



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

XXX,<sup>1</sup>

Petitioner,

G.R. No. 256759

Present:

- versus -

LEONEN, S.A.J., Chairperson,  
 LAZARO-JAVIER,  
 LOPEZ, M.,  
 LOPEZ, J., and  
 KHO, JR., JJ.

PEOPLE OF THE  
 PHILIPPINES, Respondent.

Promulgated:

NOV 13 2023

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DECISION

KHO, JR., J.:

Assailed in this petition for review on *certiorari*<sup>2</sup> under Rule 45 of the Rules of Court are the Decision<sup>3</sup> dated November 9, 2020 and the Resolution<sup>4</sup>

<sup>1</sup> 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 RA 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; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 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) [Per J. Perlas-Bernabe, Second Division], citing *People v. Lomaque*, 710 Phil. 338, 342 (2013) [Per J. Dei Castillo, Second Division]. 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," dated September 5, 2017.

<sup>2</sup> *Rollo*, pp. 7-30.

<sup>3</sup> *Id.* at 55-68. Penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Fernanda Lampas Peralta and Tita Marilyn B. Payoyo-Villordon, concurring.

<sup>4</sup> *Id.* at 52-54.

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dated June 7, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 42777, which affirmed the Decision<sup>5</sup> dated October 30, 2018 of the Regional Trial Court of [REDACTED], Branch 94 (RTC), convicting petitioner XXX (petitioner) for violation of Section 5(i) of Republic Act No. (RA) 9262, otherwise known as the “Anti-Violence against Women and their Children Act of 2004.”

### The Facts

This case stemmed from an Information<sup>6</sup> filed before the RTC, charging petitioner of violation of Section 5(i) of RA 9262,<sup>7</sup> otherwise known as the “Anti-Violence Against Women and their Children Act of 2004,” the accusatory portion of which reads:

“That on or about the month of June 2014 up to the present, in [REDACTED], Philippines, the above named accused, being the legal husband of [AAA256759], did then and there willfully, unlawfully and feloniously inflict mental and emotional anguish through psychological and emotional abuse on said [AAA256759], by forcing her to give him several amount of cash and to contract a loan on the pretext that the proceeds shall be used to purchase a Van for their business, to augment the tuition fees of the children, and thereafter failing to account for all the money and further continuously refusing to pay the tuition fees of their children, which are all tantamount to acts of violence against her and their common children, all to their damage and prejudice.

CONTRARY TO LAW.”<sup>8</sup>

The prosecution alleged that sometime in 2012, petitioner persuaded his wife, AAA256759, to obtain a loan that will be used for the education of their children and to start a UV Express business as his income was not enough for their family expenses. Petitioner likewise told AAA256759 that should the UV Express business earn enough, she can go back to law school. AAA256759 initially refused, but eventually acceded when petitioner told her that the earnings from the rental business will be used to augment the tuition fees of their children.<sup>9</sup>

The prosecution further alleged that on May 20, 2014, AAA256759’s loan application from Metrobank España Branch (Metrobank) was approved, and the proceeds thereof in the amount of PHP 1,000,000.00 was credited to her joint bank account with petitioner. Subsequently, upon the request of petitioner, AAA256759 issued and encashed two checks in the total amount

<sup>5</sup> *Id.* at 33–40. Penned by Presiding Judge Roslyn M. Rabara-Tria.

<sup>6</sup> *Id.* at 33.

<sup>7</sup> Entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES,” approved on March 8, 2004.

<sup>8</sup> Records, pp. 1–2.

<sup>9</sup> *Rollo*, p. 56.

