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may proceed independently of the criminal proceedings instituted against petitioners regardless of the result of the latter.[21]

WHEREFORE, the petition is denied and the assailed Decision and Resolution of the Court of Appeals are hereby AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and *Callejo, Sr., JJ.*, concur.

EN BANC

[G.R. No. 128823-24. December 27, 2002]

PEOPLE OF THE PHILIPPINES, *accused-appellee, vs.* **PEDRO FLORES, JR.** *y* **FLORES** *ALIAS* **"PESIONG",** *accused-appellant.*

SYNOPSIS

For automatic review is the trial court's decision finding accused guilty of two counts of rape of his then 11-year old daughter and sentencing him to suffer the death penalty.

The Supreme Court, on appeal, dismissed the criminal cases against the accused, declaring null and void the informations filed against him, for being violative of his constitutional right to be informed of the nature and cause of the accusation against him. What characterizes the charge is the actual recital of facts in the complaint or information. The allegation in the criminal complaints that accused "sexually abused" the private

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[21] *Vintola vs. Insular Bank of Asia and America, supra.*

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complainant cannot be read to mean that accused had carnal knowledge or sexual intercourse with the complainant. The recital of facts in the complaints does not properly charge rape, "sexual abuse" not being an essential element or ingredient thereof.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; APPEAL IN A CRIMINAL CASE THROWS THE WHOLE CASE OPEN FOR REVIEW.**— It is settled that in a criminal case, an appeal throws the whole case open for review, and it becomes the duty of the appellate court to correct such errors as may be found in the judgment appealed from, whether they are made the subject of assignment of errors or not.

2. **ID.; ID.; PROSECUTION OF OFFENSES; INFORMATION; MUST STATE FULLY THE ELEMENTS OF THE OFFENSE ALLEGED TO HAVE BEEN COMMITTED.**— It is at once apparent, from a reading of the above-quoted complaints, that accused-appellant was denied the constitutional right to be informed of the nature and cause of the accusation against him. . . The right cannot be waived for reasons of public policy. Hence, it is imperative that the complaint or information filed against the accused be complete to meet its objectives. As such, an *indictment must fully state the elements of the specific offense* alleged to have been committed. For an accused cannot be convicted of an offense, *even if duly proven*, unless it is alleged or necessarily included in the complaint or information.

3. **ID.; ID.; ID.; ID.; ALLEGATION THAT ACCUSED DID "SEXUALLY ABUSE" THE VICTIM IS INADEQUATE TO ESTABLISH THAT HE HAD CARNAL KNOWLEDGE OF HER; CASE AT BAR.**— The court *a quo* found accused-appellant guilty of Statutory Rape under Article 335 of the Revised Penal Code, as amended by R. A. No. 7659 (which restored the death penalty for heinous crimes effective December 31, 1993). . . . The gravamen of the crime of rape is *carnal knowledge* or *sexual intercourse* between a man and a woman under the circumstances enumerated in the penal code. Thus, to sustain a conviction, the complaint or information *must allege* that the accused *had carnal knowledge of or sexual intercourse with* the private complainant. In the criminal complaints at bar, however, no such allegation was made. The allegation that

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accused-appellant did "*sexually abuse*" Filipina does not suffice. In the recent case of *People v. Lito Egan alias Akiao,* this Court ruled that "although the prosecution has proved that [the therein private complainant] Lenie was *sexually abused, the evidence proffered is inadequate to establish carnal knowledge.*" Hence, sexual abuse cannot be equated with carnal knowledge or sexual intercourse. The allegation in the instant criminal complaints that accused-appellant "sexually abuse[d]" the private complainant cannot thus be read to mean that accused-appellant had carnal knowledge or sexual intercourse with the private complainant.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
De Guzman & Yasay Law Office for accused-appellant.

D E C I S I O N

CARPIO MORALES, *J.*:

An assault on sexual innocence can open a floodgate of emotions. This Court, however, cannot allow emotions to drown an accused's right to be informed of the nature and cause of the accusation against him.

For automatic review before this Court is the Joint Decision of the Regional Trial Court, Branch 46, Urdaneta, Pangasinan finding accused-appellant Pedro Flores Jr. *y* Flores *alias* "Pesiong" guilty of two counts of rape of his then 11 year old daughter and sentencing him to suffer the penalty of death in each.

