



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

IRIS KRISTINE BALOIS  
ALBERTO and BENJAMIN D.  
BALOIS,

G.R. No. 182130

Petitioners,

- versus -

THE HON. COURT OF  
APPEALS, ATTY. RODRIGO A.  
REYNA, ARTURO S.  
CALIANGA, GIL ANTHONY M.  
CALIANGA, JESSEBEL  
CALIANGA, and GRACE  
EVANGELISTA,

Respondents.

X-----X

THE SECRETARY OF JUSTICE,  
THE CITY PROSECUTOR OF  
MUNTINLUPA, THE  
PRESIDING JUDGE OF THE  
REGIONAL TRIAL COURT OF  
MUNTINLUPA CITY,  
BENJAMIN D. BALOIS, and  
IRIS KRISTINE BALOIS  
ALBERTO,

Petitioners,

- versus -

ATTY. RODRIGO A. REYNA,  
ARTURO S. CALIANGA, GIL  
ANTHONY M. CALIANGA,  
JESSEBEL CALIANGA, and  
GRACE EVANGELISTA,

Respondents.

X-----X

G.R. No. 182132

Present:

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

Promulgated:

JUN 19 2013

*Handwritten signature: H. Cabalag*

## DECISION

### PERLAS-BERNABE, J.:

Before the Court are consolidated petitions for review on *certiorari*<sup>1</sup> assailing the January 11, 2008 Decision<sup>2</sup> and March 13, 2008 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 97863 which revoked the December 11, 2006 Resolution<sup>4</sup> and December 22, 2006 Amended Resolution<sup>5</sup> (DOJ Resolutions) issued by then Department of Justice (DOJ) Secretary Raul Gonzalez (DOJ Secretary) directing the City Prosecutor of Muntinlupa City to file charges of Rape,<sup>6</sup> in relation to Section 5(b), Article III of Republic Act No. 7610<sup>7</sup> (RA 7610), Serious Illegal Detention<sup>8</sup> and Forcible Abduction with Rape<sup>9</sup> against respondents.

### The Facts

As culled from the assailed CA decision, the diametrically-opposed versions of the relevant incidents in this case are as follows:

#### A. *Incidents of December 28, 2001*

Petitioners alleged that at around midnight of December 28, 2001, respondent Gil Anthony Caliang (Gil) called petitioner Iris Kristine Alberto (Iris), then sixteen (16) years old,<sup>10</sup> informing her that he was at their garage with some food and drinks. For fear of being scolded, Iris refused to see Gil. But due to his insistence, Iris finally went out to meet Gil and thereafter, took the food and drinks which he brought. Eventually, while they were talking, Iris felt weak and dizzy and thus, tried to return to her room. Gil assisted Iris and when they reached the room, he laid her on the bed. A little later, Gil started kissing Iris which prompted her to scream. Consequently, Gil covered Iris' mouth with a pillow and soon after, he succeeded in having sexual intercourse with her. Before leaving, Gil warned Iris not to tell anyone about what happened or else he would kill her.<sup>11</sup>

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<sup>1</sup> *Rollo* (G.R. No. 182130), pp. 38-64; *rollo* (G.R. No. 182132), pp. 7-48.

<sup>2</sup> *Rollo* (G.R. No. 182130), pp. 9-31; *rollo* (G.R. No. 182132), pp. 53-75. Penned by Associate Justice Myrna Dimaranan-Vidal, with Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr., concurring.

<sup>3</sup> *Rollo* (G.R. No. 182130), pp. 33-34; *rollo* (G.R. No. 182132), pp. 77-78.

<sup>4</sup> *Rollo* (G.R. No. 182130), pp. 202-209; *rollo* (G.R. No. 182132), pp. 273-280.

<sup>5</sup> *Rollo* (G.R. No. 182130), pp. 210-218; *rollo* (G.R. No. 182132), pp. 281-289.

<sup>6</sup> REVISED PENAL CODE, Art. 266-A.

<sup>7</sup> "SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION, AND DISCRIMINATION ACT."

<sup>8</sup> REVISED PENAL CODE, Art. 267.

<sup>9</sup> REVISED PENAL CODE, Art. 342 & Art. 266-A.

<sup>10</sup> Iris was born on December 30, 1984. See Memorandum dated August 2, 2011, *rollo* (G.R. No. 182130), p. 533.

<sup>11</sup> *Rollo* (G.R. No. 182130), p. 15; *rollo* (G.R. No. 182132), p. 59.

By way of rebuttal, respondents averred that Gil and Iris met at the Mormon Church in Muntinlupa City and became sweethearts in 2001. They eventually developed an amorous physical relationship and on the evening of December 28, 2001, secretly slept together for the first time in Iris' own bedroom.<sup>12</sup>

***B. Incidents of April 23 to 24, 2002***

As for the second set of incidents, petitioners claimed that on April 23, 2002, Gil called Iris, then seventeen (17) years old,<sup>13</sup> telling her that he would pick her up for them to go to church in order to play volleyball. They met at about 5:30 in the afternoon in South Green Heights and proceeded to Camella to meet Gil's sister, respondent Jessebel Caliang (Jessebel), and her friend, respondent Grace Evangelista (Grace). At around 6:30 in the evening, Gil and Iris boarded a tricycle. At the outset, Iris thought they would be going to church for volleyball practice; but instead, Gil, while poking a knife at Iris' side, told her that they were headed to a different destination. Eventually, they reached a McDonald's restaurant located in San Pedro, Laguna where they transferred to a car driven by Grace's common-law husband. They then returned to Camella and stayed with a relative of Grace where they had dinner. While having dinner, Iris overheard respondent Atty. Rodrigo Reyna (Atty. Reyna) giving instructions to Jessebel to take Iris to Marikina City. When they finished their dinner, Atty. Reyna called again and told Iris not to go out as her relatives were around the area, on board several cars. Iris pleaded Gil to let her go, but her pleas were ignored. A little later, Jessebel and Grace led Gil and Iris to a tree house where Gil forced her to enter a room. She tried to resist but he threatened to kill her if she did not accede. Left with no option, Iris entered the room where Gil, holding her at knifepoint, succeeded in once again having sexual intercourse with her.<sup>14</sup>

The following day, or on April 24, 2002, at around 6:00 in the morning, Atty. Reyna arrived and instructed Iris to tell her relatives, who had been worriedly looking for her, that she voluntarily went with Gil; that she was treated with kindness; and that everything that happened was to her own liking because of her love for Gil. Atty. Reyna then asked Iris to go home but she refused because she did not know her way back. Because of Iris' refusal, Atty. Reyna called up her Auntie Vilma and Uncle Albert and agreed to meet at Chowking-Poblacion where Iris was finally released to her grandfather, petitioner Benjamin Balois (Benjamin).<sup>15</sup>

In defense, respondents maintained that on April 23, 2002, Iris' brother, Eldon Alberto (Eldon), caught Gil inside Iris' bedroom where he

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<sup>12</sup> *Rollo* (G.R. No. 182130), p. 10; *rollo* (G.R. No. 182132), p. 54.

<sup>13</sup> *Supra* note 10.

<sup>14</sup> *Rollo* (G.R. No. 182130), pp. 15-17; *rollo* (G.R. No. 182132), pp. 59-61.

<sup>15</sup> *Rollo* (G.R. No. 182130), p. 17; *rollo* (G.R. No. 182132), p. 61.

had spent the night. Fearing the consequences of having been caught, Gil and Iris eloped and stayed at the house of Grace's grandfather. When Benjamin realized that Iris was missing, he sought the help of Atty. Reyna, since he was a family friend from their church. Iris' relatives also suspected that she might be with Gil after learning from the entries in her journal that Iris loved Gil very much. Coincidentally, Gil was the nephew of Atty. Reyna's wife and so they were hoping that Atty. Reyna would have some information as to Gil's whereabouts. Atty. Reyna and the Balois family searched together for Iris that night. In the course thereof, Atty. Reyna called Jessebel and Grace to ask if they knew where Gil was. Both stated that they were in Marikina but denied having any knowledge about Gil's location. Later, the party tried to search Gil's house as well as Grace's place (the latter being referred to as the "tree house"). However, both yielded negative results.

