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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

JEFFREY CALAOAGAN,  
Petitioner,

G.R. No. 222974

Present:

- versus -

BERSAMIN, C.J.,\*  
DEL CASTILLO,\*\* *Acting Chairperson*,  
GISMUNDO,  
CARANDANG, and  
LAZARO-JAVIER, JJ.\*\*\*

PEOPLE OF THE PHILIPPINES,  
Respondent.

Promulgated:

MAR 20 2019

X ----- X

DECISION

GISMUNDO, J.:

This appeal by *certiorari* seeks to reverse and set aside the February 9, 2016 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 35518. The CA affirmed the November 5, 2012 Decision<sup>2</sup> of the Regional Trial Court of Rosales, Pangasinan, Branch 53 (RTC), finding Jeffrey Calaoagan (*petitioner*) guilty beyond reasonable doubt of violating Sec. 10(a) of Republic Act (R.A.) No. 7610<sup>3</sup> in Criminal Case No. 4877-R; and modifying the RTC decision in Criminal Case No. 4878-R finding appellant guilty of slight physical injuries under Article 266(1) of the Revised Penal Code (RPC).

\* On official business.

\*\* Per S.O. No. 2645 dated March 15, 2019.

\*\*\* Designated as additional member in lieu of Associate Justice Francis H. Jardeleza, per raffle dated March 20, 2019.

<sup>1</sup> *Rollo*, pp. 32-42; penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Fernanda Lampas-Peralta and Jane Aurora C. Lantion, concurring.

<sup>2</sup> Not attached to the *rollo*.

<sup>3</sup> Entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992.

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### Antecedents

Two separate Informations for violation of R.A. No. 7610 were filed against petitioner before the RTC for the alleged physical maltreatment of minors AAA and BBB.<sup>4</sup> The accusatory portions of the informations state:

Criminal Case No. 4877-R:

That on or about the 31st day of October, 2004 at around 12:00 midnight, in Brgy. Poblacion, Municipality of Rosales, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, wilfully, unlawfully, feloniously and for no apparent reason[,] physical[ly] maltreat[ed] the complainant AAA, a minor of about 15 years of age[,] by hitting him with a stone on his left shoulder, thus place (sic) him in an embarrassing (sic) and shameful situation in the eyes of the public.

Contrary to Article VI, Section 10(a), Republic Act 7610.<sup>5</sup>

Criminal Case No. 4878-R:

That on or about the 31st day of October, 2004, at around 12:00 o'clock midnight, in Brgy. Poblacion, Municipality of Rosales, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, wilfully, unlawfully and feloniously and for no apparent reason[,] physically maltreat the complainant BBB, a minor of about 17 years of age[,] by punching his face and head, thus place (sic) him in an embarrassing (sic) and shameful situation in the eyes of the public.

Contrary to Article VI, Section 10(a), Republic Act 7610.<sup>6</sup>

Petitioner pleaded not guilty to the charges against him.<sup>7</sup> Thereafter, trial ensued.

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

<sup>5</sup> *Rollo*, p. 33.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 33-34.

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*Version of the Prosecution*

The prosecution presented the private offended parties AAA and BBB, and Dr. Raul Castaños<sup>8</sup> (*Dr. Castaños*), medico-legal officer. Their testimonies established the following:

AAA was born on December 18, 1988, while BBB was born on September 21, 1987.<sup>9</sup> They alleged that at around 12:00 midnight on October 31, 2004, they were on their way home to Barangay Poblacion, Rosales, Pangasinan, when they encountered petitioner accompanied by two persons. Petitioner, seemingly annoyed by AAA and BBB, brought AAA near the church and hit AAA's right shoulder with a stone. BBB followed petitioner and AAA, which prompted petitioner to punch BBB on the right cheek.<sup>10</sup>