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of PHP 615,000.00 on June 6 and 9, 2014, respectively, supposedly for the purchase of the van and the payment of the tuition fees of their children. Thereafter, or on October 1, 2014, AAA256759 again issued and encashed another check in the amount of PHP 200,000.00 because petitioner told her that the money he had with him was not enough to purchase the van. Sometime in November 2014, petitioner took AAA256759's Metrobank ATM card, and was able to withdraw money from it in the total amount of PHP 120,000.00, which he claimed will be used to pay the tuition fees of their children. However, AAA256759 found out that petitioner was not able to buy the van, nor was he able to pay their children's tuition fees. AAA256759 then demanded petitioner to return the money, but to no avail. Between December 2014 and January 2015, petitioner again asked for PHP 250,000.00 from AAA256759, but when the latter refused, he did not communicate with her anymore.<sup>10</sup>

The prosecution also alleged that on March 20, 2015, AAA256759 went to petitioner's workplace at [REDACTED] in Pasig City but was not able to talk to him. AAA256759 then proceeded to the barangay hall of Barangay Ugong in Pasig City to ask them to summon petitioner, but they refused since the latter was not a resident of the place. Consequently, AAA256759 asked them to enter the incident in the barangay blotter. On April 1, 2015, AAA256759, together with her children, went to [REDACTED] and was able to talk to petitioner. Petitioner asked her what they were doing there, pointed a finger at her, and gave her PHP 4,000.00. When AAA256759 showed him the Statement of Account due to the school, petitioner took it and told her, "This is not the right place to talk about this, *magdemandahan na lang tayo.*" AAA256759 then went to the barangay hall to have the said incident recorded. AAA256759 and her children returned several times to petitioner's workplace and residence, but were unable to meet him.<sup>11</sup>

AAA256759 claimed that her relationship with petitioner and their financial problems affected her physically, emotionally, and psychologically, and that because of this, she became sick and contracted pneumonia. AAA256759 likewise averred that at times, she could not focus on her work and that her officemates would often tell her to take a break. Aggrieved, AAA256759 filed a complaint for violation of RA 9262 before the National Bureau of Investigation (NBI). AAA256759's testimony was corroborated by the testimonies of: (a) their two children, BBB256759 and CCC256759; (b) Dr. Josephine I. Gatdula, a psychiatrist; and (c) Pamela C. Paredes, NBI Psychologist II.<sup>12</sup>

For his part, petitioner denied the charges against him, claiming, instead, that out of his monthly income of PHP 30,000.00, he gave PHP 14,500.00 as family support, and that it was AAA256759's idea to apply for

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<sup>10</sup> *Id.* at 56–57.

<sup>11</sup> *Id.* at 57.

<sup>12</sup> See *id.* at 34–36. See also *id.* at 55–60.

a loan to pay for their children's tuition fees. He likewise denied that he suggested to buy a van and put up a UV Express business since it requires a franchise and has a lot of requirements. He further averred that during that time, they were separated and that it was only AAA256759 who followed up and eventually received the proceeds of the loan. He admitted that he received from AAA256759 the aggregate amount of PHP 630,000.00 given in several tranches, but claimed that the same was used in their microlending business. He likewise claimed that he was depositing the proceeds of the loan from the microlending business to AAA256759's bank account.<sup>13</sup>

Petitioner then insisted that: (a) he provided support to their children and gave money for their tuition fees; (b) he bought CCC256759 a laptop worth PHP 25,000.00 and BBB256759 clothes worth PHP 10,000.00; (c) he paid for the family dinner in November 2014 worth PHP 10,000.00; and (d) he purchased Christmas gifts for their children. He further alleged that sometime in 2015, he stopped the microlending business as some of the borrowers were unable to pay their debts. He likewise denied refusing to pay his children's tuition fees but admitted that sometimes the payment was delayed due to lack of funds. He then signed a manifestation indicating his willingness to pay their children's tuition fees.<sup>14</sup>

### The RTC Ruling

In a Decision<sup>15</sup> dated October 30, 2018, the RTC found petitioner guilty beyond reasonable doubt of violation of Section 5(i) of RA 9262, and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of two years, four months, and one day of *prision correccional*, as minimum, to six years and one day of *prision mayor*, as maximum, and to pay a fine in the amount of PHP 100,000.00. It likewise ordered petitioner to undergo mandatory psychological counseling at the Social Services Development Department in [REDACTED].<sup>16</sup>

In so ruling, the RTC ruled that the prosecution was able to prove all the elements of the crime charged since it was proven that: (a) AAA256759 and petitioner were husband and wife, and that they had children; (b) AAA256759 and their children suffered mental and emotional anguish when petitioner failed to account for the proceeds of the loan they obtained from Metrobank; (c) petitioner admitted that he received PHP 630,000.00 from AAA256759 taken from the proceeds of the loan, but claimed that it was used for their microlending business; and (d) petitioner failed to present evidence that he engaged in a microlending business in their office, and that he used a part of the proceeds of the loan for his family.<sup>17</sup>

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<sup>13</sup> *Id.* at 60-61.

