

**SECOND DIVISION**

**[ G.R. No. 249283. April 26, 2023 ]**

**PO2 IRENEO M. SOSAS, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

**[G.R. No. 249400]**

**SPO3 ARIEL D. SALVADOR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

**D E C I S I O N**

**LEONEN, SAJ.:**

Law enforcement officers who abuse their authority to intimidate persons under their custody for money are guilty of robbery by extortion.

This Court resolves the Petitions for Review on *Certiorari*<sup>[1]</sup> in two consolidated cases, both assailing the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals, which denied the appeal of the Regional Trial Court Decision finding them guilty of robbery.

The Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices filed an Information for robbery against Police Officer 2 Ireneo M. Sosas, Jr. (PO2 Sosas) and Senior Police Officer 3 Ariel D. Salvador (SPO3 Salvador). The accusatory portion of the Information reads:

That on or about 08 November 2010, or sometime prior or subsequent thereto, in Manila, Philippines[,] and within the jurisdiction of this Honorable Court, accused PO2 Ireneo Sosas and SPO3 Ariel Salvador, both public officers, being members of [the] Philippine National Police, conspiring, confederating together, and mutually helping one another, with intent to gain and by means of intimidation upon person[s], did then and there willfully, unlawfully[,] and feloniously demand, steal, extort, and receive PHP 20,000.00, from private complainant Janith Arbuez, then under arrest for supposed violation of [the] Anti-Fencing Law, in exchange for her release from detention, and without charges filed

against her.

CONTRARY TO LAW.<sup>[4]</sup>

SPO3 Salvador filed a Motion to Dismiss Charge, stating that the related administrative case filed against him had been dropped for lack of probable cause.<sup>[5]</sup> Meanwhile, PO2 Sosas was arraigned, and he pleaded not guilty to the charge.<sup>[6]</sup>

Eventually, the Regional Trial Court denied SPO3 Salvador's Motion to Dismiss Charge, and he was arraigned, where he entered a not guilty plea.<sup>[7]</sup> Trial on the merits then ensued.<sup>[8]</sup>

The prosecution's evidence showed that private complainant Janith Arbuez (Arbuez) was a salesperson at a used cellphone shop at Isetann Mall in Recto, Manila. On November 8, 2010, a certain Camille Palma (Palma) arrived at the shop, looked at a particular cellphone, and left. After a few hours, Palma returned to buy the cellphone she was eyeing.<sup>[9]</sup>

As Arbuez handed the phone to Palma, PO2 Sosas arrived and grabbed the phone, saying, "*Hindi mo ba alam na nakaw ito?*" PO2 Sosas then escorted Arbuez to the mall's administrative office to report her sale of stolen items.<sup>[10]</sup> Afterward, PO2 Sosas brought Arbuez to the police station, where she was made to sign documents. PO2 Sosas then led her to a room, while SPO3 Salvador stood by the door behind her.<sup>[11]</sup> There, PO2 Sosas proposed that they would not file a criminal complaint for violation of the Anti-Fencing Law if she would settle and give him PHP 20,000.00.<sup>[12]</sup>

Arbuez negotiated for a lower amount, and PO2 Sosas agreed on the condition that they become "sweethearts."<sup>[13]</sup> Arbuez refused and called her sister-in-law Felisa Jubay (Jubay), to ask for the money. The next day, Jubay brought the money to the police station where Arbuez had been in detention for 18 hours.<sup>[14]</sup> After receiving the money, PO2 Sosas said, "*Okay na, hindi na itutuloy [']yung kaso.*" Arbuez then left the police station.<sup>[15]</sup>

A few days later, Arbuez went to Camp Crame and to the Office of the Ombudsman to file a complaint against PO2 Sosas. She later learned that PO2 Sosas did file a complaint against her for violation of the Anti-Fencing Law, which was dismissed by the prosecutor.<sup>[16]</sup>

For his defense, PO2 Sosas testified that he was designated as an investigator at the time of the incident. He claimed that Palma and SPO3 Salvador arrived at his station asking for assistance, with Palma alleging that her phone had been stolen and that she had seen her phone for sale at one of the shops at Isetann Mall.<sup>[17]</sup> At the mall, he allegedly told Palma to

act as a poseur buyer and to give him a prearranged signal upon confirmation that the phone for sale was the stolen unit.<sup>[18]</sup> When he saw the prearranged signal from Palma, PO2 Sosas approached Arbuez and informed her that she was selling a stolen item. He then showed the box and the receipt corresponding to the cellphone unit being sold.<sup>[19]</sup>

