XXX, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 278098, June 02, 2026

Ponente: LAZARO-JAVIER, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-278098/

LAZARO-JAVIER, J.:

The Case

This Petition for Review on Certiorari[1] assails the following dispositions of the Court of Appeals in CA-G.R. CR No. 47680:

1. Decision[2] dated April 26, 2024 affirming the conviction of petitioner XXX for acts of lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610;[3] and

2. Resolution[4] dated January 8, 2025 denying XXX's motion for reconsideration.

Antecedents

XXX was charged with acts of lasciviousness and statutory rape under two separate Informations both dated December 16, 2021, viz.:

> Criminal Case No. 22-167-MAL
>
> That sometime in January 2021, in the City of X, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the common-law husband of the mother of AAA, exercising moral ascendancy and overwhelming influence over the victim, with lewd design, did, then and there, wilfully, unlawfully and feloniously caresses [sic] the breast and vagina of one AAA and poke her with his penis, against her will and without her consent.
>
> CONTRARY TO LAW.[5]
>
> Criminal Case No. 22-168-MAL
>
> That in the year 2015, in the City of X City [sic], Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the common-law husband of the mother of AAA, exercising moral ascendancy and overwhelming influence [over] the victim, with lewd design, by means of force and intimidation, did, then and there, wilfully, unlawfully and feloniously caress the breast and vagina and insert his penis inside the vagina of victim AAA, a minor of eleven (11) years old against her will and without her consent.
>
> CONTRARY TO LAW.[6]

On arraignment, XXX pleaded not guilty to both charges. Trial ensued.[7]

Version of the Prosecution

AAA testified that since she was two years old, she has known XXX, the common-law partner of her mother, BBB. She was left to the care of her godmother, CCC. During weekends, holidays, and school vacations, BBB

would fetch her from CCC's house so that she could spend time with her and XXX.[8]

In September 2015, when she was 11 years old, AAA was roused from sleep when she felt that XXX was lying beside her. He touched her breast and vagina, and kissed her lips down to her neck. He was topless and only wore shorts. He lowered his shorts then pulled down her shorts and underwear. He touched her vagina and tried to insert his penis. She kept moving her body away from him but he persisted. He only stopped when BBB entered the house.[9]

On another occasion in the same year, XXX entered AAA's room on the second floor of the house while BBB was not around. There, he laid beside her, caressed her breast and vagina, and pressed his penis against her buttocks. XXX did this to her several times. Whenever BBB would chance upon him inside AAA's room, he would always pretend to be getting something from the room.[10]

XXX's sexual advances finally stopped when AAA asked CCC to fetch her from BBB's house. She was brought to X, Bulacan. She tried to tell BBB, CCC, and her godfather about her ordeal with XXX, but they all ignored her.[11]

In April 2021, AAA got in touch with her half-sister and confided the sexual abuse she suffered from XXX. She asked her half-sister to relay the information to her biological father, albeit she had never talked to him in 17 years. On April 21, 2021, AAA's biological father was able to locate BBB's house and fetch her. She stayed in his house for the meantime.[12]

On May 21, 2021, AAA underwent physical examination at the Philippine General Hospital. The medico-legal report issued by Dr. Marianne Joy Naria-Maritana showed that AAA suffered hymenal laceration at 7 o'clock position. Although there was no evident physical injury at the time of examination, the finding of hymenal laceration suggested a previous trauma to the hymen.[13]

On June 13, 2022, AAA got subjected to a psychological examination in the same hospital. In her Psychological Evaluation Report,[14] Psychologist Analyn Lindo revealed that AAA had signs and symptoms of major depressive depression, moderate. Her behavioral assessment showed that AAA was depressed, feeling anxious, sad, hopeless, and discouraged.[15]

Version of the Defense

XXX vehemently denied the charges against him. He testified that on March 8, 2022, he received a text advice to claim his national identification card. It turned out though that the message was sent by a police officer. He got arrested after he was informed that a warrant had been issued against him.[16]

When BBB learned that XXX was arrested, she and her cousin, JJJ, immediately proceeded to the police station to post his bail. There, BBB was surprised to find out that XXX was detained due to AAA's complaint for rape and acts of lasciviousness.[17]

BBB testified that her daughter AAA never confessed to her any incident involving XXX. She also did not notice any changes in AAA's behavior, especially towards XXX. She further could not recall any unusual instance between AAA and XXX to support AAA's claim that XXX sexually abused AAA.[18]

XXX, BBB, and JJJ all imputed ill motive on AAA's part which was allegedly rooted in AAA's alleged grudge against them. It all started when they reprimanded her because she brought her boyfriend to sleep over in their house, and reprimanded her anew when she did not come home on time after class.[19]

Ruling of the Regional Trial Court

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

By Joint Decision[20] dated August 17, 2022, the trial court acquitted XXX of acts of lasciviousness in Criminal Case No. 22-167-MAL; but rendered a verdict of conviction for acts of lasciviousness instead of statutory rape in Criminal Case No. 22-168-MAL, viz.:

> WHEREFORE, premises considered, the court hereby renders judgment as follows:
>
> 1. For the charge of Acts of Lasciviousness, the accused XXX is found "NOT GUILTY" for failure of the prosecution to prove his guilt beyond reasonable doubt.
>
> 2. For the charge of Statutory Rape under Article 266-A(1) (d) in relation to Article 266-B of the Revised Penal Code; the accused XXX is found "NOT GUILTY" for failure of the prosecution to prove his guilt beyond reasonable doubt;
>
> He is, however, found "GUILTY" of "Acts of Lasciviousness in relation to Section 5(b) of R.A. 7610 for which he is meted the prison term of fourteen (14) years and eight (8) months of reclusion temporal in its minimum period as minimum, to sixteen (16) years, five (5) months and nine (9) days of reclusion temporal in its medium period as maximum.
>
> The accused is ORDERED to PAY private complainant moral damages, exemplary damages in the amount of [PHP] 15,000.00. each and civil indemnity in the amount of [PHP] 20,000.00, to earn interest at the rate of six percent (6%) per annum from the finality of this decision until fully paid.
>
> SO ORDERED.[21] (Emphasis in the original)

The trial court accorded great weight to AAA's clear and categorical testimony, coupled with her positive identification of XXX as her abuser. It rejected XXX's alibi and denial, as well as his assertion that the criminal charge against him was rooted in AAA's anger after he and BBB reprimanded her for bringing home her boyfriend.[22]

