



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

XXX,<sup>1</sup>

*Petitioner,*

G.R. No. 243049

Present:

- versus -

PERLAS-BERNABE, J.,  
 Chairperson,  
 HERNANDO,  
 INTING,  
 DELOS SANTOS, and  
 BALTAZAR-PADILLA,\* JJ

PEOPLE OF THE  
 PHILIPPINES,

*Respondent.*

Promulgated:

OCT 05 2020

X-----X

DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*<sup>2</sup> under Rule 45 of the Rules of Court filed by XXX assailing both the Decision<sup>3</sup> dated January 24, 2018 and the Resolution<sup>4</sup> dated October 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39608, dismissing XXX's appeal and denying his subsequent Motion for Reconsideration,<sup>5</sup> respectively. The CA affirmed the

<sup>1</sup> In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records, and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims. To note, the unmodified Decision of the CA Decision was not attached to the records to verify the real name of the victim.

\* On leave.

<sup>2</sup> *Rollo*, pp. 11-24.

<sup>3</sup> Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Amy C. Lazaro-Javier (now a Member of the Court) and Ma. Luisa C. Quijano-Padilla, concurring; *id.* at 29-44.

<sup>4</sup> Penned by Associate Justice Amy C. Lazaro-Javier (now a Member of the Court), with Presiding Justice Romeo F. Barza and Associate Justice Ma. Luisa C. Quijano-Padilla, concurring; *id.* at 46.

<sup>5</sup> *Id.* at 93-96.

Decision<sup>6</sup> of the Regional Trial Court (RTC) of ██████████, Branch 39, finding XXX guilty of violation of Section 5(i) in relation to Section 6(f) of Republic Act No. (RA) 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004.

### Facts

XXX was charged in an Information with violation of Section 5(i) in relation to Section 6(f) of RA 9262.

#### *Version of the Prosecution*

Private complainant, AAA, testified that she and XXX were married for 17 years. They were married on April 1, 1996, and the early parts of their marriage were harmonious. They also had two children, a girl and a boy. Eventually, however, their union turned sour due to XXX's extra-marital affair with another woman. AAA alleged that sometime in February 2013, she overheard a conversation in which her husband was telling his cousin that he had been giving ₱1,000.00 allowance on a weekly basis to a certain Jessiree Yana and that he had also paid ₱37,000.00 for the operation of a certain Rona Matchimura (Matchimura).

When AAA confronted XXX and asked about him having an affair and siring a child with another woman, the latter denied her accusations which led to a heated argument between the two. As she was hysterical at that time, AAA asseverated that she called her brother, BBB, to bring XXX out of their house. Since that fateful night, AAA pointed out that she and XXX never lived under the same roof again. She averred that this infidelity has spawned a series of fights between her and XXX which left her emotionally wounded.

On June 6, 2013, AAA received a text message from XXX telling her "*tama ayaw ko [makipag]-away sau gay sira na buhay ko wag mo pilitin idamay ko kau wala akong takot sira na ulo ko bkad ko makontrol kung ano magawa ko sa inyo.*"

Fearing for her life and the safety of her minor children, AAA immediately reported to the police and filed a criminal case against XXX. She likewise applied for issuance of a protection order against him, which eventually became permanent.

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<sup>6</sup> Penned by Judge Manuel C. Luna, Jr.; id. at 65-71.

### *Version of the Defense*

The defense presented XXX as the sole witness. He admitted that his marriage with AAA had its blissful moments but turned sour because of an unfounded rumor that he had an illicit relationship with another woman which he vehemently denied. XXX also averred that he was forced to leave their conjugal home in 2013 and since then lived at a friend's house. He further testified that when the instant case was filed, their eldest child had a nervous breakdown. This caused AAA to execute an Affidavit of Desistance stating her disinterest in pursuing the instant case for the sake of their daughter.

### **RTC Ruling**

The RTC in its Decision<sup>7</sup> dated February 24, 2016 found XXX guilty beyond reasonable doubt of the offense charged, and imposed upon him the penalty of imprisonment ranging from six (6) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum, and ordered him to pay the fine of ₱100,000.00.