However, at the police station, PO2 Sosas claimed that it was Arbuez who offered to return Palma's phone and asked him, "*Baka puwede aregluhin na lang.*"<sup>[20]</sup>

For his part, SPO3 Salvador denied his involvement in any scheme to extort PHP 20,000.00 from Arbuez. He said that he did not even know PO2 Sosas before the incident. However, he testified that he was at the police station the day Arbuez was released from detention, and that he signed the entry in the log book as to Palma's desistance from filing a criminal complaint.<sup>[21]</sup>

On August 19, 2016, the Regional Trial Court rendered a Decision convicting PO2 Sosas and SPO3 Salvador.<sup>[22]</sup> The dispositive portion reads:

WHEREFORE, the prosecution having established the guilt of both beyond reasonable doubt, judgment is hereby rendered finding both accused PO2 IRENEO SOSAS, a.k.a. "PO2 IRENEO MAGPANTAY SOSAS, JR.," and SPO3 ARIEL SALVADOR, a.k.a. "Ariel Dalida Salvador," GUILTY beyond reasonable doubt of the crime of robbery (extortion), defined under Art. 293 of the Revised Penal Code and penalized under Art. 294 (5) of the same Code. Accordingly, they are each sentenced to the indeterminate penalty of three (3) years, six (6) months, and twenty (20) days of *prision correccional* imposed in its medium period as minimum to eight (8) years, eight (8) months, and one (1) day of *prision mayor* imposed in its medium period as maximum.

Further, they are ordered to return the sum of twenty thousand pesos (PHP 20,000.00) to the private complainant with payment of legal interest reckoned from 09 November of 2010.

SO ORDERED.<sup>[23]</sup>

Both appealed to the Court of Appeals, essentially questioning the credibility of the prosecution witnesses' testimonies.<sup>[24]</sup> However, the Court of Appeals dismissed their appeal. It found that the minor inconsistencies in the testimonies did not affect their credibility.<sup>[25]</sup>

The dispositive portion of the April 30, 2019 Decision<sup>[26]</sup> reads:

WHEREFORE, the appeal is DENIED for lack of merit. The assailed Decision dated 19 August 2016 of the Regional Trial Court, Branch 3, Metro Manila, in Criminal Case No. 13-294500 is AFFIRMED.

IT IS SO ORDERED.<sup>[27]</sup>

PO2 Sosas and SPO3 Salvador each filed a Motion for Reconsideration. However, both were denied in the Court of Appeals' September 9, 2019 Resolution.<sup>[28]</sup>

Both filed their own Petitions for Review on *Certiorari*, which were consolidated.<sup>[29]</sup> In petitioner PO2 Sosas's Petition,<sup>[30]</sup> he claims that the lower courts erred in accepting the prosecution's version of facts. He argues that nothing in the witnesses' testimonies established the date of the commission of the crime.<sup>[31]</sup> He also raises irreconcilable and material inconsistencies in the prosecution witnesses' testimonies, such as where the extortion happened and what the money was actually for.<sup>[32]</sup>

Moreover, petitioner PO2 Sosas claims that the elements of the crime are absent. According to him, intent to gain was never established because the money taken from Arbuez was settlement money to be paid to Palma.<sup>[33]</sup> He insists that he was merely performing his lawful duties when he arrested Arbuez, and that this case is only a retaliatory ploy.<sup>[34]</sup>

In his Petition,<sup>[35]</sup> petitioner SPO3 Salvador also alleges inconsistencies in the prosecution witnesses' testimonies, which he claims are neither minor nor collateral as they affect the credibility of the witnesses. Although he admits that he raises questions of fact, he pleads that this Court take his case as an exception.<sup>[36]</sup>

Particularly, petitioner SPO3 Salvador reproduces a portion of the testimony of prosecution witness Reynaldo Marcos (Marcos), Arbuez's friend who was also present at the police station when the incident took place. Petitioner SPO3 Salvador points out that Marcos had stated that it was he who approached and offered SPO3 Salvador money. On the other hand, his *Salaysay ng Pagkakasaksi* stated that petitioner SPO3 Salvador demanded the money from him.<sup>[37]</sup>

Moreover, he insists that the money involved in the transaction was for the settlement of the case, and not an extortion.<sup>[38]</sup>