The trial court observed that AAA's narration revealed that XXX merely tried to insert his penis inside her vagina, without any concrete details that there was even the slightest penetration of her vagina. If at all, AAA's testimony established that XXX rubbed his penis against her vagina with the use of intimidation. Therefore, applying the variance doctrine under Rule 120, Sections 4 and 5 of the Revised Rules of Criminal Procedure, the trial court held that XXX's acts of caressing AAA's breast and vagina constitute acts of lasciviousness, instead of rape as charged under the Information.[23]

Applying the doctrine of in dubio pro reo, XXX was found guilty of acts of lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610, the imposable penalty of which is reclusion temporal in its medium period.[24]

Proceedings before the Court of Appeals

On appeal, XXX faulted the trial court, first for allegedly violating his constitutional right to be informed of the crime charged against him since it convicted him of a crime different from the one charged in the Information; and the Information failed to state the exact date of the supposed commission of the crime, thus preventing him from setting up a valid defense. Second, AAA's testimony was allegedly marred with inconsistencies which cast reasonable doubt on his guilt of the crime of acts of lasciviousness. Third, it was contrary to human behavior that AAA would still go back to his and BBB's house where the sexual abuse was purportedly committed. AAA was also indifferent and unemotional when she was testifying in court, which was highly unlikely if she was truly a victim of sexual abuse. Finally, he claimed that he had the right to bail pending appeal.[25]

The People of the Philippines, through the Office of the Solicitor General (OSG), defended the verdict of

conviction. It argued that although XXX was initially charged with rape under the Information, he can still be convicted of the lesser crime of acts of lasciviousness under the variance doctrine. Too, the precise date of commission of the crime is not required to be stated in the Information except when it is an essential element of the offense, which is not the case here. Further, contrary to XXX's claim, AAA's testimony remained consistent when she declared that XXX tried to insert his penis into her vagina. It is also not inconceivable that AAA would go back to the house of BBB and XXX since she was a minor who had nowhere else to go. Lastly, there is no standard reaction for victims of abuse so AAA should not be faulted for appearing indifferent during her testimony.[26]

Ruling of the Court of Appeals

Under its assailed Decision[27] dated April 26; 2024, the Court of Appeals affirmed in full. It held that XXX's constitutional right to be informed of the nature and cause of accusation against him was not violated. It echoed the trial court's application of the variance doctrine under Rule 120, Section 4, in relation to Section 5 of the Revised Rules of Criminal Procedure. The crime of acts of lasciviousness is necessarily included in the offense of rape; hence, XXX can be convicted of the former, which is a lesser crime.[28]

More, although the Information did not bear the exact date when the crime was committed, it nonetheless bore the approximate date when it was committed, i.e., "in the year 2015," which conforms with Rule 110, Sections 6 and 11 of the Revised Rules of Criminal Procedure.[29]

As for the alleged inconsistencies between AAA's statement and testimony in court, the Court of Appeals upheld the trial court's ruling that the inconsistencies, if at all, were too trivial to cast reasonable doubt on his guilt. Whether AAA's shorts and underwear were lowered before or after she was awakened, or whether XXX tried to insert his penis by lowering her underwear or just pulling it aside, cannot diminish the clear, straightforward, and categorical testimony of AAA that XXX caressed her breasts, touched her vagina, and rubbed his penis against her vagina.[30]

The Court of Appeals also decreed that AAA was only 11 years old when she was sexually abused by XXX. Given her minority, she cannot be faulted for going back to the house of her mother, BBB, and XXX, from whom she relied on for support. Thus, XXX and BBB cannot dictate upon AAA the manner by which she should respond to the traumatic experience she had to go through.[31]

XXX's contention that AAA was motivated by ill will against him was likewise rejected by the Court of Appeals.[32]

Finally, the Court of Appeals agreed with the trial court that the nomenclature of the crime committed is acts of lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610 pursuant to People v. Tulagan.[33] It ordained that all the elements thereof are present in this case. AAA's positive and categorical testimony established that XXX committed lascivious conduct against her when she was below 18 years old.[34]

By Resolution[35] dated January 8, 2025, the Court of Appeals denied XXX's motion for reconsideration.[36]

The Present Petition

XXX now seeks anew a verdict of acquittal. He essentially repleads his arguments before the Court of Appeals. He maintains that his constitutional right to be informed of the charge against him was violated. As with the trial court, the Court of Appeals convicted him of a crime different from the one charged in the Information in Criminal Case No. 22-168-MAL. Further, AAA's testimony supposedly failed to establish the existence of either

rape or acts of lasciviousness. Not only were her statements inconsistent, they were also allegedly incredible and contrary to human experience of a woman who was sexually abused. It was not purportedly proved with moral certainty that it was XXX who molested her as she implicated other persons, i.e., DDD, CCC's husband, and one KKK. Even her own mother, BBB, and BBB's sister testified against AAA, claiming she was close and affectionate toward XXX. In sum, XXX submits that AAA's accusations against him are unsubstantiated and his acquittal is in order.[37]

The OSG, on the other hand, argues that XXX's constitutional right to be informed of the nature and cause of accusation against him was not violated. Although he was initially charged in Criminal Case No. 22-168-MAL with rape, the variance doctrine commands that he be convicted of the lesser crime of acts of lasciviousness. It maintains that AAA is a credible and competent witness. AAA was firm and consistent in her declaration that XXX tried to insert his penis into her vagina. As a minor who had nowhere else to go, it was only logical for AAA to go back to BBB and XXX's house. Finally, the testimony of BBB and her sister should not be given credence as they were both biased in favor of XXX.[38]

Issues

1. Was XXX's constitutional right to be informed of the charge against him violated?

2. Did the Court of Appeals err in affirming XXX's conviction for acts of lasciviousness in Criminal Case No. 22-168-MAL?

Our Ruling

To begin with, settled is the rule that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned. 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.[39]

We first resolve whether the Information in Criminal Case No. 22-168-MAL violated XXX's right to be informed of the charge against him. XXX argues that the prosecution failed to state the exact date of the alleged rape, for it merely stated that the crime was committed in 2015. Meanwhile, during trial, AAA testified that she was ravished in September 2015, but did not mention the specific date of the incident. XXX presented his work time card for the entire month of September 2015 since he was compelled to prove that it was physically impossible for him to have committed the crime, albeit no exact date was alleged.

