

SECOND DIVISION

[G.R. No. 261920. March 27, 2023]

XXX261920,* PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

LAZARO-JAVIER, J.:***

The Case

The Petition for Review on *Certiorari*^[1] assails the following dispositions of the Court of Appeals in CA-G.R. CR No. 44922 entitled “*People of the Philippines v. [XXX261920]*,” viz.:

1. **Decision**^[2] dated July 27, 2021 affirming the conviction of petitioner [XXX261920] in Criminal Case No. 13026 by the Regional Trial Court – Branch 30, [REDACTED], La Union, for violation of Section 5(i) of Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act of 2004; and,
2. **Resolution**^[3] dated June 7, 2022 denying petitioner’s Motion for Reconsideration.

Antecedents

In Criminal Case Nos. 13025 and 13026, petitioner was separately charged with two violations of Section 5(i) of Republic Act No. 9262,^[4] viz.:

Criminal Case No. 13025

On or about the month of January 2019 and subsequently thereafter, in the [REDACTED], Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, did then and there, willfully, unlawfully[,] and feloniously, cause psychological and emotional anguish to his

wife, [AAA261920] by intentionally giving insufficient financial support to the latter and their two children ages fifteen (15) and three (3) respectively, to their damage and prejudice.

CONTRARY TO LAW.^[5]

Criminal Case No. 13026

On or about the month of May 2017, in the ██████████, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, did then and there, willfully, unlawfully[,] and feloniously, cause psychological and emotional anguish to his wife, [AAA261920] by ordering her out of their conjugal house together with their two-year old daughter, ousting them [therefrom], to their damage and prejudice.

CONTRARY TO LAW.^[6]

On arraignment, petitioner pleaded not guilty to both charges.^[7]

The Prosecution's Version

AAA261920 testified that she and petitioner got married on December 23, 2002 in ██████████. Their union bore two children, BBB261920 and CCC261920.^[8]

In 2007, she, petitioner, and their children lived in La Union with her parents.^[9] She went to Hong Kong to work as an Overseas Filipino Worker since petitioner had no stable job. While in Hong Kong, she learned that petitioner took their 4-year-old child, BBB261920, to Mindanao without her parents' consent.^[10] Petitioner did not communicate with her for two years.^[11] Consequently, she got depressed, could not eat, and could not focus on her job. Upon her return to the Philippines in 2010, she tried to talk to petitioner but the latter simply retorted "*Do not mind us anymore.*"^[12] She then went to Mindanao to look for her son, and to patch things up with petitioner.^[13]

In 2010, she returned to Hong Kong because her family needed her to earn money. Petitioner constantly demanded money from her, and used their child as leverage. At times when she failed to heed his demands, he would not allow their child to speak with her online. She feared for him, knowing that petitioner was hot-tempered and would again take their child away without her consent. She eventually gave in to petitioner's demands, among

others, giving him the amount of PHP 150,000.00 which he purportedly needed as “under-the-table” payment for his appointment at the Bureau of Fire Protection (BFP).^[14]

When her contract ended in 2014, she returned to the Philippines for good. Their family then transferred to ██████████, Pangasinan to live with petitioner’s mother.^[15] Her suffering worsened because petitioner maltreated her. He would belittle her, and call her “bobo” and “buwisit.” Petitioner also treated her like a “useless woman” and “basahan,” and would say things like “wala kang alam” and “lumayas ka.” Petitioner then had to transfer to the BFP in ██████████, Pangasinan.^[16]

On May 29, 2017, she and petitioner had a quarrel regarding petitioner’s salary which was not enough to cover the family’s expenses. Petitioner blamed her for mismanaging his earnings. Losing his temper, he told her to leave the house and to get out of his life. She was thus forced to leave their dwelling. She proceeded to their family house in ██████████, La Union. She took their younger child, CCC261920. Although she wanted to bring BBB261920 as well, he refused to go with her.^[17]

She then filed a complaint for support with the BFP in ██████████, La Union. They entered into an Agreement dated December 11, 2017^[18] obligating petitioner to pay PHP 5,000.00 as monthly support. Subsequently, however, she realized that the amount was not enough to support their children since they had already begun going to school and had so many other expenses.^[19]