Petitioner SPO3 Salvador also argues that the prosecution was unable to prove the elements of the crime beyond reasonable doubt. He insists that the money delivered was never proven to have existed, nor was the taking of the money shown.<sup>[39]</sup> He also argues that he had no intent to gain,<sup>[40]</sup> and that there was no violence or intimidation.<sup>[41]</sup>

This Court ordered the Office of the Solicitor General to file its Consolidated Comment on behalf of respondent People of the Philippines. In its submission,<sup>[42]</sup> respondent argues that this Court does not review questions of fact in a Rule 45 petition.<sup>[43]</sup> Moreover, it argues that the exact date of the commission of the offense is not an essential element and need not be stated in the Information.<sup>[44]</sup> It maintains that the witnesses' positive and credible testimonies established petitioners' guilt; the alleged inconsistencies were only incidental matters.<sup>[45]</sup> Finally, it insists that all the elements of the crime have been proven, warranting petitioners' conviction.<sup>[46]</sup>

The main issue in this case is whether the Court of Appeals erred in finding petitioners guilty beyond reasonable doubt of the crime of robbery. Incidentally, procedural issues on the propriety of raising questions of fact in a Petition for Review must also be discussed.

This Court finds that the Petitions clearly involve questions of fact in arguing for petitioners' acquittal. They question the lower courts' appreciation of the facts and fault them for finding the prosecution's version more credible than their defenses raised during trial. As petitioner SPO3 Salvador admits, this issue is outside the scope of a Rule 45 petition.

It is well settled that only questions of law may be raised in petitions for review on *certiorari* before this Court.<sup>[47]</sup> In this mode of review, this Court does not entertain questions of fact because the appellate courts' factual findings are final, binding, or conclusive on this Court and the parties when supported by substantial evidence,<sup>[48]</sup> and thus, will not be disturbed on appeal.<sup>[49]</sup> Raising questions of fact in a Rule 45 petition is a ground to dismiss the petition.

Nevertheless, even on their substantive arguments, the Petitions still fail. To convict an accused of robbery, or more specifically, extortion as in this case, these elements must be proven:

- (1) That there is personal property belonging to another;
- (2) That there is unlawful taking of that property;

(3) That the taking is with intent to gain; and

(4) That there is violence against or intimidation of persons.<sup>[50]</sup>

Here, both the Regional Trial Court and the Court of Appeals found that the prosecution proved all these elements beyond reasonable doubt. It was established during trial that Arbuez was the owner of the PHP 20,000.00, having loaned it from her sister-in-law, Jubay. When petitioner PO2 Sosas demanded the money from Arbuez, it showed his clear intent to gain as he had no authority to demand and take Arbuez's money. As the Court of Appeals correctly found, his duty was to report the incident to the inquest prosecutor, and not to decide whether to file a criminal complaint.<sup>[51]</sup> Intimidation also happened when petitioner PO2 Sosas implied that a criminal complaint would be filed if Arbuez did not come up with the money.<sup>[52]</sup>

As to petitioner SPO3 Salvador's involvement, the Court of Appeals also found that the prosecution proved the existence of conspiracy. This was evident from petitioners' concerted efforts to intimidate Arbuez into giving in to their demands. Petitioner SPO3 Salvador stood by the door of the investigation room and even assured Arbuez that only Palma would know about the deal to have the case against her dropped.<sup>[53]</sup> Petitioner PO2 Sosas also referred Jubay and Marcos to petitioner SPO3 Salvador to negotiate the case, even though petitioner SPO3 Salvador was not the private complainant in the case.<sup>[54]</sup>

The prosecution sufficiently established the agreement between petitioners to extort money from Arbuez; it does not matter if petitioner SPO3 Salvador did not expressly demand the money from Arbuez.<sup>[55]</sup> Thus, this Court finds no error in convicting petitioners of robbery by extortion.

As respondent notes, "[p]etitioners are police officers who are tasked to implement the law. Hence, they could not demand and eventually receive any amount from private persons as a consideration for them not to pursue the case against them. Under such circumstances, the eventual receipt of the money by petitioners makes the taking unlawful."<sup>[56]</sup> The taking of the PHP 20,000.00 was shown to be for petitioners' personal benefit, proving their intent to gain.

This Court has declared in past cases that public officers who abuse their positions are guilty of robbery. *Sazon v. Sandiganbayan*<sup>[57]</sup> enumerated these cases:

These include the early cases of *People v. Francisco* and *United States v. Sanchez* and the more recent cases of *Fortuna v. People* and *Pablo v. People*.

