



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **May 5, 2021** which reads as follows:

“G.R. No. 247554 (*People of the Philippines v. ZZZ*).¹

After a thorough review of the records herein, the Court resolves to **DISMISS** the appeal for failure to sufficiently show that the Court of Appeals committed any reversible error in its January 15, 2019 Decision² finding *ZZZ* (*appellant*) guilty of the crime of Rape.

The Court rejects the argument by appellant that rape was not consummated considering *AAA*³ (*victim*) admitted that his penis did not enter her vagina.

In *People v. Campuhan*,⁴ the Court has thoroughly explained that rape is consummated when the *labia majora* or the *labia minora* is touched, *viz.*:

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¹ Pursuant to the Court’s ruling in *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006), the real name of the private offended party and her immediate family members, including any other personal circumstance or information tending to establish or compromise the identity of said party, shall be withheld.

² *Rollo*, pp. 3-8; penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Sesonando E. Villon and Edwin D. Sorongon, concurring.

³ The true name of the victim has been replaced with fictitious initials in conformity with Administrative Circular No. 83-2015 (*Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*). The confidentiality of the identity of the victim is mandated by Republic Act (R.A.) No. 7610 (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*); R.A. No. 8505 (*Rape Victim Assistance and Protection Act of 1998*); R.A. No. 9208 (*Anti-Trafficking in Persons Act of 2003*); R.A. No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*); and R.A. No. 9344 (*Juvenile Justice and Welfare Act of 2006*).

⁴ 385 Phil. 912 (2000).



[T]ouching when applied to rape cases does not simply mean mere epidermal contact, stroking or grazing of organs, a slight brush or a scrape of the penis on the external layer of the victim's vagina, or the *mons pubis*, as in this case. **There must be sufficient and convincing proof that the penis indeed touched the labias or slid into the female organ, and not merely stroked the external surface thereof, for an accused to be convicted of consummated rape.** As the *labias*, which are required to be "touched" by the penis, are by their natural *situs* or location beneath the *mons pubis* or the vaginal surface, to touch them with the penis is to attain some degree of penetration beneath the surface, hence, **the conclusion that touching the labia majora or the labia minora of the pudendum constitutes consummated rape.**

The *pudendum* or *vulva* is the collective term for the female genital organs that are visible in the perineal area, e.g., *mons pubis*, *labia majora*, *labia minora*, the hymen, the clitoris, the vaginal orifice, etc. The *mons pubis* is the rounded eminence that becomes hairy after puberty, and is instantly visible within the surface. The next layer is the *labia majora* or the outer lips of the female organ composed of the outer convex surface and the inner surface. The skin of the outer convex surface is covered with hair follicles and is pigmented, while the inner surface is a thin skin which does not have any hair but has many sebaceous glands. Directly beneath the *labia majora* is the *labia minora*. Jurisprudence dictates that the *labia majora* must be entered for rape to be consummated, and not merely for the penis to stroke the surface of the female organ. Thus, a grazing of the surface of the female organ or touching the *mons pubis* of the *pudendum* is not sufficient to constitute consummated rape. Absent any showing of the slightest penetration of the female organ, i.e., touching of either *labia* of the *pudendum* by the penis, there can be no consummated rape; at most, it can only be attempted rape, if not acts of lasciviousness.⁵ (citations omitted, emphases supplied)

The situation in the instant case is similar to that in *People v. Matutina*,⁶ where the assailant also failed to penetrate the vagina of the private offended party but was convicted of consummated rape because he succeeded in touching the *labias*, as shown by the medical report. The Court held therein:

Unlike the belief of Matutina and Romero, consummated rape was committed in this case. Consistent with *People v. Campuhan*, the penis of Matutina indubitably touched the *labias* or slid into the genital organ of AAA and not merely stroked its external surface. Based on the physical examination of medico-legal officer PCI Cabrera, the posterior fourchette of AAA showed

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⁵ Id. at 920-922.

⁶ G.R. No. 227311, September 26, 2018.

clear evidence of blunt penetrating trauma. In open court, PCI Cabrera attested that the whole posterior fourchette of AAA was swollen and that the presence of abrasion therein would point to the blunt penetrating trauma caused by contact with a blunt and hard object such as an erect penis or finger. **On this score, We agree with the CA that when AAA professed that Matutina was unable to place his penis inside her private part as he was forcing it, it could only mean that he was not able to place the full length of his penis inside AAA's vagina.**⁷ (citations omitted, emphasis supplied)

In here, it is beyond cavil that appellant succeeded in having carnal knowledge of the victim. She testified that she distinctly felt appellant's penis touch her private part. While she repeatedly stated that appellant was not able to insert his penis, she remained steadfast with her recollection that appellant's penis had touched her vagina.⁸ Moreover, the finding by PSI Rodelia V. Nicolas that there was recent blunt trauma on the left side of the *labia minora* of the victim, confirmed that appellant indeed had carnal knowledge of the victim. Clearly, when the victim professed that appellant did not enter her, she merely meant that appellant was unable to place the full length of his penis inside her vagina. Nonetheless, appellant was able to consummate rape by touching the victim's *labia minora*. The victim's testimony, coupled with the unassailable quality of the physical evidence, establishes the guilt of appellant for the crime of rape beyond reasonable doubt.

WHEREFORE, the appeal is **DISMISSED** and the Court **AFFIRMS** the January 15, 2019 Decision of the Court of Appeals in CA G.R. CR-H.C. No. 09633, finding appellant guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A(1)(a), in relation to Article 266-B of the Revised Penal Code as amended by R.A. No. 8353.⁹ Appellant is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*. Appellant is likewise **ORDERED** to **PAY** the victim: (1) civil indemnity in the amount of ₱75,000.00; (2) moral damages in the amount of ₱75,000.00; and (3) exemplary damages in the amount of ₱75,000.00. Moreover, all damages awarded shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this Resolution until fully paid.

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⁷ *People v. Matutina*, G.R. No. 227311, September 26, 2018.

⁸ TSN, August 1, 2016, pp. 9-10.

⁹ Known as the "The Anti-Rape Law of 1997."

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *in allis*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 09633)

The Hon. Presiding Judge
Regional Trial Court, Branch 94
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(Crim. Case No. R-QZN-16-04742-CR)

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