The complaints against accused-appellant filed on February 3, 1997 read as follows:

Criminal Case No. U-9184:

CRIMINAL COMPLAINT[1]

The undersigned, FILIPINA FLORES *Y* LAZO, 11 years old, grade three pupil and a resident of Sitio Buenlag, Brgy Nancamaliran West,

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[1] Exhibit "B", Records, p. 1.

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Urdaneta, Pangasinan, under oath, hereby accuses PEDRO FLORES, JR., *Y* FLORES for the crime of "RAPE", committed as follows:

That on the 9th day of December 1996, in the morning at Sitio Buenlag, Brgy. Nancamaliran West, Municipality of Urdaneta, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means, of force and intimidation, did then and there, willfully, unlawfully, criminally and feloniously ***sexually abuse*** the herein complaining witness FILIPINA FLORES *Y* LAZO, 11 years old, all against her will.

x x x (Emphasis supplied).

Criminal Case No. U-9185:

CRIMINAL COMPLAINT[2]

The undersigned, FILIPINA FLORES *Y* LAZO, 11 years old, grade three pupil and a resident of Sitio Buenlag, Brgy. Nancamaliran West, Urdaneta, Pangasinan, under oath, hereby accuses PEDRO FLORES, JR., *Y* FLORES, *ALIAS* "PESYONG", committed as follows:

That on the 28th day of December 1996, in the evening at Sitio Buenlag, Brgy Nancamaliran West, Municipality of Urdaneta, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and by means of force and intimidation, did then and there, willfully, unlawfully, criminally and feloniously ***sexually abuse*** the herein complaining witness FILIPINA FLORES, an 11 years old and daughter of the herein accused with the use of sharp pointed bladed weapon and all against her will.

x x x (Emphasis supplied).

Arraigned on February 10, 1997, accused-appellant pleaded not guilty to both charges.[3]

Culled from the records of the case are the following facts established by the prosecution:

On December 5, 1996, private complainant Filipina L. Flores (Filipina), 11 years old at the time, and her younger sister

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[2] Exhibit "C", Records at 106.

[3] Records at 21, 119.

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Catherine were left to the care of their father, herein accused-appellant, at their family residence in Sitio Buenlag, Barangay Nancamaliran West, Urdaneta, Pangasinan, their mother Marcelina L. Flores having departed for Singapore to work as an overseas contract worker.

After partaking of supper on the night of December 9, 1996,[4] accused-appellant asked Filipina to accompany him to the comfort room situated outside their house,[5] claiming that he was afraid of ghosts.[6] Albeit Filipina did not believe[7] him, she acquiesced because her mother had told her to always obey her father.[8]

When accused-appellant came out of the comfort room, he ordered Filipina to remove her short pants, threatening her with death if she disobeyed,[9] and made her lie down.[10] He then removed his short pants and brief and, against her will, he inserted his finger and later his penis into Filipina's vagina[11] where she later felt hot fluid.[12]

Accused-appellant thereafter wiped Filipina's vagina and his hand, threatened to kill her if she reported what he did, directed her to put on her shorts, and they both went home. The following morning, Filipina reported the incident to her "Inang Lorie" whose full name is Norielyn Antonio, the aunt

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[4] TSN, February 24, 1997, Direct Examination of Filipina L. Flores, p. 8.

[5] *Id.* at 4.

[6] TSN, February 24, 1997, Cross-Examination of Filipina L. Flores, p. 12.

[7] *Id*

[8] TSN, February 25, 1997, Cross-Examination of Filipina F. Flores, at 17.

[9] TSN, February 24, 1997, Direct Examination of Filipina L. Flores, at 5.

[10] *Id.*

[11] *Id.*

[12] *Id.* at 6.

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of her mother, who told her that if her father would sexually assault her again, he would have him detained.

Nineteen nights later or on December 28, 1996, as Filipina lay asleep in their house, she was awakened when accused-appellant touched her right foot.[13] Armed with a knife[14], accused-appellant told her not to talk[15] and ordered her to remove her short pants and panty. She complied. Accused-appellant thereupon removed his short pants and brief and went on top of her chest during which she tried to push him away but failed.