<sup>14</sup> See *id.* at 37. See also *id.* at 60-61.

<sup>15</sup> *Id.* at 33-40.

<sup>16</sup> *Id.* at 39.

<sup>17</sup> *Id.* at 37-39.

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Aggrieved, petitioner appealed to the CA.

### **The CA Ruling**

In a Decision<sup>18</sup> dated November 9, 2020, the CA affirmed with modification the RTC ruling, and accordingly, increased the maximum term of the indeterminate penalty to eight years and one day of *prision mayor*. It likewise cancelled the cash bond posted by petitioner for his provisional liberty, and accordingly, ordered the RTC to issue a warrant for his arrest.<sup>19</sup>

In upholding petitioner's conviction, the CA found that the prosecution was able to establish all the elements of violation of Section 5(i) of RA 9262, considering that: (a) AAA256759 and their children had to look for petitioner to implore the latter to return the money, but to no avail; (b) the result of AAA256759's medical examination and evaluation revealed that she suffered from Adjustment Disorder with Depressed Mood (DSM V Criteria); (c) petitioner admitted that he received money from the proceeds of the loan, but claimed that it was used to finance their microlending business; (d) he failed to provide any proof that he engaged in the said business, or that he used the proceeds of the business for his family. Moreover, it ruled that petitioner's invocation of the absolatory cause under Article 332 of the Revised Penal Code was misplaced since it can only be applied to felonies such as theft, swindling, and malicious mischief.<sup>20</sup>

Aggrieved, petitioner moved for reconsideration, which was denied in a Resolution<sup>21</sup> dated June 7, 2021. Hence, the instant Petition.

### **The Issue Before the Court**

The issue before the Court is whether the CA erred in affirming petitioner's conviction for the crime charged.

### **The Court's Ruling**

The Petition is meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case

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<sup>18</sup> *Id.* at 55–68.

<sup>19</sup> *Id.* at 67.

<sup>20</sup> *Id.* at 62–67.

<sup>21</sup> *Id.* at 52–54.

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and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>22</sup>

Guided by the foregoing, the Court resolves to acquit petitioner for the crime charged, as will be further explained.

Section 3(c) of RA 9262 reads:

Section 3. *Definition of Terms.* — As used in this Act:

x x x x

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.

Relatedly, Section 5(i) of RA 9262 penalizes some forms of psychological violence that are inflicted on victims who are women and children through the following acts:

Section 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 access to the woman’s child/children. (Emphasis supplied)

Thus, the elements of violation of Section 5(i) of RA 9262 are as follows:

- (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 whom such offender has a common

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<sup>22</sup> *People v. Acosta*, 846 Phil. 198, 203 (2019) [Per J. Perlas-Bernabe, Second Division].

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 acts or omissions.<sup>23</sup>

Verily, psychological violence is defined as any ***intentional conduct*** that seriously impairs another person's psychological integrity through coercion or threats.<sup>24</sup> It includes a range of behaviors that encompass acts of emotional abuse and controlling behavior. These often coexist with physical and sexual violence by intimate partners and are acts of violence in themselves.<sup>25</sup> It is thus an indispensable element of violation of Section 5(i) of RA 9262. Equally essential is the element of emotional anguish and mental suffering, which are personal to the complainant.

In *Acharon v. People*,<sup>26</sup> the Court *En Banc*, through Associate Justice Alfredo Benjamin S. Caguioa, expounded that the crime contemplated under Section 5(i) of RA 9262 is *mala in se*, despite it being a special penal law, viz.:

In this connection, the Court deems it proper to clarify, as Associate Justices Amy C. Lazaro-Javier and Mario V. Lopez pointed out in their respective Opinions that **the crimes penalized under Sections 5(i) (and 5(e) of R.A. 9262 are mala in se, not mala prohibita, even though R.A. 9262 is a special penal law.** The acts punished therein are inherently wrong or depraved, and the language used under the said penal law requires a mental element. **Being a crime mala in se, there must thus be a concurrence of both actus reus and mens rea to constitute the crime.** "*Actus reus* pertains to the external or overt acts or omissions included in a crime's definition while *mens rea* refers to the accused's guilty state of mind or criminal intent accompanying the *actus reus*."