On the night of January 12, 2019, petitioner left BBB261920 by the road outside her house without informing her beforehand. He did not even check if BBB261920 was able to safely reach their home.^[20]

Jojet Lamberto R. Mondares (Mondares), a psychologist, testified that he administered various^[21] psychological tests on AAA261920 and did several clinical interviews with her.^[22] He found that:

[AAA261920’s] Depression Screening Inventory indicated a Severe Clinical Severity of depressive symptomology, meaning some of the critical items of the test namely dysphoric mood, hopelessness, loss of interest, impaired work performance and feelings of worthlessness [were] elevated, x x x [AAA261920] often sad to the point of crying nearly all the time which caused her to lack zest in the things she like[d] doing the most[.] x x x

[AAA261920's] Suicide Potential Inventory for Filipinos indicated a Moderate Clinical Severity of depressive symptomology along the areas of suicidal ideation and hostility[.] [AAA261920's results were:] *Hopelessness - High, Negative Self-Evaluation - Very High, Suicidal Ideation - Moderate, Helplessness - Very High and Hostility - Very High*[.] x x x^[23] (Italics in the original)

Further, Mondares issued a Psychological Assessment Report, viz.:

ASSESSMENT:

Based from the aforementioned clinical interview, behavioral observation and psychometric result, [AAA261920], during the time of assessment is suffering from **MAJOR DISORDER**. The psychological discomforts as a result of the abuses and repeated neglect coming from her husband were significant enough to qualify for a **MAJOR DISORDER** during the time of assessment. This disorder is characterized by:

A. Five (or more) of the following symptoms have been present during the same 2-week period and represent a change from previous functioning at least one of the symptoms is either (1) depressed mood or (2) loss [sic] interest or pleasure.

- a. **[D]epressed mood most of the day, nearly every day, as indicated by either subjective report, (e.g. feels sad, empty, hopeless) or observation made by others (e.g., appears tearful).**
- b. **Markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day (as indicated by either subjective account or observation).**
- c. **Significant weight loss when not dieting or weight gain (e.g., a change of more than 5% of body weight in a month) or decrease or increase in appetite nearly every day.**
- d. **[Insomnia] or hypersomnia nearly every day.**
- e. **Psychomotor agitation or retardation nearly every day (observable by others, not merely subjective feelings of restlessness or being slowed down).**
- f. **Fatigue or loss of energy nearly every day.**

- Feelings of worthlessness or excessive or inappropriate guilt**
- g. (which may be delusional) nearly every day (not merely self-reproach or guilt about being sick).**
- Diminished ability to think or concentrate, or**
- h. indecisiveness, nearly every day (either by subjective account or as observed by others).**
- Recurrent thoughts of death (*not just fear of dying*) recurrent suicidal ideation without specific plan, or a suicide attempt or a specific plan for committing suicide[.] (Emphasis and italics in the original)^[24]
- i.

The Defense's Version

Petitioner claimed that he had been giving AAA261920 the amount of PHP 5,000.00 as monthly support February 2018 pursuant to their Agreement before the BFP in ██████████, La Union. Further, AAA261920 had not previously informed him that the support he had been providing them was insufficient. Neither did she tell him the additional amount he ought to give them to cover the deficiency.^[25] Finally, he denied that he ousted AAA261920 and CCC261920 from their house in ██████████, Pangasinan.

On cross, petitioner testified that AAA261920 and CCC261920 left their house after a serious argument. As for the allegation that he left BBB261920 by the road, he explained that even though he failed to inform AAA261920 that he was bringing BBB261920 to her, he left BBB261920 in front of the gate of AAA261920's house and not just by the road.^[26]

Petitioner further testified that from his gross salary of PHP 43,000.00, he only received a net pay of PHP 5,000.00 which he had been giving as monthly support for his children. He admitted that he had loans amounting to PHP 300,000.00.^[27]

Ruling of the Trial Court

By Decision^[28] dated October 30, 2019, the trial court convicted petitioner in Criminal Case No. 13026 but acquitted him in Criminal Case No. 13025, thus:

WHEREFORE, premises considered, the Court renders judgment as follows:

1. In Criminal Case No. **13025**, accused [XXX261920] is hereby **acquitted** of the crime of Violation of Republic Act 9262, Section 5(i) for insufficiency of

evidence.

