



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 225288

Present:

LEONEN, J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J. Y., JJ.

- versus -

XXX¹ and YYY,²
Accused-Appellants.

Promulgated:
June 28, 2021
MISA DEBATA

X-----X

DECISION

HERNANDO, J.:

Before us is an appeal³ by accused-appellants XXX and YYY from the May 23, 2016 Decision⁴ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05448 affirming the September 17, 2009 Decision⁵ of the Regional Trial Court (RTC) of Manila, Branch 9, in Criminal Case No. 05-236956. The lower courts uniformly found accused-appellants guilty of Qualified Trafficking in Persons under Sections 4(a)(e) and 6(a)(c)(f) of Republic Act No. (RA) 9208,⁶ in

¹ Initials were used to identify the accused-appellant pursuant to Administrative Circular No. 83-15 dated September 5, 2017 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 on September 5, 2017.

² Id.

³ *Rollo*, pp. 16-18.

⁴ Id. at 2-15; penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Francisco P. Acosta and Edwin D. Sorongon.

⁵ Id. at 167-200; penned by Judge Amelia Tria-Infante.

⁶ Anti-Trafficking in Persons Act of 2003.

relation to Section 3 thereof and Sections 3 and 6 of RA 9231⁷ amending Sections 12 and 16 of RA 7610.⁸

On May 31, 2005, the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP) and the International Justice Mission (IJM)⁹ conducted a rescue and entrapment operation on the [REDACTED]¹⁰; in [REDACTED] where sex workers who were minors were rescued and the proprietors thereof arrested.¹¹

Accused-appellants, including a Jane Doe alias “Mommy Angel,” were subsequently charged in an Information which reads:

That on May 31, 2005, in [REDACTED] and within the jurisdiction of the Honorable Court, the above[-]named accused, including XXX who is a member of a law enforcement agency, conspiring and confederating as a syndicate, willfully and unlawfully, did then and there, recruit and hire in large scale, guest relation officers who are young women numbering around eleven (11), including AAA,¹² a minor at seventeen (17) years of age, for the purpose of and to engage in prostitution and sexual exploitation, transport and transfer them from other bars/clubs, harbor, receive and employ them at the [REDACTED] at [REDACTED], and provide and sell the sexual services of four (4) of the women for Twenty Thousand (Php20,000.00) Pesos to BBB and company who posed as customers, to the damage and prejudice of said women.

CONTRARY TO LAW.¹³

At their arraignment, accused-appellants pleaded not guilty to the charge.¹⁴

During pre-trial, the parties stipulated on the following:

1. Identity of the accused-appellants XXX and YYY;
2. XXX is a member of the PNP; and
3. The jurisdiction of the RTC.¹⁵

⁷ An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child.

⁸ Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

⁹ *Rollo*, p. 4. An international human rights organization based in the United States of America.

¹⁰ Geographical location is blotted out pursuant to Supreme Court Amended Circular No. 83-2015, *supra* note 1.

¹¹ *CA rollo*, p. 115.

¹² “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11, known as the Rule on Violence against Women and their Children, effective November 15, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

¹³ *Rollo*, p. 3.

¹⁴ Records, Volume I, p. 115.

¹⁵ *CA rollo*, p. 168.

At the trial, the prosecution presented six (6) witnesses:

1. AAA - one of the underage girls working at [REDACTED];
2. PO3 Anthony Ong y Castillo (PO3 Ong) — police officer assigned at the CIDG, Camp Crame, Quezon City who conducted surveillance of [REDACTED] prior to the police operation;
3. BBB - an Investigator of the Trafficking Market then employed by the IJM;
4. Police Inspector Ma. Ivy P. Castillo - assigned at the Women and Children Complaint Division, CIDG, Camp Crame;
5. Sr. Inspector Victor Grapete y Calub - Forensic Chemist at Camp Crame; and
6. Teresita Valentino y Laud - Social Worker of the Department of Social Welfare and Development (DSWD).

On May 26, 2005, BBB conducted a surveillance operation of [REDACTED] to verify a report by IJM Manila of prostitution and human trafficking activities therein. Wearing an undercover camera, BBB, with three (3) colleagues, went to the [REDACTED] pretending to be customers. They were greeted by accused YYY who ushered them to a table and plied them with drinks. YYY told BBB's group of the entertainment offered by [REDACTED] to its guests such as young girls dancing naked on stage and provision of girls for sex in their VIP rooms. YYY gave BBB's group a tour of the VIP rooms where, for a fee of ₱1,500.00, customers could engage in sex with girls. YYY likewise informed BBB that customers could opt to bring girls back to their hotel and just pay the bar fine of ₱5,000.00.¹⁶

BBB feigned interest and slight apprehension at the arrangement as it may get him into trouble with the law and the police. YYY quickly assured BBB that the illegal practice to take out girls from the bar and bring them to the customer's hotel was a common practice of their foreigner customers and guests. Prodded further, BBB asked to speak to the bar's manager to confirm the proposed arrangement. YYY thus introduced BBB to the bar owner, accused XXX, who turned out to be a police officer.¹⁷

As a police officer and owner of [REDACTED], XXX allayed BBB's concerns of getting into trouble with the law for taking out underage girls from the bar and having sex with them, specifically AAA who was only 16 years old.

¹⁶ Id. at 115.

¹⁷ Id. at 115-116.