**It is not enough, therefore, for the woman to experience mental or emotional anguish, or for her partner to deny financial support that is legally due her. In order for criminal liability to arise under Section 5(i) of R.A. 9262, insofar as it deals with "denial of financial support," there must, therefore, be evidence on record that the accused willfully or consciously withheld financial support legally due the woman for the purpose of inflicting mental or emotional anguish upon her.** In other words, the *actus reus* of the offense under Section 5(i) is the willful denial of financial support, while the *mens rea* is the intention to inflict mental or

<sup>23</sup> *Acharon v. People*, 913 Phil. 731 (2021) [Per J. Caguioa, *En Banc*].

<sup>24</sup> *Psychological Violence*, EUROPEAN INSTITUTE FOR GENDER EQUALITY, available at <<https://eige.europa.eu/thesaurus/terms/1334>> (last accessed on August 9, 2023).

<sup>25</sup> *The World's Women 2015: Trends and Statistics* (p. 152), THE UNITED NATIONS, available at <[https://unstats.un.org/unsd/gender/downloads/worldswomen2015\\_report.pdf](https://unstats.un.org/unsd/gender/downloads/worldswomen2015_report.pdf)> (last accessed on August 9, 2023).

<sup>26</sup> *Acharon v. People*, 913 Phil. 731 (2021) [Per J. Caguioa, *En Banc*].

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emotional anguish upon the woman. Both must thus exist and be proven in court before a person may be convicted of violating Section 5(i) of R.A. 9262.

It bears emphasis that Section 5(i) penalizes some forms of psychological violence that are inflicted on victims who are women and children. In prosecutions under Section 5(i), therefore, “[p]sychological violence is the means employed by the perpetrator” with denial of financial support as the weapon of choice. In other words, to be punishable by Section 5(i) of R.A. 9262, **it must ultimately be proven that the accused had the intent of inflicting mental or emotional anguish upon the woman, thereby inflicting psychological violence upon her, with the willful denial of financial support being the means selected by the accused to accomplish said purpose.**<sup>27</sup> (Emphasis and underscoring supplied. Citations omitted)

At this juncture, the Court notes that the courts *a quo* relied in the old interpretation of violation of RA 9262 in convicting petitioner of the crime charged. Before *Acharon*, it is enough for the prosecution to present the victim’s testimony to establish mental and emotional anguish,<sup>28</sup> and that mere proof of mental and emotional anguish resulting from the acts of the accused will suffice.<sup>29</sup> However, in *Acharon*, the Court introduced the concept of *intent* in that “to be convicted of Section 5(i), the evidence must establish beyond reasonable doubt that the **accused intended to cause the victim mental or emotional anguish, or public ridicule or humiliation through the denial of—not the mere failure or inability to provide—financial support, which thereby resulted into psychological violence.**”<sup>30</sup>

It is worth noting that it is the psychological violence caused to the wife and/or children that is punished under Section 5(i) of RA 9262, and not the means enumerated therein, i.e., the denial of financial support. **As such, to establish psychological violence as an element of the crime, it must be shown that the accused intended to commit mental or emotional anguish to the woman and/or children using the means enumerated therein.** In proving this, it is necessary to present the testimony of the victim as such experiences are personal to this party.<sup>31</sup> **Intent to commit psychological violence can be proven based on the nature of the act, the circumstances under which it was committed, the means employed, and the motive of the accused. The means thereof may or may not result to mental or emotional anguish to the wife.**<sup>32</sup>

Here, there is no dispute that the first and second elements of violation of Section 5(i) of RA 9262 were present in this case since it was established

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<sup>27</sup> *Id.*

<sup>28</sup> *Araza v. People*, 882 Phil. 905, 917 (2020) [Per CJ Peralta, First Division].