In People v. Ladrillo,[40] the Court categorically held that the prosecution must allege with particularity the date of the commission of the offense, and its failure to prove during the trial the date of the commission. of the offense as alleged in the Information deprived the accused of his right to intelligently prepare for his defense and convincingly refute the charges against him. We, however, clarified in People v. Espejon[41] that in a prosecution for rape, the material fact or circumstance to be considered is the occurrence of the rape, not the time of its commission. Hence, the failure to specify the exact date or time when it was committed does not ipso facto make the Information defective on its face.[42]

In any event, objections as to the form of the Information cannot be made for the first time on appeal.[43] If XXX here found the Information in Criminal Case No. 22-168-MAL insufficient, he should have moved before arraignment either for a bill of particulars in order for him to be properly informed of the exact date of the rape; or for the quashal of the Information, on the ground that it did not conform with the prescribed form.[44] Records show, however, that XXX failed to move for the quashal of the Information before he entered his plea of not

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

guilty on arraignment. It is thus too late in the day for him to raise this issue here and now for he is deemed to have waived the same. In fine, there is no violation of his constitutional right to be informed of the charge against him.

On the merits, we recall that the trial court found that XXX committed acts of lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610, and not rape or attempted rape. The trial court held:

> The constant use of the words "tina-try nyang ipasok[,"] unsupported by further details to paint the harrowing rape incident as to render the account believable and convincing cannot effectively sway towards conviction of the accused. While it is true that trying to insert the penis into the vagina would connote a contact between the penis and the vagina, still the degree of contact should be contemplative of slightest penetration of the female organ, i.e., touching of either labia of the pudendum by the penis, and not merely a brushing or stroking of the external surface of the vagina.
>
> . . . .
>
> In this case, aside from AAA's insistence that the accused tried to insert his penis into her vagina, there was no supporting detail from which it could be deduced that the penis of the accused had found its way into either labias of the pudendum of the vagina. Description of what she felt at the very moment she supposed a penis was crashing the gates of her vagina and thereafter would have thrown hints of the position of the penis, the force exerted in the intrusion (or even lack of it), and ultimately the real intention of the accused, that is, whether it was only for satisfying lustful thoughts by stroking his manhood against the child's vagina or to invade her flower of innocence. What was only repeatedly laid before the court for evaluation was her redundant declaration of the attempt to penetrate her.
>
> For one thing, there was no testimony that AAA even felt pain during "the quite long time" that the accused allegedly attempted to insert his penis into her vagina. Second, it was not elucidated how she could have claimed to have seen his penis entering her vagina from the position of the accused lying behind her without resorting to any difficult acrobatics of bending and stretching. In delicate charges especially in sexual crimes, impossibilities in execution or absurd claims which are urged to be true ought to be explained and clarified to be accorded credibility.
>
> . . . .
>
> The description "rubbing of the penis" extracted directly from the testimony and recollection of the victim actually squares with and explains her claim that the accused's penis was in contact with her vagina for "quite a long time" without any, successful intrusion into her vagina. It was evidently more of a portraiture of lack of intent to have sexual intercourse. Hence, sans any assertion that it caused her pain all throughout and after the duration of the grazing of the penis with her vagina logically imprints just that[—]mere brushing or stroking of the surface of the vagina which does not constitute consummated rape.
>
> Indeed, the Findings by the Child Protection Unit (Exhibit C) on AAA's ano-genital examination conducted on May 10, 2021 or for more than five (5) years after the incident, reflected that she suffered a hymenal laceration at 7 o'clock. But to state the obvious, on account of the admission that the accused merely rubbed his penis on her vagina and with her naming three (3) molesters, it cannot be concluded with certainty that the laceration can be attributed to the herein accused.
>
> Could the accused's act, despicable as it was, be attempted rape then?
>
> . . . .
>
> [I]t was observed that the long period of rubbing the penis on the vagina of AAA bespoke of lack of intent to lie with her. It was more in parallel with satisfying a libidinous mind without any aim to resort to coitus akin to

> self-gratification.
>
> Seeing that the accused had executed the act of rubbing his penis with her vagina with the use of intimidation, it is fitting to attribute to him criminal liability not for attempted rape but for the crime of acts of lasciviousness under Article 336 of the Revised .Penal Code in relation to Section 5(b) of R.A. 7610 for sexual abuse.[45] (Emphasis supplied)

We find that the trial court gravely erred in holding that XXX was guilty of acts of lasciviousness, rather than rape. Consequently, the Court of Appeals likewise erred in affirming XXX's conviction for acts of lasciviousness.

XXX is guilty of qualified rape

Under Article 266-A(1) of the Revised Penal Code, as amended by Republic Act No. 8353,[46] rape by sexual intercourse is committed, as follows:

> Article 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 following circumstances:
>
> a. Through force, threat, or intimidation;
> b. When the offended party is deprived of reason or otherwise unconscious;
> c. By means of fraudulent machination or grave abuse of authority; and
> d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Meanwhile, Article 266-B(1) of the Revised Penal Code ordains that rape is qualified when:

> Article 266-B. Penalties. — . . . .
>
> 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 eighteen (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. (Emphasis supplied)

The elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under 18 years of age at the time of the rape; and (5) the offender is either 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.[47]

Here, AAA's testimony was candid and detailed on how XXX had sexually offended her:

> Q: When did the... "pagmomolestya and panghahawak" begin, Miss Witness?
> A: Grade V po ako simula around 2015 po.
>
> Q: What month, if you recall?
> A: September po... around September.
>
> Q: At around September 2015, what was the first "pangmomolestya" that XXX did to you?
> A: Yun po yung... nung wala po yung mother ko nung nasa labas po ata sya o may binili... biglang ano... natutulog po ako may bigla pong umakyat Si XXX naman po[.]
>
> Q: Okay. At what time was that Miss Witness?
> A: Morning po... around ano... morning po.

Q: You mentioned, "biglang umakyat",...
A: Yes po. . .

Q: How are you sure that it was XXX who went up to your room?
A: I was awake and he went beside me, sir.

Q: After XXX went beside you, what did he do next?
A: He touched my breast and my vagina[.]

ACP SUAREZ:
"Ari" ang (sic) sabi nya.

INTERPRETER:
Private parts.

ACP SUAREZ:
By "ari", what do you mean Miss Witness, be more specific?
A: My vagina, sir.

Q: How did he touch your breast and your vagina. Miss Witness?
A: "Nasa likod ko po sya tapos dun po nya ko hinahawakan bale patalikod po yung pwesto ko po."

ACP SUAREZ:
May we retain the vernacular, Your Honor.

COURT:
As requested.

ACP SUAREZ:
Thank you, Your Honor.

Q: How long was the touching of your breast and your vagina?
A: Matagal-tagal po... mga minutes siguro po... hindi naman po umaabot ng isang oras na ganun po.

Q: After he touched your breast and vagina, what did this XXX do next?
A: He put down my shorts and that was when he touched my private part.

Q: By private part, what do you mean Miss Witness?
A: My vagina, sir.

Q: After he touched your vagina, what did he do next?
A: He tried to insert his private part, sir.

Q: By "ari po nya[,"] what are you referring to?
A: Yung "titi" po.

