



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

AVAIL JOHN DOMINGO y
LINATOC,

Petitioner,

G.R. No. 269240

Members:

LEONEN, *SAJ*, Chairperson
LAZARO-JAVIER,
LOPEZ, M.,*
LOPEZ, J., and
KHO, JR., *JJ*.

-versus-

Promulgated:

PEOPLE OF THE
PHILIPPINES,
Respondent.

JUN 05 2024

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RESOLUTION

LAZARO-JAVIER, J.:

This Motion for Reconsideration¹ is directed against the Resolution² dated January 29, 2024 which disposed, as follows:

Considering the allegations, issues and arguments adduced in the petition for review on certiorari assailing the Decision dated March 22, 2023 and Resolution dated September 7, 2023 of the Court of Appeals, Manila in CA-G.R. CR No. 46378, the Court further resolves to **DENY** the petition for failure to show any substantial, special or important reason to warrant the exercise of this Court's discretionary power to review the challenged decision and resolution.

* On official leave.
¹ *Rollo*, pp. 188-196.
² *Id.* at 185-186.

In any event, the petition failed to sufficiently show any reversible error in the assailed judgment to warrant the exercise of this Court's discretionary appellate jurisdiction.³

Petitioner Avail John Domingo y Linatoc attacks anew the uniform factual findings of the courts below and this Court regarding the credibility of complainant AAA* and her father, BBB. He again contends that the behavior of complainant and her father were unusual and their testimonies were inconsistent as regards the date of the alleged commission of the offense, the exact place where the alleged offense was committed, the persons present when the alleged offense was committed, and the persons who requested that complainant live with petitioner.⁴ On this score, the issue on the credibility of the prosecution's witnesses had already been settled in full not once, but thrice—by the trial court, the appellate court, and finally, by the Court itself.

The Court maintains that the supposed inconsistencies in the testimonies of complainant and her father refer to trivial matters which do not alter his liability for sexual abuse. It all began when he succeeded in convincing complainant that they were husband and wife in the eyes of God. To recall, complainant was only 12 years old at that time. Too, the prosecution was able to establish beyond any shadow of doubt each element of violation of Section 5(b) of Republic Act No. 7610.

Petitioner likewise fails to raise any new or substantial issue warranting reconsideration of the Resolution⁵ dated January 29, 2024. Thus, the verdict of conviction stands.

In furtherance of the objective of Republic Act No. 7610 to provide special protection to children and to assist in the rehabilitation of child victims, a fine in the amount of PHP 15,000.00 is imposed on petitioner in accordance with *People v. Trocio*⁶ in addition to his liability for civil indemnity, moral damages, and exemplary damages each in the amount of PHP 50,000.00.

ACCORDINGLY, the Motion for Reconsideration is **DENIED** for lack of merit. The Decision dated March 22, 2023 and Resolution dated September 7, 2023 of the Court of Appeals, Manila in CA-G.R. CR No. 46378 are **AFFIRMED WITH MODIFICATION**.

³ *Id.* at 105.

* In line with Amended Administrative Circular No. 83-2015, as mandated by Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.C. No. 83-2015, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy.

⁴ *Rollo*, pp. 190–193.

⁵ *Id.* at 185–186.


⁶ G.R. No. 252791, August 23, 2022 [Per J. Inting, Third Division].

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In **Criminal Case No. 16-0821**, petitioner Avail John Domingo y Linatoc is **GUILTY** of violation of Section 5(b) of Republic Act No. 7610. He is sentenced to the indeterminate penalty of eight years and eight months of *prision mayor* as minimum, to 18 years of *reclusion temporal* as maximum, and ordered to pay the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, PHP 50,000.00 as exemplary damages, and PHP 15,000.00 as fine.

All monetary awards shall earn 6% legal interest per annum.⁷

SO ORDERED.”


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

(On official leave)
MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

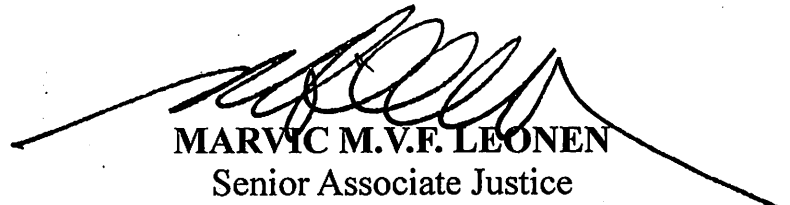

ANTONIO T. KHO, JR.
Associate Justice

⁷ G.R. No. 225433, September 20, 2022 [Per J. Leonen, *En Banc*].

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ATTESTATION

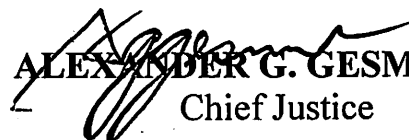
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice

