

THIRD DIVISION

[G.R. No. 203785, January 20, 2021]

PEDRITO VALENZONA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

INTING, J.:

This is a Petition^[1] for Review on *Certiorari* from the Decision^[2] dated September 6, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 01262 which affirmed the Decision^[3] dated June 9, 2009 of Branch 14, Regional Trial Court (RTC), Baybay, Leyte finding Pedrito Valenzona (petitioner) guilty beyond reasonable doubt of nine (9) counts of Acts of Lasciviousness defined under Article 336 of the Revised Penal Code (RPC) in relation to Section S(b) of Republic Act No. (RA) 7610.

The Antecedents

The instant case stemmed from nine (9) Informations charging petitioner with Attempted Rape. The Informations, except for the date of the commission of each crime, similarly read as follows:

On June 10, 1998, in Baybay, Leyte and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, with lewd and prurient desires, laid on top of 11-year old AAA upon whom he exercised moral ascendancy she being his grade sixth pupil, after he pulled down her underwear up to below her knee, and executed some pumping acts and motions with his male organ on her pubic area while at the same time embracing and kissing her, but accused's male organ was not able to penetrate nor touch the labia of the pudendum, accused performed overt acts but did not perform all the acts of execution which constitute the crime of rape due to the fact that the victim's thighs remained close together thereby protecting her female organ, although accused ejaculated by reason of the excitement at the moment. Contrary to law.^[4]

The crimes were allegedly committed on the following dates: (1) June 10, 1998;^[5] (2) June 16, 1998;^[6] (3) June 19, 1998;^[7] (4) June 23, 1998;^[8] (5) June 26, 1998;^[9] (6) July 8, 1998;^[10] (7) July 23, 1998;^[11] (8) July 24, 1998;^[12] and (9) July 30, 1998.^[13]

During the arraignment on October 16, 2001 petitioner pleaded not guilty to the crimes charged.^[14] Trial on the merits ensued.

Version of the Prosecution

The victim in the cases is AAA,^[15] who was 11 years old when petitioner repeatedly sexually abused her. Petitioner, on the other hand, was AAA's Grade VI teacher. All

the nine incidents of Attempted Rape were committed inside the computer room of Franciscan College of Immaculate Conception (FCIC) in Baybay, Leyte where petitioner was a teacher and AAA was a Grade VI student, to wit:

Criminal Case No. B-2107 On June 10, 1998, between 9 to 10 a.m. [sic] appellant excused [AAA] from her class and ordered her to encode into the computer some school campaign materials. While inside the computer room, appellant asked Lycelle Kirong, the only other person inside the computer room, to get some bond papers. Appellant locked the door behind Lycelle and approached [AAA] to kiss her lips and cheeks. [AAA] tried to resist but appellant forced her into submission. Appellant pulled [AAA] toward a table and made her lie on top of it. While continuing to kiss [AAA], appellant proceeded to pull down [AAA's] underwear to her knees and raised her skirt. Appellant went on top of [AAA] and made a pumping motion while at the same time kissing her. [AAA] kept her thighs tight hence, appellant failed to penetrate her vagina. After a while, appellant ejaculated. [AAA] did not resist nor shout because appellant is her teacher. Appellant stopped when Lycelle knocked at the door x x x.

Criminal Case No. B-2108

On June 16, 1998, between 9 to 10 a.m., appellant summoned [AAA] inside the computer room of FCIC. Once inside, appellant made [AAA] lie down on top of a table, pulled her underwear to her knees, pulled down his pants and underwear to his knees, mounted her, then made some pumping motions while kissing [AAA] until he ejaculated x x x.

Criminal Case No. B-2109

On June 19, 1998, just like the previous sexual molestations, appellant summoned [AAA] inside the computer [r]oom to encode some work. Then, appellant made [AAA] lean on the table, embraced and kissed her. [AAA] tried to resist but appellant was too strong for her. Appellant touched [AAA's] breast and made her lie down on one of the tables x x x.

Criminal Case no. B-2110

On June 23, 1998, appellant sexually abused [AAA] inside the same computer room in same manner as she was sexually abused by the appellant in the previous incidents, i.e., made her lie down on top of a table, pulled down her underwear to her knees, kissed and embraced her, executed some pumping motions with the sexual organ of appellant touching [AAA's] pubic area until appellant. ejaculated x x x:

Criminal Case No. B-2111

On June 26, 1998, between 9 to 10 a.m., appellant made [AAA] lie on top of a table inside the computer room at FCIC. When she and appellant were half naked, the latter mounted her and made some pumping motions. Appellant kissed [AAA] on her lips and touched her vagina. Appellant ejaculated while making some more pumping motions on top of her x x x.

Criminal Case No. B-2112

On July 8, 1998 appellant again summoned [AAA] to the FCIC's computer room. Inside said room, appellant forced [AAA] to kiss him, made her lie down on top of a table, pulled down her underwear, lifted her skirt, pulled down his pants and underwear, mounted her, made some pumping motions until he ejaculated x x x.

Criminal Case No. B-2113 On July 23, 1998, once [AAA] was

inside the same computer room at FCIC, appellant locked the door, approached [AAA] and kissed her on the lips. He then pulled her towards a table and made her lie down on top of it; that while she was lying down, appellant pulled down her underwear below her knees, mounted her, did some pumping motions while kissing her lips until he ejaculated x x x.

Criminal Case No. B-2114

On July 24, 1998, appellant asked [AAA] to finish the task he assigned to her the previous day. Once inside the computer room, appellant repeated what he did to [AAA] the day before (July 23, 1998); *i.e.*, he pulled her towards a table made her lie down on top of it; while she was lying down, lifted her skirt; appellant also pulled down his pants and underwear up to his knees, mounted her and did some pumping motions while kissing her on the lips until he ejaculated x x x.