2. In Criminal Case No. 13026, accused [XXX261920) is found **guilty** of the crime of Violation of Republic Act No. 9262, Section 5(i) and ordered to serve an indeterminate sentence of imprisonment of six (6) months and one (1) day of *prision correccional* minimum as minimum to eight (8) years of *prision mayor* minimum as maximum and to pay a fine in the amount [of] One hundred thousand pesos (Php100,000.00) and to undergo mandatory psychological counselling or psychiatric treatment and shall report compliance to the court.

SO ORDERED.^[29] (Emphases in the original)

As regards Criminal Case No. 13025, the trial court pointed out that denial of financial support, to be a form of psychological violence, must be deliberate and with evident bad faith.^[30] In this regard, the trial court found that the prosecution failed to show “that [petitioner] was deliberately and maliciously providing insufficient support.”^[31] On the contrary, petitioner had been dutifully performing his obligation pursuant to the Agreement executed before the BFP. The mere fact that the amount of PHP 5,000.00 was insufficient did not make him guilty of economic abuse.^[32]

As for Criminal Case No. 13026, the trial court found that the prosecution established all the elements of the offense charged. *First*, it was not disputed that AAA261920 was the wife of petitioner with whom he has two children. *Second*, from the inception of the marriage, AAA261920 had suffered from mental or emotional abuse resulting from petitioner’s repeated verbal abuse, and unwarranted deprivation of her right to custody and/or to talk to their child online. From 2007 to 2014, petitioner frequently asked her for money to buy expensive personal items with the threat that if she refused, he would strip her of the custody of their child or not allow him to talk to her online. Then, from 2014 onwards, her life became more unbearable since petitioner verbally abused her with degrading and insulting words. *Finally*, the acts of petitioner caused emotional and mental pain to AAA261920, as testified by Mondares.^[33]

Ruling of the Court of Appeals

Under Decision^[34] dated July 27, 2021, the Court of Appeals affirmed.^[35] Reconsideration was denied on June 7, 2022.^[36]

The Present Petition

Petitioner prays anew for his acquittal. He maintains that the trial court in ██████████, La Union had no jurisdiction over the cases against him because all the elements thereof transpired in ██████████, Pangasinan. Further, the prosecution failed to prove that any elements of the crime occurred in ██████████, La Union.^[37]

Petitioner also claims that his guilt has not been proven beyond reasonable doubt since the trial court did not really focus its findings on the May 2017 incident (i.e., the alleged ousting of AAA261920 from their home). Instead, the trial court's discussion focused on what transpired before AAA261920 supposedly got ousted from their home and its effects on her.^[38] More important, the testimony of Mondares was not confined to the May 2017 incident or any of its supposed psychological effects on AAA261920.^[39]

In its Comment^[40] dated January 10, 2023, the People, through the Office of the Solicitor General, ripostes that the lower tribunals correctly found that the prosecution established all the elements of the offense charged. Clearly, the repeated verbal abuse upon AAA261920 and her forced removal from their conjugal dwelling caused her mental and emotional pain and anguish.^[41]

Our Ruling

As a rule, only questions of law, not of fact, may be raised in a petition under Rule 45 of the Rules of Court. It is likewise well-settled that factual findings of the trial court, particularly when affirmed by the appellate courts, are generally binding on this Court.^[42] This rule, however, admits of exceptions, among them, when the lower courts have ignored, overlooked, or misconstrued relevant facts, which if taken into consideration will change the outcome of the case,^[43] as here.

To clarify, petitioner's alleged criminal liability should hinge solely and exclusively on his alleged ouster of AAA261920 and CCC261920 from the conjugal dwelling which notably is the only factual allegation borne by the Information.^[44] This is a necessary consequence of petitioner's right to be informed of the nature and cause of the accusation against him.^[45] Corollary thereto, petitioner cannot be convicted of a crime, even if duly proven, if the same is not alleged or is not necessarily included in the Information filed against him.^[46]

Here, the Information in Criminal Case No. 13026 alleges that petitioner "did then and

there, willfully, unlawfully and feloniously, cause psychological and emotional anguish to his wife, AAA261920 **by ordering her out of their conjugal house together with their two-year-old daughter, ousting them therefrom, to their damage and prejudice.**"^[47]