<sup>29</sup> *Rollo*, p. 63. See also *id.* at 37–39.

<sup>30</sup> *Acharon v. People*, 913 Phil. 731 (2021) [Per J. Caguioa, *En Banc*].

<sup>31</sup> *Id.*

<sup>32</sup> *AAA v. BBB*, 823 Phil. 607, 620–621 (2018) [Per J. Tijam, First Division].



that AAA256759 was the wife of petitioner,<sup>33</sup> and that they had three children.<sup>34</sup> However, a perusal of the records reveal that the prosecution failed to establish the third and fourth elements of the crime.

Verily, the Information filed against petitioner provided for three (3) means in which psychological violence was allegedly committed to AAA256759, thus: (a) forcing AAA256759 to contract a loan with Metrobank on the pretext that the proceeds shall be used to purchase a van to start a UV Express business and to augment the tuition fees of the children; (b) forcing AAA256759 to give him several amounts of cash from the proceeds of the loan for the purpose of purchasing the van, and thereafter, failing to buy the said van and/or account or return the same to AAA256759; and (c) continuously refusing to give support and to pay the tuition fees of their children.

However, there was no evidence to establish the aforementioned allegations.

*First*, AAA256759 alleged that petitioner forced her to take out a loan from Metrobank to augment the tuition fees of their children and to purchase a van to start a UV Express business. However, records show that AAA256759 failed to substantiate her claim that petitioner forced her to obtain the loan as it appears that while they both agreed to contract a loan from Metrobank, the same was initiated by AAA256759,<sup>35</sup> and that the proceeds of the loan from the microlending business was deposited to their joint account.<sup>36</sup> Moreover, it appears that AAA256759 had complete control of the proceeds of the loan, as petitioner was only able to acquire some of its proceeds after the former issued and encashed checks from their joint account and handed the money to the latter.<sup>37</sup>

*Second*, aside from mere allegation that petitioner forced AAA256759 to give him some of the proceeds of the loan in order to purchase a van, AAA256759 failed to provide any evidence to support her claim. On the other hand, petitioner admitted that AAA256759 gave him PHP 630,000.00 to be used for their lending business,<sup>38</sup> and consequently, he was able to prove that there was indeed a microlending business through the presentation of the notebook he used to log his customers, their debts, and payments.<sup>39</sup> Moreover, petitioner was able to show proof that he deposited the proceeds of the loan of the microlending business to AAA256759's account until 2015,<sup>40</sup>

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<sup>33</sup> Records, p. 20.

<sup>34</sup> *Id.* at 21–23.

<sup>35</sup> Transcript of Stenographic Notes (TSN), AAA256759, dated June 27, 2017, pp. 11–12. *See also* TSN, XXX, dated June 5, 2018, p. 7.

<sup>36</sup> *Id.* at 14.

<sup>37</sup> *Id.* at 13–16.

<sup>38</sup> TSN, XXX, dated June 5, 2018, pp. 8–13.

<sup>39</sup> Records, pp. 495–507.

<sup>40</sup> *Id.* at 571–580.

consistent to the date he stated that the microlending business stopped.<sup>41</sup> This was on top of the support and payment for tuition fees he was giving for his children,<sup>42</sup> although it was admitted by both parties to be insufficient to provide for the educational needs of their three children who were studying in different colleges and schools in Metro Manila.<sup>43</sup> It is worthy to emphasize that when AAA256759 went to the barangay to file a blotter of what happened on March 20, 2015 and April 1, 2015, she never mentioned anything about the loan obtained from Metrobank or about petitioner's failure to purchase the van or to cause the accounting or return of the proceeds of the loan. What was established is that during that time, AAA256759 was asking from petitioner to pay the tuition fees of their children,<sup>44</sup> and that when he failed to do so, AAA256759 filed the instant criminal case against petitioner.<sup>45</sup>

Lastly, the prosecution failed to establish that petitioner refused to give financial support to his children with AAA256759. Petitioner testified that his net earnings per month since 2014 was around PHP 30,000.00, and that from it, he was giving an average of PHP 14,500.00 per month to his children for support and as payment for their tuition fees and that only PHP 10,000.00 was left for his own expenses. Pertinent portions of petitioner's testimony read as follows:

ATTY. MORA

Q: Mr. [REDACTED], how much do you earn per month since year 2014?

