EN BANC

[G.R. No. 227363, March 12, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. SALVADOR TULAGAN, ACCUSED-APPELLANT.

D E C I S I O N

PERALTA, J.:

This is an appeal from the Decision[1] of the Court of Appeals (CA) dated August 17, 2015 in CA-G.R. CR-HC No. 06679, which affirmed the Joint Decision[2] dated February 10, 2014 of the Regional Trial Court (RTC) of San Carlos City in Criminal Case Nos. SCC-6210 and SCC-6211, finding accused-appellant Salvador Tulagan (*Tulagan*) guilty beyond reasonable doubt of the crimes of sexual assault and statutory rape as defined and penalized under Article 266-A, paragraphs 2 and 1(d) of the Revised Penal Code (RPC), respectively, in relation to Article 266-B.

In Criminal Case No. SCC-6210, Tulagan was charged as follows:

> That sometime in the month of September 2011, at x x x, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, intimidation and with abuse of superior strength forcibly laid complainant AAA,[3] a 9-year-old minor in a cemented pavement, and did then and there, willfully, unlawfully and feloniously inserted his finger into the vagina of the said AAA, against her will and consent.
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> Contrary to Article 266-A, par. 2 of the Revised Penal Code in relation to R.A. 7610.

In Criminal Case No. SCC-6211, Tulagan was charged as follows:

> That on or about October 8, 2011 at x x x, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, intimidation and with abuse of superior strength, did then and there, willfully, unlawfully and feloniously have sexual intercourse with complainant AAA, a 9-year-old minor against her will and consent to the damage and prejudice of said AAA, against her will and consent.
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> Contrary to Article 266-A, par. 1(d) of the Revised Penal Code in relation to R.A. 7610.

Upon arraignment, Tulagan pleaded not guilty to the crimes charged.

During the trial, BBB, aunt of the victim AAA, testified that around 10:30 a.m. of October 17, 2011, she noticed a man looking at AAA outside their house. When AAA asked her permission to go to the bathroom located outside their house, the man suddenly went near AAA. Out of suspicion, BBB walked to approach AAA. As BBB came close to AAA, the man left suddenly. After AAA returned from the bathroom, BBB asked what the man was doing to her. AAA did not reply. She then told AAA to get inside the house. She asked AAA to move her panties down, and examined her genitalia. She noticed that her genitalia was swollen. AAA then confessed to her about the wrong done to her by appellant whom AAA referred to as Badong or Salvador Tulagan. AAA cried hard and embraced BBB tightly. AAA asked BBB for her help and even told her that she wanted Badong to be put in jail.

AAA, nine (9) years old, testified that sometime in September 2011 while she was peeling corn with her cousin who lived adjacent to her grandmother's house, Tulagan approached her, spread her legs, and inserted his finger into her private part. She said that it was painful, but Tulagan just pretended as if he was just looking for something and went home.

AAA, likewise, testified that at around 11:00 a.m. of October 8, 2011, while she was playing with her cousin in front of Tulagan's house, he brought her to his house and told her to keep quiet. He told her to lie down on the floor, and removed her short pants and panties. He also undressed himself, kissed AAA's cheeks, and inserted his penis into her vagina. She claimed that it was painful and that she cried because Tulagan held her hands and pinned them with his. She did not tell anyone about the incident, until her aunt examined her private part.

Upon genital examination by Dr. Brenda Tumacder on AAA, she found a healed laceration at 6 o'clock position in AAA's hymen, and a dilated or enlarged vaginal opening. She said that it is not normal for a 9-year-old child to have a dilated vaginal opening and laceration in the hymen.

For the defense, Tulagan claimed that he did not know AAA well, but admitted that he lived barely five (5) meters away from AAA's grandmother's house where she lived. He added that the whole month of September 2011, from 8:00 a.m. to 1:00 p.m., he was gathering dried banana leaves to sell then take a rest after 1:00 p.m. at their terrace, while his mother cut the banana leaves he gathered at the back of their kitchen. He said that he never went to AAA's house and that he had not seen AAA during the entire month of September 2011. Tulagan, likewise, claimed that before the alleged incidents occurred, his mother had a misunderstanding with AAA's grandmother, who later on started spreading rumors that he raped her granddaughter.