Q: Where did he try to insert his penis, Miss Witness?
A: Sa vagina ko po.

Q: What happened after that?
A: Nung matagal-tagal po kasi... pagka-ano po... kapag-ano nga po tina-try nya pong ipasok parang pumipiglas po ako... nakaganito nagigising, akala po nya kasi tulog po ako nun.

COURT: (To The Interpreter)
In the vernacular.

ACP SUAREZ:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Thank you, Your Honor.

Q: Then, how long was that... the attempt to insert his penis in your vagina?
A: Quite a long time, maybe for a period of minutes and that was when I was trying to resist, sir.

Q: Okay. By "tina-try pong ipasok[,"] what do you mean specifically Miss Witness?
A: He was trying to insert his penis, but [my] body structure is small that's why he cannot insert it?

Q: At the time when the accused was trying to insert his penis in your vagina, what article of clothing was the accused wearing?
A: He was always topless and he was always just wearing shorts.

Q: So, at time that he was trying to insert his penis, he was still wearing clothes, Miss Witness?
A: On the front part was unbuttoned but it was not fully removed.

Q: So, at the time that the accused (sic) was trying to insert his penis, what article of clothing stands between his penis in your vagina?
A: I was wearing my pajamas and I also have my underwear that's why it was difficult for him to insert his penis.

Q: Okay. Then, after that what happened, Miss Witness?
A: After I resisted a number of times, he suddenly heard that there was someone who just came and that is my mother and then, he tried to fix himself as if nothing happened[.]

Q: What do you do after your mother arrived, Miss Witness?
A: They were just talking casually, sir.

Q: How about you what did you do after your mother arrived?
A: I just ignored them, sir.

Q: And at that time how old were you Miss Witness?
A: Around eleven (11) po ata. . eleven (11) years old.[48] (Emphasis supplied)

On cross-examination, AAA narrated:

ATTY. TENORIO:
Q: You mentioned Miss Witness that.... when asked by the Prosecutor that, the only thing between his penis... the accused's penis and your vagina was your underwear, correct?
A: Yes po.

Q: So, did you feel or see if the penis penetrated inside your vagina?
COURT: (To The Witness)
Kumpletohin naten. Naramdaman mo ba[?]
A: Yes po.

Q: O nakita mo kung napasok nya ang titi nya sa vagina mo?
A: Yes po.

ATTY. TENORIO:
Q: With your underwear?
A: Yes po, bale ina-aside po nya yung underwear ko, binaba rin po nya para ma-insert po.

ACP SUAREZ:
Can we retain the vernacular, Your Honor.

COURT:

As requested.[49] (Emphasis supplied)

One. The Court once more affirms the long-settled doctrine that, in prosecutions for rape by carnal knowledge, full or complete penetration of the female genitalia is not indispensable. Jurisprudence has consistently held that even the slightest contact with the vulval cleft suffices to consummate the offense—mere introduction, however slight, into the cleft of the labia majora by a penis.[50] It is immaterial whether such contact occurs upon the surface of the cleft or within it. Coupled with the presence of the specific intent to engage in sexual intercourse with the victim—an intent that may be established through circumstantial evidence. Thus, an attempt, or repeated attempts, to penetrate the vagina admits of no other reasonable interpretation than the deliberate intention to have sexual intercourse.

In the present case, AAA delivered clear, categorical, and unshaken testimony that XXX had attempted to insert his penis into her vagina. Even assuming arguendo that complete penetration did not ensue, the very act of attempting such insertion necessarily presupposes contact between XXX’s penis and AAA's labia majora. Anatomically, the vagina is an elastic and muscular canal, lined with soft and flexible tissue, which provides lubrication and sensation and connects the uterus to the exterior of the body.[51] The entrance to this canal is formed by the vulva, of which the labia majora constitutes the outer protective folds.[52] These structures are anatomically and legally recognized as integral components of the external female genitalia.

To elucidate further what jurisprudence contemplates by the "slightest contact with," or "mere introduction, however slight, into the cleft,"[53] it is necessary to refer to the basic anatomical structures involved. When the penis is directed toward or attempted to be inserted into a woman's vagina, the tip of the organ must, at the very least, make contact with the labia majora. This act, by anatomical necessity, results in contact with—or introduction into—the pudendal cleft.

The anatomical definitions are instructive:

- Labia Majora – the two outer folds of skin forming the lateral boundaries of the vulva.

- Pudendal Cleft – the longitudinal opening or "slit" between the labia majora.[54]

Because the pudendal cleft is simply the space defined by the labia majora,[55] any object that touches the inner edges, point of convergence, or medial surfaces of the labia majora is, by definition, already in contact with the pudendal cleft. Anatomically, the vulva comprises the entirety of the external female genitalia;[56] the labia majora serve as its outer protective folds;[57] and the pudendal cleft is the opening formed by these folds.[58] The relationship may be analogized thus: the labia majora function as the "walls," while the pudendal cleft constitutes the "doorway" they create. Contact with the "walls" necessarily entails contact with the "doorway" they define.

Given this anatomical configuration, any attempt to introduce the penis into the vaginal canal necessarily requires the organ to reach or touch the vulval opening and, at minimum, make contact with the labia majora. Consequently, when the penis inevitably touches the labia majora, it also, in the very course of that movement, reaches or comes into contact with the pudendal cleft. Such contact places the male organ upon the vulval or pudendal cleft—the longitudinal space defined by the labia majora. Thus, the act of attempting vaginal penetration, by its very nature, already entails the degree of contact that jurisprudence has long recognized as sufficient to satisfy the element of carnal knowledge.[59]

In the eyes and language of a child or even an unsuspecting adult, the vulva or pudendum cannot be partitioned into isolated components—the vulva or pudendum is not to be understood as a collection of discrete anatomical parts. Each part is integral to the whole. The dignity of a woman's person is violated by unwanted contact with any part of this organ; correspondingly, the offense is consummated when any of its integral parts is subjected to

such contact. Within the context of the inherent power imbalance that characterizes sexual offenses, touch one part and the whole is touched; come into contact with one, and contact with the entirety is established. This is the proper lens through which the consummation of the criminal act must be understood.