Dr. Castaños conducted a medical examination on AAA and BBB. The examination showed that AAA suffered from "confluent abrasion" on the left shoulder and "soft tissue contusion" in the deltoid area; while BBB bore a "soft tissue contusion" on the left periorbital area and on the right occipital parietal area of the head.<sup>11</sup>

*Version of the Defense*

Petitioner had a different version of the events at midnight of October 31, 2004. He averred that he and his two companions passed by a group of persons which included AAA and BBB. The group shouted "*Hoy!*" at them, which impelled him to shout back "*Hoy!*" at the group. Thereafter, AAA and BBB's group started hurling stones at him and his companions, which made them run to petitioner's house. AAA and BBB's group then pelted stones at petitioner's house, prompting petitioner to call the police. After the police had responded and left, AAA and BBB returned to petitioner's house. Petitioner claimed that he saw BBB carrying a knife and attempting to attack his sister, Jennifer Malong (*Jennifer*). Consequently, petitioner picked up a bamboo stick and swung it towards AAA and BBB.<sup>12</sup> However, he claimed that he did not know whom he hit while swinging the bamboo stick.<sup>13</sup> Thereafter, when he saw other persons entering his gates, petitioner ran inside his house. After the incident, Jennifer went to the police station to report the incident.<sup>14</sup>

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<sup>8</sup> Id.; also spelled Castanos and Costaños in other documents.

<sup>9</sup> *Rollo*, p. 34.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 34-35.

<sup>13</sup> Id. at 11.

<sup>14</sup> Id.

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### *The RTC Ruling*

In its November 5, 2012 Decision, the RTC found petitioner guilty beyond reasonable doubt of two (2) counts of Other Acts of Child Abuse, as defined and penalized under Sec. 10, par. (a) of R.A. No. 7610. Accordingly, it sentenced petitioner to suffer the indeterminate penalty of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years and eight (8) months and one (1) day of *prision mayor*, as maximum, in each of the two (2) cases.<sup>15</sup>

The RTC held that petitioner physically maltreated AAA and BBB. Thus, it ruled that petitioner committed two (2) counts of violation of Sec. 10(a) of R.A. No. 7610 in Criminal Case Nos. 4877-R and 4878-R. The RTC gave credence to AAA and BBB's straightforward testimonies despite the variance between their testimony and the medical findings.<sup>16</sup>

Aggrieved, petitioner appealed to the CA.

### *The CA Ruling*

In its February 9, 2016 Decision, the CA affirmed petitioner's conviction in Criminal Case No. 4877-R for physically maltreating AAA. It ruled that petitioner had struck AAA, then a minor. It accorded respect to the findings of the RTC in giving merit to the testimonies of AAA and BBB as corroborated by their medical examinations. The CA opined that despite the variance between the testimonies of AAA and BBB and the results of the medical examination, there was no cogent reason to discount AAA and BBB's testimonies. Accordingly, in Criminal Case No. 4877-R, it awarded moral damages in the amount of ₱20,000.00, with an interest rate of 6% *per annum* from the finality of the decision until its full payment.<sup>17</sup>

However, in Criminal Case No. 4878-R, the CA held that petitioner was not liable for violating Sec. 10(a) of R.A. No. 7610 for assaulting BBB. Instead, it ruled that petitioner was only guilty of slight physical injuries under Article 266(1) of the RPC because BBB was allegedly already eighteen (18) years old at the time of the incident. Consequently, in this case, the CA sentenced petitioner to suffer the penalty of *arresto menor* and ordered him to pay ₱20,000.00 as moral damages, and ₱20,000.00 as temperate damages, with an interest rate of 6% *per annum* from the finality of the decision until its full payment.<sup>18</sup>

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<sup>15</sup> Id. at 35.

<sup>16</sup> Id. at 39-40.

<sup>17</sup> Id. at 39-41.

<sup>18</sup> Id. at 40-41.

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Hence, this petition.