XXX shrugged off BBB's concerns and told the latter that if asked, AAA could simply deny her minority. Moreover, to ensure that there would be no hitch in the arrangement, XXX offered to accompany BBB's group and the girls to a motel.¹⁸

That night, BBB witnessed stage performances by young girls including a strip tease dance and simulation of sexual intercourse by a naked AAA. BBB inquired with XXX if he could have sex with AAA inside the VIP room; XXX made a counter-offer that BBB could instead have oral sex with AAA for ₱1,500.00.¹⁹

After paying ₱1,500.00, BBB was led inside the VIP room where AAA disclosed her age as 16 years old as well as the conditions and circumstances of her work at [REDACTED]. AAA relayed to BBB that: (a) the arrangement to take out girls and pay the bar fine was the usual transaction and practice; (b) she was paid on commission; and (c) she had had sex with customers at least five times in recent months. BBB informed AAA of his real purpose in the bar and instructed her to wait for his payment of the bar fine.²⁰

When BBB and AAA returned to the main bar area, BBB spoke to XXX and YYY and told them that he would return the next day to bring some girls back to their hotels. As required by XXX to ensure availability of the girls, BBB made a deposit of \$40.00.²¹

Upon returning to their hotel, BBB's group secured the evidence they gathered. The following day, they prepared an Intervention Report and submitted copies of the report and the evidence to Police Superintendent Major Sotera Macatangay (Major Macatangay), Chief of the CIDG-Women's and Children's Concern Desk. Later in the evening, BBB and his team returned to the [REDACTED] but were told that the girls were unavailable until May 31, 2005.²²

The CIDG set an entrapment operation at the [REDACTED] and coordinated with the IJM. Before the operation, Major Macatangay ordered PO3 Ong and a CIDG confidential agent to conduct a surveillance of the bar.²³

Thereafter, they gave the following report:

1. There were approximately ten (10) young girls working in the bar;

¹⁸ Id. at 116.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id. at 117.

²³ Id.

2. Approximately five (5) girls danced naked in front of customers while others were entertaining customers at their tables;
3. The interior of the bar consisted of a stage, several tables and four (4) VIP rooms;
4. Accused YYY approached PO3 Ong and offered him sex with one of the girls at one of the VIP rooms;
5. PO3 Ong opted to have a girl at his table who eventually revealed that she was only 17 years old; and
6. PO3 Ong confirmed that prostitution occurred in the bar.²⁴

Forthwith, the entrapment operation was finalized involving BBB's return to the ██████████ to transact with XXX and pay the bar fine for the arrangement to take out girls from the bar and bring to BBB's hotel. PO3 Ong and other police operatives would likewise be present at the bar to arrest XXX once BBB pays him the bar fine.²⁵

At the bar, while AAA and some girls were on stage dancing naked, BBB approached XXX and confirmed his intention to bring girls back to his hotel and pay the bar fine. XXX, assisted by YYY, readily offered four girls, two of whom were minors, at a fee of P5,000.00 per girl, for a total of P20,000.00.²⁶

Meanwhile, PO3 Ong positioned himself at a table beside that of BBB's group. As soon as other police operatives of the CIDG arrived and positioned themselves at strategic locations inside the bar, BBB handed XXX the P20,000.00 marked money as bar fine. Upon XXX's receipt of the money bills, the CIDG operatives approached XXX, introduced themselves as police officers and arrested XXX and YYY. The other accused, Mommy Angel, escaped and slipped through the back door.²⁷

Following a pre-arranged signal of a missed call, the police operatives positioned outside rushed to the bar. Inspector Castillo instructed the police officers and the DSWD representative to secure the women at the bar. Inspector Castillo immediately proceeded to the cashier of the bar and confiscated the business permit which was issued in the name of XXX.²⁸

At the CIDG Headquarters where accused-appellants were brought for investigation, the money bills confiscated from XXX matched the identical bills marked and prepared by the CIDG. The results of the laboratory examination

²⁴ Records, Volume I, p. 284.

²⁵ CA *rollo*, p. 118.

²⁶ *Id.*

²⁷ *Id.* at 118-119.

²⁸ *Id.* at 119.

showed that XXX's hands tested positive for the presence of yellow powder used to mark the money paid by BBB to XXX.²⁹

Meanwhile, AAA was brought to the Women and Children Complaint Division of the CIDG, Camp Crame where she executed a *Sinumpaang Salaysay*³⁰ (SS) with Social Worker Janette B. Borac in attendance. AAA recounted the nature and terms of her employment at the club such as how she was initially employed, payment of wages and commission and hours of work. AAA listed the menu of sexual services for a fee performed by her and other girls for customers of the bar.³¹ She confirmed that the fact of her minority was known to the proprietors of the club, *i.e.* XXX, YYY and accused "Mommy Angel".