Although the lower courts extensively discussed the history of petitioner and AAA261920,^[48] the factual findings relevant to the allegations in the Information may be reduced to a solitary paragraph:

On May 29, 2017, [petitioner and AAA261920] had a quarrel as usual regarding his salary which was not enough to cover the family expenses and so he blamed her for not properly budgeting it to avoid any shortage. Losing [his] temper, [petitioner] told [AAA261920] to leave the house and [get] out of his life; he wanted to be alone without his family. Right then and there, [AAA261920] was forced to leave their dwelling and proceeded to their family house in [REDACTED], La Union. She took the younger child [CCC261920] with her and would have wanted to get [BBB261920] as well but he refused to go along.^[49]

Too, the Psychological Assessment Report prepared by Mondares, and heavily relied upon by the lower courts, does not contain any categorical finding that AAA261920's Major Disorder is specifically attributable to the May 2017 incident. Further, Mondares admitted that his testimony regarding AAA261920's psychological state was not confined to the May 2017 incident.^[50]

To be sure, a conviction for violation of Section 5(i) of Republic Act No. 9262, may only be sustained when the following elements are established:^[51]

- (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 causes on the woman and/or child mental or emotional anguish;
and

(4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.^[52]

The presence of the first two elements is undisputed. Petitioner and AAA261920 both admit they are husband and wife.^[53] The third element may also be said to exist in this case, based on Mondares' conclusion that at the time of his assessment of AAA261920, the latter was suffering from Major Disorder due to "the abuses and repeated neglect coming from her husband."^[54]

But there is doubt as regards the fourth element. In the context of Criminal Case No. 13026, the act which should have caused AAA261920's mental or emotional anguish should be the May 2017 incident i.e., the ouster of AAA261920 and CCC261920 from the conjugal dwelling. As it was, however, the prosecution's evidence miserably failed to establish this element.

As aptly pointed out by petitioner,^[55] the Psychological Assessment Report is not confined to the May 2017 incident and its psychological effects upon AAA261920. To reiterate, said report only references a **general pattern of abuse and neglect** on the part of petitioner. This report, taken together with the testimony of AAA261920, reveals that her Major Disorder **could have been caused by any of the various quarrels and altercations** that had transpired between them over the years. Stated differently, incidents which occurred before or after the May 2017 incident, many as they are, could have equally caused the mental and emotional anguish of AAA261920. In fine, the prosecution failed to show an indubitable nexus between the act complained of and the alleged mental or emotional anguish on the part of AAA261920.

Because the prosecution's evidence admits of an alternative interpretation, the Court is constrained to tilt the scales in favor of petitioner. *In dubio pro reo*. When moral certainty as to culpability hangs in the balance, acquittal on reasonable doubt inevitably becomes a matter of right.^[56]

More, petitioner should also be acquitted for failure of the prosecution to establish that his alleged act of ousting AAA261920 and CCC261920 from the conjugal dwelling was impelled by a guilty state of mind. In this regard, *Acharon v. People*,^[57] which involved a Section 5(i) violation by means of denial of financial support, is *apropos*:

[T]he crimes penalized under Section 5(i) and 5(e) of RA 9262 are *mala in se*, not *mala prohibita*, even though RA 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 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 RA 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 RA 9262.** (Emphases supplied, citations omitted)

Although *Acharon* specifically treats of denial of financial support, there is no cogent reason to not apply the same rationale to the other predicate criminal acts mentioned in Section 5(i), namely: public ridicule or humiliation, repeated verbal and emotional abuse, denial of custody of minor children or access to the children, or similar acts or omissions.

Here, the record is bereft of any evidence that petitioner ordered AAA261920 and CCC261920 to leave the conjugal dwelling with a view to willfully and deliberately inflict mental or emotional anguish upon them. On the contrary, the testimony of AAA261920 reveals that the May 2017 incident was a result of petitioner’s lost temper due to a quarrel over finances.^[58] Petitioner allegedly accused AAA261920 of mismanaging their finances since she seemed to be unable to work her budget around and fit in all their expenses within his earnings as a government employee. Surely, this does not rise to the concept of criminal intent—i.e., the intentional doing of an act which the law declares to be a crime^[59]—as enunciated in *Acharon*.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated July 27, 2021 and Resolution dated June 7, 2022 in CA-G.R. CR No. 44922 are **REVERSED** and **SET ASIDE**. Petitioner **XXX261920** is **ACQUITTED** of violation of Section 5(i) of Republic Act No. 9262 in Criminal Case No. 13026.