### ISSUES

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S DECISION FINDING PETITIONER GUILTY OF VIOLATION OF R.A. No. 7610 IN CRIM. CASE NO. 4877-R BY GIVING FULL CREDENCE TO THE TESTIMONY OF COMPLAINANT AAA THAT HE WAS MAULED BY THE ACCUSED WHO HIT HIM SEVERAL TIMES ON THE LEFT SIDE OF HIS FACE AND WHO ALSO HIT HIM WITH A STONE ON HIS RIGHT SHOULDER, CONTRARY TO THE MEDICO-LEGAL FINDINGS.

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE ACCUSED IN CRIM. CASE NO. 4878-R OF THE CRIME OF PHYSICAL INJURIES, AS DEFINED AND PENALIZED UNDER ARTICLE 266(1) OF THE REVISED PENAL CODE, BY GIVING FULL CREDENCE TO THE TESTIMONY OF COMPLAINANT BBB THAT HE WAS PUNCHED BY THE ACCUSED ONCE ON HIS RIGHT CHEEK, CONTRARY TO THE MEDICO-LEGAL CERTIFICATE FINDINGS.<sup>19</sup>

Petitioner argues that the CA erred in affirming the RTC decision because AAA's testimony was not consistent with the results of the medical examination showing that the injury sustained was "confluent abrasion, shoulder left, soft tissue contusion deltoid area." Likewise, he claims that the CA erred in convicting him of slight physical injuries under the RPC because BBB's testimony was contrary to the medical examination findings that the injury sustained was "soft tissue contusion, shoulder left, soft tissue contusion, occipital parietal area head, right."<sup>20</sup>

In its Comment,<sup>21</sup> the Office of the Solicitor General (*OSG*), representing the People of the Philippines, countered that the issues in the petition constitute questions of fact. As such, the petition must be dismissed for being contrary to Rule 45 of the Rules of Court. The *OSG* also argues that the petition seeks a review of the factual viability of the findings of the courts *a quo* in arriving at their verdicts, without presenting a question of law. Further, it claims that petitioner is guilty of child abuse under Sec. 10(a) of R.A. No. 7610 for hitting AAA, and is likewise guilty of slight physical injuries for striking BBB.

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<sup>19</sup> *Id.* at 18.

<sup>20</sup> *Id.* at 19-23.

<sup>21</sup> *Id.* at 65-79.

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### THE COURT'S RULING

The petition is partly meritorious.

*Generally, a question of fact cannot be entertained by the Court; exceptions*

As a rule, only questions of law may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court.<sup>22</sup> Well-settled is the rule that the Court is not a trier of facts. Its function in petitions for review on certiorari is limited to reviewing errors of law that may have been committed by the lower courts.<sup>23</sup>

Nevertheless, the Court has enumerated several exceptions to this rule: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.<sup>24</sup>

In this case, two exceptions exist, particularly, that the judgment of the CA was based on misapprehension of facts and that the CA manifestly overlooked certain relevant facts. Thus, as the exception applies, the Court may then entertain a question of fact, such as the existence of the elements of the crimes charged.

*Sec. 10(a) of R.A. No. 7610 requires an intent to debase, degrade, or demean the intrinsic worth of a child victim.*

In Criminal Case No. 4877-R, petitioner was charged with violating Sec. 10(a), Article VI of R.A. No. 7610, which states:

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<sup>22</sup> *Anzures v. Spouses Ventanilla*, G.R. No. 222297, July 9, 2018.

<sup>23</sup> *Gepulle-Garbo v. Spouses Garabato*, 750 Phil. 846, 854-855 (2015).

<sup>24</sup> *Oikonomos Int'l. Resources Corp., v. Navaja, Jr.*, 774 Phil. 457, 467 (2015).