In the morning of April 24, 2002, Atty. Reyna proceeded to look for Grace and again asked where Gil and Iris were. Eventually, Grace admitted that the two were at her grandfather's house, which was only around 30 minutes away from her place. They proceeded accordingly and there, found Iris and Gil who were both surprised to see Atty. Reyna. Subsequently, Atty. Reyna asked Iris why she left home and she answered that it was because of her brother Eldon's warning that her family knew everything about her relationship with Gil. Atty. Reyna confirmed the veracity of Eldon's statement and went on to advise Iris to just tell the truth. Iris heeded Atty. Reyna's advice, allowing him to contact the Balois and arrange for her return. As it turned out, they agreed to meet at Chowking-Poblacion for such purpose.<sup>16</sup>

In view of the incidents that transpired on December 28, 2001 and April 23 to 24, 2002, Benjamin filed a criminal complaint for Rape, Serious Illegal Detention and Child Abuse under Section 5(b), Article III of RA 7610 against Gil, Atty. Reyna, Jessebel and Grace before the Office of the City Prosecutor of Muntinlupa (Muntinlupa Pros. Office), docketed as **I.S. No. 02-G-03020-22**.<sup>17</sup>

### ***C. Incidents of June 23 to November 9, 2003***

Finally, as for the third set of incidents, petitioners asserted that on June 23, 2003, Iris was abducted in front of Assumption College. This time, Gil conspired with Atty. Reyna and respondent Arturo Calianga (Arturo), to take Iris in order to prevent her from appearing at the preliminary investigation in I.S. No. 02-G-03020-22 scheduled on June 25, 2003. In the afternoon of the same day, Iris' family brought Police Anti-Crime and Emergency Response (PACER) agents to Arturo's house. Upon their arrival, Grace told them that Gil left with some clothes and that he and Iris eloped

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<sup>16</sup> *Rollo* (G.R. No. 182130), p. 11; *rollo* (G.R. No. 182132), p. 55.

<sup>17</sup> *Id.*

and would proceed to Cagayan de Oro City. Soon after the abduction on June 23, 2003, Gil, Atty. Reyna and Arturo started their psychological manipulation of Iris.<sup>18</sup>

On June 27, 2003, Gil, with the help of two men, brought Iris to Cagayan de Oro City and there, held her captive in a small room with a small mat, near a pigpen. They controlled her movements, such as when she would eat, sleep, bathe or use the toilet. Gil raped her almost every day even during her menstrual period and would beat her up whenever she resisted. Also, Gil often told Iris that he would have her entire family killed by his Moslem relatives.<sup>19</sup>

Disputing petitioners' allegations, respondents denied that Gil, Atty. Reyna and Arturo abducted Iris and instead, claimed that Gil and Iris eloped for the second time, after visiting the Office of the City Prosecutor of Muntinlupa City where Iris declared that the charges against respondents were all fabricated by her grandfather, Benjamin, and that she wanted them dismissed. Respondents claimed that Iris was quite prepared during her second elopement with Gil as she brought with her three bags containing several personal effects and other relevant documents. Eventually, Iris' family would discover that the reason for her elopement with Gil was because she was being maltreated and physically abused by her grandfather, Benjamin. Moreover, Iris could no longer stomach the lies Benjamin wanted her to say about Gil.<sup>20</sup>

Subsequently, Benjamin filed a second complaint against Gil, Atty. Reyna and Arturo for Kidnapping and Serious Illegal Detention, Grave Coercion and Obstruction of Justice before the Office of the City Prosecutor of Makati (Makati Pros. Office), docketed as **I.S. No. 03-G-14072-75**.<sup>21</sup>

On July 9, 2003, the City Prosecutor of Muntinlupa City dismissed the charges against Gil, Atty. Reyna, Jessebel and Grace for Rape and Serious Illegal Detention in I.S. No. 02-G-03020-22 for insufficiency of evidence. However, having found that he had sexual intercourse with a minor, Gil was charged for Child Abuse. Consequently, a warrant of arrest was issued against Gil.<sup>22</sup>

Determined to face the charges against him, Gil, together with Iris, returned from Cagayan de Oro City to Manila where he posted bail for the Child Abuse case.<sup>23</sup>

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<sup>18</sup> *Rollo* (G.R. No. 182130), pp. 17-18; *rollo* (G.R. No. 182132), pp. 61-62.

<sup>19</sup> *Rollo* (G.R. No. 182130), p. 18; *rollo* (G.R. No. 182132), p. 62.

<sup>20</sup> *Rollo* (G.R. No. 182130), pp. 11-12; *rollo* (G.R. No. 182132), pp. 55-56.

<sup>21</sup> *Rollo* (G.R. No. 182130), p. 12; *rollo* (G.R. No. 182132), p. 56.

<sup>22</sup> *Id.*

<sup>23</sup> *Rollo* (G.R. No. 182130), p. 13; *rollo* (G.R. No. 182132), p. 57.

On August 6, 2003, Iris executed an affidavit (August 6, 2003 affidavit), sworn before Makati Assistant City Prosecutor George de Joya (Pros. de Joya), denying that she was kidnapped, detained or raped by Gil. She also affirmed that she loved Gil and eloped with him.<sup>24</sup>

On August 13, 2003, Iris and Gil appeared together on the GMA-7 television network's *Frontpage* news segment "*Magkasintahan Pala*" where Iris publicly declared that she loved Gil and that she went with him freely.<sup>25</sup>

On August 19, 2003, Iris appeared before the 9<sup>th</sup> Division of the CA in the hearing of the petition for *habeas corpus* filed by Benjamin in view of her second elopement on June 23, 2003.<sup>26</sup> During the said hearing, Iris declared that she was never kidnapped, detained or raped and that she loved Gil who was her boyfriend since December 2001. She also confirmed that she executed the August 6, 2003 affidavit before Pros. de Joya and that she appeared in "*Magkasintahan Pala*" on August 13, 2003. She also testified that she visited the Office of the City Prosecutor of Muntinlupa asking for the dismissal of the erroneous charges filed by Benjamin. When the CA Justices asked with whom she wanted to go home, she said that she wanted to go with Gil and his family. She added that she did not want her grandfather to visit her. Hence, in line with her decision during the foregoing proceedings, Iris and Gil freely cohabited beginning August 19, 2003 and were seen in public, freely roaming around the city. They regularly went to church together, underwent counseling and even planned to have their relationship bonded by marriage as soon as they got the required parental consent.<sup>27</sup>

On November 9, 2003, Benjamin forcibly took Iris away from Gil as the two were going to church. He subsequently kept Iris *incommunicado* for days and then had her declare through radio, newspaper and television that she was kidnapped and raped by Gil and his family. While in the company of her relatives, Iris was able to sneak out text messages to Gil using the cellular phone of her grandfather, expressing her deep love and concern for him and warning his family about Benjamin's plans against them.<sup>28</sup>

On December 15, 2003, Iris, assisted by members of the groups Volunteers Against Crime and Corruption and Gabriela, proceeded to the DOJ Task Force on Women and Children Protection (DOJ Task Force) and filed a third complaint against Gil for Forcible Abduction with Rape and

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<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Two (2) petitions for *habeas corpus* were filed before the CA. The first one, docketed as **CA-G.R. S.P. No. 78316**, was filed by Benjamin in view of the June 23, 2003 incidents. The second one, docketed as **CA-G.R. S.P. No. 80624**, was filed by Gil after Iris was purportedly "rescued" by her relatives on November 9, 2003. Both cases were eventually dismissed. See DOJ Resolution dated December 11, 2006, *rollo* (G.R. No. 182130), p. 206; *rollo* (G.R. No. 182132), p. 277.

<sup>27</sup> *Rollo* (G.R. No. 182130), pp. 13-14; *rollo* (G.R. No. 182132), pp. 57-58.

<sup>28</sup> *Rollo* (G.R. No. 182130), p. 14; *rollo* (G.R. No. 182132), p. 58.

Obstruction of Justice, punished under Presidential Decree No. 1829,<sup>29</sup> docketed as **I.S. No. 2004-127**.<sup>30</sup>

### **Disposition of the Criminal Complaints**

The three (3) criminal complaints filed by Iris and Benjamin against respondents were disposed as follows:

***First***, in **I.S. No. 02-G-03020-22**, State Prosecutor II Lilian Doris S. Alejo (Pros. Alejo) of the Muntinlupa Pros. Office issued the Resolution dated July 9, 2003,<sup>31</sup> dismissing the charges for Serious Illegal Detention and Rape against Gil, Atty. Reyna, Jessebel and Grace for insufficiency of evidence. In gist, Pros. Alejo found that the pieces of evidence showed that Gil and Iris were sweethearts and the sexual intercourse that transpired between them was consensual. Likewise, she observed that the story narrated by Iris was farfetched and, to a certain degree, unacceptable and unimaginable, intimating that it was unbelievable that Iris would still go to volleyball practice with Gil after the first rape he allegedly committed against her.<sup>32</sup>

Nonetheless, Pros. Alejo recommended the filing of informations for Child Abuse against Gil for having sexual intercourse with Iris on **December 28, 2001** and **April 23, 2003** by taking advantage of her minority and his moral influence as a pastor of their church.<sup>33</sup> Accordingly, Gil was charged under the following amended criminal informations,<sup>34</sup> docketed as **Criminal Case Nos. 03-549** and **03-551**:

#### **Criminal Case No. 03-551**

That on **December 28, 2001**, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by taking advantage of his influence as Mormon priest of the church of which herein victim, seventeen (17) year[s] old IRIS KRISTINE ALBERTO y BALOIS is a member, and through moral compulsion, did then and there, willfully, unlawfully and feloniously **engaged in sexual intercourse with said minor**.