After trial, the RTC found that the prosecution successfully discharged the burden of proof in two offenses of rape against AAA. It held that all the elements of sexual assault and statutory rape was duly established. The trial court relied on the credible and positive declaration of the victim as against the alibi and denial of Tulagan. The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, the Court finds the accused GUILTY beyond reasonable doubt [of] the crime of rape defined and penalized under Article 266-A, paragraph 1 (d), in relation to R.A. 7610 in Criminal Case No. SCC-6211 and is hereby sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the victim in the amount of fifty thousand (Php50,000.00) pesos; moral damages in the amount of fifty thousand (Php 50,000.00) pesos, and to pay the cost of the suit. Likewise, this Court finds the accused GUILTY beyond reasonable doubt in Criminal Case No. SCC-6210 for the crime of rape defined and penalized under Article 266-A, paragraph 2 and he is hereby sentenced to suffer an indeterminate penalty of six (6) years of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum, and to indemnify the victim in the amount of thirty thousand (Php30,000.00) pesos; and moral damages in the amount of twenty thousand (Php20,000.00) pesos, and to pay the cost of suit.
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> SO ORDERED.[4]

Upon appeal, the CA affirmed with modification Tulagan's conviction of sexual assault and statutory rape. The dispositive portion of the Decision reads:

> **ACCORDINGLY**, the Decision dated February 10, 2014 is **AFFIRMED**, subject to the following **MODIFICATIONS:**
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> 1. In Criminal Case No. SCC-6210 (Rape by Sexual Assault), appellant is sentenced to an indeterminate penalty of 12 years of *reclusion temporal*, as minimum, to 15 years of *reclusion temporal*, as maximum. The award of moral damages is increased to P30,000.00; and P30,000.00 as exemplary damages, are likewise granted.
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> 2. In Criminal Case No. SCC-6211 (Statutory Rape), the awards of civil indemnity and moral damages are increased to P100,000.00 each. Exemplary damages in the amount of P100,000.00, too, are granted.
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> 3. All damages awarded are subject to legal interest at the rate of 6% [*per annum*] from the date of finality of this judgment until fully paid.
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> **SO ORDERED.**[5]

Aggrieved, Tulagan invoked the same arguments he raised before the CA in assailing his conviction. He alleged that the appellate court erred in giving weight and credence to the inconsistent testimony of AAA, and in sustaining his conviction despite the prosecution's failure to prove his guilt beyond reasonable doubt. To support his appeal, he argued that the testimony of AAA was fraught with inconsistencies and lapses which affected her credibility.

Our Ruling

The instant appeal has no merit. However, a modification of the nomenclature of the crime, the penalty imposed, and the damages awarded in Criminal Case No. SCC-6210 for sexual assault, and a reduction of the damages awarded in Criminal Case No. SCC-6211 for statutory rape, are in order.

Factual findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case.[6] Said rule finds an even more stringent application where the said findings are sustained by the CA, as in the instant case:

> Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals. [7]

Here, in Criminal Case No. SCC-6210 for sexual assault, both the RTC and the CA found AAA's testimony to be credible, straightforward and unwavering when she testified that Tulagan forcibly inserted his finger in her vagina. In Criminal Case No. SCC-6211 for statutory rape, both the RTC and the CA also found that the elements thereof were present, to wit: (1) accused had carnal knowledge of the victim, and (2) said act was accomplished when the offended party is under twelve (12) years of age. Indubitably, the courts *a quo* found that the prosecution was able to prove beyond reasonable doubt Tulagan's guilt for the crime of rape. We find no reason to deviate from said findings and conclusions of the courts *a quo*.

Jurisprudence tells us that a witness' testimony containing inconsistencies or discrepancies does not, by such fact alone, diminish the credibility of such testimony. In fact, the variance in minor details has the net effect of bolstering instead of diminishing the witness' credibility because they discount the possibility of a rehearsed testimony. Instead, what remains paramount is the witness' consistency in relating the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same.[8]

As correctly held by the CA, the fact that some of the details testified to by AAA did not appear in her *Sinumpaang Salaysay* does not mean that the sexual assault did not happen. AAA was still able to narrate all the details of the sexual assault she suffered in Tulagan's hands. AAA's account of her ordeal being straightforward and candid and corroborated by the medical findings of the examining physician, as well as her positive identification of Tulagan as the perpetrator of the crime, are, thus, sufficient to support a conviction of rape.