In *People v. Francisco*, the accused, who was then a sanitary inspector in the Philippine Health Service, discovered during an inspection of the merchandise in Sy Ham's store that the lard was unfit for consumption. He then demanded from Sy Ham the payment of P2.00 with threats of prosecution and arrest. For fear of being arrested, prosecuted, and convicted, Sy Ham immediately paid the amount demanded.

In *United States v. Sanchez*, two police officers demanded from a Chinese, who allegedly violated the Opium Law, P500.00, accompanied by threats to take him before the proper authorities and have him prosecuted. For fear of being sent to prison for a long term, the Chinese paid a negotiated amount of P150.00.

In *Fortuna v. People* and *Pablo v. People*, three policemen frisked Diosdada and Mario Montecillo, and accused the latter of illegal possession of a deadly weapon. The policemen threatened Mario that he would be brought to the police station where he would be interrogated by the police, mauled by other prisoners and heckled by the press. The apprehending policemen took from Mario P1,000.00. They likewise rummaged Diosdada's bag where they found and eventually pocketed P5,000.00. They further demanded from Diosdada any piece of jewelry that could be pawned. Thereafter, the two were released by the policemen.

In all of the above cases, the Court was convinced that there was sufficient intimidation applied by the accused on the offended parties inasmuch as the acts of the accused engendered fear in the minds of their victims and hindered the free exercise of their will.<sup>[58]</sup> (Citations omitted)

Applying these past cases, this Court in *Sazon* likewise upheld the conviction of a senior forest management specialist of the Department of Environment and Natural Resources. Offering to "fix" the documents pertaining to logs of a certain banned species found in the possession of a private person, the petitioner in *Sazon* demanded PHP 300,000.00 if no papers would be submitted; PHP 200,000.00 if the submission was incomplete; and PHP 100,000.00 if complete.<sup>[59]</sup> Eventually, an entrapment operation was conducted where petitioner received the sum of PHP 100,000.00.<sup>[60]</sup>

In concluding that there was intimidation in the taking of money, this Court in *Sazon* held:

On September 25, 1992, petitioner discovered the questioned logs and asked that the supporting documents be shown; on October 1, she formally demanded the submission of the required documents; on October 7, she demanded payment of a particular sum of money while offering to “fix” the problem; on October 13, she made the final demand; and on October 14, the representatives of R&R parted with their P100,000.00. While it appears that initially, petitioner only demanded the submission of the supporting documents to show that R&R’s possession of the subject logs was legal, she agreed to talk about the matter outside her office. This circumstance alone makes her intentions highly suspect. The same was confirmed when petitioner eventually demanded from R&R the payment of a particular sum of money, accompanied by threats of prosecution and confiscation of the logs.

From the foregoing and in light of the concept of intimidation as defined in various jurisprudence, we find and so hold that the P100,000.00 “grease money” was taken by the petitioner from R&R’s representatives through intimidation. By using her position as Senior Management Specialist of the DENR, petitioner succeeded in coercing the complainants to choose between two alternatives: to part with their money, or suffer the burden and humiliation of prosecution and confiscation of the logs.<sup>[61]</sup>

Likewise, here, petitioners occupy a position of authority. They are law enforcement agents while Arbuez is an ordinary citizen. The incident transpired at the police station when Arbuez was already placed under their custody. Given these circumstances, the threats of continued deprivation of liberty, and the possibility of criminal prosecution, it is easy to conclude that petitioners intimidated Arbuez into giving them the money. They are, therefore, guilty of robbery.

**ACCORDINGLY**, the Petitions are **DENIED**. The Court of Appeals’ April 30, 2019 Decision and September 9, 2019 Resolution in CA G.R. CR No. 39357 are **AFFIRMED with MODIFICATION**. Petitioners Police Officer 2 Ireneo M. Sosas, Jr. and Senior Police Officer 3 Ariel D. Salvador are guilty beyond reasonable doubt of the crime of robbery. They are each sentenced to the indeterminate penalty of three years, six months, and 20 days of *prision correccional* imposed in its medium period, as minimum, to eight years, eight

months, and one day of *prision mayor* imposed in its medium period, as maximum.