CONTRARY TO LAW.  
Muntinlupa City, July 9, 2003.

<sup>29</sup> “PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS.”

<sup>30</sup> *Rollo* (G.R. No. 182130), p. 14; *rollo* (G.R. No. 182132), p. 58.

<sup>31</sup> *Rollo* (G.R. No. 182130), pp. 122-125; *rollo* (G.R. No. 182132), pp. 122-125.

<sup>32</sup> *Rollo* (G.R. No. 182130), p. 124; *rollo* (G.R. No. 182132), p. 124.

<sup>33</sup> *Id.*

<sup>34</sup> See Consolidated Comment dated September 26, 2008, *rollo* (G.R. No. 182130), pp. 276-277; *rollo* (G.R. No. 182132), pp. 425-426.

**Criminal Case No. 03-549**

That on **April 23, 2002**, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by taking advantage of his influence as Mormon priest of the church of which herein victim, seventeen (17) year old IRIS KRISTINE ALBERTO y BALOIS is a member, and through moral compulsion, did then and there, willfully, unlawfully and feloniously **engaged in sexual intercourse with said minor**.

CONTRARY TO LAW.

Muntinlupa City, July 9, 2003.

**Second**, in **I.S. No. 03-G-14027-75**, 2<sup>nd</sup> Assistant City Prosecutor Henry M. Salazar (Pros. Salazar) of the Makati Pros. Office issued a Resolution dated March 5, 2004,<sup>35</sup> equally dismissing the charges for Kidnapping and Serious Illegal Detention, Grave Coercion and Obstruction of Justice against Gil, Atty. Reyna and Arturo for lack of merit and/or insufficiency of evidence. Anent the Kidnapping charge, Pros. Salazar found that no evidence was submitted which would prove that Iris was forcibly taken away and deprived of her liberty.<sup>36</sup> Similarly, he observed that there was no evidence or any particular allegation of facts in the complaint-affidavit constituting the acts which were claimed as coercive.<sup>37</sup> In the same vein, he found no evidence or any sufficient allegation to support the charge of Obstruction of Justice.<sup>38</sup>

Pros. Salazar further noted that aside from the insufficiency of the complainant's<sup>39</sup> evidence, the affidavit of Iris dated August 5, 2003, the news package entitled "*Magkasintahan Pala*," and the transcript of stenographic notes of the hearing on August 19, 2003 of the petition for *habeas corpus* in CA-G.R. S.P. No. 78316 all support the dismissal of the foregoing charges.<sup>40</sup> He also observed that the complainant moved for the suspension of the preliminary investigation due to the need to have Iris mentally examined, alleging certain doubts on the voluntariness of her August 6, 2003 affidavit. However, no mental examination report was submitted to verify such doubts. In addition, Pros. Salazar took cognizance of the fact that while Iris was "rescued" on November 9, 2003, Benjamin only asked for the revival of the preliminary investigation of the case on January 22, 2004.<sup>41</sup>

Finally, the counter-charge of Perjury was dismissed, also for lack of merit.<sup>42</sup>

<sup>35</sup> *Rollo* (G.R. No. 182132), pp. 156-167.

<sup>36</sup> *Id.* at 162-163.

<sup>37</sup> *Id.* at 163.

<sup>38</sup> *Id.*

<sup>39</sup> The complainant in this case was Benjamin.

<sup>40</sup> *Rollo* (G.R. No. 182132), pp. 163-165.

<sup>41</sup> *Id.* at 166.

<sup>42</sup> *Id.*



Dissatisfied, Benjamin moved for reconsideration which was, however, denied in a Resolution dated July 30, 2004.<sup>43</sup>

***Third***, in **I.S. No. 2004-127**, State Prosecutor Zenaida M. Lim (Pros. Lim) of the DOJ Task Force issued a Resolution dated November 8, 2004,<sup>44</sup> also dismissing the third case for Forcible Abduction with Rape and Obstruction of Justice against Gil, Atty. Reyna and Arturo on the ground of insufficiency of evidence.

In addition to the above-stated incidents, complainant<sup>45</sup> averred that Atty. Reyna and Arturo also raped her in the month of August 2003. She alleged that Atty. Reyna gave her a drink laced with some kind of chemical substance which made her dizzy and weak and thereafter, succeeded to have sexual intercourse with her. Iris averred that Arturo also did the same thing to her. She likewise claimed that Atty. Reyna and Arturo sexually molested her every time they went to Taytay, while Gil continually raped her. After the *habeas corpus* proceedings in CA-G.R. S.P. No. 78316, Gil brought her to Atty. Reyna's house in Putatan, Muntinlupa where she was repeatedly raped by Gil and Atty. Reyna. According to Iris, Atty. Reyna also brought her to an apartment in Camella Homes, Muntinlupa where Arturo raped her. She stayed at Atty. Reyna's Putatan residence for three (3) months and the latter would bring her to the Camella Homes apartment whenever his wife sensed what they were doing to her.<sup>46</sup>

Pros. Lim found no probable cause for the crimes charged, holding that Iris was not a credible witness because of her flip-flopping testimonies and the serious contradictions therein. She observed that the fact that Iris admitted that she went back to school and even got exemplary grades confirmed that she was of sound mind and acted with volition when she went away with Gil on June 23, 2003. Her mental condition was also adjudged to be normal by the CA justices who observed her personal demeanor during the August 19, 2003 hearing in CA-G.R. S.P. No. 78316. Further, the fact that Iris was not abducted but acted with free will was attested to by Gemma Cachuela (Cachuela), a staff of the Muntinlupa Prosecutor's Office, stating that Iris went to their office on June 23, 2003 to withdraw her complaint. Pros. Lim added that Cachuela had no reason or motive to fabricate her statement. Likewise, she noted that the fact that the presentation of the news program "*Magkasintahan Pala*" and Iris' text messages to Gil as evidence were suppressed meant that they were adverse to Iris' cause. She also found the assertion that Iris was made to undergo a mock trial twice a week to script her testimony for the first *habeas corpus* proceedings to be untrue as Iris herself admitted that respondents received the subpoena only on August 17, 2003, or two (2) days before the August

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<sup>43</sup> *Rollo* (G.R. No. 182130), pp. 126-128.

<sup>44</sup> *Rollo* (G.R. No. 182130), pp. 129-140; *rollo* (G.R. No. 182132), pp. 187-198.

<sup>45</sup> The complainant in this case was Iris.

<sup>46</sup> *Rollo* (G.R. No. 182130), p. 131; *rollo* (G.R. No. 182132), p. 189.

19, 2003 hearing. Further, she deemed that it was incredible that respondents would use a color-coding vehicle on the day of Iris' purported abduction. Complainant's sweeping statements against Atty. Reyna and Arturo were also found to be inadequate to establish their guilt, observing that if Iris were indeed drugged for the first time and raped, she should not have acceded to drink the same substance for a second time. Moreover, if she was indeed molested by Atty. Reyna and Arturo, she should have declared such fact during the proceedings in CA-G.R. S.P. No. 78316. Yet, on the contrary, Iris even praised Atty. Reyna and Arturo for being "*mabubuting tao*" (good people).<sup>47</sup> In closing, Pros. Lim held that no abduction with rape took place but rather, the rule on two (2) consenting adults giving free reign to their emotions prevailed in this case.<sup>48</sup>

Finally, anent the charge of Obstruction of Justice, Pros. Lim dismissed the same, also for lack of sufficient evidence.<sup>49</sup>

Aggrieved, Iris and Benjamin appealed the dismissal of all the foregoing charges to the DOJ.<sup>50</sup>

### **Proceedings Before the DOJ**

On December 11, 2006, the DOJ Secretary issued the first assailed Resolution of even date<sup>51</sup> which he later modified through an Amended Resolution dated December 22, 2006 (Amended Resolution).<sup>52</sup> In the Amended Resolution, the DOJ Secretary resolved the consolidated petitions in I.S. No. 02-G-03020-22, I.S. No. 03-G-14027-75 and I.S. No. 2004-127, finding probable cause to charge: (a) Gil for Rape, in relation to Section 5(b), Article III of RA 7610, on account of the December 28, 2001 incidents; (b) Gil, Jessebel, Atty. Reyna and Grace for one (1) count each of Serious Illegal Detention and Rape, in relation to Section 5(b), Article III of RA 7610, on account of the April 23 to 24, 2002 incidents; and (c) Gil, Atty. Reyna and Arturo for one (1) count each of Forcible Abduction with Rape on account of the June 23 to November 9, 2003 incidents.<sup>53</sup>

In granting the consolidated petitions, the DOJ Secretary observed, among others, that Gil merely interposed the sweetheart defense, which in itself was doubtful in view of Iris' positive identification of him as the culprit of the December 28, 2001 incident. He further held that it was error

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<sup>47</sup> *Rollo* (G.R. No. 182130), pp. 136-138; *rollo* (G.R. No. 182132), pp. 194-196.