A: Currently I'm earning the net of around P30,000.00 per month, sir.

COURT: That is net?

A: Yes, your Honor.

ATTY. MORA

Q: And you have no other income?

A: Sir, none po.

Q: Now, do you spend that P30,000.00 income of yours?

A: Currently with all the... ah, what I send the kids in tuition fee and in support averaging P14,500.00 for the support, including tuition fees plus on top of that, my own expenses at around P10,000.00 and then the excess of around P5,000.00 paying personal loans of my family.

Q: What is your basis for saying that you pay P14,000.00 plus monthly for the tuition fees of the children?

A: Sir, that would have been the average of all the money that I've sent them since 2014 up to present.

Q: And how much is the total?

A: The total would have been around P791,000.00 since 2014.

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<sup>41</sup> *Rollo*, p. 38.

<sup>42</sup> Records, pp. 516–548. *See also* pp. 557–570 and 581–587. *See also* TSN, AAA256759, dated August 8, 2017, pp. 38–41.

<sup>43</sup> TSN, AAA256759, dated June 27, 2017, pp. 24 and 28. *See also* TSN, AAA256759, dated August 8, 2017, p. 47.

<sup>44</sup> Records, pp. 31–32.

<sup>45</sup> *Id.* at 14–19.

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Q: How did you arrive at P14,000.00 monthly?

A: That will be Exhibits "7" and "20" from the counter-affidavit that we sent, that we gave the court and currently for marking "25", "26" and "27".

Q: You said that you spend the P10,000.00 for your own subsistence, what does that cover?

A: Sir, that would cover food, transportation and personal expenses at work.

Q: Will you tell the Court how much for each item?

A: For transportation, around P3,000.00 per month. For food, around the same amount, P3,000.00 and the excess of P4,000.00, for my own contribution at home.<sup>46</sup>

The fact that petitioner was giving AAA256759 money for the support of their children and the payment of their tuition fees was not disputed by AAA256759. As a matter of fact, AAA256759 admitted that petitioner was giving support for their children from 2014 to 2016, and that petitioner and his father deposited money to her bank account for the tuition fees of her children with petitioner, although she used the same to pay the tuition fee of one of their sons, *viz.*:

Q: Is it not a fact that at that time, the accused was giving you in the average Php10,000.00 per month for your monthly support?

A: Yes, sir. Ano pong taon yon sir?

Q: In 2014, during the time that you were releasing these amounts to your husband?

A: Opo, nakakapagbigay naman po siya ng Php9,000.00 a month.

Q: And aside from that, he is giving cash for the tuition fees of the children, is it not?

ACP Rosales: What year, your honor?

ATTY. MORA: In 2014.

ACP ROSALES: From what month, your honor, of 2014?

ATTY. MORA: (to the witness)

Q: At the same time that the amounts for the purchase of the van were being released at that time, he was giving monthly support of according to you, Php9,000.00?

A: Php9,000.00. Noong October Php7,500.00, November 7 (Php7,000.00); December (Php2,000.00).

Q: What year?

A: 2014.

Q: So, it continued until 2015 to 2016, is it not?

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<sup>46</sup> TSN, XXX, dated June 5, 2018, pp. 5-7.

A: Noong 2015 po mula January hanggang July 15 ang naipadala po sa akin ang kabuuan ay Php43,500.00 lang.

Q: But he is giving financial support to you?

A: Mula January 2015 hanggang July 2015 po Php43,500.00 po yung kabuuan, lumalabas na Php6,000.00 kada buwan po.

Q: And he is also paying although not completely, he was giving money for the tuition fees of your children, is it not?

A: Wala po siyang ibinigay kay [REDACTED] and kay [REDACTED] po.

Q: But he is giving money for the tuition fee of [REDACTED], am I correct?

A: Noong one time po diniposit sa account ko po na ibinayad ko nga po na may resibo po kanina.