AAA further confirmed the practice in the bar for customers, specifically foreigners, to take out girls to bring to their hotel upon payment of the bar fine to any of the three accused. Lastly, AAA stated that she and the other girls were given quotas on which their daily wage rates were based. They received their wages from the bar's owner-proprietor, XXX.³²

For their defense, accused-appellants denied that they committed human trafficking of the girls working at [REDACTED]. Both pointed to their co-accused "Mommy Angel" as the sole culprit who hires girls to work in the bar. XXX denied knowledge of AAA's minority, claiming that she had told him she was already of legal age. XXX maintained that the girls at the bar were not offered for prostitution or sold for sex under an arrangement to pay a bar fine.³³

To refute BBB's testimony, XXX claimed that it was BBB who forced AAA to step out of the bar with him and his companions. According to XXX, the money he received from BBB was a reservation fee for an exclusive show requested by BBB's group. On cross-examination, XXX pointed again to "Mommy Angel" as in charge of the show to be mounted for BBB and his group.³⁴

In his direct testimony, YYY painted the same picture of innocence of illegal activities at [REDACTED]. YYY averred that he was a newly hired errand boy who simply did the bidding of the floor manager of the bar, "Mommy Angel." In fact, both he and AAA applied for work at the same time, and was hired on the spot by "Mommy Angel." Thus, during the raid, he was arrested outside of the bar and was not informed by the arresting officers of the reasons for his arrest. On the whole, YYY denied knowledge of and participation in the

²⁹ Id. at 119-120.

³⁰ Records, Volume I, pp. 14-17.

³¹ Id.

³² Id. at 15-16.

³³ Id. at 45-46.

³⁴ Id. at 46.

purported prostitution and human trafficking activities occurring at [REDACTED]

[REDACTED].³⁵

On December 28, 2005, AAA executed (another) *Sinumpaang Salaysay ng Pag-uurong ng Habla o Reklamo*³⁶ recanting her earlier testimony³⁷ against accused-appellant XXX.

Thereafter, on January 18, 2006, on cross-examination, AAA claimed that XXX had no knowledge of her minority and did not allow or tolerate illegal activities such as prostitution and human trafficking at [REDACTED]. AAA likewise exculpated YYY from liability and consistent with accused-appellants' defense, pointed to accused "Mommy Angel" as the sole culprit for the illegal activities occurring at the bar. AAA thus moved to dismiss the case which was denied by the RTC in its April 16, 2007 Order.³⁸

Ruling of the Regional Trial Court:

On September 17, 2009, the RTC rendered its Decision³⁹ convicting XXX and YYY of the charge:

WHEREFORE, this Court finds both accused XXX and YYY GUILTY beyond reasonable doubt of the crime charged and hereby sentences both accused to suffer the penalty of **LIFE IMPRISONMENT and to pay a FINE of TWO MILLION (Php2,000,000.00) Pesos, Philippine Currency**.

Let the case against JOHN DOE alias "MOMMY ANGEL", who is at large, be as it is ARCHIVED, and a warrant of arrest issue against her.

Let this Decision be recorded in the criminal case docket of this Court.

SO ORDERED.⁴⁰

The trial court found accused-appellants XXX and YYY guilty of Qualified Trafficking in Persons under Sections 4 and 6 of RA 9208 in relation to Section 3 thereof and Sections 3 and 6 of RA No. 9231 amending Sections 12 and 16 of RA 7610. Contrary to XXX's and YYY's disavowal of knowledge and participation in the trafficking of young girls at [REDACTED], the RTC ruled that the two accused-appellants, consistent with Section 4 (a and e), qualified by Section 6 (a, c and f) of RA 9208, knowingly recruited, maintained and employed under-age girls for prostitution and sexual exploitation.

Notwithstanding AAA's recantation, the RTC upheld the totality of the evidence presented by the prosecution including the testimonies not just of

³⁵ TSN, June 18, 2007, pp. 5-15.

³⁶ Records, Volume I, pp. 378-380.

³⁷ Affidavit dated June 1, 2005 and her testimony in open court on December 15, 2005.

³⁸ *Rollo* p. 8.

³⁹ Records, Volume II, pp. 694-727.

⁴⁰ CA *rollo*, pp. 199-200.

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AAA but other prosecution witnesses, namely: (a) BBB, supported by documentary evidence of video recordings during his surveillance of [REDACTED]; (b) PO3 Ong; (c) Forensic Chemist Sr. Insp. Grapete, as well as (d) the social worker. The RTC ruled that BBB's and PO3 Ong's testimonies positively identified XXX and YYY as direct participants in the Qualified Trafficking in Persons of young girls working at [REDACTED].⁴¹

According to the RTC, the prosecution established beyond reasonable doubt that accused-appellants were the proprietors of the [REDACTED] who hired and employed underage girls and offered them for prostitution and sexual exploitation to paying customers of the bar. Despite AAA's recantation, BBB and PO3 Ong directly testified to accused-appellants' human trafficking activities in [REDACTED]. Based on separate surveillance operations, the RTC found that YYY and XXX offered both BBB and PO3 Ong sexual services of the girls of [REDACTED] involving either use of the bar's VIP rooms or payment of the bar fine to take out girls to bring to a customer's hotel.⁴²

Ruling of the Court of Appeals:

On Notice of Appeal⁴³ filed by accused-appellants XXX and YYY, the CA affirmed their conviction:

WHEREFORE, in the light of the foregoing premises, the instant **APPEAL** is hereby **DENIED**. Hence, the Decision dated September 17, 2009 of the Regional Trial Court, Manila, Branch 09 in Criminal Case No. 05-236956 is hereby **AFFIRMED**.