To summarize, the law has long recognized that the element of carnal knowledge does not require proof of full or complete penetration of the vaginal canal. Jurisprudence consistently holds that the slightest penetration of the female genitalia—defined in anatomical and legal terms as any degree of contact upon or into the pudendal or vulval cleft—is sufficient. This standard rests on both doctrinal and anatomical foundations.[60]

First, the statutory concept of carnal knowledge is satisfied by proof of even minimal introduction of the male organ into the external genitalia. The law does not require entry into the vaginal canal proper, nor does it demand evidence of hymenal rupture, depth of penetration, or completion of the sexual act. The rationale is that the gravamen of the offense lies in the violation of the woman's sexual integrity, which occurs the moment the male organ intrudes into the protected anatomical space that constitutes the external genitalia.[61]

Second, anatomical structure informs the legal definition. The external female genitalia, collectively referred to as the vulva, include the labia majora, labia minora, clitoris, and the pudendal cleft. The pudendal cleft is the longitudinal opening formed by the labia majora;[62] it is the anatomical gateway to the vaginal vestibule and canal. Thus, when the penis reaches by touching the pudendal cleft, it has already entered the zone that the law protects from sexual intrusion.[63]

Third, the act of attempting vaginal penetration necessarily entails contact with the labia majora, and thus, the pudendal cleft. As a matter of anatomical necessity, the penis cannot approach the vaginal canal without first traversing the vulval opening. Therefore, when a complainant credibly testifies, that the accused attempted to insert his penis into her vagina, as AAA in the case at bar, the law recognizes that the male organ must have reached, touched or has been introduced into the pudendal cleft. This degree of contact satisfies the legal threshold for carnal knowledge.[64]

Finally, the doctrine is grounded in the principle that the law protects not merely the internal reproductive organs but the entirety of the female genital structure. The slightest penetration rule ensures that offenders cannot evade liability by claiming that the intrusion was incomplete or that the attempt fell short of full vaginal entry. Once the male organ reaches, touches, or has been introduced into the pudendal cleft—however minimal such contact—the violation is complete.[65]

To stress, the doctrinal framework establishes that carnal knowledge is consummated upon the slightest reaching, touching, penetration of, or introduction to, the external genitalia, defined anatomically as the pudendal cleft. Any attempt at vaginal insertion necessarily results in such contact, and the law deems the element satisfied upon proof of that contact.

What additionally fortifies the case against XXX is that AAA's testimony finds clear corroboration in the medical evidence. Dr. Naria-Maritana's finding of an old hymenal laceration at the 7 o'clock position is a clinical indication of prior trauma to the hymen. Jurisprudence has consistently recognized hymenal lacerations—whether healed or fresh—as strong indicators of forcible defloration. Indeed, one of the established guideposts in determining consummated rape is the presence of injury to the victim's genitalia, for "when the sex organ of the victim has sustained any other type of injury,"[66] the element of carnal knowledge is deemed satisfied.

This conclusion is even more compelling in the case of AAA, a very young child who has not been shown to have been trafficked or exposed to sexual exploitation, and where the only identified-sexual aggressor is XXX. In such circumstances, the medical findings acquire heightened probative value.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Verily, when the candid and straightforward testimony of a rape victim is consistent with the medical findings—as it is here—the essential requisites of carnal knowledge are sufficiently established. The convergence of credible testimonial evidence and objective medical indicators leaves no room for reasonable doubt as to the commission of the offense.[67]

Two. The youthful innocence and physical immaturity of AAA should also inform her evidence against XXX. To recall, she testified that he "was trying to insert his penis, but [her] body structure is small that's why he cannot insert it." The Court finds this testimony credible, categorical, and consistent with the natural linguistic and communication limitations of a child witness. Her statement clearly conveys penile-genital contact and an attempt at full penetration that was frustrated solely by her physical immaturity.

The Court has previously held that for child victims in the pre-puberty stage, the genital-contact threshold for consummated rape is met once the entirety of the prosecution evidence establishes a clear physical indication of the inevitability of penetration, were it not for the underdeveloped state of the child's genitalia.[68] This includes repeated touching of XXX's penis on the child's labia majora and necessarily her pudendal cleft and other indicative acts of penetration and attempted penetration.

Given AAA's youthful innocence and anatomical pre-development, her genitalia provided natural resistance to XXX's attempt to penetrate her. Her testimony therefore sufficiently demonstrates penile-genital contact that meets the jurisprudential threshold for consummated rape.

In People v. Agao,[69] the Court emphasized that while courts profess leniency toward child witnesses, such accommodation has not always been consistently applied. The Court admonished trial courts for demanding from minor victims a level of linguistic precision that they are developmentally incapable of providing.

Thus, the Court in Agao directed all courts to:

- [B]e circumspect in appreciating the entire body of evidence, including the testimony of minor victims;

- [A]pply jurisprudential guideposts on the nature and degree of genital contact even when the victim cannot describe penetration in technical terms; and

- [G]ive full regard to the inherent linguistic limitations of children, avoiding unrealistic expectations of anatomical detail.[70]

This doctrinal clarification is controlling in the present case. The trial court gravely erred in holding that there was no proof of carnal knowledge as the law defines this criminal act. Its conclusion rested on an unduly rigid interpretation of the term penetration in relation to the consummation of the sexual intercourse. This is clearly inconsistent with the Court's solicitous pronouncements in Agao and earlier jurisprudence recognizing that full or deep penetration is not required to consummate rape, especially when the victim is a child.

The Court reiterates that penetration is not synonymous with complete entry of the penis into the vaginal canal. Contact with the labia majora and inevitably in anatomical terms the slit or cleft formed by these lips, when accompanied by evidence of attempted insertion, suffices.

In light of AAA's credible and categorical testimony, the physical impossibility of full penetration owing solely to her pre-pubescent anatomy, and the controlling doctrine in Agao, the Court finds that the first and second elements of qualified rape—sexual congress with a woman—are present. The law does not require complete or perfect penetration; the slightest contact as defined above with the labia majora and necessarily the pudendal cleft, when effected with lewd intent, suffices to establish carnal knowledge.

Ultimately, as will he further discussed, the totality of XXX's acts, coupled with the criminal intent clearly

manifested therein, constitutes consummated qualified rape. The evidence does not merely describe an attempted act, much less one amounting only to lascivious conduct. Rather, it demonstrates the consummation of the offense as defined by law.

Three. The elements of violence, force, intimidation, coercion, fraudulent machination, and undue influence or grave abuse of authority or moral ascendancy—indeed the full spectrum of circumstances that signify the absence of genuine consent—are likewise present here.

XXX employed violence, force, intimidation, coercion, and fraudulent machination upon AAA in order to have sexual intercourse with her. Her resistance to his sexual advances necessarily demonstrates that he resorted to these means to overcome her will. It bears emphasis that, under Section 5 of Republic Act No. 7610, "coercion or influence" expressly includes threatening or using violence toward a child; thus, no conceptual distinction arises from omitting threats, intimidation, force or violence from our interpretation or definition of coercion or influence under the statute.[71] Both the Revised Penal Code and Republic Act No. 7610 recognize that any of these manifestations of dominance or pressure is sufficient to vitiate a child's capacity to give valid consent.