Criminal Case No. B-2115

On July 30, 1998, [AAA] and Harvey Managbanag went to the computer room upon the instruction of Mrs. Bactasa to encode in the computer the program for the Linggo ng Wika. Upon seeing Harvey, appellant got angry prompting Harvey to leave the computer room. While [AAA] was encoding the program of the Linggo ng Wika, appellant approached her, made her stand up then made her lie down on top of the table. He placed himself on top of [AAA], went down and pulled [AAA's] underwear below her knees. Thereafter, appellant also pulled down his pants and underwear below his knees and placed himself on top of her. He made some pumping motions until he ejaculated x x x. ^[16]

AAA's ordeals in the hands of petitioner caused her sleepless nights. She started to have difficulty in concentrating in her studies. BBB, the mother of AAA, noticed her unusual behavior. Thus, BBB confronted AAA. After AAA confessed and related to BBB the dastardly acts petitioner committed against her, both AAA and BBB reported the incident to the school principal and to the police. ^[17]

For his part, petitioner denied the allegations against him. He refuted the imputations against him as follows: On June 10, 1998, it was impossible for him to sexually abuse AAA as it was not yet the student leaders' election period; hence, he had no reason to ask AAA to encode the campaign materials.

On June 16 and 19, 1998, it was not possible for him to sexually abuse AAA in the computer room as the room was closed because the computers were "out of order." He could not have committed the crime on June 23, 1998 as he was busy preparing for the school student leaders' election. It was likewise impossible for him to sexually abuse AAA on June 26, 1998 as there was an ongoing mass that he

participated in at the time of the alleged commission of the crime. On July 8, 1998, he was conducting a reading lesson with his Grade V class. On July 23, 1998, the computer room was locked as the computers needed some repairs. On July 24, 1998, he was in the school canteen with the other teachers practicing their dance number for the school's induction of officers. On July 30, 1998, he conducted a long quiz with his Grade V students.^[18]

Petitioner asserted that AAA accused him of several counts of Attempted Rape because he scolded her for not remitting the funds of the student body.^[19]

The RTC Ruling

The RTC convicted petitioner of nine (9) counts of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of RA 7610. For each count, the RTC sentenced petitioner to suffer the penalty of imprisonment of twelve (12) years of *prision mayor*, as minimum, to sixteen (16) years of *reclusion temporal*, as maximum. The RTC likewise ordered petitioner to pay AAA P100,000.00 as moral damages and P50,000.00 as exemplary damages for each count of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of RA 7610.^[20]

The RTC convicted petitioner of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of RA 7610 instead of Attempted Rape. It found that in all nine occasions that petitioner sexually abused AAA, there was no evidence that he had the intention of having sexual intercourse with the latter.^[21] According to the RTC, there was no statement from AAA that petitioner tried to insert his penis into her vagina.^[22] The RTC ratiocinated that petitioner merely satisfied his lust by mounting himself half-naked over the half-naked body of AAA until he ejaculated.^[23]

The CA Ruling

In the Decision^[24] dated September 6, 2011, the CA affirmed the RTC with modifications as to the damages awarded. Thus, the CA ordered petitioner to pay AAA P20,000.00 as civil indemnity, P30,000.00 as moral damages, and P25,000.00 as exemplary damages for each count of Acts of Lasciviousness. The CA likewise ordered petitioner to pay AAA P25,000.00 as attorney's fees with cost against him.^[25]

Hence, the petition.

Petitioner raised the issue of whether the CA erred in affirming his conviction.

The Court's Ruling

The petition has no merit.

Well-settled is the rule that the matter of ascribing substance to the testimonies of witnesses is best discharged by the trial court, and the appellate courts will not generally disturb the findings of the trial court in this respect.^[26] "[F]indings of the trial court which are factual in nature and which involve the credibility of witnesses are accorded with respect, if not finality by the appellate court, when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported

conclusions can be gathered from such findings."^[27] The reason is quite simple: the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after having heard them and observed their deportment and mode of testifying during the trial.^[28] "The task of taking on the issue of credibility is a function properly lodged with the trial court." Thus, generally, the Court will not re-examine or re-evaluate evidence that had been analyzed and ruled upon by the trial court.

After a judicious perusal of the records of the instant petition, the Court finds no compelling reason to depart from the uniform factual findings of the RTC and the CA. The Court affirms petitioner's conviction.

The RTC and the CA correctly convicted the petitioner of nine (9) counts of Acts of Lasciviousness under Article 336 in relation to Section 5(b) of RA 7610.^[29]

For a successful prosecution of Acts of Lasciviousness under Article 336 of the RPC, the following elements must concur:

- (1) That the offender commits any act of lasciviousness or lewdness; (2) That it is done under any of the following circumstances:
 - a) Through force, threat or intimidation;
 - b) Where the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority;
 - 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; and
- (3) That the offended party is another person of either sex.³⁰

On the other hand, the essential elements of sexual abuse under Section 5(b) of RA 7610 are as follows: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and, (3) the child, whether male or female, is below 18 years of age.^[31] 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.^[32] Section 2(h) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases^[33] defines *lascivious conduct* as the "intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person."^[34]

All of the aforementioned elements were sufficiently established by the prosecution. AAA's minority had been sufficiently established with the presentation of her Certificate of Live Birth^[35] showing that she was born on November 15, 1986. Thus, it is undisputed that AAA was only 11 years old during the commission of the crimes against her person. Evidence likewise reveals that petitioner was then the Grade VI teacher of AAA in FCIC, and therefore, a person who exercised moral ascendancy and influence upon her. Finally, AAA clearly testified how the separate counts of Acts