SO ORDERED.⁴⁴

The appellate court also ruled that all the elements of the offense of Qualified Trafficking in Persons under RA 9208 were established and proven by the prosecution beyond reasonable doubt.⁴⁵

According to the CA, accused-appellants performed all the elements in the commission of Qualified Trafficking in Persons under RA 9208 "when they recruited and hired AAA and peddled her services to, and in exchange for money from, BBB and his companions who acted as decoys."⁴⁶ The appellate court affirmed the trial court's finding that AAA was a minor at the time she worked at [REDACTED] and performed sexual services for the bar's customers. The CA sustained the RTC's ruling that AAA's minority and XXX's position qualified the nature of the offense pursuant to Section 6 (a and f) of RA 9208.⁴⁷

⁴¹ Id. at 197-198.

⁴² Id. at 199.

⁴³ *Rollo*, pp. 16-18.

⁴⁴ Id. at 14.

⁴⁵ Id. at 11.

⁴⁶ Id.

⁴⁷ Id. at 11-14.

Issue

Hence, this appeal by accused-appellants XXX and YYY raising the lone error that:

THE [RTC AND THE CA] GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT XXX AND YYY, DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.⁴⁸

In their Appellants' and Supplemental Briefs,⁴⁹ XXX and YYY maintain their innocence and insist that the evidence proffered against them did not establish their guilt beyond reasonable doubt.

In the main, XXX invokes that AAA, the supposed trafficked person, recanted her previous testimony and eventually exculpated him from any wrongdoing. Consequently, XXX persists that the prosecution's evidence, which the lower courts accorded more weight to, crumbles without proof that he had knowledge of AAA's minority and any of the alleged prostitution and trafficking activities which occurred at [REDACTED].⁵⁰

Accused-appellants also contend that they were framed by PO3 Ong as the latter admittedly did not have personal knowledge of what occurred inside the bar's VIP rooms. XXX and YYY further argue that BBB's testimony was uncorroborated and full of inconsistencies. In all, XXX and YYY emphasize that the prosecution failed to present direct and positive evidence of their actual participation in the alleged prostitution and trafficking of girls working at the bar.⁵¹

Our Ruling

We sustain accused-appellants' convictions.

Factual findings of the trial court, especially when affirmed by the appellate court, are accorded utmost respect especially when there is no indication that the courts overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case.⁵²

As found and ruled by the lower courts, the prosecution established beyond reasonable doubt that accused-appellants XXX and YYY committed acts of

⁴⁸ CA *rollo*, p. 62.

⁴⁹ Id. at 37-57, 155-165; *rollo*, pp. 81-86, and 67-75.

⁵⁰ CA *rollo*, pp. 47-48.

⁵¹ Id. at 53-55.

⁵² *People v. Dela Rosa*, G.R. No. 227880, November 6, 2019; *Arambulo v. People of the Philippines*, G.R. No. 241834, July 24, 2019.

Trafficking in Persons under RA 9208 which were qualified by the minority of one of the victims and the status of XXX as a police officer.⁵³

Section 3(a) of RA 9208 merely provides for the general definition of “Trafficking in Persons” as the specific acts punishable under RA 9208 are found in Sections 4 and 5 on “Acts of Trafficking in Persons” and “Acts that Promote Trafficking in Persons.” The crime of “Trafficking in Persons” becomes qualified under the circumstances listed in Section 6 of the law.

In this case, the charge against and conviction of accused-appellants XXX and YYY fall under Section 4 (a and e) in relation to Section 6 (a and f) of RA 9208:

Section 4. *Acts of Trafficking in Persons* — It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer, harbor, provide, or receive a person by any means, including those done, under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography or sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

x x x x

(e) To maintain or hire a person to engage in prostitution or pornography.

Section 6. *Qualified Trafficking in Persons*. – The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

(b) x x x

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;

(d) x x x

(e) x x x

(f) When the offender is a member of the military or law enforcement agencies.

Jurisprudence has listed the elements of the offense derived from the definition under Section 3 (a) of RA 9208:

⁵³ *Rollo*, pp. 9-11.

(1) The act of “recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders.”

(2) The means used which include “threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another”; and

(3) The purpose of trafficking is exploitation which includes “exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.”⁵⁴

Section 3 (a) further states that “[t]he recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as ‘trafficking in persons’ even if it does not involve any of the means set forth in the preceding paragraph.”

Paragraph c of the same Section 3 likewise defines prostitution:

SEC. 3. *Definition of terms.* - As used in this Act:

x x x x

(c) *Prostitution* – refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

From the foregoing provisions, we map out the elements of the offense of Qualified Trafficking in Persons established and proven by the prosecution in this case.

First. AAA was recruited by YYY and hired by XXX to work in [REDACTED] [REDACTED] for the purpose of prostitution or sexual exploitation. AAA and other young girls working at [REDACTED] danced on stage and performed other sexually exploitative acts to lure customers to go to the VIP rooms. The girls working at [REDACTED] were offered to customers and patrons of the bar to perform sexual services in exchange for a fee. AAA attested to the work she performed at [REDACTED], to wit:

RE-DIRECT EXAMINATION

ATTY. BICOL, JR.:

Q You said that you need to attract customers to have bigger income?

A Yes, sir.

Q How can you earn more by attracting customers as a dancer?

⁵⁴ *People v. Casio*, 749 Phil. 458, 472-473 (2014).

A Once I attract [a] customer through dancing, naturally the customer will ask me to table with him and the customer will order some drinks for me, sir.