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Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and other Conditions Prejudicial to the Child's Development. —

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

On the other hand, child abuse is defined by Sec. 3(b) of Republic Act No. 7610, as follows:

Section 3. Definition of terms. —

x x x x

(b) "Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) **Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;**
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.<sup>25</sup> (emphasis supplied)

Sec. 10(a) of R.A. No. 7610 penalizes an act when it constitutes as child abuse. In relation thereto, Sec. 3(b) of the same law highlights that in child abuse, the act by deeds or words must debase, degrade, or demean the intrinsic worth and dignity of a child as a human being. *Debasement* is defined as the act of reducing the value, quality, or purity of something; *degradation*, on the other hand, is a lessening of a person's or thing's character or quality; while *demean* means to lower in status, condition, reputation, or character.<sup>26</sup>

<sup>25</sup> "Special Protection of Children Against Abuse, Exploitation and Discrimination Act," Sec. 3(b).

<sup>26</sup> *Jabalde v. People*, 787 Phil. 255, 270 (2016), citing Black's Law Dictionary 430 (8th ed. 2004) and Webster's Third New International Dictionary 599 (1986).

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When this element of intent to debase, degrade or demean is present, the accused must be convicted of violating Sec. 10(a) of R.A. No. 7610, which carries a heavier penalty compared to that of slight physical injuries under the RPC.<sup>27</sup>

In *Bongalon v. People*,<sup>28</sup> the petitioner therein was charged under Sec. 10(a) of R.A. No. 7610 because he struck and slapped the face of a minor, which were done at the spur of the moment and in anger. The Court ruled that only when the accused intends to debase, degrade, or demean the intrinsic worth of the child as a human being should it be punished with child abuse under Sec. 10(a) of R.A. No. 7610. Otherwise, the act must be punished for physical injuries under the RPC. It was emphasized therein that the records must establish a specific intent to debase, degrade or demean the intrinsic worth and dignity of a child as a human being as it is the essential element in the crime of child abuse. As the prosecution failed to establish the said intent, the petitioner therein was only convicted of slight physical injuries.

Comparably, in *Jabalde v. People*,<sup>29</sup> the petitioner slapped and struck a minor as an offshoot of the former's emotional rage. In the absence of any intention to debase, degrade, or demean the intrinsic worth of the child victim, the Court declared that the act of the petitioner was merely slight physical injuries punishable under the RPC, since there was no evidence of actual incapacity of the offended party for labor or of any required medical attendance. Underscored is that the essential element of intent must be established with the prescribed degree of proof required for a successful prosecution under Sec. 10(a) of R.A. No. 7610.

More recently, in *Escolano v. People*,<sup>30</sup> the Court held that the petitioner's act of shouting invectives against private complainants does not constitute child abuse since petitioner had no intent to debase the intrinsic dignity of the child. The Court opined that petitioner's acts therein were done in the heat of anger because sachets of ketchup were thrown at her by the minors involved. As such, the Court held that the petitioner was only guilty of other light threats under the RPC.

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<sup>27</sup> Under Sec. 10(a) of R.A. No. 7610, the offender shall suffer the penalty of *prision mayor* in its minimum period; while under the RPC, as amended by Republic Act No. 10951, if the offender commits slight physical injuries, he shall suffer the penalty of *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one (1) to nine (9) days, or shall require medical attendance during the same period, or by *arresto menor* or a fine not exceeding Forty thousand pesos (P40,000) and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance, or by *arresto menor* in its minimum period or a fine not exceeding Five thousand pesos (P5,000) when the offender shall ill-treat another by deed without causing any injury.

<sup>28</sup> 707 Phil. 11 (2013).

<sup>29</sup> *Supra* note 26.

<sup>30</sup> G.R. No. 226991, December 10, 2018.



On the other hand, in *Lucido v. People*,<sup>31</sup> the petitioner maltreated an eight-year old child through numerous and repeated acts of strangulation, pinching, and beating causing the said child to limp. The Court then held that these acts of abuse were intrinsically cruel and excessive because these impair the child's dignity and worth as a human being and infringe upon the child's right to grow up in a safe, wholesome, and harmonious environment.