Q: Will you please give me the Statement of Accounts from Angelicum?

A: (Witness handed over to Atty. Mora the documents)

Q: At any rate, that is the account which was paid by the money coming from the father of the accused, is it not?

A: Opo kasi wala naman po s'yang ipinapadala sa amin Php6,000.00 lang isang buwan.<sup>47</sup>

x x x x

Q: And the support in the average of Php10,000.00 per month would be a total of Php120,000.00 per year, is it not?

A: What year are you referring to, sir?

Q: Current year, Php120,000.00 per year, the last year, the last twelve (12) months or per every 12-month period during the last year?

A: December 2016 to August 2017, we only received a total of Php104,000.00 including what was intended for tuition fee.

Q: What made you say, it was including tuition fee?

A: As deposited to the savings account, sir. I have not computed the ones deposited to the other account, sir.<sup>48</sup>

Further, AAA256759 admitted that she received money from petitioner for the payment of the tuition fee of their other child from 2015 to 2017, viz.:

Q: But you will agree with me that when subsequently, [CCC256759] studied at FEU on June 10, 2015, the amount of Php15,000.00, was sent to him, is it not, by the accused? On June 10, 2015, Php15,000.00 for his tuition fee at FEU?

ACP ROSALES: The witness is incompetent, your honor. It was directly sent to the son, your honor.

COURT: If she knows, she is the one managing the household.

<sup>47</sup> TSN, AAA256759, dated August 8, 2017, pp. 39-41.

<sup>48</sup> *Id.* at 48.

WITNESS: June 10, 2015? What account number, sir?

ATTY. MORA: Account no. x x x x

WITNESS: It was sent to my personal account, sir.

ATTY. MORA (to the witness)

Q: And also another amount of Php15,000.00 was sent under the same account for the tuition fee of [CCC256759] at FEU, am I correct?

A: Yes, he was enrolled that semester, sir.

Q: Likewise on October 27, 2015, the amount of Php30,000.00 was sent for the tuition fee of [CCC256759] at FEU under the same account, is it not?

A: Yes, sir.

Q: Or a total of Php120,000.00, am I correct?

A: I will have to check the passbook, sir.

Q: Also, on November 3, 2016, the amount of Php30,000.00 was sent to your account for the tuition fee of [CCC256759] at FEU?

A: What account number, sir?

Q: Account No. x x x x dated November 3, 2016?

A: Yes, sir.

Q: Again on November 11, 2016, another amount of Php30,000.00 was sent to your account for the tuition fee of [CCC256759] at FEU?

A: Do you have the deposit slip, sir?

ATTY. MORA: I am showing to the witness the deposit slips for the two (2) deposits which I mentioned, your honor.

WITNESS: He was enrolled that semester, sir, [CCC256759].

ATTY. MORA (to the witness)

Q: So, you received these amounts for the tuition fees at FEU for [CCC256759]?

A: Yes, sir.

Q: Again, on March 2, 2017, the amount of Php29,000.00 was sent by the accused to you for the tuition fees of [CCC256759] at FEU?

A: Yes to pay the previous balance, sir.

Q: Also on July 4, 2017, this was only last month, Php39,000.00 was sent to you for the tuition fee of [CCC256759] at FEU?

A: Yes but he is not already sending support.

Q: I am limiting it to the tuition fees.

A: Yes.<sup>49</sup>

Clearly, it was established that petitioner did not deliberately refuse to give support to his children with AAA256759. Significantly, there was no showing that the supposed refusal of petitioner to give financial support to his children was for the purpose of causing them mental and emotional anguish,

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<sup>49</sup> *Id.* at 42-45.

public ridicule or humiliation, as required for conviction of violation of Section 5(i) of RA 9262. Rather, what was proven is that petitioner was giving them financial support, albeit not enough as his salary cannot fully support the education of his three children with AAA256759.