Accused-appellant then inserted his finger into Filipina's vagina for some time,[16] wiped his hands, and then inserted his penis for a long time as he was sucking her breast. Filipina felt accused appellant's semen drop into her private organ where she noticed the presence of blood and a bit of whitish substance.

Accused-appellant later wiped her vagina with a towel. The following morning, private complainant again reported the matter to her grandaunt Norielyn,[17] and to her playmate Carla Salvador.[18]

On January 31, 1997, Filipina, accompanied by Norielyn, a relative, and a tricycle driver-neighbor, reported the matter to the Philippine National Police of Urdaneta where she gave a statement. On the same day, she, still accompanied by Norielyn, submitted herself to a medical examination at the Don Amadeo J. Perez, Jr. Memorial General Hospital the results of which are contained in a medical certificate[19] showing the following:

- (-) Negative menarche
- Multiple deep healed lacerations all over the labia majora.

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[13] TSN, February 18, 1997, Direct Examination of Filipina L. Flores, at 7.

[14] TSN, February 20, 1997, Direct Examination of Filipina L. Flores, at 5.

[15] *Id.* at 3.

[16] *Id.* at 4.

[17] *Id.* at 8.

[18] *Id.* at 9.

[19] Exhibit "A", Records at 2.

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- Admits examining finger with ease.
- (+) sticky whitish discharge.

Dr. Jeanna B. Nebril, the examining physician, found the presence of "deep-healed lacerations all over the labia majora"[20] which deep-healed lacerations connote, according to the doctor, the application of force, possibly two weeks before the examination.

Denying the accusations, accused-appellant claimed as follows:

Filipina, whom he whipped in the afternoon of December 9, 1996 for not attending school on the 6th, 7th and 8th of December that year and for having received money from her classmate,[21] was not in their house on the night of December 9, 1996 because she was in the house of Norielyn. Neither was she in their house on the night of December 28, 1996 as she was at the house of his mother Margarita Flores[22] in Cafloresan.

Accused-appellant's testimony was corroborated by his mother Margarita, and his teenaged children Benito and Baby Jean Flores who were staying in his mother's house. It was also corroborated by another teenaged child, Jocelyn Flores, who was staying in the house of accused-appellant's mother-in-law, Lourdes Lazo, also in Barangay Nancamaliran West.[23] Jocelyn added that Filipina had intimated to her that she fabricated the rape charges because their maternal grandmother Lourdes wanted their father, accused-appellant, jailed as he begrudged him for having eloped with their mother,[24] and that Lourdes threatened her with abandonment or detention in jail in case she defied,

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[20] TSN, February 17, 1997, Direct Examination of Dr. Jeanna B. Nebril, at 7.

[21] TSN, March 17, 1997, Direct Examination of Pedro L. Flores, at 18.

[22] *Id.* at 22.

[23] *Vide* TSNs, March 10, 1997 and March 11, 1997.

[24] TSN, March 10, 1997, Direct Examination of Jocelyn L. Flores, at 18-19.

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and promised to give her jewelry, shoes and dress if she agreed to carry out her desire.

After trial, the court *a quo* found accused-appellant guilty of Statutory Rape and sentenced her to death in both cases in its April 7, 1997 Joint Decision, the dispositive portion of which reads:

> WHEREFORE, JUDGMENT is rendered CONVICTING PEDRO FLORES, JR. *Y* FLORES *ALIAS* PESIONG beyond reasonable doubt of the crime of *Statutory Rape*, an offense defined and penalized under paragraph 3, Article 335, of the Revised Penal Code in relation to Section 1, Republic Act 7659 aggravated by relationship, the Court sentences, PEDRO FLORES, JR. *Y* FLORES *ALIAS* PESIONG as follows:
>
> *CRIMINAL CASE NO. U-9184* — to suffer the penalty of DEATH; ordering Pedro Flores, Jr. *y* Flores *alias* Pesiong to pay Filipina the sum of ₱50,000.00 as moral damages, ₱20,000.00 as exemplary damages; plus all the necessary penalties and costs.
>
> *CRIMINAL CASE NO. U-9185* — to suffer the penalty of DEATH; ordering Pedro Flores, Jr. *y* Flores *alias* Pesiong to pay Filipina the sum of ₱50,000.00 as moral damages, ₱20,000.00 as exemplary damages, plus all the necessary penalties and costs.
>
> Pedro Flores, Jr. *y* Flores *alias* Pesiong shall be committed immediately to the National Bilibid Prisons. The Branch Clerk of Court is hereby ordered to transmit the entire records of this case to the Honorable Supreme Court of the Philippines for automatic review of this Decision.

