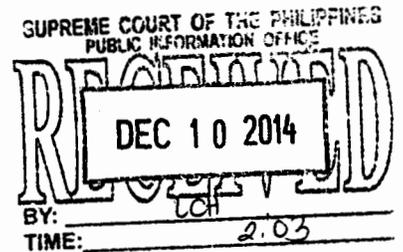




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **November 19, 2014**, which reads as follows:

“G.R. No. 204190 (*Erick Lagazon y Reyes vs. People of the Philippines*). – Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the July 23, 2012 Decision¹ and October 22, 2012 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 34230. The appellate court had affirmed the March 8, 2011 judgment³ of the Family Court of Baguio City convicting petitioner Erick Lagazon y Reyes of the crime of acts of lasciviousness.

Briefly, the prosecution proved the following facts: On October 29, 2009, private complainant AAA⁴ (then eight years old) and her brother were left in their house by their mother who had to attend a school meeting. Petitioner thereafter arrived and entered their house and told AAA that he would fix their television set. He then called AAA and when she approached him, he sat her on his lap, kissed her twice on the cheeks, embraced her, stroked her hair from the top to her nape and smelled her neck. Petitioner then brought out a fifty-peso bill and showed it to AAA and told her that he would give it to her as “*baon*,” but placed the bill back into his pocket and told her that he would give it to her the next day if she will wait for him at his house gate so that he can bring her to school. At that juncture, AAA’s mother BBB arrived. After BBB sent petitioner out, AAA told her mother about the incident, with her eyes filled with tears.

Petitioner, for his part, denied the accusations against him and claimed that on October 29, 2009, he was at the house of a certain *Kuya* Charlie to repair his amplifier and speaker and when he was done, he was invited by a group of men for a drink. After taking one shot with them, he excused himself. When he passed AAA’s house, the latter and her brother took his

¹ *Rollo*, pp. 76-88. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Michael P. Elbinias and Nina G. Antonio-Valenzuela concurring.

² *CA rollo*, pp. 144-145.

³ *Rollo*, pp. 45-54. Penned by Presiding Judge Mia Joy C. Oallares-Cawed.

⁴ The victim’s real name and personal circumstances or any other information tending to establish or compromise her identity as well as those of her immediate family are withheld per *People v. Cabalquinto*, 533 Phil. 703, 709 (2006).

hand and invited him to watch a movie. He was about to sit when AAA's mother arrived. He then told AAA's mother to have their television set fixed because something was wrong with the color. When he got home, he learned that AAA, her mother, and some barangay officials went to his brother's house to complain about him kissing AAA. Petitioner alleged that afterwards, he, together with the barangay officials, went to AAA's house and after a long discussion, they were able to settle things amicably. In spite of this, around midnight, policemen went to his house and arrested him. Petitioner claimed that he merely tapped the shoulders of AAA and alleged that BBB must have filed the case against him because AAA and her siblings were very close to him and would tell him everytime BBB would scold them. Also, BBB must have been annoyed with him because he always reminds her to have their TV fixed.

The RTC found petitioner guilty of the crime of acts of lasciviousness and sentenced him to suffer the indeterminate penalty of 12 years and 1 day of *reclusion temporal*, as minimum, to 15 years, 6 months and 20 days of *reclusion temporal* as maximum, and to pay AAA moral damages amounting to ₱30,000.

On appeal, the CA affirmed *in toto* the trial court's decision. The CA held that the elements of the offense were proven. It gave credence to the testimony of AAA and noted that she was able to narrate in detail the incident and the lascivious acts done on her while petitioner just offered the defense of denial and imputed ill motive on the part of AAA's mother. The CA also noted that AAA was able to positively identify petitioner, thus, negating petitioner's bare denial, and added that it was established that petitioner was in AAA's house during the alleged incident and that he had a shot of liquor. The appellate court also found as unmeritorious the imputation of ill motive on the part of AAA's mother as no mother would subject her child of tender years to a public trial were she not motivated by the desire to punish her daughter's aggressor.

The Court affirms the conviction of petitioner. Neither the RTC nor the CA committed any error in law and in its findings of fact particularly as to AAA's credibility. We have consistently held that in criminal cases, the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge whose conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe them on the stand and ascertain if they were telling the truth or not. Absent any showing in this case that the lower courts overlooked, misunderstood or misappreciated substantial facts and circumstances, which if considered, would change the result of the case, this Court gives deference to the trial court's appreciation of the facts and of the credibility of witnesses, especially since this Court's own review of the records leads it to conclude that AAA's testimony meets the test of credibility.⁵ The Court also notes that

⁵ *People v. Villarnea*, G.R. No. 200029, November 13, 2013, 709 SCRA 528, 543-544.

other than his claim of denial and imputation of ill motive on AAA's mother, petitioner was unable to prove that the prosecution failed to overcome the presumption of innocence. Denial is inherently a weak defense which cannot outweigh positive testimony. As between a categorical statement that has the earmarks of truth on the one hand and bare denial, on the other, the former is generally held to prevail.⁶ Moreover, it is unnatural for a mother to use her daughter as an engine of malice, especially if it will subject her child to embarrassment and lifelong stigma.⁷

The Court likewise agrees with the indeterminate prison term imposed by the RTC and affirmed by the CA. However, as regards the amount of damages, the Court finds the necessity to make a correction. This Court notes that while the RTC and CA awarded moral damages amounting to ₱30,000, they failed to award a fine, civil indemnity and exemplary damages in favor of the victim. In line with recent jurisprudence,⁸ the following civil liabilities should be imposed: (1) a fine of ₱15,000; (2) civil indemnity of ₱20,000; and (3) moral damages but in the reduced amount of ₱15,000.

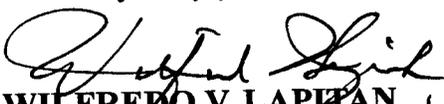
Likewise, pursuant to current policy, the Court imposes interest at the rate of 6% per annum on all damages awarded in this case reckoned from the finality of this Resolution until fully paid.

WHEREFORE, the July 23, 2012 Decision and October 22, 2012 Resolution of the Court of Appeals in CA-G.R. CR No. 34230 is **AFFIRMED with MODIFICATIONS**. Petitioner is ordered to pay AAA a fine of ₱15,000 and civil indemnity of ₱20,000. Moral damages is reduced to ₱15,000. Interest at the rate of 6% per annum on all damages awarded in this case reckoned from the finality of this Resolution until fully paid shall likewise be paid to AAA by petitioner.

With costs against the petitioner. (*Jardeleza, J.*, no part, due to his prior action as Solicitor General; *Brion, J.*, designated Member per Raffle dated November 12, 2014.)

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court 11/24/14

⁶ *People v. Bitancor*, 441 Phil. 758, 769 (2002).

⁷ *People v. Bonaagua*, G.R. No. 188897, June 6, 2011, 650 SCRA 620, 634.

⁸ *People v. Subesa*, G.R. No. 193660, November 16, 2011, 660 SCRA 390, 405.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 4, Baguio City
(Crim. Case No. 30022-R)

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