<sup>48</sup> *Rollo* (G.R. No. 182130), p. 139; *rollo* (G.R. No. 182132), p. 197.

<sup>49</sup> *Rollo* (G.R. No. 182130), pp. 139-140; *rollo* (G.R. No. 182132), pp. 197-198.

<sup>50</sup> On July 25, 2003, Iris and Benjamin appealed the July 9, 2003 Resolution of Pros. Alejo. On October 7, 2004, they then appealed the July 30, 2004 Resolution of Pros. Salazar. Finally, on February 10, 2005, they appealed the November 8, 2004 Resolution of Pros. Lim. See Petition for Review on *Certiorari* dated May, 8, 2008, *rollo* (G.R. No. 182132), pp. 12 & 14.

<sup>51</sup> *Rollo* (G.R. No. 182130), pp. 202-209; *rollo* (G.R. No. 182132), pp. 273-280.

<sup>52</sup> *Rollo* (G.R. No. 182130), pp. 210-218; *rollo* (G.R. No. 182132), pp. 281-289.

<sup>53</sup> *Rollo* (G.R. No. 182130), pp. 216-217; *rollo* (G.R. No. 182132), pp. 287-288.

to have dismissed the charges against respondents on the basis of the dismissal of the two (2) *habeas corpus* cases considering that the causes of action therein were different and that the CA did not make any finding on the criminal liability of the respondents. Also, he noted that Iris' family reported to the authorities that she had been abducted. Moreover, he found that respondents conspired with one another in the abduction and consequent raping of Iris.<sup>54</sup>

On January 18, 2007, respondents moved for the reconsideration of the Amended Resolution.<sup>55</sup>

Meanwhile, on February 5, 2007, two (2) separate criminal Informations were filed for Forcible Abduction with Rape against Gil, Arturo, and Atty. Reyna, docketed as **Criminal Case No. 07-122**, and for Serious Illegal Detention with Rape against Gil, Atty. Reyna, Jessebel, and Grace, docketed as **Criminal Case No. 07-128**:

**Criminal Case No. 07-122<sup>56</sup>**

The undersigned Acting City Prosecutor upon sworn complaint duly attached and made an integral part hereof and marked as Annex "A," executed on December 15, 2003 before the Violence Against Women and Children Division (VAWCD) of the National Bureau of Investigation by the offended party, IRIS KRISTINE ALBERTO Y BALOIS, then eighteen (18) years old, accuses RODRIGO A. REYNA, GIL ANTHONY M. CALIANGA and ARTURO S. CALIANGA of FORCIBLE ABDUCTION WITH RAPE pursuant to Article 48 in relation to Article 342 and Article 266 paragraph 1(a) of the Revised Penal Code, and committed in relation to the incidents that occurred between June 23, 2003 until November 9, 2003 as follows:

That on June 23, 2003, in Makati City, Philippines and within the jurisdiction of this Honorable Court, all the above-named accused mutually helping, conspiring and confederating with each other, then and there willfully, unlawfully and feloniously abducted the private complainant, Iris Kristine Alberto y Balois, against her will with the aid of two armed men in front of Assumption College in Makati City using a Tamaraw FX vehicle with plate number TRP-871, with lewd and unchaste designs and for the purpose of preventing the private complainant from pursuing her earlier complaint for rape, serious illegal detention and violation of Republic Act No. 7610 in I.S. No. 02-G-03020-22 before the Muntinlupa City Prosecutor's Office against accused Gil Anthony M. Caliang, Rodrigo A. Reyna and several other persons, and that thereafter the private complainant was taken to the house of accused Rodrigo A. Reyna at Unit 17, Dona Segundina Townhomes, Muntinlupa City, where she was detained against her will for two days, and later transferred to a

<sup>54</sup> *Rollo* (G.R. No. 182130), pp. 214-215; *rollo* (G.R. No. 182132), pp. 285-286.

<sup>55</sup> See Consolidated Comment dated September 26, 2008, *rollo* (G.R. No. 182130), p. 268; *rollo* (G.R. No. 182132), p. 417.

<sup>56</sup> *Rollo* (G.R. No. 182130), pp. 223-225.

house in San Pedro, Laguna where she was also detained against her will until June 27, 2003;

That on or about June 27, 2003, all the above-named accused, then and there, willfully, unlawfully and feloniously decided to hide the private complainant in Mindanao and, with the help of armed men and with threat, force and intimidation, accused Gil Anthony Caliangang brought the private complainant to Cagayan de Oro where she was held captive in a house until about August 5, 2003 and where accused Gil Anthony M. Caliangang had carnal knowledge of her repeatedly against her will, by means of threat, force, violence and intimidation and by making her take drinks laced with drugs;

That on or about August 5, 2003, accused Gil Anthony M. Caliangang, with the aid of several unknown persons, brought the private complainant back to Metro Manila and thereafter, together with accused Rodrigo A. Reyna and Arturo S. Caliangang, willfully, unlawfully and feloniously detain the private complainant in a house in Taytay, Rizal until she was transferred to the house of accused Rodrigo A. Reyna in Muntinlupa City where the three accused continued to hold her against her will, at which different places the three accused willfully, unlawfully and feloniously, by means of threat, force, violence, intimidation and psychological manipulation, and through the use of drugs, took turns in repeatedly having carnal knowledge of the private complainant against her will until she was rescued on November 9, 2003 by her relatives and NBI agents.

CONTRARY TO LAW.

Manila, January 30, 2007.

**Criminal Case No. 07-128<sup>57</sup>**

The undersigned Acting City Prosecutor, upon sworn complaint duly attached and made an integral part hereof and marked as Annex "A", executed on July 4, 2002 before the Women's Desk, Muntinlupa City Police Station by the offended party, IRIS KRISTINE ALBERTO Y BALOIS, then seventeen (17) years old, assisted by her grandfather Benjamin D. Balois, accuses RODRIGO A. REYNA, GIL ANTHONY M. CALIANGANG, JEZIBEL CALIANGANG, GRACE EVANGELISTA confederating and mutually helping each other in the crime of SERIOUS ILLEGAL DETENTION and Rape of a minor as defined under Article 267, paragraph 1(4) and paragraph 3 of the Revised Penal Code, as amended by Republic Act No. 7659, committed as follows:

That at about 5:30 [*sic*] in the afternoon of April 23, 2002, in the City of Muntinlupa and within the jurisdiction of this Honorable Court, accused GIL ANTHONY M. CALIANGANG, through fraudulent misrepresentation, by means of force, threat and intimidation and by taking advantage of his influence as priest of the Mormon Church of which the private complainant Iris Kristine [Balois Alberto], female, then a minor, seventeen (17) years of age, was also a member, then and there, and with lewd and unchaste design, willfully, unlawfully and feloniously take and carry away Iris Kristine Balois Alberto against her will and without legal cause, from South Green Heights in Muntinlupa City and brought her to a tree house located at Camella Homes, Muntinlupa City where said accused, by means of threat, force, violence and intimidation, willfully, unlawfully and feloniously had carnal knowledge of the private complainant against her will in the evening of the said date and detained

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<sup>57</sup> Id. at 219-222.

her until the morning of April 24, 2002; that said accused Gil Anthony Caliangang would not have succeeded in detaining her until the morning of April 24, 2002 and in having carnal knowledge of her against her will on the night of April 23, 2002 without the indispensable cooperation of accused JEZIBEL CALIANGA and GRACE EVANGELISTA who padlocked the tree house from the outside while the private complainant was detained inside, and the indispensable cooperation of accused Atty. RODRIGO A. REYNA, a high priest of the Mormon church, a close friend and associate of private complainant's grandfather and a member of the legal profession, who, taking advantage of his ascendancy and moral persuasion, willfully, unlawfully and feloniously aided, abetted and cooperated with accused Gil Anthony Caliangang, Jezibel Caliangang and Grace Evangelista by giving them instructions through cellular phone and by misleading and actively misrepresenting to the private complainant's family her whereabouts. Without such cooperation and unity in effort on the part of the above named accused, Iris Kristine Balois Alberto, a minor at that time, would not have been detained and raped on April 23 to 24, 2002.