In view of the penalty of death imposed by the court *a quo*, the case is now before this Court on automatic review. Accused-appellant assigns as errors the following:

I. THAT THE FILING OF THE CASE [AT BAR] WAS MOTIVATED BY SOME FACTORS OTHER THAN THE TRUTH AS TO ITS COMMISSION, AND SO THE ACCUSED SHOULD BE ACQUITTED.

II. THAT THE COURT [*A QUO*] ERRED IN NOT APPRECIATING THE DEFENSE OF THE ACCUSED-APPELLANT THAT THE COMPLAINANT WAS NOT AT

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THE SCENE OF THE CRIME WHEN THE ALLEGED INCIDENTS TOOK PLACE, A DEFENSE SUFFICIENT TO OVERCOME AND DESTROY THE TESTIMONY OF THE COMPLAINANT THAT WOULD HAVE WARRANTED THE ACQUITTAL OF THE ACCUSED-APPELLANT.

It is settled that in a criminal case, an appeal throws the whole case open for review, and it becomes the duty of the appellate court to correct such errors as may be found in the judgment appealed from, whether they are made the subject of assignment of errors or not.[25]

It is at once apparent, from a reading of the above-quoted complaints, that accused-appellant was denied the constitutional right to be informed of the nature and cause of the accusation against him. This right has the following objectives:[26]

1. To furnish the accused with such a description of the charge against him as will enable him to make the defense;

2. To avail himself of his conviction or acquittal for protection against further prosecution for the same cause;

3. To inform the court of the *facts alleged*, so that it may decide whether they are sufficient in law to support a conviction if one should be had.

The right cannot be waived for reasons of public policy.[27] Hence, it is imperative that the complaint or information filed against

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[25] *People v. Borbano*, 76 Phil. 702, 708 (1946), cited in *People v. Alejandro*, 225 SCRA 347, 350 (1993). There is no reason why this rule should not apply to automatic review of death penalty cases before the Supreme Court such as the present. See *People v. Laguerta*, 344 SCRA 453 (2000), *People v. Renola*, 308 SCRA 145 (1999), and *People v. Balacano*, 336 SCRA 615 (2000) where the Supreme Court applied said doctrine in cases before it on automatic review.

[26] *Pecho v. People*, 262 SCRA 518, 527 (1996) (citation omitted); See also *Lacson v. Executive Secretary*, 301 SCRA 298, 327 (1999) (citations omitted).

[27] *People v. Antido*, 278 SCRA 425, 452 (1997), citing RICARDO J. FRANCISCO, *CRIMINAL PROCEDURE*, 270-271 (2nd ed, 1994).

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the accused be complete to meet its objectives. As such, an indictment *must fully state the elements of the specific offense* alleged to have been committed.[28] For an accused cannot be convicted of an offense, *even if duly proven*, unless it is alleged or necessarily included in the complaint or information.[29]

The court *a quo* found accused-appellant guilty of Statutory Rape under Article 335[30] of the Revised Penal Code, as amended by R.A. No. 7659 (which restored the death penalty for heinous crimes effective December 31, 1993) which provides:

> Article 335. *When and how rape is committed.* — Rape is committed by *having carnal knowledge* of a woman under any of the following circumstances:
>
> 1. By using force or intimidation;
>
> 2. When the woman is deprived of reason or otherwise unconscious; and
>
> 3. When the woman is under twelve years of age or is demented.

The gravamen of the crime of rape is *carnal knowledge* or *sexual intercourse* between a man and a woman under the circumstances enumerated in the penal code.[31] Thus, to sustain a conviction, the complaint or information *must allege* that the accused *had carnal knowledge of or sexual intercourse with* the private complainant. In the criminal complaints at bar, however, no such allegation was made.