Let an entry of final judgment be issued immediately.

SO ORDERED.”

M. Lopez, J. Lopez, and Kho, Jr., JJ., concur.

Leonen, * *SAJ.*, on official leave.

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 9262, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

** On official leave.

*** Acting Chairperson per Special Order No. 2950 dated March 22, 2023.

^[1] *Rollo*, pp. 7-21.

^[2] Penned by Associate Justice Apolinario D. Bruselas, Jr., with the concurrence of Associate Justices Rafael Antonio M. Santos and Bonifacio S. Pascua, *id.* at 26-42.

^[3] Penned by Associate Justice Apolinario D. Bruselas, Jr., with the concurrence of Associate Justices Rafael Antonio M. Santos and Bonifacio S. Pascua, *id.* at 51-53.

^[4] *Id.* at 54.

^[5] *Id.*

^[6] *Id.*

^[7] *Id.* at 55.

^[8] *Id.*

^[9] *Id.* at 28.

^[10] *Id.* at 28 & 55-56.

^[11] *Id.* at 28.

^[12] *Id.* at 28 & 56.

^[13] *Id.* at 56.

^[14] *Id.*

^[15] *Id.* at 29.

^[16] *Id.* at 56.

^[17] *Id.* at 29 & 56-57.

^[18] *Id.* at 80.

^[19] *Id.* at 29 & 57.

^[20] *Id.*

^[21] Draw a Person Test, Reynolds Depression Screening Inventory, Suicide Potential Inventory for Filipinos, and Basic Personality Inventory, among others.

^[22] *Rollo*, p. 57.

^[23] *Id.*

^[24] *Id.* at 58.

^[25] *Id.* at 59.

^[26] *Id.*

^[27] *Id.*

^[28] Penned by Presiding Judge Alpino P. Florendo, *id.* at 54-66.

^[29] *Id.* at 66.

[30] *Id.* at 61.

[31] *Id.* at 62.

[32] *Id.*

[33] *Id.* at 62-63.

[34] *Id.* at 26-42.

[35] *Id.* at 42.

[36] *Id.* at 51-53.

[37] *Id.* at 13-15.

[38] *Id.* at 15-18.

[39] *Id.* at 20-21.

[40] *Id.* at 74-92; By Assistant Solicitor General Anna Esperanza R. Solomon and State Solicitor Kevin Christopher C. Tatco.

[41] *Id.* at 85-91.

[42] **Dinamling v. People**, 761 Phil. 356, 367 (2015) [Per *J. Peralta*, Third Division], citing **Fuentes v. Court of Appeals**, 335 Phil. 1163, 1169 (1997) [Per *J. Panganiban*, Third Division].

[43] **Cruz v. People**, 821 Phil. 372, 384 (2017) [Per *J. Del Castillo*, First Division].

[44] *Rollo*, pp. 54-55; see **Acharon v. People**, **G.R. No. 224946**, November 9, 2021 [Per *J. Caguioa*, *En Banc*].

[45] See **Acharon v. People**, *supra*, citing **Canceran v. People**, 762 Phil. 558, 568 (2015) [Per *J. Mendoza*, Second Division].

[46] *Id.*

[47] *Rollo*, pp. 54-55; see **Acharon v. People**, *supra*.

^[48] *Id.* at 28-29 & 54-58.

^[49] *Id.* at 56-57.

^[50] *Id.* at 20, citing Testimony of Jojet Lamberto R. Mondares.

^[51] **Acharon v. People**, *supra*, citing **Dinamling v. People**, *supra*, at 373.

^[52] *Id.*

^[53] *Rollo*, pp. 55 & 59.

^[54] *Id.* at 58.

^[55] *Id.* at 20.

^[56] **Zafra v. People**, 686 Phil. 1095, 1109 (2012) [Per *J. Perez*, Second Division].

^[57] *Supra* note 40.

^[58] *Rollo*, p. 56.

^[59] 22 C.J.S. § 4