Fraudulent machination is also evident from the manner in which XXX initiated his assault—approaching AAA from behind and touching her breast and vagina without her knowledge or consent:

> Q: How did he touch your breast and your vagina, Miss Witness?
> A: "Nasa likod ko po sya tapos dun po nya ko hinahawakan bale patalikod po yung pwesto ko po."[72] (Emphasis supplied)

This surreptitious approach, combined with his position of authority and the child's vulnerability, demonstrates the deceit and manipulation that facilitated the sexual intercourse.

In sexually offending AAA, XXX likewise employed undue influence, grave abuse of authority or moral ascendancy arising from his parental role and moral ascendancy over her. As the common-law partner of her mother and the father figure who had raised her, he occupied a position that commanded obedience and trust. Jurisprudence recognizes that such moral ascendancy may substitute for actual force, threat, intimidation or coercion when these elements are absent. Here, the evidence clearly demonstrates that XXX's authority over AAA was sufficient to overcome her will.

Accordingly, the third and fifth elements of qualified rape—done by force and without consent and the offender is the common-law spouse of the parent of the victim—are proven beyond reasonable doubt.

Four. As to AAA's minority, her Certificate of Live Birth establishes that she was born on X X, 2003. She was therefore a minor when she was assaulted by XXX. Notably, because AAA testified only that the rape occurred in September 2015, without specifying whether it happened before or after her twelfth birthday on X X, 2015, the uncertainty must be resolved in favor of XXX in accordance with the principle of in dubio pro reo. Thus, for purposes of determining her age at the time of the incident, AAA is deemed to have been 12 years old.

This finding proves beyond reasonable doubt the fourth element of qualified rape—that the victim was under 18 years of age at the time of the unwanted sexual intercourse.

Five. In People v. ABC260708,[73] the Court clarified that the crime shall be denominated as qualified rape if any of the special qualifying aggravating circumstances mentioned in Article 266-B of the Revised Penal Code is present, and the victim is not below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age.

Based on the foregoing, all the elements of qualified rape are present.

Six. In modifying XXX's conviction from acts of lasciviousness to qualified rape, his right against double jeopardy is not violated.

In People v. XXX262846,[74] the Court emphasized that when an accused himself or herself appeals from the judgment in a criminal case, the entire case is open for review. Such comprehensive review may result, as law and justice dictate, in a heavier penalty. The Court may reverse the downgrading of the offense where it finds guilt beyond reasonable doubt for the crime carrying the more severe penalty,[75] as in this case.

Seven. We now impose the fit and appropriate sentence for the crime committed by XXX.

Under Article 266-B of the Revised Penal Code, when rape is qualified, the imposable penalty is death.However, considering that Republic Act No. 9346 prohibits the imposition of death penalty, the accused should suffer the penalty of reclusion perpetua without eligibility for parole. The phrase "without eligibility for parole," is attached to qualify reclusion perpetua where the death penalty is warranted but is not imposed because of Republic Act No. 9346 pursuant to A.M. No. 15-08-02-SC,[76] as here.

As for the civil liabilities, we find it proper to increase the award of civil indemnity and damages from PHP 100,000.00 to PHP 150,000.00 due to the heinous nature of the crime which XXX committed against AAA, the daughter of his common-law spouse BBB. The Court notes that even prior to the filing of the criminal cases against him, XXX had already been sexually abusing AAA many times over. No words are enough to condemn the vileness of his acts against AAA. Although the trauma that AAA has endured over the years cannot be fully compensated, the increased awards of civil indemnity and damages will serve to deter individuals with perverse or aberrant sexual tendencies from sexually abusing children of their common-law partners.

Finally, all monetary awards shall earn 6% interest per annum from the date of the finality of this Decision until fully paid.[77]

ACCORDINGLY, the Petition for Review on Certiorari is DENIED. The Decision dated April 26, 2024 and Resolution dated January 8, 2025 of the Court of Appeals in CA-G.R. CR No. 47680 are AFFIRMED with MODIFICATION.

In Criminal Case No. 22-168-MAL, petitioner XXX is found GUILTY beyond reasonable doubt of the crime of qualified rape under Article 266-A(1) in relation to Article 266-B(1) of the Revised Penal Code. He is sentenced to reclusion perpetua without eligibility for parole.

He is ordered to PAY AAA 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.

All monetary awards shall earn 6% interest per annum from finality of this Decision until fully paid.

Finally, Branch X, Regional Trial Court, X City, is DIRECTED to refer AAA to the Department of Social Welfare and Development for therapy and counselling to be extended to her and her family pursuant to Republic Act No. 8505 or the Rape Victim Assistance and Protection Act of 1998. It is further directed to submit its compliance within 10 days from notice of finality of this Resolution.

SO ORDERED.

Kho, Jr. and Villanueva, JJ., concur.
Leonen, SAJ. (Chairperson), with separate concurring opinion.
Lopez,[**] J., on leave.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[*] In line with Amended Administrative Circular No. 83-205, as mandated by Article 266-A of the Revised Penal Code, 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.

[*][*] On leave.

[1] Rollo, pp. 21-40.

[2] Id. at 72-87. Penned by Associate Justice Jaime Fortunato A. Caringal and concurred in by Associate Justices Ramon A. Cruz and Louis P. Acosta, Eighth Division, Court of Appeals, Manila.

[3] Otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act" (1992).

[4] Rollo, pp. 95-97. Penned by Associate Justice Jaime Fortunato A. Caringal and concurred in by Associate Justices Ramon A. Cruz and Louis P. Acosta, Former Eighth Division, Court of Appeals, Manila.

[5] Id. at 43.

[6] Id. at 43-44.

[7] Id. at 44.

[8] Id. at 73.

[9] Id. at 73-74.

[10] Id. at 74.

[11] Id.

[12] Id.

[13] Id.

[14] Exhibit I, Folder of Exhibits, pp. 58-64.

[15] Rollo, pp 74-75; see also Exhibit I, Folder of Exhibits, pp. 63-64.

[16] Id. at 75.

[17] Id.

[18] Id.

[19] Id. at 75-76.

[20] Id. at 43-69. Penned by Presiding Judge Rhoda Magdalene L. Mapile-Osinada of Branch X, Regional Trial Court, X City.

[21] Id. at 69.

[22] Id. at 66.

[23] Id. at 60-65.

[24] Id. at 66.

[25] Id. at 78-79.

[26] Id. at 79.

[27] Id. at 72-87.

[28] Id. at 80-81.

[29] Id. at 81.

[30] Id. at 82.

[31] Id. at 82-83.