Q After drinking lady's drinks, what happened usually?

A We will talk whether we have to proceed to the VIP room or we will do some other things, sir.⁵⁵

It matters not that AAA subsequently testified that XXX and YYY had no control over her sexual transactions with customers inside the VIP rooms. In fact, AAA testified that she independently transacted with customers regarding her sexual performances inside the VIP rooms:

ATTY. LEILINA:

Q Now, let us go to the VIP room, according to you on page 13 of the transcript, that it depends on the customers if he would want an oral sex or sex?

A Yes, sir.

Q Meaning, the transaction is between you and the customer only?

A Yes, sir.

Q And again, without any participation of the floor manager or anybody [for] that matter?

A Yes, sir.

Q Nor the supposed owner?

A Yes, sir.

Q And it depends upon your agreement with your customer if you are being paid of (*sic*) One Thousand Pesos, or One Thousand Five Hundred Pesos or Five Hundred Pesos, it depends upon the services. Is that it?

A Yes, sir.

Q Of course, this is also without the participation of the floor manager?

A Yes, sir.

Q And moreso, this is without the participation or knowledge of the supposed owner. Is that it?

A Yes, sir.⁵⁶

Yet, clearly, straight out of the mouth of recanting witness AAA, she performed various sexual services for customers of [REDACTED] inside the bar's VIP rooms for a fee.

Second. At the time AAA was hired at [REDACTED] in April 2005 until her rescue during the entrapment operation on May 31, 2005, she was a child, below 18 years of age.⁵⁷ AAA's minority was never challenged or refuted by accused-appellants. Further, conclusive evidence of AAA's minority was

⁵⁵ TSN, January 18, 2006, p. 52.

⁵⁶ Id. at 17-19.

⁵⁷ Republic Act 9208, Section 3(b).

established upon the presentation of her Certificate of Live Birth showing that she was born on July 17, 1987, below 18 years of age in April to June 1, 2005, the period of her employment at [REDACTED].

Section 3(a) of RA 9208 clearly provides that the recruitment and receipt of a child for purposes of exploitation, even if it does not involve the means listed in the same provision, will be considered "Trafficking in Persons."

Third. XXX was a police officer, a fact that was stipulated on during the Pre-Trial before the RTC. XXX was likewise the owner-proprietor of [REDACTED] Bar. Several official records pertain to XXX as owner-proprietor of the bar such as the Business Permit for [REDACTED] issued in XXX's name and the Certification from the Office of the City Treasurer of Manila of XXX's payment thereof and other taxes of the bar.

In addition, BBB testified that on the night of his surveillance of [REDACTED] on May 26, 2005, XXX introduced himself as a police officer and the owner of the bar, and even gave BBB his business card.⁵⁸

Fourth. YYY and XXX similarly offered the sexual services of AAA and other girls working at [REDACTED] to customers. BBB and PO3 Ong both testified that YYY, on separate occasions, offered BBB and PO3 Ong, who were posing as customers, the use of the VIP rooms for all kinds of sexual entertainment and pleasure with girls whom they fancied.

Moreover, consistent with his ownership of [REDACTED] and the hiring of the girls who work there, BBB personally transacted with XXX regarding the bar fine arrangement.

BBB's testimony is corroborated by video footage of his discussions with XXX and YYY at [REDACTED] on the separate nights of May 26 and 31, 2005. These video recordings were viewed by the trial court during BBB's testimony and thereafter submitted in evidence.⁵⁹

⁵⁸ Records, Volume II, p. 615.

⁵⁹ Id. at 617-618.

Exhibit "T"

YYY: We have the VIR rooms, Sir. Ahhh ano.. You can take the girl inside

BBB: What can we do in...?

YYY: Anything, everything.

BBB: Everything, like everything?

YYY: Yes, Sir!

BBB: Really? How much can we take the girls there in?

YYY: Php1,500.00

BBB: So, we have to pay Php1,500.00 to take the girl in a room?

YYY: Yes, sir!

BBB: Give a tip to a girl.

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YYY: Yes, sir.

BBB: So, what is a good tip?

YYY: It's up to you, sir.

BBB: Php500.00?

YYY: It's up to you... It's up to you

BBB: And when you say, when you say everything, what does it mean?

YYY: You know that Sir. Okay? You know that!

BBB: Can I get more than one? Cause sometimes I'm a little greedy.

YYY: Yes, sir! No problem.

BBB: How long can we be here?

YYY: As long as you want!

BBB: Really? Ah we came to the right place ha... I'm BBB.

YYY: I'm Jun, the floor manager here.

BBB: Jun?

YYY: Jun!

BBB: So, I just don't wanna get in trouble for doing...

YYY: No problem Sir.

BBB: When you say everything you mean "fucking" is okay?

YYY: Yes, satisfaction Sir. Everything is satisfied here... [REDACTED]

BBB: Can you show us the room?

YYY: Yes sir!

YYY: Tol, sounds!

YYY: Sir here... No disturbances cause this.. So the girl is here, any position do you have (sic).

We have ladies; we have four San Mig Lights to the ladies so that you can also drink.

BBB: And ah, but there's no bed, you know for fucking, you know sex... cannot..

YYY: No, it's about girl and you. If I ask the girl, can you fuck my guest? Whatever I can, I say, they will follow me.

BBB: Okay.

YYY: Just give the girl a tip and the floor manager also.