*Prosecution failed to prove intent to debase, degrade or demean.*

In this case, the Court finds that the prosecution did not present any iota of evidence to show petitioner's intent to debase, degrade, or demean the intrinsic worth of the child victim. The records do not show that petitioner's act of hitting the victims had been intended to place the latter in an embarrassing, shameful, and demeaning situation. There was no indication that petitioner had any specific intent to humiliate and degrade AAA and BBB.

On the contrary, the Court finds that petitioner inflicted the injuries in the heat of argument. AAA and BBB claim that it was petitioner's group that first annoyed the former's group; while petitioner claims that it was AAA and BBB's group that initiated the shouting match. Nevertheless, it is clear that the altercation between AAA, BBB, and petitioner only occurred when their groups met on the street without any prior confrontation.

As observed in the cases of *Bongalon*, *Jabalde*, and *Escolano*, when the infliction of physical injuries against a minor is done at the spur of the moment, it is imperative for the prosecution to prove a specific intent to debase, degrade, or demean the intrinsic worth of the child; otherwise, the accused cannot be convicted under Sec. 10(a) of R.A. No. 7610.

Verily, as the prosecution in this case failed to specify any intent to debase, degrade, or demean the intrinsic worth of AAA and BBB, petitioner cannot be held criminally liable under Sec. 10(a) of R.A. No. 7610.

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<sup>31</sup> 834 SCRA 545 (2017).

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*Petitioner committed the crime of slight physical injuries.*

Even though there was no intent to debase, degrade or demean, the Court affirms the findings of the RTC and the CA that petitioner struck AAA with a stone on his shoulder and hit BBB, causing physical injuries. While there may be some minor inconsistencies in the exact location of the injuries based on the testimonies of AAA and BBB and the medical findings of Dr. Castaños, it was established that petitioner assaulted AAA and BBB. Petitioner even admitted that he swung a bamboo stick towards AAA and BBB in the altercation.

In Criminal Case No. 4877-R, petitioner is found guilty of slight physical injuries under the RPC for assaulting AAA. The prosecution was not able to present any evidence of actual incapacity of AAA for labor or of a required medical attendance as a result; nor was there proof as to the period of AAA's incapacity for labor or of a required medical attendance. Nevertheless, under Art. 266 of the RPC, an offender may still commit slight physical injury even if the inflicted injuries did not require medical assistance or there was no proof of the victim's incapacity.

On the other hand, in Criminal Case No. 4878-R, the CA found that BBB was no longer a minor on the date of the incident on October 31, 2004, because he was already eighteen (18) years old. However, the CA's finding is incorrect. BBB's Certificate of Live Birth<sup>32</sup> shows that he was born on September 21, 1987. Thus, he was a minor being only seventeen (17) years, one (1) month, and ten (10) days old at the time of the incident.

Nonetheless, even if BBB was still a minor, the Court affirms that petitioner is guilty of the crime of slight physical injuries in Criminal Case No. 4878-R because the prosecution failed to prove the specific intent to debase, degrade or demean the intrinsic worth of the child. Petitioner's act of hitting BBB resulted in the latter's injuries requiring medical attendance for one (1) to nine (9) days, which is within the definition of slight physical injuries.

The crime of slight physical injuries is punishable under Article 266 of the RPC as amended by R.A. No. 10951,<sup>33</sup> to wit:

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<sup>32</sup> Supra note 9.

<sup>33</sup> AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS "THE REVISED PENAL CODE", AS AMENDED. Signed on August 29, 2017.

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Section 61. Article 266 of the same Act is hereby amended to read as follows:

Art. 266. *Slight physical injuries and maltreatment.*— The crime of slight physical injuries shall be punished:

1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one (1) day to nine (9) days, or shall require medical attendance during the same period.

2. By *arresto menor* or a fine not exceeding Forty thousand pesos (₱40,000.00) and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance.

3. By *arresto menor* in its minimum period or a fine not exceeding Five thousand pesos (₱5,000.00) when the offender shall ill-treat another by deed without causing any injury.

