

SECOND DIVISION

[G.R. No. 240145, September 14, 2020]

**JAIME CAPUETA Y ATADAY, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

DELOS SANTOS, J.:

The Case

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] dated January 30, 2018 and the Resolution^[3] dated April 23, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39353. The CA affirmed the Decision^[4] dated September 7, 2016 of the Regional Trial Court (RTC) of [REDACTED], Branch 254, which found Jaime Capueta y Ataday (petitioner) guilty beyond reasonable doubt of the crime of Acts of Lasciviousness under Article 336 of the Revised Penal Code (RPC), in relation to Section 5(b) of Republic Act No. (RA) 7610, also known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

The Facts

Petitioner was charged with violation of Section 10(a) of RA 7610 in an Information which reads:

That on or about November 16, 2008, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there wilfully, unlawfully and feloniously commit acts of child abuse on the person of AAA, a 6-year old minor by touching her legs, arms and private organ, demeaning and degrading her dignity as a child, and which act is prejudicial to her emotional and psychological development against her will and to her damage and prejudice.

CONTRARY TO LAW.^[5]

Upon arraignment, petitioner pleaded not guilty to the charge. Whereupon, trial ensued.

To prove its case, the prosecution presented as witnesses the victim, AAA;^[6] the victim's mother, BBB; and *Barangay Tanod* Arnel Cariaso (*Tanod* Cariaso). The testimony of the Officer-on-Case, Police Officer II Rhona Mea Padojinog (PO2 Padojinog),^[7] was likewise presented but her testimony was dispensed with after the prosecution and the defense agreed to stipulate thereon.^[8]

The evidence of the prosecution showed that in the afternoon of November 16, 2008, AAA and her brother were at the house owned by petitioner's sister. They were playing *bahay-bahayan* with their friend "Len-len" at the foot of the stairs when petitioner came down from the second floor. Upon reaching them at the stairway, petitioner suddenly lifted AAA's skirt, touched her right thigh and vagina, and then left. Horrified by what petitioner did to her, AAA ran home crying and reported the incident to BBB.^[9]

When BBB learned about what petitioner had done, she immediately confronted petitioner but the latter denied doing anything wrong and instead uttered invectives at her. Petitioner then threatened to punch BBB prompting the latter to bring her daughter to the *barangay* hall and report to the authorities.^[10]

Upon receiving the report of AAA and BBB, *Tanod* Cariaso, together with his fellow *tanods*, apprehended petitioner and brought him to the district hospital for medical examination. Thereafter, the *tanods* accompanied AAA and BBB to the Women and Children's Protection Desk of the [REDACTED] Police Station where they executed their sworn statements before PO1 Padojinog. Petitioner was then turned over to the police authorities.^[11]

After presenting the testimonies of the witnesses, the prosecution formally offered the following documentary evidence: (1) *Sinumpaang Salaysay* of AAA, stating that petitioner had molested her; (2) *Sinumpaang Salaysay* of BBB, stating that she is the mother of AAA and that upon learning what petitioner had done, she accompanied her daughter to the *barangay* hall to report the incident; (3) *Sinumpaang Salaysay* of *Tanod* Cariaso stating that he and his fellow *tanods* arrested petitioner after receiving the report of AAA and BBB; (4) Birth Certificate of AAA showing her date of birth as February 22, 2002; and (5) Investigation Report dated November 18, 2008 prepared by Officer-on-Case, PO1 Padojinog.^[12]

In his defense, petitioner denied the charge and testified that in the afternoon of November 16, 2008, he was taking a nap on the second floor of their house. When he had woken up, he wanted to buy some cigarettes. As he was going down the narrow stairway, he tripped and fell to where AAA was standing causing him to accidentally hit AAA. Petitioner then got up and apologized to AAA and then proceeded to the store to buy cigarettes. When petitioner returned home, BBB suddenly began hitting him and accused him of molesting her daughter. BBB thereafter lodged a complaint against him at the *barangay* hall. BBB also demanded for him to pay the amount of P50,000.00 by way of settlement, but when he refused, the case was filed against him.^[13]