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[28] *People v. Cutamora*, 342 SCRA 231, 239 (2000), citing *People v. Bayya*, 327 SCRA 771, 777 (2000); see also *Balitaan v. Court of First Instance of Batangas*, 115 SCRA 729, 739 (1982) cited in *People v. Ramos*, 296 SCRA 559, 576 (1998).

[29] *People v. Manalili*, 294 SCRA 220, 252 (1998).

[30] Now Article 266-A of the REVISED PENAL CODE.

[31] *People v. Almaden*, 305 SCRA 157, 165 (1999) (citations omitted). Stated another way, the prosecution must allege and prove the basic elements of 1) sexual congress 2) with a woman 3) by force and without consent (*People v. Silvano*, 309 SCRA 362, 377-378 (1999) [citation omitted]).

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The allegation that accused-appellant did "*sexually abuse*" Filipina does not suffice. In the recent case of *People v. Lito Egan alias Akiao*[32], this Court ruled that "although the prosecution has proved that [the therein private complainant] Lenie was ***sexually abused, the evidence proffered is inadequate to establish carnal knowledge.***"[33] Hence, sexual abuse cannot be equated with carnal knowledge or sexual intercourse.[34] The allegation in the instant criminal complaints that accused-appellant "sexually abuse[d]" the private complainant cannot thus be read to mean that accused-appellant had carnal knowledge or sexual intercourse with the private complainant.

This Court is not unaware of the rule in case there is a variance between allegation and proof as etched in Section 4 of Rule 120 of the Revised Rules of Criminal Procedure which reads:

SEC. 4. *Judgment in case of variance between allegation and proof.* — When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.[35]

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[32] G.R. No. 139338, May 28, 2002.

[33] *People v. Lito Egan alias Akiao*, G.R. No. 139338, May 28, 2002, p. 13.

[34] This Court has also categorically stated in that case that "[s]exual abuse cannot be equated with rape." See *id.* at 14, citing *People v. Tayag*, 329 SCRA 491 (2000).

[35] Rule 120. The phraseology of Rule 120 Section 4 of the 1985 RULES OF CRIMINAL PROCEDURE is almost identical:

SEC. 4. *Judgment in case of variance between allegation and proof.* — When there is variance between the offense charged in the complaint or information, and that proved or established by the evidence, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved included in that which is charged, or of the offense charged included in that which is proved.

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The case at bar, however, is not one of variance between allegation and proof. The recital of facts in the criminal complaints simply does not properly charge rape, "sexual abuse" not being an essential element or ingredient thereof.

Neither can accused-appellant be convicted of acts of lasciviousness or of any offense for that matter under our penal laws. It is settled that what characterizes the charge is the *actual recital of facts*[36] in the complaint or information. For every crime is made up of certain acts and intent which *must be set forth in the complaint or information with reasonable particularity of time, place, names (plaintiff and defendant), and circumstances. In other words, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged*,[37] the accused being presumed to have no independent knowledge of the facts that constitute the offense.[38]

And even under the provisions of Republic Act No. 7610 (*The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*),[39] accused-appellant cannot be held liable. Section 5 of said Act provides:

> 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:
>
> (a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:
>
> (1) Acting as a procurer of a child prostitute;

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[36] *Lacson*, 301 SCRA at 327(citation omitted).

[37] *Id.*, citing *U.S. v. Karelsen*, 3 Phil. 223, 226 (1904).

[38] *Id.* at 327-328.

[39] Approved on June 17,1992.

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(2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;

(3) Taking advantage of influence or relationship to procure a child as a prostitute;

(4) Threatening or using violence towards a child to engage him as a prostitute; or

(5) Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to engage such child in prostitution.

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

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment. (Emphasis and italics supplied).

Section 2 (g) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases,[40] issued pursuant to Section 32 of Republic Act No. 7610, defines "sexual abuse" by inclusion as follows:

Sexual abuse *includes* 1) the employment, use, persuasion, enticement, or coercion of a child to engage in, or assist another person to engage in *sexual intercourse or lascivious conduct* or 2) the molestation, 3) prostitution, or 4) *incest with children.* (Italics supplied)

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[40] Approved on October 11, 1993.