Petitioners are ordered to pay private complainant Janith Arbuez PHP 20,000.00 as actual damages, with legal interest of 12% per annum from November 9, 2010 until June 30, 2013 and 6% interest per annum from July 1, 2013 until fully paid.<sup>[62]</sup>

**SO ORDERED.**

*Lazaro-Javier, M. Lopez, J. Lopez, and Kho, Jr., JJ., concur.*

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<sup>[1]</sup> *Rollo (G.R. No. 249283)*, pp. 39-59; *rollo (G.R. No. 249400)*, pp. 8-38.

<sup>[2]</sup> *Rollo (G.R. No. 249400)*, pp. 39-58. The April 30, 2019 Decision was penned by Associate Justice Geraldine C. Fiel-Macaraig and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Rafael Antonio M. Santos of the Special Ninth Division, Court of Appeals, Manila.

<sup>[3]</sup> *Id.* at 59-61. The September 9, 2019 Resolution was penned by Associate Justice Geraldine C. Fiel-Macaraig and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Rafael Antonio M. Santos of the Former Special Ninth Division, Court of Appeals, Manila.

<sup>[4]</sup> *Id.* at 40.

<sup>[5]</sup> *Id.* at 41.

<sup>[6]</sup> *Id.*

<sup>[7]</sup> *Id.*

<sup>[8]</sup> *Id.*

<sup>[9]</sup> *Id.* at 43.

<sup>[10]</sup> *Id.*

<sup>[11]</sup> *Id.*

<sup>[12]</sup> *Id.*

<sup>[13]</sup> *Id.* at 43-44.

<sup>[14]</sup> *Id.* at 44.

<sup>[15]</sup> *Id.*

<sup>[16]</sup> *Id.*

<sup>[17]</sup> *Id.* at 46.

<sup>[18]</sup> *Id.*

<sup>[19]</sup> *Id.* at 46-47.

<sup>[20]</sup> *Id.* at 47.

<sup>[21]</sup> *Id.* at 49.

<sup>[22]</sup> *Id.* at 39.

<sup>[23]</sup> *Id.* at 39-40.

<sup>[24]</sup> *Id.* at 50-51.

<sup>[25]</sup> *Id.* at 52-53.

<sup>[26]</sup> *Id.* at 39-58.

<sup>[27]</sup> *Id.* at 58.

<sup>[28]</sup> *Id.* at 59-61.

<sup>[29]</sup> *Rollo (G.R. No. 249283)*, p. 127.

<sup>[30]</sup> *Id.* at 39-59.

<sup>[31]</sup> *Id.* at 48.

<sup>[32]</sup> *Id.*

<sup>[33]</sup> *Id.* at 53-54.

[34] *Id.* at 55.

[35] *Rollo (G.R. No. 249400)*, pp. 8-38.

[36] *Id.* at 21-22.

[37] *Id.* at 16-18.

[38] *Id.* at 19-20.

[39] *Id.* at 26-27.

[40] *Id.* at 27.

[41] *Id.* at 29.

[42] *Rollo (G.R. No. 249283)*, pp. 145-165.

[43] *Id.* at 151.

[44] *Id.* at 152.

[45] *Id.* at 154.

[46] *Id.* at 157.

[47] RULES OF COURT, Rule 45, sec. 1.

[48] **Pascual v. Burgos**, 776 Phil. 167, 182 (2016) [Per J. Leonen, Second Division].

[49] *Id.*

[50] **Sazon v. Sandiganbayan**, 598 Phil. 35, 45 (2009) [Per J. Nachura, Third Division]. See REV. PEN. CODE, art. 294(5), which states:

ARTICLE 294. Robbery with violence against or intimidation of persons; Penalties. — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

.....

5. The penalty of *prision correccional* in its maximum period to *prision mayor* in

its medium period in other cases.

<sup>[51]</sup> *Rollo (G.R. No. 249400)*, p. 55.

<sup>[52]</sup> *Id.*

<sup>[53]</sup> *Id.* at 55-56.

<sup>[54]</sup> *Id.* at 56.

<sup>[55]</sup> *Id.*

<sup>[56]</sup> *Rollo (G.R. No. 249283)*, p. 158.

<sup>[57]</sup> 598 Phil. 35 (2009) [Per J. Nachura, Third Division].

<sup>[58]</sup> *Id.* at 48-49.

<sup>[59]</sup> *Id.* at 41.

<sup>[60]</sup> *Id.*

<sup>[61]</sup> *Id.* at 47.

<sup>[62]</sup> **Nacar v. Gallery Frames**, 716 Phil. 267 (2013) [Per J. Peralta, *En Banc*].

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