Exhibit "T-1"

XXX: As long as they arrived already, we will settle the amount...to settle the...

BBB: What's that?

YYY: The deal.

BBB: Oh no problem, yeah.

XXX: Five each.

BBB: Yes, ₱5,000.00 each girl.

BBB: And Angel just said that these girls are available for sex with my friends also?

XXX: Yeah.

BBB: I think she is... Kim is 17 and Byner is 16.

YYY: 16

BBB: That's okay that they come to the Hotel? Do you think I will have no problem?

XXX: Yeah, no problem. Don't give the money outside.

Notably, accused-appellants YYY and XXX both confirmed to an apprehensive BBB that the bar fine arrangement could be facilitated with impunity because XXX, a police officer, could accompany BBB's group with the girls back to BBB's hotel and AAA could deny her minority should any questions arise.

Plainly, the elements of the offense of Qualified Trafficking in Persons under Section 4 (a and e) in relation to Section 6 (a, c and f) of RA 9208 were established by the prosecution. The lower courts based their conviction of XXX and YYY on the presence of all these elements.

Notwithstanding the foregoing, accused-appellants XXX and YYY bewail that the prosecution did not sufficiently establish their guilt beyond reasonable doubt and the lower courts were mistaken in convicting them of Qualified Trafficking in Persons under RA 9208.

Accused-appellants' entire defense is one of outright and complete denial of trafficking activities and prostitution at [REDACTED] except for XXX's admission that he is a police officer.

Both XXX and YYY deny that they recruited and hired AAA to work at [REDACTED] for purposes of prostitution and sexual exploitation. They claim that they were not aware of AAA's age at the time of her recruitment and employment at [REDACTED] as well as of all her activities with the customers of the bar.

XXX and YYY insist that the lower courts erred in giving credence to the evidence of the prosecution, specifically the testimonial evidence of all the witnesses, which consisted of inconsistent and contradictory statements. In particular, XXX and YYY decry that AAA's subsequent *Sinumpaang Salaysay* dated December 28, 2005 and her testimony on cross-examination were not accorded probative weight by the trial and the appellate courts.

We are not convinced. We cannot overemphasize that the trial court's assignment of probative value to witnesses' testimonies will not be disturbed except when significant matters were overlooked, because it "has the opportunity to observe the demeanor of a witness on the stand." The trial court's findings acquire even greater weight once affirmed on appeal.⁶⁰

Although it is not our duty to look and sift through the evidence, it is noteworthy that accused-appellants' defense of denial does not hold a candle to the overwhelming evidence established by the prosecution. The burden of proof

BBB: Okay, you sit beside me and I will just give it to you. No problem.

XXX: In here, inside the VIP.

BBB: Don't worry about that. My friends, are...money is not much for them. So don't worry about that.

⁶⁰ *People v. Dela Rosa*, *supra* note 52.

on the prosecution to establish the guilt of the accused beyond reasonable doubt and the presumption of innocence in favor of the accused do not detract from the latter's burden to substantiate their defense by clear and convincing evidence.⁶¹

Accused-appellants' bare denials were uncorroborated and weak without so much as an explanation on: (1) XXX's presence at the [REDACTED] on those two occasions; (2) the registration of official records for the bar in XXX's name; (3) XXX's and YYY's transactions with BBB during the latter's surveillance and entrapment operations which were recorded on video; and (4) sexual exploitation of girls in the bar performing on stage. In all, accused-appellants' denial cannot be given greater evidentiary value over the positive and direct testimony of credible witnesses who testify on affirmative matters.⁶²

As against the solid evidence presented by the prosecution, XXX and YYY continue to insist that the trafficked person's, AAA's, testimony sufficiently debunked the evidence against them. XXX and YYY's roughly drawn defense hinged on AAA's desistance as complainant and BBB's and PO3 Ong's purportedly weak testimonies.

We disagree.

First. To begin with, the different items of evidence that taken together go to establish an accused's guilt need not be shown beyond reasonable doubt, such doctrine only applying to the guilt or innocence of the accused on the whole case.⁶³ Every subordinate fact need not be proved beyond reasonable doubt.⁶⁴

A recantation or an affidavit of desistance is viewed with suspicion and reservation. The Court looks with disfavor upon retractions of testimonies previously given in court. The rationale for the rule is obvious: affidavits of retraction can easily be secured from witnesses, usually through intimidation or for a monetary consideration. Recanted testimony is exceedingly unreliable. There is always a possibility that it will later be repudiated. Only when there exist special circumstances in the case, which when coupled with the retraction raise doubts as to the truth of the testimony or statements given, can retractions be considered and upheld.⁶⁵

Unfortunately for accused-appellants, the direct testimony of AAA attesting that XXX and YYY recruited and hired her for purposes of sexual exploitation and prostitution is corroborated by the testimonies of BBB and PO3 Ong as well as the physical evidence showing XXX's receipt of ₱20,000.00 in marked money as payment for the bar fine transaction, and the video footage of

⁶¹ See *Santiago v. People*, G.R. No. 213760, July 1, 2019.

⁶² See *People v. De Dios*, 832 Phil. 1034 (2018).

⁶³ *Butt v. State*, 81 Ark. 173 cited in Francisco, *Basic Evidence*, Second Edition, 1999.