As for Tulagan's imputation of ill motive on the part of AAA's grandmother, absent any concrete supporting evidence, said allegation will not convince us that the trial court's assessment of the credibility of the victim and her supporting witness was tainted with arbitrariness or blindness to a fact of consequence. We reiterate the principle that no young girl, such as AAA, would concoct a sordid tale, on her own or through the influence of her grandmother as per Tulagan's intimation, undergo an invasive medical examination then subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice. In *People v. Garcia*,[9] we held:

> Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.[10]

We also reject Tulagan's defense of denial. Being a negative defense, the defense of denial, if not substantiated by clear and convincing evidence, as in the instant case, deserves no weight in law and cannot be given greater evidentiary value than the testimony of credible witnesses, like AAA, who testified on affirmative matters. Since AAA testified in a categorical and consistent manner without any ill motive, her positive identification of Tulagan as the sexual offender must prevail over his defenses of denial and alibi.

Here, the courts *a quo* did not give credence to Tulagan's alibi considering that his house was only 50 meters away from AAA's house, thus, he failed to establish that it was physically impossible for him to be at the *locus criminis* when the rape incidents took place. "Physical impossibility" refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed. There must be a demonstration that they were so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed. In this regard, Tulagan failed to prove that there was physical impossibility for him to be at the crime scene when the rape was committed.[11] Thus, his alibi must fail.

Further, although the rape incidents in the instant case were not immediately reported to the police, such delay does not affect the truthfulness of the charge in the absence of other circumstances that show the same to be mere concoction or impelled by some ill motive.[12]

For the guidance of the Bench and the Bar, We take this opportunity to reconcile the provisions on Acts of Lasciviousness, Rape and Sexual Assault under the Revised Penal Code (*RPC*), as amended by Republic Act (*R.A.*) No. 8353 *vis-a-vis* Sexual Intercourse and Lascivious Conduct under Section 5(b) of R.A. No. 7610, to fortify the earlier decisions of the Court and doctrines laid down on similar issues, and to clarify the nomenclature and the imposable penalties of said crimes, and damages in line with existing jurisprudence.[13]

Prior to the effectivity of R.A. No. 8353 or *The Anti-Rape Law of 1997* on October 22, 1997, acts constituting sexual assault under paragraph 2,[14] Article 266-A of the RPC, were punished as acts of lasciviousness under Article No. 336[15] of the RPC or Act No. 3815 which took effect on December 8, 1930. For an accused to be convicted of acts of lasciviousness, the confluence of the following essential elements must be proven: (1) that the offender commits any act of lasciviousness or lewdness; and (2) that it is done under any of the following circumstances: (a) by using force or intimidation; (b) when the offended woman is deprived of reason or otherwise unconscious; or (c) when the offended party is under twelve (12) years of age.[16] In *Amployo v. People*,[17] We expounded on the broad definition of the term "lewd":

> The term lewd is commonly defined as something indecent or obscene; it is characterized by or intended to excite crude sexual desire. That an accused is entertaining a lewd or unchaste design is necessarily a mental process the existence of which can be inferred by overt acts carrying out such intention, i.e., by conduct that can only be interpreted as lewd or lascivious. The presence or absence of lewd designs is inferred from the nature of the acts themselves and the environmental circumstances. **What is or what is not lewd conduct, by its very nature, cannot be pigeonholed into a precise definition.** As early as *US. v. Gomez*, we had already lamented that
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> > It would be somewhat difficult to lay down any rule specifically establishing just what conduct makes one amenable to the provisions of article 439 of the Penal Code. What constitutes lewd or lascivious conduct must be determined from the circumstances of each case. It may be quite easy to determine in a particular case that certain acts are lewd and lascivious, and it may be extremely difficult in another case to say just where the line of demarcation lies between such conduct and the amorous advances of an ardent lover.[18]

When R.A. No. 7610 or The *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* took effect on June 17, 1992 and its Implementing Rules and Regulation was promulgated in October 1993, the term "lascivious conduct" was given a specific definition. The *Rules and Regulations on the Reporting and Investigation of Child Abuse Cases* states that "lascivious conduct means 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."