The RTC declared that the prosecution successfully proved XXX's guilt beyond reasonable doubt. The prosecution was able to show that XXX was indeed guilty of causing or likely to cause mental or emotional suffering of the victim AAA because of his marital infidelity. Moreover, the testimonies of AAA and BBB proved that despite being married for about 17 years, XXX had been romantically involved with another woman, Matchimura, and even had a child with her. This infidelity had left not only AAA to be emotionally and psychologically abused and wounded, but also caused the nervous breakdown of their daughter. The threat to AAA's life and her children prompted her to file criminal charges against XXX which resulted in the granting of a protection order in her favor through the Decision dated October 21, 2013 of the Metropolitan Trial Court in Cities (MTCC).

The RTC also noted that despite XXX's denial of the alleged infidelity during his direct examination, nonetheless, he admitted on cross-examination that he had committed acts of infidelity in the past. This admission alone proves that he committed acts of infidelity which caused psychological and emotional violence against AAA.

Aggrieved, XXX filed an appeal before the CA.

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<sup>7</sup> Id. at 65-71.

### CA Ruling

In a Decision<sup>8</sup> dated January 24, 2018, the CA dismissed the appeal and affirmed the Decision of the RTC.

The CA did not find any compelling reason to reverse or modify the factual findings of the trial court which served as basis of XXX's conviction. Well-settled is the rule that factual findings of the trial court as regards its assessment of the witnesses' credibility are entitled to great weight and respect and will not be disturbed absent any showing that the trial court overlooked certain facts and circumstances which could substantially affect the outcome of the case.<sup>9</sup>

Moreover, the CA ruled that the trial court did not err in finding that the prosecution duly established the fact of infidelity as psychological abuse inflicted upon AAA, as well as mental and emotional anguish that resulted from the same. AAA and BBB were straightforward and consistent in narrating how AAA suffered mental and emotional anguish because of XXX's infidelity.

Furthermore, while the CA agreed that both AAA and BBB failed to show that they have personal knowledge regarding the veracity of the illicit affair between XXX and Matchimura, it still sustained the finding that XXX's infidelity was established in the instant case when he admitted during his cross-examination that he committed acts of infidelity. A judicial admission conclusively binds the party making it and he cannot thereafter take a position contradictory to or inconsistent with his pleadings.<sup>10</sup>

Aggrieved, XXX filed a Motion for Reconsideration<sup>11</sup> on February 15, 2018, which was denied in a Resolution<sup>12</sup> dated October 29, 2018.

On November 28, 2018, XXX filed a Motion for Extension of Time to File Petition for Review on *Certiorari*<sup>13</sup> before Us, seeking a 30-day extension from November 28, 2018, or until December 28, 2018, within which to file the petition.

XXX filed a Petition for Review on *Certiorari* under Rule 45 with the Court within the extended period.

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<sup>8</sup> Id. at 29-44.

<sup>9</sup> *People v. Salahuddin*, 778 Phil. 529, 544-545 (2016).

<sup>10</sup> *Ocampo v. Ocampo, Sr.*, 813 Phil. 390, 402 (2017).

<sup>11</sup> *Rollo*, pp. 93-96.

<sup>12</sup> Id. at 46.

<sup>13</sup> Id. at 3-6.

### Our Ruling

The petition has no merit.

The Information charges XXX with violation of Section 5(i) in relation to Section 6(f) of RA 9262, which states:

SEC. 5. *Acts of Violence Against Women and Their Children.* – The crime of violence against women and their children is committed through any of the following acts:

x x x x

- (i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or denial of access to the woman's child/children.

### *Psychological Violence, Defined*

Section 5(i) of RA 9262 penalizes some forms of psychological violence that are inflicted on victims who are women and children. Section 3(c) of RA 9262 defined psychological violence as:

- c. "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

In *AAA v. People*,<sup>14</sup> the Court, citing *Dinamling v. People*,<sup>15</sup> enumerated the elements that must be present for the conviction of an accused of psychological violence:

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with

<sup>14</sup> G.R. No. 229762, November 28, 2018.

<sup>15</sup> 761 Phil. 356 (2015).

- whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) The offender causes on the woman and/or child mental or emotional anguish; and
  - (4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.<sup>16</sup>

In the case at bar, it is clear that the first two elements of the crime are undoubtedly present. What remains to be done by the Court is the establishment of the last two elements.

