Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

XXX,[1]
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 255877

Present:

CAGUIOA, *J.*,
Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, *JJ.*

Promulgated:
March 29, 2023

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D E C I S I O N

GAERLAN, *J.*:

For resolution is a Petition for Review on *Certiorari*[2] seeking to reverse and set aside the Decision[3] dated September 12, 2019 and the Resolution[4] dated February 11, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 41438. The CA in its assailed rulings affirmed the Decision dated November 24, 2017 of the Regional Trial Court (RTC) of Quezon City, Branch 94, in Criminal Case No. R-QZN-16-13802-CR.[5]

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1 At the victim's instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the Decision, Resolution, or Order if the name and personal circumstances of the accused may tend to establish or compromise the victims' identities, in accordance with Amended Administrative Circular No. 83-2015 (II![I][c]) dated September 5, 2017.

2 *Rollo*, pp. 12-36.

3 Id. at 37-49; penned by Associate Justice Louis P. Acosta, with Associate Justices Apolinario D. Bruselas, Jr. and Nina G. Antonio-Valenuzela, concurring.

4 Id. at 7-10-A.

5 Id. at 37.

The Antecedent Facts

An Amended Information dated December 14, 2016 was filed charging XXX for violation of Section 5(i) of Republic Act (R.A.) No. 9262[6] against his wife, AAA,[7] committed as follows:

> That sometime in 2004 to present, in Quezon City, Philippines, the above-named accused, being the husband of [the] victim, AAA, did then and there willfully, unlawfully and feloniously commit psychological violence and economic abuse upon AAA, by then and there abandoning her and denying her financial support, thereby causing substantial, mental or emotional anguish, public ridicule or humiliation to his wife, to the damage and prejudice of the said offended party.
>
> CONTRARY TO LAW.[8]

XXX pleaded not guilty during his arraignment on April 7, 2017. Trial on the merits ensued.[9]

Version of the Prosecution

The prosecution presented as its witnesses AAA and her sister, CCC.[10]

AAA testified that she and XXX were married on October 14, 2002. They rented a house and lived together until 2004 when XXX left the country to work as a seafarer, after which she transferred to her parents' house. He initially remitted part of his monthly salary to her but stopped after a few months. They last spoke to each other sometime in 2004 when he called and told her to live in the province of Antique with his parents but she refused. For the next 13 years, he failed to communicate with her and send her support which caused her extreme pain and humiliation. She had a *sari-sari* store but it eventually became bankrupt so she was forced to support herself by earning a living as a freelance massage therapist.[11]

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6 AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES; approved on March 8, 2004.

7 The real names of the victim and persons mentioned (other than the accused) and places or any other information tending to reveal their identity and those of her immediate family or household members are withheld in accordance with Republic Act (R.A.) No. 9262, or the Anti-Violence Against Women and their Children Act of 2004; R.A. No. 7610, or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act; A.M. No. 04-10-11-SC, known as "Rule on Violence Against Women and Their Children," effective November 15, 2004; the case of *People v. Cabalquinto*, 533 Phil. 703, 705-709 (2006); and this Court's Resolution dated September 19, 2006 in A.M. No. 11-09-SC.

8 *Rollo*, p. 38.

9 Id.

10 Id.

11 Id. at 38-39.

In 2013, CCC saw that XXX was back in the country while standing outside a car wash station. However, despite returning, he did not ask about AAA and never reached out to her.[12]

Version of the Defense

The defense presented XXX as its sole witness.[13]

XXX testified that he was only forced to marry AAA on October 14, 2002. He was employed as a seafarer from 2004 to 2007 and initially sent remittances to her. However, he had to request his employer to stop making the remittances in 2004 because his parents became sick with cancer. He did not inform AAA that he would stop the remittances because he was traumatized from their frequent fights.[14]

He returned to the country in 2007 and worked as an instructor at the Southern Institute of Maritime in the Philippines. Nevertheless, he did not contact AAA or send her support because he was only forced to marry her.[15]

The RTC Decision

The RTC rendered its Decision dated November 24, 2017 convicting XXX for violation of Section 5(i) or R.A. No. 9262 due to his denial of financial support to AAA:

> WHEREFORE, premises considered, judgment is hereby rendered finding accused [XXX] guilty beyond reasonable doubt of Violation of Section 5 paragraph (i) Republic Act No. 9262 otherwise known as the "Anti-Violence Against Women and Children Act of 2004" and is hereby sentenced to an indeterminate penalty of Two (2) years, Four (4) months and One (1) day of prision correccional as minimum, to six (6) years and One (1) day of prision mayor as maximum and to pay a fine of One Hundred Thousand Pesos (P100,000.00) plus costs.
>
> Accused is further ordered to undergo mandatory psychological counselling at the SSDD, Quezon City and to submit proof of compliance thereof to the court.
>
> SO ORDERED.[16]

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12 Id. at 39.
13 Id.
14 Id. at 38-39.
15 Id. at 39.
16 Id. at 40.

