



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 18, 2020** which reads as follows:*

“G.R. No. 251955 – RAMILLO GUTIERREZ y SABERON @ “RAMIL”, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

After reviewing the Petition¹ and its annexes, inclusive of the Court of Appeals’ (CA) Decision² dated November 12, 2019 and Resolution³ dated February 17, 2020 in CA-G.R. CR No. 42455, and the Regional Trial Court’s⁴ (RTC) Decision⁵ dated October 12, 2018 in Criminal Case No. R-MNL-18-03650-CR, the Court resolves to **DENY** the Petition for failure of petitioner Ramillo Gutierrez y Saberón (Gutierrez) to sufficiently show that the CA committed any reversible error in the challenged decision as to warrant the exercise of this Court’s discretionary appellate jurisdiction.

The CA is correct in affirming the conviction of Gutierrez under Section 10(a)⁶ of Republic Act No. (RA) 7610, otherwise known as “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.” RA 7610 defines children as persons below eighteen (18) years of age; or those over that age but are unable to fully take care of themselves or protect themselves from abuse,
- over – five (5) pages ...

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¹ *Rollo*, pp. 10-33, excluding Annexes.

² *Id.* at 35-51. Penned by Associate Justice Ramon R. Garcia, with Associate Justices Victoria Isabel A. Paredes and Tita Marilyn B. Payoyo-Villordon concurring;

³ *Id.* at 53-54.

⁴ RTC, Manila, Branch 5.

⁵ *Rollo*, pp. 71-92. Penned by Presiding Judge Emily L. San Gaspar-Gito.

⁶ SEC. 10. *Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child’s Development.* –

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child’s development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.⁷ It is undisputed that AAA⁸ was only 13 years old when she entered into a relationship with Gutierrez, who was 12 years her senior, and was only 14 years old when she testified in court. As such, AAA was then a mere child within the purview of the definition in RA 7610.

RA 7610 further defines child abuse as the maltreatment of a child, whether habitual or not. Maltreatment may include psychological abuse, emotional maltreatment, and any act by deeds or words which debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being.⁹ The acts of Gutierrez of sending invectives against AAA, blackmailing and threatening her about sending her indecent photos to third persons online, and coercing AAA to send disrespectful messages to the family of her present boyfriend clearly suited the definition of child abuse and constituted conditions prejudicial to the development of a child.

Gutierrez attempts to downplay his mean exchanges with AAA, suggesting that the CA erred in failing to consider the possibility that it was just the way he and AAA normally communicated.¹⁰ The Court is not persuaded. The exchanges, which Gutierrez does not deny, are alarmingly belligerent and replete with curses, such as *gago* and *putang ina mo*.¹¹ It goes without saying that these are cruel and demeaning words that should not be directed to a child.

Moreover, the Court affirms the credence given by the RTC and the CA to the intelligible, candid, and unwavering testimony of AAA that Gutierrez threatened to spread her indecent photos online if she persisted in breaking up with him, and that he coerced AAA into

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⁷ *Araneta v. People*, 578 Phil. 876, 886 (2008), citing RA 7610, Art. I, Sec. 3(a).

⁸ The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018.)

⁹ RA 7610, Sec. 3 (b), (1) and (2).

¹⁰ *Rollo*, pp. 20-21.

¹¹ *Id.* at 85-87.

cursing the family of her new boyfriend.¹² Well-settled is the rule that the child's testimony, if credible by itself, shall be sufficient to support a finding of fact, conclusion, or judgment subject to the standard of proof required in criminal and non-criminal cases.¹³ For his part, all that Gutierrez offered to counter the testimony of AAA was his bare denial and flimsy defense that AAA's mother did not approve of their relationship.

Suffice it to state, the foregoing acts of Gutierrez were abusive in character and took a toll on the emotional and physical well-being of AAA. As aptly observed by the CA, AAA testified that "her ordeal with appellant greatly troubled her so much so that she became depressed and experienced difficulty in sleeping as well as eating."¹⁴

As regards the alleged act of Gutierrez in sending AAA's indecent photos to third persons, however, the Court is constrained to diverge from the findings of the RTC and the CA for lack of proof beyond reasonable doubt. There appears no solid evidence to buttress the sole testimony of AAA that Gutierrez sent her half-naked photos to two of her friends and to her relatives online. AAA testified that her friends merely relayed to her that Gutierrez sent them her pictures, but that they had already deleted the same. Neither her friends nor any of her relatives who allegedly received these pictures testified on this matter. AAA also admitted that she did not even know what those pictures were.¹⁵ Consequently, the Court disagrees that Section 6¹⁶ of RA 10175¹⁷ should apply.

In this regard, following Section 10(a) of RA 7610, the proper penalty to impose against Gutierrez would be *prision mayor* in its minimum period. Applying the Indeterminate Sentence Law and related jurisprudence,¹⁸ the Court hereby modifies the penalty against Gutierrez to four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

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¹² Id. at 45-46.

¹³ *People v. Ugos*, 586 Phil. 765, 773 (2008).

¹⁴ *Rollo*, p. 47.

¹⁵ Id. at 18-19, citing TSN, July 9, 2018, p. 21.

¹⁶ Section 6 provides that all crimes defined and penalized by the Revised Penal Code (RPC) and special laws, if committed by, through and with the use of information and communications technologies, shall be covered by the relevant provisions of RA 10175. Section 6 further provides that the penalty to be imposed shall be one (1) degree higher than that provided for by the RPC or the special laws, as the case may be.

¹⁷ CYBERCRIME PREVENTION ACT OF 2012.

¹⁸ See *Del Poso v. People*, 802 Phil. 713 (2016); see also *People v. XXX*, G.R. No. 229827, March 27, 2019 (Unsigned Resolution).


Finally, the award of moral damages is proper under the circumstances.¹⁹

WHEREFORE, the Petition is **DENIED**. The Decision dated November 12, 2019 and Resolution dated February 17, 2020 of the Court of Appeals in CA-G.R. CR No. 42455 finding petitioner RAMILLO GUTIERREZ y SABERON **GUILTY** of violation of Section 10(a) of Republic Act No. 7610 are **AFFIRMED** with the **MODIFICATION** that petitioner is sentenced to suffer imprisonment for four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

Petitioner is further ordered to pay private complainant AAA Fifty Thousand Pesos (₱50,000.00) as moral damages, which shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED.” *Carandang, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m 7/17*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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¹⁹ See *Araneta v. People*, supra note 7, at 888.



The Hon. Presiding Judge
Regional Trial Court, Branch 5
1000 Manila
(Crim. Case No. R-MNL-18-03650
-CR)

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