 823 Phil. 1188, 1201 (2018) [Per J. Martires, Third Division].

[21]Rollo, pp. 19-21.

[22]930 Phil. 559 (2022) [Per J. Caguioa, En Banc].

[23]Id. at 593.

[24]People v. Floresta, 853 Phil. 705, 715 (2019) [Per J. Perlas-Bernabe, Second Division], citing People v. Librias, 795 Phil. 334, 344 (2016) [Per J. Brion, Second Division].

[25]Rollo, pp. 12-13.

[26]930 Phil. 416 (2022) [Per J. Gaerlan, Third Division].

[27]Id. at 429-430, citing People v. P/Supt. Lamsen, 721 Phil. 256, 260 (2013) [Per J. Perlas-Bernabe, Second Division].

[28]See People v. Lamsen, 721 Phil. 256, 259 (2013) [Per J. Perlas-Bernabe, Second Division]. (Citations omitted)

[29]People v. XXX, 899 Phil. 359, 376 (2020) [Per J. Hernando, Third Division], citing People v. ZZZ, 854 Phil. 481,484 (2019) [Per J. Leonen, Third Division].

[30]886 Phil. 155 (2020) [Per C.J. Peralta, First Division].

[31]Id. at 179-180.

[32]People v. YYY, 909 Phil. 670, 681 (2021) [Per J. Inting, Second Division], citations omitted.

[33]Peralta v. People, 817 Phil. 554, 563 (2017) [Per J. Perlas-Bernabe, Second Division].

[34]G.R. No. 260233, August 12,2025 [Per J. Inting, En Banc].

[35]849 Phil. 197 (2019) [Per J. Peralta, En Banc].

[36]911 Phil. 114 (2021) [Per J. Perlas-Bernabe, Second Division].

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