CONTRARY TO LAW.  
Manila, January 30, 2007.

For alleged reasons of extreme urgency, respondents filed a petition for *certiorari*<sup>58</sup> with the CA, docketed as CA-G.R. SP. No. 97863, while the resolution of their January 18, 2007 Joint Motion for Reconsideration was still pending.

In the interim, a warrant of arrest<sup>59</sup> was issued on February 23, 2007, by Presiding Judge Philip A. Aguinaldo of the RTC of Muntinlupa City, Branch 207 against all the accused in Criminal Case No. 07-128. Later, on January 14, 2008, Acting Presiding Judge Romulo SG. Villanueva of the RTC, Muntinlupa City, Branch 256 issued a warrant of arrest<sup>60</sup> against all the accused in Criminal Case No. 07-122.

### **The CA Ruling**

The CA gave due course to respondents' petition for *certiorari* and on January 11, 2008 rendered its Decision<sup>61</sup> which revoked the DOJ Resolutions.

It ruled that the DOJ Secretary gravely abused his discretion in reversing the resolutions of no less than three (3) investigative bodies which all found lack of probable cause and in disregarding the overwhelming, credible and convincing evidence which negated the charges filed against respondents.<sup>62</sup> Of particular note to the CA were the inconsistent and

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<sup>58</sup> *Rollo* (G.R. No. 182132), pp. 344-384.

<sup>59</sup> *Rollo* (G.R. No. 182130), p. 226.

<sup>60</sup> *Id.* at 227.

<sup>61</sup> *Rollo* (G.R. No. 182130), pp. 9-31; *rollo* (G.R. No. 182132), pp. 53-75.

<sup>62</sup> *Rollo* (G.R. No. 182130), pp. 24-25; *rollo* (G.R. No. 182132), pp. 68-69.

inherently improbable testimony of Iris, the existence of love letters and text messages of love and concern between Iris and Gil, and the hiatus of evidence that would show that Atty. Reyna, Arturo, Jessebel and Grace conspired to rape or illegally detain Iris.<sup>63</sup>

Petitioners filed a motion for reconsideration,<sup>64</sup> essentially arguing that the CA erroneously assumed the function of public prosecutor when it determined the non-existence of probable cause. The said motion was, however, denied in a Resolution dated March 13, 2008.<sup>65</sup>

### Issue Before The Court

The core of the present controversy revolves around the issue of whether or not the CA erred in revoking the DOJ Resolutions based on grave abuse of discretion.

### The Court's Ruling

The petitions are partly meritorious.

It is well-settled that courts of law are precluded from disturbing the findings of public prosecutors and the DOJ on the existence or non-existence of probable cause for the purpose of filing criminal informations, unless such findings are tainted with grave abuse of discretion, amounting to lack or excess of jurisdiction. The rationale behind the general rule rests on the principle of separation of powers, dictating that the determination of probable cause for the purpose of indicting a suspect is properly an executive function; while the exception hinges on the limiting principle of checks and balances,<sup>66</sup> whereby the judiciary, through a special civil action of *certiorari*, has been tasked by the present Constitution “to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.”<sup>67</sup>

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<sup>63</sup> *Rollo* (G.R. No. 182130), pp. 25-28; *rollo* (G.R. No. 182132), pp. 69-72.

<sup>64</sup> *Rollo* (G.R. No. 182130), pp. 228-235.

<sup>65</sup> *Rollo* (G.R. No. 182130), pp. 33-34; *rollo* (G.R. No. 182132), pp. 77-78.

<sup>66</sup> “The purpose of judicial review is to keep the administrative agency within its jurisdiction and protect substantial rights of parties affected by its decisions. The review is a part of the **system of checks and balances** which is a **limitation on the separation of powers** and which forestalls arbitrary and unjust adjudications. Judicial review of the decision of an official or administrative agency exercising quasi-judicial functions is proper in cases of lack of jurisdiction, error of law, **grave abuse of discretion**, fraud or collusion or in case the administrative decision is corrupt, arbitrary or capricious.” [MERALCO v. CBAA, 199 Phil. 453, 459 (1982); emphasis supplied; citations omitted]

<sup>67</sup> 1987 PHILIPPINE CONSTITUTION, Article VIII, Section 1.

In the case of *Callo-Caridad v. Esteban*,<sup>68</sup> citing *Metropolitan Bank & Trust Co. v. Tobias III*,<sup>69</sup> the Court held:

In reviewing the findings of the [public prosecutor] on the matter of probable cause, the Secretary of Justice performed an essentially executive function to determine whether the crime alleged against the respondents was committed, and whether there was probable cause to believe that the respondents were guilty thereof.

On the other hand, the courts could intervene in the Secretary of Justice's determination of probable cause only through a special civil action for *certiorari*. That happens when the Secretary of Justice acts in a limited sense like a quasi-judicial officer of the executive department exercising powers akin to those of a court of law. **But the requirement for such intervention was still for the petitioner to demonstrate clearly that the Secretary of Justice committed grave abuse of discretion amounting to lack or excess of jurisdiction. Unless such a clear demonstration is made, the intervention is disallowed in deference to the doctrine of separation of powers.** As the Court has postulated in *Metropolitan Bank & Trust Co. v. Tobias III*:

Under the doctrine of separation of powers, the courts have no right to directly decide matters over which full discretionary authority has been delegated to the Executive Branch of the Government, or to substitute their own judgments for that of the Executive Branch, represented in this case by the Department of Justice. **The settled policy is that the courts will not interfere with the executive determination of probable cause for the purpose of filing an information, in the absence of grave abuse of discretion.** x x x x (Emphasis supplied)

In the context of filing criminal charges, grave abuse of discretion exists in cases where the determination of probable cause is exercised in an arbitrary and despotic manner by reason of passion and personal hostility. The abuse of discretion to be qualified as "grave" must be so patent or gross as to constitute an evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law.<sup>70</sup> In this regard, case law states that not every error in the proceedings, or every erroneous conclusion of law or fact, constitutes grave abuse of discretion.<sup>71</sup> As held in *PCGG v. Jacobi*:<sup>72</sup>

In fact, the prosecutor may err or may even abuse the discretion lodged in him by law. **This error or abuse alone, however, does not render his act amenable to correction and annulment by the extraordinary remedy of *certiorari*.** To justify judicial intrusion into what is fundamentally the domain of the Executive, the petitioner must clearly show that the prosecutor gravely abused his discretion amounting to lack or excess of jurisdiction in making his determination and in

<sup>68</sup> G.R. No. 191567, March 20, 2013, citing *Bautista v. CA*, 413 Phil. 168 (2001); *Sps. Dacudao v. Secretary of Justice*, G.R. No. 188056, January 8, 2013.

<sup>69</sup> G.R. No. 177780, January 25, 2012, 664 SCRA 165, 176-177. (Citations omitted)

<sup>70</sup> See *Chua Huat v. CA*, 276 Phil. 1, 18 (1991). (Citations omitted)

<sup>71</sup> See *Tavera-Luna, Inc. v. Nable*, 67 Phil. 340, 344 (1939).