To emphasize, the law defined psychological violence as acts or omissions causing or likely to cause mental or emotional suffering to the victim. In *Dinamling*, the Court discussed psychological violence thoroughly:

Psychological violence is the means employed by the perpetrator, while mental or emotional anguish is the effect caused to or the damage sustained by the offended party. **To establish psychological violence as an element of the crime, it is necessary to show proof of commission of any of the acts enumerated in Section 5(i) or similar such acts. And to establish mental or emotional anguish, it is necessary to present the testimony of the victim as such experiences are personal to this party.**<sup>17</sup> (Emphasis supplied)

The Court agrees with the RTC and the CA when they found this element present, as supported by AAA's testimony and demeanor in open court. The prosecution was able to prove AAA's mental and emotional anguish upon learning XXX's infidelity when she appeared to testify. It was duly put on record that AAA looked mad at XXX when she testified and cried when she was recounting her experience with XXX. Her testimony was also corroborated by her brother who was present when AAA confronted XXX. These testimonial evidence presented by the prosecution unequivocally established the elements of the crime of psychological violence as defined and penalized in Sections 5(i) and 6(f) of RA 9262.

***Right of the accused to be presumed innocent, overthrown***

In *People v. Rodriguez*,<sup>18</sup> the Court discussed:

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<sup>16</sup> Id. at 373.

<sup>17</sup> Supra note 15, at 376.

<sup>18</sup> 818 Phil. 625 (2017).

It is a basic rule that the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. This is premised on the constitutional presumption that the accused is innocent unless his guilt is proven beyond reasonable doubt. This standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime he is charged with.<sup>19</sup>

In the case at bar, XXX also claims that he has the right to be presumed innocent. However, such presumption can be overthrown if all the elements of the crime charged are deemed present. Surely, Article III, Section 14 of the 1987 Constitution guarantees that in all criminal prosecutions, the accused shall be presumed innocent until the contrary is proven. To overcome this presumption, proof beyond reasonable doubt is needed. Proof beyond reasonable doubt does not mean such degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.<sup>20</sup> All the elements of the crime are deemed present in this case; thus, the presumption of innocence is overcome.

In fine, the Court agrees with the RTC and the CA in finding the petitioner guilty of violating Sec. 5(i) of RA 9262. However, the Court noted that both the RTC and the CA failed to require XXX to undergo psychological counseling or psychiatric treatment. These are additional penalties that are set by Sec. 6 of RA 9262 in addition to imprisonment and fine, thus:

SEC. 6. *Penalties.* – The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

x x x x

(f) Acts falling under Section 5(h) and Section 5(i) shall be punished by *prision mayor*.

x x x x

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court. (Underscoring supplied)

<sup>19</sup> Id. at 634.

<sup>20</sup> *People v. Manson*, 801 Phil. 130, 139 (2016).

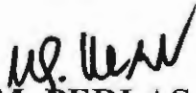
**WHEREFORE**, premises considered, the Petition is **DENIED**. The Decision dated January 24, 2018 and the Resolution dated October 29, 2018 of the Court of Appeals in CA-G.R. CR No. 39608 are **AFFIRMED with MODIFICATION**. Petitioner XXX is hereby sentenced to suffer an indeterminate sentence of imprisonment ranging from six (6) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum. He is also ordered to: (a) pay a fine in the amount of ₱100,000.00; (b) undergo mandatory psychological counseling or psychiatric treatment; and (c) report to the Court his compliance therewith.


**SO ORDERED.**

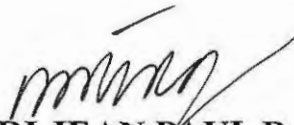
  
**EDGARDO L. DELOS SANTOS**  
Associate Justice



**WE CONCUR:**

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

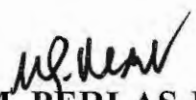
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

(On Leave)  
**PRISCILLA J. BALTAZAR-PADILLA**  
Associate Justice

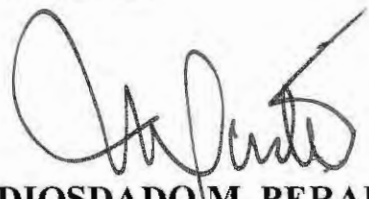
**ATTESTATION**

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.

  
**ESTELA M. PERLAS-BERNABE**  
Senior 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 case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
Chief Justice