XXX sought reconsideration of the Decision but was denied by the RTC in its Order dated January 22, 2018.[17]

Undeterred, XXX appealed the Decision.[18]

The CA Ruling

The CA rendered its Decision[19] dated September 12, 2019 denying the appeal and sustaining XXX's conviction:

> **ACCORDINGLY**, the appeal is **DENIED**. The Decision dated 24 November 2017 of the Regional Trial Court, Branch 94, Quezon City in Criminal Case No. R-QZN-16-13802-CR is **AFFIRMED**.
>
> **SO ORDERED**.[20] (Emphases in the original)

The CA held that XXX's unilateral decision to stop providing AAA financial support and communicating with her undeniably caused her pain and psychological suffering.[21] Even if XXX claimed that he was only forced to marry AAA, he still had the marital obligation to render love and support to her. However, he admitted that he deliberately stopped giving financial support to her which is, by itself, already an act of economic abuse.[22]

XXX filed a Motion for Reconsideration[23] of the Decision but was denied by the CA in its Resolution[24] dated February 11, 2021 for lack of merit.

Hence, the instant petition.

In his petition, XXX primarily argued the following:

1. The CA erred in convicting him considering there was no prior demand for support. Under Section 47 of R.A. No. 9262, the Revised Penal Code and other applicable laws (*e.g.*, the Family Code) shall have suppletory application. In this regard, just like for

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17 Id.
18 Id. at 69-70.
19 Id. at 37-49.
20 Id. at 48.
21 Id. at 45.
22 Id. at 45-47.
23 Id. at 55-65.
24 Id. at 7-10-A.

any other obligation, demand is necessary before a party can be considered in delay. It therefore cannot be said that XXX was in delay to provide support since he was not apprised by AAA that she needed support.[25]

This is supported by Article 203 of the Family Code which provides that "[t]he obligation to give support is demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date of judicial or extrajudicial demand."[26] Article 1169 of the New Civil Code also provides that a party obliged to deliver or to do something shall not be considered in delay until the obligee judicially or extrajudicially demands them to fulfill their obligation.[27]

2. The elements of economic abuse are lacking. He did not deny financial support to AAA because there was no demand for him to give it in the first place. He did not commit any overt acts of economic violence to her. When things were no longer smooth between them, she simply took advantage of the law and immediately filed a criminal case against him.[28]

3. Article 100 of the Family Code states that a spouse who leaves the conjugal home or refuses to live there, without just cause, shall not have a right to be supported. In this case, the couple did not establish a conjugal home. Notably, XXX asked AAA to go to the province of Antique to settle down there but it was the latter who refused.[29]

4. Article 68 of the Family provides that both spouses are obliged to support each other, and not one spouse only.[30]

5. Section 5(i) of R.A. No. 9262 should be deemed unconstitutional for being void for vagueness. The law violates the right to due process and leaves law enforcers unbridled discretion in carrying out its provisions.[31]

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25 Id. at 18-20.
26 Id. at 19.
27 Id.
28 Id. at 21-26.
29 Id. at 28-31.
30 Id. at 32.
31 Id. at 32-34.

The State, represented by the Office of the Solicitor General (OSG), filed a Comment[32] to the petition. It argued that the petition should be dismissed outright as it raised questions of fact which are improper for petitions for review *on certiorari* under Rule 45 of the Rules of Court.[33] Regardless, all the elements of the crime were proven and established by the prosecution. The facts are undisputed that around eight months after leaving the country to work as a seafarer, AAA never heard from XXX again. He abandoned her and deliberately withdrew financial support which caused her mental and emotional anguish.[34]

Moreover, it asserted that the marital obligation to provide support does not require prior demand. In any case, a demand from AAA would have been futile since she never heard from XXX after 2004 and no longer knew his whereabouts.[35]

The Issue

The issue in this case is whether or not XXX is guilty beyond reasonable doubt for violation of Section 5(i) of R.A. No. 9262.