⁶⁴ *State v. Fish*, 170 Ind. 166 cited in Francisco, *Basic Evidence*, Second Edition, 1999.

⁶⁵ *Regidor, Jr. v. People*, 598 Phil. 714, (2009).

XXX and YYY confirming to BBB the sexual services offered by [REDACTED] through the use of the VIP rooms and the bar fine arrangement.

While there is no fixed rule by which the credibility of a witness is tested,⁶⁶ the credibility of AAA was impaired when she contradicted herself as to her recruitment and hiring by XXX and YYY. Consequently, the weight of her testimony seeking to absolve accused-appellants is reduced.

Certain points of AAA's entire testimony, from her direct, cross, re-direct and re-cross examination, thus becomes rigid and incredible on the following points:⁶⁷

- (1) XXX's ownership of [REDACTED] and direct management thereof;
- (2) XXX's hiring of AAA as dancer and payment of salaries;
- (3) YYY's position and function as Floor Manager, along with accused "Mommy Angel", of [REDACTED];
- (4) AAA controlled the work she performed in the bar without influence from either XXX or YYY;
- (5) Neither XXX nor YYY actually knew what went on inside the VIP rooms; and
- (6) XXX did not tolerate or allow prostitution and trafficking activities in the bar.

On this point, we refer to the re-direct testimony of AAA on January 18, 2006:

RE-DIRECT EXAMINATION BY ATTY. BICOL, JR.:⁶⁸

Q You said that you need to attract customers to have bigger income?

A Yes, sir.

Q How can you earn more by attracting customers as a dancer?

A **Once I attract customer through dancing, naturally the customer will ask me to table with him and the customer will order some drinks for me, sir.**

Q After drinking lady's drinks, what happened usually?

A **We will talk whether we have to proceed to the VIP room or we will do some other things, sir.**

Q What is the normal transaction of [REDACTED]?

A With me only, sir.

⁶⁶ U.S. Lee Huen, 118 Fed. Rep. 442, 459 cited in Francisco. Basic Evidence, Second Edition, 1999.

⁶⁷ See *People v. Sunga*, 598 Phil. 165 (2009).

⁶⁸ Counsel for private complainant International Justice Ministries.

Q When you were hired by XXX you understood about the transaction?

A Yes, sir.

Q You said that the floor manager's job is to entertain customers?

A Yes, sir.

Q They are also the one who offer girls for table?

A Yes, sir.

Q Was there also an instance that YYY offered you for sex services at the VIP room?

A None, sir. When it comes to sexual services at the VIP room, it was Mommy Angel whom I talked to, sir.

Q Have you heard the way YYY offering (sic) girls to customers?

A No, sir.

Q Why do you [presume] that XXX knows about the transaction that happened at the [REDACTED]?

A It is normal in the Club so I presumed that XXX knows everything that happened in the club, so I presumed he knows, sir.

Q When you say normal, do you mean to say that it also happened to other girls not only to you?

A That I do not know because I do not mind and care to others, sir.

Q You also said that you were not forced to do such sexual services to customers or to dance on stage?

A I was not forced, sir.

Q How old were you then when you were offered for sexual services?

A During that time I was seventeen (17) years old, sir.

Q You were rescued on May 31, 2005. Is that correct?

A Yes, sir.

x x x

COURT:

Q How many dancers were rescued?

A Eleven (11) girls, Your Honor.

COURT:

Proceed.

ATTY. BICOL, JR.:

Q At the time of the rescue, that was also the time that BBB came to the bar, did he talk to you?

A Yes, sir.

Q That night of the rescue?

A Yes, sir.

Q Did he talk to XXX, YYY and to Angel that night?

A At first night, BBB talked to the floor manager Mommy Angel, sir.

Q Did you hear what their conversation was all about?

A No, sir.

Q **You said that BBB paid Twenty Thousand (P20,000.00) Pesos to XXX as Bar Fine?**

A Yes, sir.

Q **When you say Bar Fine, what does it mean?**

A **It depends on what kind of services when you go out with the customers, sir.**

Q **What usually happened for a bar fine?**

A **It usually involved sex services, sir.**

Q **You mean to say that it is normal occur[r]ence that sex would happen if a girl is bar fine?**

A Yes, sir.

Q **That was also your understanding during that time?**

A Yes, sir.

Q **You said that Ten Thousand (P10,000.00) Pesos is not for you?**

A Yes, sir.

Q **But for the four (4) of you?**

A Yes, sir.

Q **Who are you referring to?**

A **To CCC, me, DDD and EEE, sir.**

Q How about XXX and YYY? How much did they receive as commission?

A That I do not know, sir.⁶⁹ (emphasis supplied)

x x x x

ATTY. BICOL, JR.:

Q You said that Angel is the effective floor manager?

A Yes, sir.

Q Who pays the salary of Angel?

A The cashier, sir, we have cashier there.

x x x x

Q To whom does Angel report to?

A To XXX, sir.

RE-DIRECT EXAMINATION BY SENIOR STATE PROSECUTOR PEREZ:

Q Ms. witness, do you remember appearing in the Department of Justice?

⁶⁹ TSN, January 18, 2006, pp. 52-60.

A Yes, ma[']am.

Q And during the proceeding, you were made to affirm and subscribe your sworn statement or complaint affidavit?

A Yes, ma'am.

Q And during that incident, you were asked exclusively that you re-affirmed and understood your affidavit clearly?