In *XXX256611 v. People*,<sup>50</sup> through Associate Justice Amy C. Lazaro-Javier, the Court acquitted the accused therein as there was no evidence showing that accused's deprivation of support was aimed to cause his wife and children any mental or emotional anguish, nor was there a showing that he specifically chose such act of depriving financial support as a means to inflict mental or emotional sufferings on his wife and children.<sup>51</sup>

Likewise, in *Acharon*, the Court acquitted therein accused for violation of Section 5(i) of RA 9262 for failure of the prosecution to prove that: (a) he willfully refused to provide financial support to his wife; and (b) such denial was intended to cause his wife mental or emotional anguish.

At this juncture, it bears stressing that the prosecution bears the burden of establishing, beyond reasonable doubt, each and every element of the crime charged in the information or for any other crime necessarily included therein.<sup>52</sup> "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>53</sup> **Requiring proof of guilt beyond reasonable doubt necessarily means that mere suspicion of the guilt of the accused, no matter how strong, should not sway judgment against him.** It further means that the courts should duly consider every evidence favoring [the accused], and that in the process the courts should persistently insist that accusation is not synonymous with guilt; hence, every circumstance favoring [the accused's] innocence should be fully taken into account. That is what [the Courts] must be do herein, for [the accused] is entitled to nothing less. [Thus,] without the proof of his guilt being beyond reasonable doubt, therefore, the presumption of innocence in favor of the accused [could not be] overcome,"<sup>54</sup> as in this case.

All told, the Court is convinced that petitioner's acquittal from the crime charged must ensue.

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<sup>50</sup> G.R. No. 256611, October 12, 2022 [Per J. Lazaro-Javier, Second Division].

<sup>51</sup> *Id.*

<sup>52</sup> *Calingasan v. People*, G.R. No. 239313, February 15, 2022 [Per J. Caguioa, First Division].

<sup>53</sup> *XXX v. People*, 887 Phil. 161, 171 (2020) [Per J. Delos Santos, Second Division], citing *People v. Manson*, 801 Phil. 130, 139 (2016) [Per J. Peralta, Third Division].

<sup>54</sup> *People v. Claro*, 808 Phil. 455, 468 (2017) [Per J. Bersamin, Third Division].

**ACCORDINGLY**, the instant Petition is **GRANTED**. The Decision dated November 9, 2020 and the Resolution dated June 7, 2021 of the Court of Appeals in CA-G.R. CR No. 42777 are hereby **REVERSED** and **SET ASIDE**. Petitioner XXX is hereby **ACQUITTED** of violation of Section 5(i) of Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act of 2004."

The Director General of the Bureau of Corrections is **ORDERED** to: (a) cause the immediate release of petitioner if he is in detention, unless he is being lawfully held in custody for any other reason; and (b) inform the Court of the action taken within five days from receipt of this Decision.

Let entry of judgment be issued immediately.

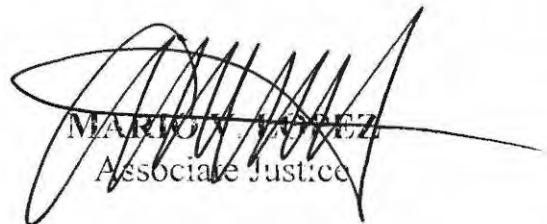
**SO ORDERED.**

  
**ANTONIO T. KHO, JR.**  
Associate Justice

**WE CONCUR:**

  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

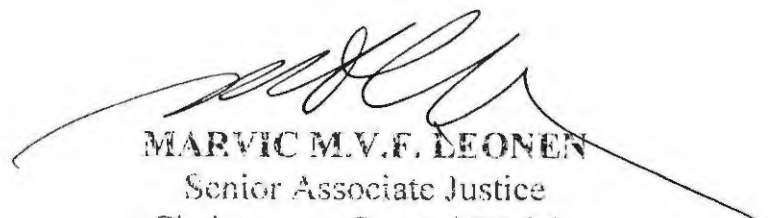
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**MARLON MAREZ**  
Associate Justice

  
**JHOSEP LOPEZ**  
Associate Justice

**ATTESTATION**

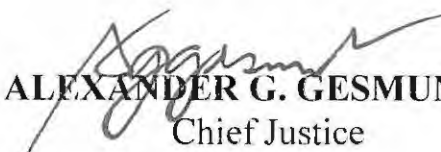
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson, Second Division

*TL*

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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

*File*