Upon the effectivity of R.A. No. 8353, specific forms of acts of lasciviousness were no longer punished under Article 336 of the RPC, but were transferred as a separate crime of "sexual assault" under paragraph 2, Article 266-A of the RPC. Committed by "inserting penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person" against the victim's will, "sexual assault" has also been called "gender-free rape" or "object rape." However, the term "rape by sexual assault" is a misnomer, as it goes against the traditional concept of rape, which is carnal knowledge of a woman without her consent or against her will. In contrast to sexual assault which is a broader term that includes acts that gratify sexual desire (such as cunnilingus, felatio, sodomy or even rape), the classic rape is particular and its commission involves only the reproductive organs of a woman and a man. Compared to sexual assault, rape is severely penalized because it may lead to unwanted procreation; or to paraphrase the words of the legislators, it will put an outsider into the woman who would bear a child, or to the family, if she is married.[19] The dichotomy between rape and sexual assault can be gathered from the deliberation of the House of Representatives on the Bill entitled "*An Act To Amend Article 335 of the Revised Penal Code, as amended, and Defining and Penalizing the Crime of Sexual Assault*":

INTERPELLATION OF MR. [ERASMO B.] DAMASING:

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Pointing out his other concerns on the measure, specifically regarding the proposed amendment to the Revised Penal Code making rape gender-free, Mr. Damasing asked how carnal knowledge could be committed in case the sexual act involved persons of the same sex or involves unconventional sexual acts.

Mr. [Sergio A. F.] Apostol replied that the Bill is divided into two classifications: rape and sexual assault. The Committee, he explained, defines rape as carnal knowledge by a person with the opposite sex, while sexual assault is defined as gender-free, meaning it is immaterial whether the person committing the sexual act is a man or a woman or of the same sex as the victim.

Subsequently, Mr. Damasing adverted to Section 1 which seeks to amend Article 335 of the Revised Penal Code as amended by RA No. 7659, which is amended in the Bill as follows: "Rape is committed by having carnal knowledge of a person of the opposite sex under the following circumstances." He then inquired whether it is the Committee's intent to make rape gender-free, either by a man against a woman, by a woman against a man, by man against a man, or by a woman against a woman. He then pointed out that the Committee's proposed amendment is vague as presented in the Bill, unlike the Senate version which specifically defines in what instances the crime of rape can be committed by a man or by the opposite sex.

Mr. Apostol replied that under the Bill "carnal knowledge" presupposes that the offender is of the opposite sex as the victim. If they are of the same sex, as what Mr. Damasing has specifically illustrated, such act cannot be considered rape - it is sexual assault.

Mr. Damasing, at this point, explained that the Committee's definition of carnal knowledge should be specific since the phrase "be a person of the opposite sex" connotes that carnal knowledge can be committed by a person, who can be either a man or a woman and hence not necessarily of the opposite sex but may be of the same sex.

Mr. Apostol pointed out that the measure explicitly used the phrase "carnal knowledge of a person of the opposite sex" to define that the abuser and the victim are of the opposite sex; a man cannot commit rape against another man or a woman against another woman. He pointed out that the Senate version uses the phrase carnal knowledge with a woman".

While he acknowledged Mr. Apostol's points, Mr. Damasing reiterated that the specific provisions need to be clarified further to avoid confusion, since, earlier in the interpellation Mr. Apostol admitted that being gender-free, rape can be committed under four situations or by persons of the same sex. Whereupon, Mr. Damasing read the specific provisions of the Senate version of the measure.

In his rejoinder, Mr. Apostol reiterated his previous contention that the Bill has provided for specific and distinct definitions regarding rape and sexual assault to differentiate that rape cannot be totally gender-free as it must be committed by a person against someone of the opposite sex.

With regard to Mr. Damasing's query on criminal sexual acts involving persons of the same sex, Mr. Apostol replied that Section 2, Article 266(b) of the measure on sexual assault applies to this particular provision.

Mr. Damasing, at this point, inquired on the particular page where Section 2 is located.

SUSPENSION OF SESSION

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INTERPELLATION OF MR. DAMASING
(Continuation)

Upon resumption of session, Mr. Apostol further expounded on Sections 1 and 2 of the bill and differentiated rape from sexual assault. Mr. Apostol pointed out that the main difference between the aforementioned sections is that carnal knowledge or rape, under Section 1, is always with the opposite sex. Under Section 2, on sexual assault, he explained that such assault may be on the genitalia, the mouth, or the anus; it can be done by a man against a woman, a man against a man, a woman against a woman or a woman against a man.[20]

Concededly, R.A. No. 8353 defined specific acts constituting acts of lasciviousness as a. distinct crime of "sexual assault," and increased the penalty thereof from *prision correccional* to *prision mayor*. But it was never the intention of the legislature to redefine the traditional concept of rape. The Congress merely upgraded the same from a "crime against chastity" (a private crime) to a "crime against persons" (a public crime) as a matter of policy and public interest in order to allow

prosecution of such cases even without the complaint of the offended party, and to prevent extinguishment of criminal liability in such cases through express pardon by the offended party. Thus, other forms of acts of lasciviousness or lascivious conduct committed against a child, such as touching of other delicate parts other than the private organ or kissing a young girl with malice, are still punished as acts of lasciviousness under Article 336 of the RPC in relation to R.A. No. 7610 or lascivious conduct under Section 5 of R.A. No. 7610.