Accordingly, in Criminal Case Nos. 4877-R and 4878-R, petitioner committed two (2) counts of slight physical injuries. Thus, he is sentenced to suffer the straight penalty of *arresto menor* of twenty (20) days for each count.

#### *The award of damages*

Under par. (1), Art. 2219 of the Civil Code, moral damages may be recovered in a criminal offense resulting in physical injuries. Moral damages compensate for the mental anguish, serious anxiety, and moral shock suffered by the victim and his family as being a proximate result of the wrongful act. An award requires no proof of pecuniary loss. Pursuant to prevailing jurisprudence, an award of Five Thousand Pesos (₱5,000.00) moral damages is appropriate for less serious, as well as slight physical injuries.<sup>34</sup> In this case, the CA awarded ₱20,000.00 as moral damages. However, petitioner only committed slight physical injuries against AAA and BBB. Thus, the award of moral damages to AAA and BBB must be reduced to ₱5,000.00.<sup>35</sup>

<sup>34</sup> *Yap v. People*, G.R. No. 234217, November 14, 2018, citing *People v. Villacorta*, 672 Phil. 712, 729 (2011).

<sup>35</sup> *Supra* note 28.

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On the other hand, temperate or moderate damages, which are more than nominal but less than actual or compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered, but its amount cannot, from the nature of the case, be proved with certainty.<sup>36</sup> As such, its award is premised on the fact that actual damages could have been recovered were it not for the fact that the precise amount of damages could not be accurately ascertained. In other words, if a party-claimant had not suffered any damages, no damages, either actual nor temperate, are recoverable.<sup>37</sup>

In this case, the CA simply awarded temperate damages to BBB because he suffered pecuniary loss for the treatment of his injuries, although the actual amount could not be determined. However, there was no discussion on the facts and circumstances surrounding the alleged pecuniary loss. BBB neither asserted that he suffered any pecuniary loss nor any kind of loss of earning capacity as to justify the temperate damages awarded by the CA. As such, the Court deletes the award of ₱20,000.00 as temperate damages for lack of factual basis.<sup>38</sup>

**WHEREFORE**, the petition is **PARTIALLY GRANTED**. The February 9, 2016 Decision of the Court of Appeals in CA-G.R. CR No. 35518 is **AFFIRMED** with **MODIFICATION** that petitioner Jeffrey Calaoagan is **GUILTY** beyond reasonable doubt of two (2) counts of the crime of Slight Physical Injuries under paragraph 1, Article 266, of the Revised Penal Code. He is **SENTENCED** to suffer the penalty of 20 days of *arresto menor* for each count and to pay AAA and BBB the amount of ₱5,000.00 each as moral damages for each count, with legal interest at the rate of six percent (6%) *per annum* from the finality of judgment until full payment.

**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Associate Justice

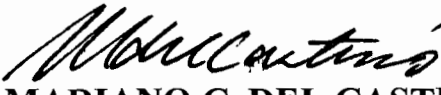
<sup>36</sup> *Imperial v. Heirs of Spouses Bayaban*, G.R. No. 197626, October 3, 2018.

<sup>37</sup> *Magallanes Watercraft Association, Inc. v. Auguis, et al.*, 785 Phil. 866, 875-876 (2016.)

<sup>38</sup> See *Excellent Essentials International Corp. v. Extra Excel International Philippines, Inc.*, G.R. No. 192797, April 18, 2018, and *People v. Lagman*, 685 Phil. 733 (2012).

WE CONCUR:

(On official business)  
**LUCAS P. BERSAMIN**  
Chief Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice  
Acting Chairperson

  
**ROSMARI D. CARANDANG**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice


**ATTESTATION**

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

  
**MARIANO C. DEL CASTILLO**  
Associate Justice  
Acting Chairperson, First Division

**CERTIFICATION**

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

  
**ANTONIO T. CARPIO**  
Acting Chief Justice