The Ruling of this Court

The petition is granted. XXX is hereby acquitted.

Section 5(i) of R.A. No. 9262 defines a criminalized mode of psychological violence committed against women and/or children as follows:

> 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 denial of access to the woman's child/children.

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32 Id. at 133-154.
33 Id. at 138-141.
34 Id. at 144-147.
35 Id. at 150.

The Court sitting *en banc* in the recent landmark case of *Acharon v. People*[36] (*Acharon*) provided guidelines for determining what properly constitutes a violation of Section 5(i) of R.A. No. 9262 for cases involving denial of financial support. In this regard, it enumerated the following elements of the crime:

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 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 willfully refuses to give or consciously denies the woman and/or her child or children financial support that is legally due her and/or her child or children; and

4. The offender denied the woman and/or her child or children the financial support for the purpose of causing the woman and/or her child or children mental or emotional anguish.[37]

It was clarified in *Acharon* that the commission of this crime through "denial of financial support"[38] is *mala in se* and thus requires the presence of criminal intent. The mere failure to provide financial support is insufficient to support a conviction. It must be proven that the accused willfully and consciously denied financial support legally due to the woman for the purpose of inflicting mental or emotional anguish upon her. It was pertinently elucidated:

> The Court stresses that Section 5 (i) of R.A. 9262 uses the phrase "denial of financial support" in defining the criminal act. The word "denial" is defined as "refusal to satisfy a request or desire" or "the act of not allowing someone to do or have something." The foregoing definitions connote *willfulness*, or an *active* exertion of effort so that one would not be able to have or do something. This may be contrasted with the word "failure," defined as "the fact of not doing something [one] should have done," which in turn connotes passivity. From the plain meaning of the words used, the act punished by Section 5 (i) is, therefore, *dolo* in nature

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36 G.R. No. 224946, November 9, 2021.
37 Id.
38 Id.

— there must be a concurrence between intent, freedom, and intelligence, in order to consummate the crime.

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 Section 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 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**.

This means that the mere failure or one's inability to provide financial support is not sufficient to rise to the level of criminality under Section 5 (i), even if mental or emotional anguish is experienced by the woman. In other words, even if the woman were to suffer mental or emotional anguish due to the lack of financial support, but the accused merely *failed* or was *unable* to so provide support, then criminal liability would not arise. A contrary interpretation to the foregoing would result in absurd, if not outright unconstitutional, consequences. (Emphases and underscoring supplied; italics in the original; citations omitted)

To reiterate, the mere fact that the accused failed to provide financial support due from him is not punishable under R.A. No. 9262. The normal remedy of a person deprived of financial support is to file a civil case for

support against the delinquent person consistent with the provisions of the New Civil Code and the Family Code. However, for criminal liability to arise out of such failure to give support, the facts qualifying the delinquent person's act of denial or deprivation of financial support must be proven.[39]

As applied in this case, XXX must be acquitted for the prosecution's failure to establish the third and fourth elements of the crime. Although it is undeniable that he eventually failed to send financial support to AAA, there was no allegation or proof that he did this willfully and deliberately for the purpose of causing her mental and emotional anguish.

It is established that XXX initially sent AAA remittances as financial support from his salary as a seafarer. However, he stopped sending money to her only when his parents became sick with lung cancer and liver cancer and he was constrained to pay for their increasing medical expenses. He testified under oath:

> Q: And you also have documentary evidence to prove that you sent remittances to your wife during this period?
> A: I was not able to send her money anymore because at that time my father was in the hospital for he was sick, ma'am.
>
> COURT: So you stopped the allotment?
>
> A: Yes, your Honor.
>
> x x x x
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> Q [(Public Prosec.]): So it was knowingly done, Mr. [W]itness? You know for a fact that you were sending remittances and then you requested your company to stop? It was deliberately done?
> A: Yes, ma'am. *Kasi po malaki na yong ginagastos ng father ko sa hospital, may liver cancer at saka lung cancer.*
>
> Q: And you did not inform your wife that the remittances will be stopped?
> A: We didn't have communication already in 2004, ma'am.
>
> x x x x
>
> Q: And so you did not communicate with her anymore during that time?
> A: *Hindi ko na po kaya makipag-usap sa kanya.*[40] (Italics in the original)

It is clear from the foregoing that XXX had a reason why he stopped

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39 Id.