Records of committee and plenary deliberations of the House of Representative and of the deliberations of the Senate, as well as the records of bicameral conference committee meetings, further reveal no legislative intent for R.A. No. 8353 to supersede Section 5(b) of R.A. No. 7610. The only contentious provisions during the bicameral conference committee meetings to reconcile the bills of the Senate and House of Representatives which led to the enactment of R.A. No. 8353, deal with the nature of and distinction between rape by carnal knowledge and rape by sexual assault; the threshold age to be considered in statutory rape [whether Twelve (12) or Fourteen (14)], the provisions on marital rape and effect of pardon, and the presumptions of vitiation or lack of consent in rape cases. While R.A. No. 8353 contains a generic repealing and amendatory clause, the records of the deliberation of the legislature are silent with respect to sexual intercourse or lascivious conduct against children under R.A. No. 7610, particularly those who are 12 years old or below 18, or above 18 but are unable to fully take care or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

In instances where the lascivious conduct committed against a child victim is covered by the definition under R.A. No. 7610, and the act is likewise covered by sexual assault under paragraph 2,[21] Article 266-A of the RPC, the offender should be held liable for violation of Section 5(b), Article III of R.A. No. 7610. The ruling in *Dimakuta v. People*[22] is instructive:

> Article 226-A, paragraph 2 of the RPC, punishes inserting of the penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person if the victim did not consent either it was done through force, threat or intimidation; or when the victim is deprived of reason or is otherwise unconscious; or by means of fraudulent machination or grave abuse of authority as sexual assault as a form of rape. However, in instances where the lascivious conduct is covered by the definition under R.A. No 7610, where the penalty is *reclusion temporal* medium, and the act is likewise covered by sexual assault under Article 266-A, paragraph 2 of the RPC, which is punishable by *prision mayor* , the offender should be liable for violation of Section 5(b), Article III of R.A. No. 7610, where the law provides for the higher penalty of *reclusion temporal* medium, if the offended party is a child victim. But if the victim is at least eighteen (18) years of age, the offender should be liable under Art. 266-A, par. 2 of the RPC and not R.A. No. 7610, unless the victim is at least eighteen (18) years and she is unable to fully take care of herself or protect herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, in which case, the offender may still be held liable for sexual abuse under R.A. No. 7610.[23]
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> There could be no other conclusion, a child is presumed by law to be incapable of giving rational consent to any lascivious act, taking into account the constitutionally enshrined State policy to promote the physical, moral, spiritual, intellectual and social well-being of the youth, as well as, in harmony with the foremost consideration of the child's best interests in all actions concerning him or her. This is equally consistent with the declared policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation, and discrimination. Besides, if it was the intention of the framers of the law to make child offenders liable only of Article 266-A of the RPC, which provides for a lower penalty than R.A. No. 7610, the law could have expressly made such statements.[24]

Meanwhile, if acts of lasciviousness or lascivious conduct are committed with a child who is 12 years old or less than 18 years old, the ruling in *Dimakuta*[25] is also on point:

> Under Section 5, Article III of R.A. No. 7610, a child is deemed subjected to other sexual abuse when he or she indulges in lascivious conduct under the coercion or influence of any adult. This statutory provision must be distinguished from Acts of Lasciviousness under Articles 336 and 339 of the RPC. As defined in Article 336 of the RPC, Acts of Lasciviousness has the following elements:
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> (1) That the offender commits any act of lasciviousness or lewdness;
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> (2) That it is done under any of the following circumstances:
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> a. By using force or intimidation; or
> b. When the offended party is deprived of reason or otherwise unconscious; or
> c. When the offended party is under 12 years of age; and
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> (3) That the offended party is another person of either sex.
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> Article 339 of the RPC likewise punishes *acts of lasciviousness committed with the* ***consent*** *of the offended party* if done by the same persons and under the same circumstances mentioned in Articles 337 and 338 of the RPC, to wit:
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> 1. if committed against a virgin **over twelve years and under eighteen years of age** by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman; or
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> 2. if committed by means of deceit against a woman who is single or a widow of good reputation, **over twelve but under eighteen years of age**.