<sup>72</sup> *PCGG v. Jacobi*, G.R. No. 155996, June 27, 2012, 675 SCRA 20, 57. (Citations omitted)

arriving at the conclusion he reached. **This requires the petitioner to establish that the prosecutor exercised his power in an arbitrary and despotic manner by reason of passion or personal hostility; and it must be so patent and gross as to amount to an evasion or to a unilateral refusal to perform the duty enjoined or to act in contemplation of law, before judicial relief from a discretionary prosecutorial action may be obtained.** (Emphasis and underscoring supplied)

To note, probable cause, for the purpose of filing a criminal information, exists when the facts are sufficient to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof. It does not mean “actual and positive cause” nor does it import absolute certainty. Rather, it is merely based on opinion and reasonable belief. Accordingly, probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction; it is enough that it is believed that the act or omission complained of constitutes the offense charged.<sup>73</sup> As pronounced in *Reyes v. Pearlbank Securities, Inc.*:<sup>74</sup>

**A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed by the suspects.** It need not be based on clear and convincing evidence of guilt, not on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt. In determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of the rules of evidence of which he has no technical knowledge. He relies on common sense. What is determined is whether there is sufficient ground **to engender a well-founded belief that a crime has been committed, and that the accused is probably guilty thereof and should be held for trial.** It does not require an inquiry as to whether there is sufficient evidence to secure a conviction. (Emphasis and underscoring supplied)

In order to engender a well-founded belief that a crime has been committed, and to determine if the suspect is probably guilty of the same, the elements of the crime charged should, in all reasonable likelihood, be present. This is based on the principle that every crime is defined by its elements, without which there should be, at the most, no criminal offense.<sup>75</sup>

Guided by the foregoing considerations, the Court therefore holds as follows:

**First**, the DOJ Secretary did not gravely abuse his discretion in finding that probable cause exists for the crime of Rape against Gil, Atty. Reyna and Arturo.

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<sup>73</sup> *Fenequito v. Vergara, Jr.*, G.R. No. 172829, July 18, 2012, 677 SCRA 120-121, citing *Reyes v. Pearlbank Securities, Inc.*, G.R. No. 171435, July 30, 2008, 560 SCRA 518, 533-535.

<sup>74</sup> *Reyes v. Pearlbank Securities, Inc.*, G.R. No. 171435, July 30, 2008, 560 SCRA 518, 533-535.

<sup>75</sup> *Ang-Abaya v. Ang*, G.R. No. 178511, December 4, 2008, 573 SCRA 129, 143, citing *Duterte v. Sandiganbayan*, 352 Phil. 557 (1998).



Under Article 266-A of the RPC, as amended by Republic Act No. 8353, the elements of Rape are: (a) that the offender is a man; (b) that the offender had carnal knowledge of a woman; and (c) that such act is accomplished by using force or intimidation.<sup>76</sup>

In particular, with respect to Gil, Iris averred that on December 28, 2001, Gil drugged her and thereafter, through force and intimidation, succeeded in having sexual intercourse with her. She also claimed that on April 23, 2002, Gil, again through force and intimidation, had carnal knowledge of her in the tree house. Likewise, beginning June 27, 2003, Gil raped her almost every day up until her rescue on November 9 of the same year.

In defense, records show that Gil never denied any of the above-stated sexual encounters, but merely maintained the he and Iris were sweethearts, as shown by several love letters and text messages between them.

Ruling on the matter, the Court finds no grave abuse of discretion on the part of the DOJ Secretary, as the elements of rape, more likely than not, appear to be present.

The first and second elements of the crime are beyond dispute as Gil does not deny having carnal knowledge with Iris. Anent the third element of force and intimidation, Iris's version of the facts, as well as Gil's sole reliance on the sweetheart defense, leads the Court to believe that the said element, in all reasonable likelihood, appears to be present, considering that: (a) mere denial cannot prevail over the positive testimony of a witness;<sup>77</sup> (b) the sweetheart theory does not, by and of itself, negate the commission of rape;<sup>78</sup> and (c) the fact that Iris was a minor during the foregoing incidents casts serious doubt on the efficacy of the consent purportedly given by her,<sup>79</sup>

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<sup>76</sup> *People v. Alfredo*, G.R. No. 188560, December 15, 2010, 638 SCRA 749, 764; citing Luis B. Reyes, Revised Penal Code 525 (16<sup>th</sup> Ed., 2006).

<sup>77</sup> **"Mere denial cannot prevail over the positive testimony of a witness;** it is self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. As between the categorical testimony that rings of truth, on one hand, and a bare denial, on the other, the former is generally held to prevail." (*People v. Serrano*, G.R. No. 179038, May 6, 2010, 620 SCRA 327, 345; citing *People v. Dumlao*, G.R. No. 181599, August 20, 2008, 562 SCRA 762, 769; emphasis and underscoring supplied)

<sup>78</sup> **"[I]t is well-settled that being sweethearts does not negate the commission of rape** because such fact does not give [the accused] license to have sexual intercourse against her will, and will not exonerate him from the criminal charge of rape. Being sweethearts does not prove consent to the sexual act." (*People v. Magabanua*, G.R. No. 176265, April 30, 2008, 553 SCRA 698, 704; emphasis and underscoring supplied; words in brackets supplied; citations omitted)

<sup>79</sup> "A child cannot give consent to a contract under our civil laws. **This is on the rationale that she can easily be the victim of fraud as she is not capable of fully understanding or knowing the nature or import of her actions.** The State, as *parens patriae*, is under the obligation to minimize the risk of harm to those who, because of their minority, are as yet unable to take care of themselves fully. Those of tender years deserve its protection. The harm which results from a child's bad decision in a sexual encounter may be infinitely more damaging to her than a bad business deal. Thus, the law should protect her from the harmful consequences of her attempts at adult sexual behavior." (*Malto v. People*, G.R. No. 164733, September 21, 2007, 533 SCRA 643, 662; emphasis and underscoring supplied; citations omitted)

especially in view of Gil's esteemed position of being a priest of the same congregation of which Iris belongs to.

Moreover, a perusal of the transcript of stenographic notes of the January 14, 2004 hearing in CA-G.R. S.P. No. 80624 (January 14, 2004 TSN) shows that Iris retracted her previous testimony during the August 19, 2003 hearing in the first *habeas corpus* case, *i.e.*, CA-G.R. S.P. No. 78316, to the effect that her statements that Gil never raped her and that she went with him on her own volition were merely "scripted" and conjured only upon the instruction of Atty. Reyna.<sup>80</sup> While case law holds that recantations

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<sup>80</sup> Witness: **During the Court of Appeals [hearing,] [i]t was August 19, 2002[,] I was under duress.**

Atty. Reyna: You mean to say that the Justices who acceded your decision forced you to love with Gil Anthony...

**Witness: No, No, *Ikaw! Ikaw!***

Atty. Reyna: Your Honor, may I move...

Justice Brawner: Already answered. *No, No, ikaw ikaw*, witness pointing to Atty. Reyna. Alright any objection to that answer?

Atty. Pamaran: No. Your Honor, but we would like to reflect it on record that the witness said it in a very loud and forceful emotional voice.

Justice Brawner: Loud yes, but forceful I do not know. Emotional much less. But emotional well said...

Atty. Reyna: Please clarify that when you said that it was I who forced you on page 103 of the transcript of stenographic notes, I would like to read this to you –

It is Justice Magpale's speaking, he said – *Q – Ano ba ang gusto mo ngayon pagkatapos ng pag-uusap dito ay mag-isip ka ng gusto mong mangyari. Sumama sa NBI para ikaw ay maeksamin, o sumama sa lolo at lola mo na pareho nandito sa korte? O sumama sa boyfriend mo at sa kanyang pamilya? Ikaw and pipili ng gusto mong gawin ngayon.* Your answer was – *A – gusto ko pong sumama sa boyfriend ko at sa pamilya niya.* Do you confirm having said this madam witness?

Witness: **Yes I have said that *pero ikaw and nagturo sa kin nyan, scripted yan.*** x x x

Atty. Reyna: May I ask that question again for the record. Do you confirm having said that madam witness before the Honorable Court that again, Your Honor, may I read for the records. It says here on page 19 – Q: This is a petition filed against respondent Gil Anthony Caliang. Do you know him Ms. Alberto? A: Yes, Sir, he is my boyfriend. Next question, page 20 – Q: He is your boyfriend since when he became your boyfriend? A: Since December 25, 2001. Do you confirm this?

Witness: ***Ikaw and nagturo sa kin nyan.*** x x x x

Atty. Reyna: you have said this in open court. That's the only question.

A – Yes, Your Honor, ***pero sya po ang nagturo nyan.***

Justice Brawner: Next question.

Atty. Reyna: On page 30 madam witness, there is this question – Q: You said you have difficulty regarding telling xxx lies in all in the land. Will you be specific on the Honorable Justices what do you mean by that Ms. Alberto? A: *Kasi po nag-file po ng kaso ang grandfather ko sa kanila. Hindi naman po kasi totoo na nakidnap ako at hindi rin totoo na na-rape ako noong December 28, 2001. At isa pa noon April 23, 2002.* The same question I will ask you madam witness, do you confirm having said this under oath? Yes or no?