[32] Id. at 85.

[33] 849 Phil. 197, 224 (2019) [Per J. Peralta, En Banc].

[34] Rollo, pp. 83-85.

[35] Id. at 95-97.

[36] Id. at 97.

[37] Id. at 24-39.

[38] Id. at 105-113.

[39] Del Rosario v. People, 857 Phil. 367, 375 (2019) [Per J. Caguioa, Second Division].

[40] See 377 Phil. 904, 911-913 (1999) [Per J. Bellosillo, Second Division].

[41] 427 Phil. 672 (2002) [Per J. Panganiban, En Banc].

[42] Id. at 680.

[43] People v. Marquez, 400 Phil. 1313, 1321 (2000) [Per J. Ynares-Santiago, En Banc].

[44] People v. Cachapero, 472 Phil. 818, 827-828 (2004) [Per J. Panganiban, First Division].

[45] Rollo, pp. 60-64.

[46] The Anti-Rape Law of 1997.

[47] People v. XXX, 891 Phil. 655, 673 (2020) [Per J. Hernando, Third Division].

[48] Rollo, pp. 54-56.

[49] Id. at 58.

[50] People v. Agao, 930 Phil. 559, 592 (2022) [Per J. Caguioa, En Banc].

[51] WebMD, What is a Vaginal Self-Exam?, available at https://www.webmd.com/women/what-is-a-vaginal-self-exam (last accessed on June 2026).

[52] Id.

[53] People v. Agao, 930 Phil. 559, 592 (2022) [Per J. Caguioa, En Banc]. "Necessarily, the Court must now revisit and clarify the language of the descriptions in the cases of Dela Peña, Oliver, Puertollano, Campuhan, Ombreso, Comanda, and Francisco, which have collectively described that the act of rape is considered

consummated as soon as the penis touches either the pudendum or the labia of the victim's vagina. With careful and decisive reference to the anatomical illustration above, the Court clarifies that when jurisprudence refers to "mere touching," it is not sufficient that the penis grazed over the pudendum or the fleshy surface of the labia majora. Instead, what jurisprudence considers as consummated rape when it describes a penis touching the vagina is the penis penetrating the cleft of the labia majora, however minimum or slight. Similarly, a mere grazing by the penis of the fleshy portion, not the vulval cleft of the labia majora, will also constitute only attempted rape and not consummated rape, since the same cannot be considered to have achieved the slightest level of penetration. Stated differently, the Court here elucidates that "mere touch" of the penis on the labia majora legally contemplates not mere surface touch or skin contact, but the slightest penetration of the vulval or pudendal cleft, however minimum in degree."

[54] Id. at 591.

[55] Anatomy.app, Organ Systems, Female Reproductive System, Labia Majora, available at https://anatomy.app/article/female-reproductive-system/labia-majora (last accessed on June 2026).

[56] Sujata Yavagal, et al., Normal Vulvovaginal, Perineal, and Pelvic Anatomy with Reconstructive Considerations, available at https://pmc.ncbi.nim.nih.gov/articles/PMC3312145/ (last accessed on June 2026).

[57] Britannica, Labia Majora, available at https://www.britannica.com/science/labia-majora (last accessed on June 2026).

[58] Richard J. Harrison, The Female Reproductive System, available at https://www.britannica.com/science/human-reproductive-system/The-female-reproductive-system (last accessed on June 2026).

[59] People v. Agao, 930 Phil. 559, 591-592 (2022) [Per J. Caguioa, En Banc].

[60] Id at 593. See also People v. Besmonte, 735 Phil. 234, 247-248 (2014) [Per J. Leonardo-De Castro, First Division], People v. Garcia, 631 Phil. 316, 331 (2010) [Per J. Villanueva, Jr., First Division], and People v. Dedace, 385 Phil. 410, 412 (2000) [Per J. Panganiban, Third Division].

[61] Id.

[62] John D. Nguyen, et al., Anatomy and Pelvis: Female External Genitalia, available at https://www.ncbi.nlm.nih.gov/books/NBK547703/ (last accessed on June 2026).

[63] People v. Agao, 930 Phil. 559, 593 (2022) [Per J. Caguioa, En Banc].

[64] Id.

[65] Id.

[66] Id. at 596.

[67] See People v. Pagkatipunan, 859 Phil. 806, 820-821 (2019) [Per J. Lazaro-Javier, Second Division].

[68] 930 Phil. 559, 594 (2022) [Per J. Caguioa, En Banc].

[69] Id.

[70] Id. at 603-604.

[71] See Gramatica v. People, G.R. Nos. 260233 and 266039, August 12, 2025 [Per J. Inting, En Banc].

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[72] Rollo, p. 55.

[73] G.R. No. 260708, April 22, 2025 [Per J. M. Lopez, En Banc].

[74] G.R. No. 262846, February 18, 2025 [Per J. Kho, Jr., En Banc].

[75] Id.

[76] People v. Olidan, 958 Phil. 236, 258 (2024) [Per J. Inting, Third Division].

[77] Nacar v. Gallery Frames, 716 Phil. 267, 283 (2013) [Per J. Peralta, En Banc].

CONCURRING OPINION

LEONEN, SAJ:

I concur.

Petitioner XXX278098 was correctly convicted of qualified rape under Article 266-A(1) in relation to Article 266-B(1). The prosecution established that petitioner, the common law spouse of the mother of the 11-year-old private respondent, used force and intimidation to achieve his lustful desires. Private respondent clearly and categorically testified that petitioner took advantage of her while asleep and spent several minutes trying to insert his penis inside her vagina.[1]

The ponencia held that petitioner's act of repeatedly trying to insert his penis into private respondent's vagina is sufficient to convict him of rape. Proof of penetration is unnecessary as the repeated attempt undoubtedly resulted in the violation of the victim's dignity:

> The Court once more affirms the long-settled doctrine that, in prosecutions for rape by carnal knowledge, full or complete penetration of the female genitalia is not indispensable. Jurisprudence has consistently held that even the slightest contact with the vulval cleft suffices to consummate the offense – mere introduction, however slight, into the cleft of the labia majora by a penis. It is immaterial whether such contact occurs upon the surface of the cleft or within it. Coupled with the presence of the specific intent to engage in sexual intercourse with the victim – an intent that may be established through circumstantial evidence. Thus, an attempt, or repeated attempts, to penetrate the vagina admits of no other reasonable interpretation than the deliberate intention to have sexual intercourse.
>
> In the present case, AAA delivered clear, categorical, and unshaken testimony that [XXX278098] had attempted to insert his penis into her vagina. Even assuming arguendo that complete penetration did not ensue, the very act of attempting such insertion necessarily presupposes contact between [XXX278098]'s penis and AAA's labia majora.[2] (Emphasis supplied, citations omitted)
>
> . . . .
>
> In the eyes and language of a child or even an unsuspecting adult, the vulva or pudendum cannot be partitioned into isolated components – the vulva or pudendum is not to be understood as a collection of discrete anatomical parts. Each part is integral to the whole. The dignity of a woman's person is violated by unwanted contact with any part of this organ; correspondingly, the offense is consummated when any of its integral parts is subjected to such contact. Within the context of the inherent power imbalance that characterizes sexual offenses, touch one part and the whole is touched; come into contact with one, and contact with the entirety is established. This is the proper lens through which the consummation of the criminal act must be understood.[3] (Emphasis supplied)