The Ruling of the RTC

The RTC held that while petitioner was charged with violation of Section 10(a) of RA 7610, the facts established during the course of the trial showed that the crime actually committed by petitioner is sexual abuse through lascivious conduct and found petitioner to be instead guilty beyond reasonable doubt of violation of Section 5(b), Article III of RA 7610.^[14] The RTC then rendered a Decision^[15] convicting petitioner, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, the Court hereby finds accused JAIME CAPUETA y ATADAY *GUILTY* beyond reasonable doubt of violation of Section 5(b), Article III of Republic Act No. 7610, and is hereby

sentenced to TWELVE (12) YEARS, TEN (10) MONTHS and TWENTY-ONE (21) DAYS of reclusion temporal as minimum, to FIFTEEN (15) YEARS, SIX (6) MONTHS and TWENTY (20) DAYS of reclusion temporal as maximum; and to pay AAA, the amount of TWENTY THOUSAND (P20,000.00) PESOS as civil indemnity; FIFTEEN THOUSAND (P15,000.00) PESOS as moral damages; and FIFTEEN THOUSAND (P15,000.00) PESOS as fine, the amounts of which shall all bear interest at the rate of six (6%) percent per annum from the date of finality of this judgment until fully paid.

SO ORDERED.^[16]

The RTC gave full faith and credence to the testimony of AAA, pointing out that despite her tender age, she did not waiver in her accusation that petitioner molested her by lifting up her skirt and touching her legs, thighs, and vagina. The RTC added that AAA's act in immediately reporting the incident to BBB and to the authorities belied any doubt on her credibility.^[17]

On the contrary, the RTC found petitioner's denial of the charge to be unconvincing for being weak in the face of the positive testimony of AAA. The RTC further pointed out that petitioner even admitted being at the scene of the crime at the exact time and date of its commission.^[18]

The Ruling of the CA

The CA affirmed the ruling of the RTC that the prosecution had duly proven the elements of the crime of Acts of Lasciviousness, under the RPC, as well as lascivious conduct under Section 5(b) of RA 7610. The CA held that the prosecution was able to prove AAA's minority at the time of the incident and that petitioner exercised intimidation over AAA and committed lascivious conduct against her by touching her legs, arm, and vagina.^[19]

The CA upheld the credibility of AAA noting that she remained consistent in her account of the horrid experience in the hands of petitioner and even maintained that petitioner's act of touching her vagina was intentional.^[20] On the other hand, the CA rejected petitioner's denial and lack of intent on the part of petitioner for his failure to present clear and convincing evidence to support his claim.^[21]

The CA, however, modified the penalty imposed by the RTC noting the absence of mitigating or aggravating circumstances in the commission of the crime. The CA then rendered the herein assailed Decision,^[22] the dispositive portion of which reads:

WHEREFORE the instant appeal is **DENIED**. The September 7, 2016 Decision of the [REDACTED] Regional Trial Court. Branch 254, (RTC) in the case docketed as Criminal Case No. 08-0956 is hereby **AFFIRMED WITH MODIFICATION** in that the accused-appellant is hereby sentenced to suffer an indeterminate penalty of ***twelve (12) years and one (1) day of reclusion temporal in its minimum period, as minimum, to fifteen (15) years, six (6) months, and twenty (20) days of reclusion temporal in its medium period, as maximum.***

All other aspects of the *fallo* of the assailed Decision **STAND**.

The Issue

Whether the CA committed grave error in affirming the RTC's ruling that petitioner is guilty beyond reasonable doubt of Acts of Lasciviousness, in relation to Section 5(b) of RA 7610.

Petitioner's Arguments

Petitioner contends that the prosecution failed to prove all the elements of Section 5(b) of RA 7610. First, petitioner asserts that criminal intent on his part is wanting since the records are bereft of any evidence showing that he had the intention of touching, either directly or indirectly, the private parts of AAA. Petitioner likewise argues that the Information filed against him did not allege the presence of the second element of Section 5(b), *i.e.*, that the act is performed with a child exploited in prostitution or subjected to other sexual abuse, and that neither was there an attempt on the part of the prosecution to prove the same. Thus, his constitutional right to be informed of the nature and cause of accusation against him was violated.

The Ruling of the Court

The Court finds no merit in the petition.

Section 5(b), Article III of RA 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:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; *Provided*, That when the victims 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; and

x x x x

The elements of sexual abuse under Section 5, Article III of RA 7610 are as follows:

1. The accused commits the act of sexual intercourse or *lascivious conduct*;