Witness: ***Ikaw and nagturo sa kin nyan eh!*** x x x x (*Rollo* [G.R. No. 182132], pp. 179-181; emphasis and underscoring supplied)

do not necessarily cancel out an earlier declaration, ultimately, it should still be treated like any other testimony and as such, its credibility must be tested during trial.<sup>81</sup>

Based on the foregoing reasons, the Court finds reasonable bases to sustain the DOJ Secretary's finding of probable cause for Rape against Gil in connection with all three (3) incidents of December 28, 2001, April 23, 2002 and June 23 to November 9, 2003. In this respect, the DOJ Secretary committed no grave abuse of discretion.

Similarly, the Court finds no grave abuse of discretion in the DOJ Secretary's finding of probable cause for Rape against Atty. Reyna and Arturo, but only insofar as the June 23 to November 9, 2003 incidents are concerned.

The January 14, 2004 TSN reveals that Iris categorically declared in open court that she was raped by Atty. Reyna and Arturo during the aforesaid five month period.<sup>82</sup> It is a standing rule that due to the nature of the commission of the crime of rape, the testimony of the victim may be sufficient to convict the accused, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>83</sup> Applying the same, the Court deems it prudent to test the credibility of Iris's testimony during trial, in which her demeanor and deportment would be properly observable,<sup>84</sup> and likewise be subject to cross-examination.<sup>85</sup>

<sup>81</sup> "A recantation does not necessarily cancel an earlier declaration. **Like any other testimony, it is subject to the test of credibility** based on the relevant circumstances and especially the demeanor of the witness on the stand." (*People v. Dalabajan*, G.R. No. 105668, October 16, 1997; emphasis and underscoring supplied)

<sup>82</sup> Atty. Reyna: You said that when you were with us, as a result of having decided to live with Gil, until you were restrained, will you please tell the Honorable Court how were you restrained by Anthony?

Witness: *Dinala nyo po ako kung saan-saang lugar. Dinala nyo ako ng Cagayan De Oro, dinala nyo ako ng Taytay. Dinala nyo ako sa san Pedro at kung saan-saan. At doon sa limang buwan na iyon, ni-rape mo ako. Ni-rape niyo akong lahat!*

Atty. Pamaran: May we ask to make it on record [a]gain that the witness answer[s] in a very forceful and loud voice. And looking sharply at Atty. Reyna with a very serious face. x x x x [Rollo (G.R. No. 182132), pp. 179-181; emphasis and underscoring supplied]

<sup>83</sup> *People v. Olimba*, G.R. No. 185008, September 22, 2010, 631 SCRA 223, 235; citing *People v. Cadap*, G.R. No. 190633, July 5, 2010, 623 SCRA 655, 660-661; further citing *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 444.

<sup>84</sup> "Well-settled is the rule that the assessment of the credibility of witnesses and their testimonies is best undertaken by a trial court x x x. **Matters affecting credibility are best left to the trial court** because of its unique opportunity to observe the elusive and incommunicable evidence of that witness' deportment on the stand while testifying, an opportunity denied to the appellate courts which usually rely on the cold pages of the silent records of the case." (*People v. Dahilig*, G.R. No. 187083, June 13, 2011, 651 SCRA 778, 786; citing *People v. Dimacuha*, 467 Phil. 342, 349 (2004); *People v. Del Mundo, Sr.*, 408 Phil. 118, 129 (2001); emphasis and underscoring supplied)

<sup>85</sup> "**The cross-examination of a witness is essential to test his or her credibility**, expose falsehoods or half-truths, uncover the truth which rehearsed direct examination testimonies may successfully suppress, and demonstrate inconsistencies in substantial matters which create reasonable doubt as to the guilt of the accused and thus give substance to the constitutional right of the accused to confront the witnesses against him." (*People v. Rivera*, G.R. No. 139180, July 31, 2001, 362 SCRA 153, 170; emphasis and underscoring supplied; citations omitted)

On the contrary, there appears to be no ample justification to support the finding of probable cause against Atty. Reyna and Arturo, with respect to the rape incidents of December 28, 2001 and April 23, 2002, as well as against Jessebel and Grace for all three (3) incidents.

As may be gleaned from the Amended Resolution, the DOJ Secretary indicted Atty. Reyna, Arturo, Jessebel and Grace for these incidents only by reason of conspiracy. Yet, other than his general imputation thereof, the DOJ Secretary never provided any rational explanation for his finding of conspiracy against the aforementioned respondents. The rule is that conspiracy must be proved as clearly and convincingly as the commission of the offense itself. It can be inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interests.<sup>86</sup> In this case, the Amended Resolution is bereft of any showing as to how the particular acts of the foregoing respondents figured into the common design of raping Iris and as such, the Court finds no reason to charge them for the same.

Therefore, finding no grave abuse of discretion in the following respects, the Court upholds the DOJ Secretary's finding of probable cause for the crime of Rape against Gil for all three (3) rape incidents and against Atty. Reyna and Arturo for the incidents of June 23 to November 9, 2003.

At this juncture, the Court observes that the DOJ charged Gil for Rape *in relation* to Child Abuse under Section 5(b), Article III of RA 7610<sup>87</sup> on account of the December 28, 2001 and April 23, 2002 incidents. Existing jurisprudence, however, proscribes charging an accused for both crimes, rather, he may be charged only for either. As held in *People v. Pangilinan*:<sup>88</sup>

[I]f the victim is 12 years or older, the offender should be charged with **either** sexual abuse under Section 5(b) of RA 7610 or rape under Article 266-A (except paragraph 1[d]) of the Revised Penal Code. However, **the offender cannot be accused of both crimes for the same act because his right against double jeopardy will be prejudiced.** A person cannot be subjected twice to criminal liability for a single criminal act. Likewise,

<sup>86</sup> *Quidet v. People*, G.R. No. 170289, April 8, 2010, 618 SCRA 1, 3 & 11; citing *People v. Cadevida*, G.R. No. 94528, March 1, 1993, 219 SCRA 218, 228.

<sup>87</sup> SEC. 5. *Child Prostitution and Other Sexual Abuse*. – Children, whether male or female, who for money, profit, or any other consideration or **due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.**

The **penalty of *reclusion temporal* in its medium period to *reclusion perpetua*** shall be imposed upon the following: x x x x

(b) **Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse;** Provided, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; x x x x (Emphasis supplied)

<sup>88</sup> G.R. No. 183090, November 14, 2011, 660 SCRA 16, 34-35.

rape cannot be complexed with a violation of Section 5(b) of RA 7610. Under Section 48 of the Revised Penal Code (on complex crimes), a felony under the Revised Penal Code (such as rape) cannot be complexed with an offense penalized by a special law. (Emphasis and underscoring supplied)

In this light, while the Court also finds that probable cause exists for the crime of Child Abuse against Gil for the same rape incidents of December 28, 2001 and April 23, 2002 in view of the substantial identity of its elements<sup>89</sup> with that of Rape, he cannot be charged for both. Records disclose that there are standing charges against Gil for Child Abuse in Criminal Case Nos. 03-551 and 03-549,<sup>90</sup> respectively on account of the same occurrences. Thus, so as not to violate his right against double jeopardy, the Court finds it proper to dismiss the charges of Rape against Gil with respect to the December 28, 2001 and April 23, 2002 incidents considering the subsisting charges of Child Abuse as herein discussed.

Notably, Gil, as well as Atty. Reyna and Arturo, cannot be charged for Child Abuse with respect to the June 23 to November 9, 2003 incidents since Iris had ceased to be a minor by that time.<sup>91</sup> Likewise, Atty. Reyna and Arturo cannot be indicted for Child Abuse in connection with the December 28, 2001 and April 23, 2002 incidents as there appears to be no sufficient bases to support the DOJ Secretary's finding of conspiracy.

**Second**, the Court further holds that the DOJ Secretary gravely abused his discretion in finding that probable cause exists for the crime of Serious Illegal Detention.

The elements of the crime of Serious Illegal Detention under Article 267 of the RPC are: (a) that the offender is a private individual; (b) that he kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) that the act of detention is illegal, not being ordered by any competent authority nor allowed by law; and (d) that any of the following circumstances is present: (1) that the detention lasts for more than five days; or (2) that it is committed by simulating public authority; or (3) that any serious physical injuries are inflicted upon the person kidnapped or threats to kill him shall have been made; or (4) that the person kidnapped or detained is a minor, female, or a public officer.<sup>92</sup>

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<sup>89</sup> For the same reasons attendant to the finding of probable cause for Rape, the Court observes that there lies probable cause for the crime of Child Abuse against Gil in connection with the December 28, 2001 and April 23, 2002 incidents. To note, the elements of Child Abuse under Section 5(b), Article III of RA 7610 are: (a) that the accused commits the act of sexual intercourse or lascivious conduct; (b) that the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (c) that the child, whether male or female, is below eighteen (18) years of age. (See *Olivarez v. CA*, G.R. No. 163866, July 29, 2005, 465 SCRA 473, citing *Amployo v. People*, 496 Phil. 747 (2005).