40 *Rollo*, pp. 43-44.

sending financial support to AAA. The prosecution did not deny this fact and merely insisted that his failure to provide financial support was already sufficient to consummate the crime. XXX further explained that he did not inform her that he would stop sending money because he became traumatized from their frequent fights. He also no longer communicated with her when he returned to the Philippines since he was only forced to marry her in the first place.[41] Hence, his failure to provide financial support was for these reasons and not because he wanted to inflict mental and emotional anguish on AAA.

Further, there is merit in XXX's claim that he could not have known that AAA needed financial support. Although a formal extrajudicial demand for support is not required under the law, it must be proven that he at least knew that AAA was in need or dependent on him for financial support. This is necessary to prove the prevailing circumstances behind the denial of financial support to bolster the serious accusation that this was utilized as a tool to commit psychological violence against the victim.

In this case, AAA never even tried to reach out to XXX or asked him to provide her financial support. She did not try to communicate with him despite learning from CCC that he was already back in the country.[42] If she truly needed financial support, it is only expected based on human experience that she would have at least exerted efforts to obtain it. The fact that she did not do anything whatsoever to get support prior to filing this criminal case casts serious doubt on her claim that she needed it.

This Court also notes that there can be no presumption for the need for support based on the circumstances of this case. When XXX left to work as a seafarer, he did not have any children with AAA to rear and support. As a couple they also did not have a conjugal house to maintain since AAA returned to live with her parents. They had no standing obligations to pay off. On the contrary, AAA even had a *sari-sari* store which generated her income. Consequently, XXX cannot be considered in bad faith for presuming that AAA did not need him for support.

AAA's intentions in immediately filing this criminal case before even making any attempts to obtain financial support is dubious. As aptly pronounced in *Acharon*, R.A. No. 9262 "was not meant to make the partners of women criminals just because they fail or are unable to financially provide for them."[43] Also appropriate is Associate Justice Rodil V. Zalameda's profound insight during the *Acharon* deliberations that "poverty

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41 Id. at 8.
42 Id. at 45.
43 *Acharon v. People*, supra note 36.

is not a crime x x x [and] the failure or inability to provide support, without more, should not be the cause of a man's incarceration."[44]

Lastly, it bears stressing that the obligation to provide support is imposed by the law mutually upon *both* spouses.[45] The obligation is not a one-way street for the husband to support his wife. The wife has the identical obligation to provide support to her husband. The law certainly did not intend to impose a heavier burden on the husband to provide support for his wife, or institutionalize criminal prosecution as a measure to enforce support from him.

The CA in its assailed Decision appeared to convict XXX simply because he was gainfully employed as a seafarer and instructor but did not send financial support to AAA.[46] This was an unfair ruling which mistakenly tended to establish a unilateral and not a reciprocal obligation of support between the spouses. It was also based on the erroneous presumption that AAA was dependent solely on XXX to provide her with a dignified life. She was portrayed without any basis as a helpless and incapable person with no choice but to wait idly for 13 years to receive financial support from her estranged husband.

Although R.A. No. 9262 was enacted to protect women, it did not intend to limit or discount their capacity to provide for and support themselves.[47] The law cannot presume that women are weak and disadvantaged victims. AAA was a person fully capable of providing for herself. She was gainfully employed as a massage therapist and owner of a *sari-sari* store. She was not a destitute victim who had no choice but to depend on her husband's money to live. It would be gravely erroneous to interpret and apply the law in a manner that will perpetuate gender disparities that should not exist.

WHEREFORE, premises considered, the Petition for Review on *Certiorari* is hereby **GRANTED**. The Decision dated September 12, 2019 and the Resolution dated February 11, 2021 of the Court of Appeals in CA-G.R. CR No. 41438 are **REVERSED** and **SET ASIDE**. Petitioner XXX is **ACQUITTED** of the crime charged. Let an entry of final judgment be issued immediately.

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44 Id.
45 See FAMILY CODE, Article 68.
46 *Rollo*, p. 8.
47 *Acharon v. People*, supra note 36.

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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.

ALEXANDER G. GESMUNDO
Chief Justice