A Yes, ma'am.

Q And you said "yes"?

A Yes, ma'am.

Q In fact, you affirmed before Prosecutor Noe that you signed said affidavit knowingly?

A Yes, ma'am.

Q In your affidavit, you mentioned that it was XXX who gave your salary?

A Yes, ma'am.

Q And your salary is given to you just before you go home every night?

A Yes, ma'am.

Q And since you were paid nightly, it was XXX who handed to you the salary?

A Yes, ma'am.

Q That is what was stated in your affidavit?

A Yes, ma'am. We have a cashier.

x x x x

Q Can you tell us where XXX lived?

A Yes, ma'am.

Q Where does XXX live?

A It is right beside the [REDACTED], ma'am.

Q Who lived in the house which you said is beside the [REDACTED]?

A The father and mother of XXX and XXX himself lived adjacent to the bar, ma'am.

x x x x

Q The parents of XXX, do you know them?

A No, ma'am.

Q Did they go to the [REDACTED] Bar?

A Seldom, ma'am.

Q Do you remember telling his mother to give your salary?

A One time, his mother gave me my salary, ma'am.

Q But most of the time, it was XXX who gave your salary?

A No, ma[']am. It was the cashier.

COURT:

Q Do you know the name of the cashier?

A No, your honor.

COURT:

Proceed.⁷⁰

Second. Despite the self-contradiction, we can refract several unrefuted points from AAA's testimony:

- (1) her minority,
- (2) the sexual services she performed for [REDACTED] customers,
- (3) the utility of the VIP rooms, and
- (4) the bar fine arrangement.

Palpably, the totality of the prosecution's evidence, *i.e.*, testimonial, physical, and documentary, established the guilt of accused-appellants for acts of Qualified Trafficking in Persons under Section 4(a and e) in relations to Section 6 (a, c, f) of RA 9208.

Third. Significantly, the testimonies of BBB and PO3 Ong, as well as the documentary and physical evidence, establish accused-appellants' act, transaction, scheme or design of prostitution and sexual exploitation of AAA and the other girls working at [REDACTED].

As previously noted herein, Section 3 (c) of RA 9208 provides:

SEC. 3. *Definition of terms.* - As used in this Act:

x x x x

(c) Prostitution – refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

Accused-appellants point out that PO3 Ong and BBB do not have personal knowledge of supposed sexual activities that occur inside the VIP rooms.

Accused-appellants' argument reveals their depravity.

The acts under Section 4 (a and e) of RA 9208 do not require proof of actual sexual intercourse to establish the purpose of prostitution or sexual exploitation. It is enough that the act, transaction, scheme or design involving the use of a person by another for sexual intercourse or lascivious conduct in exchange for a consideration is proven.

⁷⁰ Id. at 61-68.

In this case, BBB's and PO3 Ong's respective testimonies that YYY offered them use of the VIP rooms for sexual services by any of the girls working in the bar whom they fancied for a fee consummates the offense of Trafficking in Persons under Section 4 (a and e) of RA 9208.

Fourth. With the foregoing discussion, the arguments of XXX and YYY that they had no knowledge of AAA's minority and AAA was some sort of an independent sex contractor are decimated by our ruling in *People v. Casio*:⁷¹

For liability under our law, [the] argument is irrelevant. As defined under Section 3 (a) of Republic Act No. 9208, trafficking in persons can still be committed even if the victim gives consent.

xxx The victim's consent is rendered meaningless due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking. Clearly, even without the use of coercive, abusive or deceptive means, a minor's consent is not given out of his or her own free will.⁷²

Finally, while we affirm the penalty imposed on accused-appellants of life imprisonment and payment of fine of two million pesos,⁷³ we award AAA, despite her desistance in pursuing the case, moral damages in the amount of ₱500,000.00 and exemplary damages in the amount of ₱100,000.00⁷⁴ with interest at the rate of six percent (6%) *per annum* from finality of this Decision until full satisfaction thereof.⁷⁵

The award of moral and exemplary damages is consistent with our holding herein that AAA, who was a minor when she was trafficked by accused-appellants, could not have given valid consent to her sexual exploitation and prostitution.⁷⁶

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision dated May 23, 2016 of the Court of Appeals is **AFFIRMED** with the following **MODIFICATIONS**:

Accused XXX and YYY are ordered to separately pay AAA:

- (1) ₱500,000.00 as moral damages;
- (2) ₱100,000.00 as exemplary damages; and
- (3) six percent (6%) interest *per annum* on the monetary awards from finality of this Decision until full satisfaction thereof.

⁷¹ Supra note 49.

⁷² 749 Phil. 458, 475-476 (2014).


⁷³ Republic Act No. 9208, Section 10 (c).

⁷⁴ *People v. Casio*, supra note 49.


⁷⁵ *People v. Bandojo*, G.R. No. 234161, October 17, 2018.


⁷⁶ *Id.*

SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice
Chairperson



HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

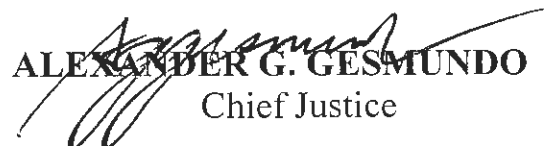
I attest that conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

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.



ALEXANDER G. GESMUNDO
Chief Justice