<sup>90</sup> *Supra* note 34.

<sup>91</sup> *Supra* note 10. Iris would have turned eighteen (18) years old on December 30, 2002.

<sup>92</sup> *People v. Dayon*, G.R. No. 94704, January 21, 1993, 217 SCRA 334, 336-337, citing *People v. Mercado*, 216 Phil. 469, 472-473 (1984).

Based on the Amended Resolution, the DOJ Secretary charges all the respondents for Serious Illegal Detention for the incidents of April 23 to 24, 2002 and June 23 until November 9, 2003. Related to this, records show that Iris retracted her previous testimony wherein she stated that she voluntarily went with Gil.<sup>93</sup> She also stated that she was abducted on June 23, 2003 and brought to various places, such as Cagayan De Oro, Taytay and San Pedro, within a period of five (5) months.<sup>94</sup>

Aside from Iris's bare allegations, records are bereft of any evidence to support a finding that Iris was illegally detained or restrained of her movement. On the contrary, based on Pros. Lim's Resolution dated November 8, 2004, several disinterested witnesses had testified to the fact that Iris was seen freely roaming in public with Gil,<sup>95</sup> negating the quintessential element of deprivation of liberty.<sup>96</sup>

Towards the same end, the Court equally observes that the inherent inconsistencies in Iris's statements are too dire to ignore even only at the prosecutor's level. Anent the April 23, 2002 incidents, the Court finds it contrary to both reason and logic that Gil would stop-over at a McDonald's restaurant, a place widely open to the public eye, in the process of kidnapping Iris. Similarly, with respect to the June 23, 2003 incidents, if Iris was indeed abducted and detained during that time, then it is highly incredible that she would be voluntarily let go by her captors in order to attend a *habeas corpus* hearing before justices of the CA.

It is well to note that while the Court had given substantial weight to Iris's uncorroborated testimony to sustain the DOJ Secretary's finding of probable cause for the crime of Rape, the same treatment cannot be applied to the crime of Serious Illegal Detention. Comparing the two, Rape is an offense of secrecy<sup>97</sup> which, more often than not, happens in a private setting involving only the accused and the victim; likewise, the degree of humiliation and disgrace befalling a rape victim who decides to come forward must be taken into consideration.<sup>98</sup> For these reasons, the testimony

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<sup>93</sup> Supra note 80.

<sup>94</sup> Supra note 82.

<sup>95</sup> *Rollo* (G.R. No. 182130), pp. 134-135.

<sup>96</sup> "Indeed, for the charge of kidnapping to prosper, **the deprivation of the victim's liberty, which is the essential element of the offense, must be duly proved**. In a prosecution for kidnapping, the intent of the accused to deprive the victim of the latter's liberty needs to be established by indubitable proof." [*People v. Fajardo*, 373 Phil. 915, 926-927 (1999); emphasis and underscoring supplied; citations omitted]

<sup>97</sup> "**Rape is essentially an offense of secrecy**, not generally attempted except in dark or deserted and secluded places away from prying eyes, and **the crime usually commences solely upon the word of the offended woman herself** and conviction invariably turns upon her credibility, as the prosecution's single witness of the actual occurrence." (*People v. Molleda*, 462 Phil. 461, 468 (2003); emphasis and underscoring supplied; citations omitted)

<sup>98</sup> "[C]ourts usually give credence to the testimony of a girl who is a victim of sexual assault particularly if it constitutes incestuous rape because, normally, **no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice**. Needless to say, it is settled jurisprudence that testimonies of child victims are given full weight and credit, because when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are

of the latter, even if uncorroborated, can lead to a conviction. On the other hand, in Serious Illegal Detention, the victim is usually taken from one place and transferred to another – which is in fact what has been alleged in this case - making the commission of the offense susceptible to public view. Unfortunately, petitioners never presented any evidence to show that Iris was restrained of her liberty at any point in time during the period of her alleged captivity.

All told, given the clear absence of probable cause for the crime of Serious Illegal Detention, the Court finds that the DOJ Secretary gravely abused his discretion in charging respondents for the same.

***Third***, the DOJ Secretary also committed grave abuse of discretion in finding probable cause for the crime of Forcible Abduction with Rape.

The elements of Forcible Abduction under Article 342 of the RPC are: (a) that the person abducted is any woman, regardless of her age or reputation; (b) that the abduction must be against her will; and (c) that the abduction must be with lewd designs.<sup>99</sup> As this crime is complexed with the crime of Rape pursuant to Article 48 of the RPC, the elements of the latter offense must also concur. Further, owing to its nature as a complex crime proper,<sup>100</sup> the Forcible Abduction must be shown to be a necessary means for committing the crime of Rape.

As earlier discussed, there lies no evidence to prove that Iris was restrained of her liberty during the period of her captivity from June 23 to November 9, 2003 thus, denying the element of abduction. More importantly, even if it is assumed that there was some form of abduction, it has not been shown – nor even sufficiently alleged – that the taking was done with lewd designs. Lust or lewd design is an element that characterizes all crimes against chastity, apart from the felonious or criminal intent of the offender. As such, the said element must be always present in order that they may be so considered as a crime of chastity in contemplation of law.<sup>101</sup>

Moreover, the Court observes that even if it is assumed that all of the elements of Forcible Abduction were present, it was not shown nor sufficiently alleged how the said abduction constituted a necessary means

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generally badges of truth and sincerity.” [*People v. Oliva*, 226 Phil. 518, 522 (1986); emphasis and underscoring supplied]

<sup>99</sup> *People v. Ng*, 226 Phil. 518, 522 (1986).

<sup>100</sup> “Article 48 of the Revised Penal Code provides that “[w]hen a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.” There are, thus, two kinds of complex crimes. The first is known as compound crime, or when a single act constitutes two or more grave or less grave felonies. **The second is known as complex crime proper, or when an offense is a necessary means for committing the other.**” (*People v. Rebucan*, G.R. No. 182551, July 27, 2011, citing *People v. Gaffud, Jr.*, G.R. No. 168050, September 19, 2008, 566 SCRA 76, 88; emphasis and underscoring supplied)


<sup>101</sup> *Luansing v. People*, 136 Phil. 510, 516 (1969), citing *People v. Gilo*, 119 Phil. 1030, 1033 (1964).

for committing the crime of Rape. As earlier discussed, records disclose that there lies probable cause to indict Gil, Atty. Reyna and Arturo only for the component crime of Rape. In this accord, the charge of the complex crime of Forcible Abduction with Rape was improper and, hence, there was grave abuse of discretion.

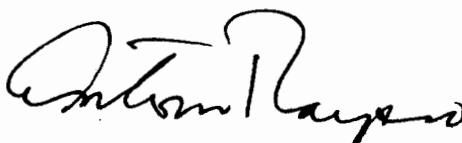
In sum, the Court finds probable cause for Rape against Gil, Atty. Reyna and Arturo in connection with the June 23 to November 9, 2003 incidents. Consequently, the DOJ Secretary is ordered to direct the City State Prosecutor of Muntinlupa or any of its subordinates to file such charge. Meanwhile, the charges of Child Abuse against Gil in Criminal Case Nos. 03-551 and 03-549 are deemed to subsist. Aside from the foregoing, all other charges are hereby nullified on the ground of grave abuse of discretion. Accordingly, in order to conform with the pronouncements made herein, the DOJ Secretary is directed to drop (a) any subsisting charges against Jessebel and Grace in connection with this case; (b) the charge of Rape, in relation to Section 5(b), Article III of RA 7610, for the incidents of December 28, 2001 and April 23, 2002 against Gil, Atty. Reyna and Arturo; and (c) the charges of Serious Illegal Detention and Forcible Abduction with Rape against all respondents.

**WHEREFORE**, the petitions are **PARTLY GRANTED**. The Decision dated January 11, 2008 and March 13, 2008 Resolution of the Court of Appeals in CA-G.R. SP No. 97863 are hereby **SET ASIDE**. The Department of Justice is **ORDERED** to issue the proper resolution in accordance with this Decision.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice






**JOSE PORTUGAL PEREZ**  
Associate Justice

### ATTESTATION

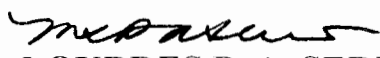
I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

### CERTIFICATION

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



**MARIA LOURDES P. A. SERENO**  
Chief Justice