I agree with the ponencia's approach to convict petitioner of consummated rape even if the prosecution did not categorically establish that his penis penetrated the victim's vulval cleft, as required under People v. Agao.[4]

Rape, at its core, is a violation of the victim's dignity. More than a violation of the victim's physical body, rape robs the victim of her autonomy to choose who to share her body with. As I stated in my dissenting opinion in Bangayan v. People:[5]

> Rape, including other forms of sexual abuse, should no longer be viewed as a crime against chastity, which focuses on the dishonor to the victim's father or family. Rape and sexual abuse is a strike against the person of the victim. It is a violation of one's autonomy, a "violation of free will, or the freely made choice to engage in sexual intimacy."[6]

The current trend of unnecessarily analyzing the metes and bounds of an accused's penetration of the vagina unfairly places the burden on the victim to remember her assault with a clarity that often evades victims of trauma. Aside from this, the emphasis given to the abstract degrees of penetration further demeans the victim's self-worth beyond the damage wrought by the harrowing experience. To argue that this step is necessary to determine the stage at which the rape was committed serves no purpose other than to benefit the accused at the expense—again—of the victim. These matters were threshed out in my concurring and dissenting opinion in Agao:

> Thus, rape should-be interpreted not as an honor-based offense, but as a consent-based offense. It is an exercise of power over a person, rather than a purely sexual act. The prevalence of physical violence in many rape cases shows that sex is used as a weapon to assault a person. It is not so much a violation of chastity as much as it is a violation of dignity through degradation and humiliation that often results in "severe, long-lasting physical and psychic harm."
>
> I remain firm in my view that the reconceptualization of rape, and our more gender-sensitive laws and legal lenses, require us to examine human sexuality and sexual acts as more than just unwanted penile penetration.
>
> Sexual intercourse is not merely the penetration of a penis in a vagina. It involves numerous other acts that may or may not require penetration. At its core, sexual intercourse is a powerful expression of intimacy between human beings. It "requires the shedding of all inhibitions and defenses to allow humans to explore each other in their most basic nakedness." As I stated in People v. Caoili:
>
> The persistence of an archaic understanding of rape relates to our failure to disabuse ourselves of the notion that carnal knowledge or sexual intercourse is merely a reproductive activity. It is not. Sexual intercourse may be done for pleasure. It may be done for religious purposes. It may be a means to any end.
>
> Hence, sexual intercourse encompasses a wide range of sexual activities not limited to those involving penetration, genitals, and opposite sexes. Sexual intercourse is a sexual activity that is participated by at least two individuals of the same or opposite sex for purposes of attaining erotic pleasure. It may be penetrative or simply stimulative. It may or may not involve persons of opposite sexes. When forced, sexual intercourse constitutes rape.
>
> This understanding of sexual intercourse would prevent courts from unnecessarily and unjustly convicting persons of lesser crimes when they are undoubtedly guilty of rape.

Human beings have full autonomy to decide who to be intimate with and what acts may be shared through that intimacy. Rape is a crime because it violates that autonomy.[7]

. . . .

This Court should view Article 266-A of the Revised Penal Code from the eyes of the victim, not from the point of view of the perpetrator. All rape victims suffer the same trauma. All rape victims suffer the same indignity. To

continue the discussion started by the ponencia would be to accept that the victim will now bear the burden to prove that the penis touched the "outer fleshy part" of her vagina and not merely the muscular part of the pudendum. It places the blame on the victim should she fight back and there would only be a slight touching of the pudendum, because only the lower offense of attempted rape can be charged then.

We are not discussing here whether the crime has been committed. There is no issue in this case that rape occurred. A discussion of the different degrees of commission presupposes that the crime was committed. There was rape. AAA was raped. To further discuss which part of her vagina was violated serves no other purpose than as a platform to determine how this Court can lessen her rapist's punishment.

To reduce a woman to merely a vagina that can be sexually conquered reduces her worth and dignity. By unnecessarily belaboring on the different physiological aspects of her vagina in the guise of protecting the accused's rights from "the [considerable] difference in the lengths of period of incarceration" between the attempted and consummated rape of a minor, this Court takes a step back towards the previous heteronormative — and frankly, misogynistic — definitions of rape. It likewise undermines the severity of the trauma suffered by sexually abused women and children.

Rape is a crime because it is a violation of a person's consent to intimacy and sexual relations. Rape is a crime because it is a violation of a person's human dignity. No amount of anatomical discourse should ever erase the heinousness of this crime.[8] (Citations omitted)

This Court should adjust its perspective and acknowledge that rape is a crime of its own league—one that cannot be broken down into stages of commission through degrees of penetration. A victim's dignity, including her capacity to give sexual consent, is indivisible. When an assailant commits rape, the victim suffers a total affront to her dignity. The specifics of anatomical invasion do not change the character of the assault. The violation is complete.

"There is no such thing as attempted rape. All rape is rape. All rape violates dignity. The finer points of the parts of the vagina touched by the penis is irrelevant."[9]

ACCORDINGLY, I vote to DENY the Petition.

---

[1] Ponencia, pp. 2, 10-12.

[2] Id. at 14-15.

[3] Id. at 16.

[4] 930 Phil. 559, 593 (2022) [Per J. Caguioa, En Banc].

[5] 885 Phil. 405 (2020) [Per J. Carandang, Third Division].

[6] J. Leonen, Dissenting Opinion in Bangayan v. People, 885 Phil. 405, 465 (2020) [Per J. Carandang, Third Division], citing ROSEMARY HUNTER AND SHARON COWAN (eds.), CHOICE AND CONSENT: FEMINIST ENGAGEMENTS WITH LAW AND SUBJECTIVITY 97 (2007).

[7] SAJ. Leonen, Dissenting Opinion in People v. Agao, 930 Phil. 559, 642-644 (2022) [Per J. Caguioa, En Banc].

[8] Id. at 646-647.

[9] Id. at 633.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.