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From this broad, non-exclusive definition, this Court finds that the phrase "sexually abuse" in the criminal complaints at bar does not comply with the requirement that the complaint must contain a specific averment of every fact necessary to constitute the crime. Notably, the phrase "sexual abuse" is not used under R.A. No. 7610 as an elemental fact but as an altogether separate offense. Above-quoted Section 5 thereof enumerates the punishable acts that must be alleged in the complaint or information to hold an accused liable, *none of which is reflected, in the complaints at bar charging accused-appellant.*

The case of *People v. Cruz*[41] is instructive. There the information in Criminal Case No. 15368-R read:

> That on or about the 2nd day of August, 1997, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously *commit sexual abuse on his daughter either by raping her or committing acts of lasciviousness on her*, which has debased, degraded and demeaned the intrinsic worth and dignity of his daughter, JEANNIE ANN DELA CRUZ as a human being.
>
> CONTRARY TO LAW. (Italics supplied)

Finding the above-quoted information *void*, this Court held:

> The Court also finds that accused-appellant *cannot* be *convicted of rape or acts of lasciviousness* under the information in Criminal Case No. 15368-R, which charges accused-appellant of a violation of R.A. No. 7610 (The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), "either by raping her or committing acts of lasciviousness."
>
> It is readily apparent that *the facts charged in said information do not constitute an offense*. The information does not cite which among the numerous sections or subsections of R.A. No. 7610 has been violated by accused-appellant. Moreover, *it does not state the acts and omissions constituting the offense*, or any special or aggravating circumstances attending the same, as required under the rules of criminal procedure Section 8, Rule 110 thereof provides:

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[41] G.R. Nos. 135554-56, June 21, 2002, pp. 2–3:

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> Designation of the offense. — The complaint or information shall state the designation of the offense given by the statue, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

The allegation in the information that accused-appellant "willfully, unlawfully and feloniously *commit sexual abuse on his daughter [Jeannie Ann] either by raping her or committing acts of lasciviousness on her" is not a sufficient averment of the acts constituting the offense as required under Section 8, for these are conclusions of law, not facts*. The information in Criminal Case No. 15368-R is therefore void for being violative of the accused-appellant's constitutionally-guaranteed right to be informed of the nature and cause of the accusation against him. (Emphasis & italics supplied)

As held by this Court in the above-case of *Cruz*, the allegation in the information that the therein accused-appellant *sexually abused* the therein private complainant *by either raping or committing acts of lasciviousness* on her "is not a sufficient averment of the acts constituting the offense as required under Section 8 [of Rule 110], for these are *conclusions of law, not facts*." Nothing less can be said of the criminal complaints in the cases at bar. They are void for being violative of the accused-appellant's constitutional right to be informed of the nature and cause of the accusation against him.

This Court thus takes this occasion to remind public prosecutors of their crucial role in crafting criminal complaints and information. For all efforts may be rendered futile and justice may be denied by a failure to state "the acts or omissions complained of as constituting the offense" as exemplified by the present case.

The foregoing disquisition leaves it unnecessary to dwell on accused-appellant's assigned errors or of other errors including failure to allege relationship in the first complaint, and lack of proof of minority in both cases.

WHEREFORE, the informations in Criminal Case Nos. U-9184 and U-9185 are hereby declared null and void for being

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violative of the constitutional right of accused-appellant Pedro Flores, Jr. *y* Flores *alias* "Pesiong," for Rape to be informed of the nature and cause of the accusation against him. Hence, the cases against him are hereby *DISMISSED*.

The Director of Prisons is hereby directed to forthwith cause the release of accused-appellant unless the latter is being lawfully held for another cause and to inform the Court accordingly within 10 days from notice.

Costs *de oficio*.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., and *Azcuna, JJ.,* concur.

SECOND DIVISION

[G.R. No. 129874. December 27, 2002]

JOAN M. FLORES, *petitioner, vs.* **HON. FRANCISCO C. JOVEN, Presiding Judge of Branch 29, Regional Trial Court, Bislig, Surigao del Sur, and EMMANUEL NAVARRO,** *respondents*.

SYNOPSIS

Petitioner caused the filing of informations for Rape against the respondent Navarro and nine other persons. While Navarro's other co-accused were arraigned and pleaded not guilty to the charges against them, Navarro moved to quash the Amended Information filed against him. The trial court granted the motion to quash, finding that Navarro was not one of those identified