

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NANCY LASACA RAMIREZ, A.K.A “ZOY” OR “SOY”, ACCUSED-APPELLANT.

Ponente: HERNANDO, J.

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HERNANDO, J.:

Before Us is an Appeal from the Decision[1] dated January 9, 2013 rendered by the Regional Trial Court (RTC), Branch 27 of Lapu-lapu City in Crim. Case No. R-LLP-09-05622-CR finding accused-appellant Nancy Lasaca Ramirez guilty beyond reasonable doubt of the crime of Qualified Trafficking of Persons in Relation to Sec. 4(e) of R.A. 9208[2]. The dispositive portion of the assailed Decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby ordered finding the accused, Nancy Lasaca Ramirez guilty of the crime of Qualified Trafficking of Person in Relation to Sec. 4(e) of R.A. 9208 beyond reasonable doubt and sentences her to suffer the penalty of life imprisonment and a fine of Two million pesos (P2,000,000.00).

SO ORDERED.

Consistent with the confidentiality rule in cases involving minor victims and taking into account the best interest of the minors involved herein, this Court shall withhold the real names of the two minors rescued from prostitution and shall hereby referred them as “AAA” and “BBB” respectively. We hold this to be so notwithstanding that their real names were, nonetheless, mentioned and indicated in the records of this case.

The Antecedents:

Accused Nancy Lasaca Ramirez was charged with the crime of Qualified Trafficking of Person in Relation to Sec. 4(e) of R.A. 9208, in an Information[3] dated December 8, 2009, the accusatory portion of which reads:

That on the 5[th] day of December, 2009, at or about 9:45 o'clock in the evening, in Tanquiri KTV Bar, Pajo, Lapu-Lapu City, Philippines, within the jurisdiction of this Honorable Court, the afore-named accused, did then and there willfully and unlawfully maintain or hire Nica Jean U. Goc-ong, 20 years old, “AAA”, 16 year old minor, Cindy Pancho, 20 years old and “BBB”, 15 year old minor, to engage in prostitution and offered them for sex or any form of sexual exploitation to poseur customers.

CONTRARY TO LAW.

When arraigned on April 23, 2010, accused Lasaca, with the assistance of counsel, entered a plea of not guilty.[4] After the pre-trial was terminated, trial on the merits ensued.

To establish the guilt of accused, the prosecution presented police officers PO1 Nef M. Nemenzo and PO2 Linda Almohallas as well as the two minor victims, “AAA” and “BBB”.

Version of the Prosecution

Pursuant to a surveillance of a reported widespread sexual service for sale by young girls in M. Patalinghug Ave.

Pajo, Lapu-lapu City which was conducted by the unit of the Regional Anti-Human Trafficking Task Force (RATTF), numerous and successive entrapment operations were thereafter planned. With a team of fourteen (14) members divided into two groups, the planned entrapment and rescue operation on said place, particularly within the vicinity of Tanquiri KTV Bar and FHM Grill, was conducted on December 5, 2009 at around 9:45 in the evening.

During the said operation, PO1 Nef Nemenzo and PO1 Ariel Llanes were designated to act as poseur customers. There, the two ordered bottles of beer and waited for the arrival of pimps. The two minors “AAA” and “BBB” approached them and introduced themselves. In the middle of their conversation, accused, who was known as “Soy”, came in and informed the two police officers that she can provide additional two young girls as they needed two more. Thereafter, accused and minor “BBB” left and came back with two other girls, Nica Jean Guc-ong and Cindy Pancho. It was then agreed that the price of each girl for sexual pleasure would be Php600.00 totaling to Php2,400.00 for the four girls. Accused then instructed “BBB” to receive the payment from the police officers and to set aside her commission of Php100.00 for each girl amounting to a total of Php400.00. Before the police officers and the four girls hailed a taxi, accused reminded “BBB” to ask for a down payment from the customers.

While inside the taxi on their way to Queensland motel, PO1 Llanes handed the payment of Php2,400.00 to “BBB” as instructed by accused. Right after “BBB” accepted the payment, PO1 Nemenzo and PO1 Llanes introduced themselves as police officers and told them that they were not being arrested but rescued. PO1 Nemenzo then got back the amount of Php2,400 from “BBB”. Subsequently, the four girls were turned over to the team leader, P/Insp. Teresa Macatangay, who was inside a civilian van located near the area of the operation. PO1 Nemenzo also handed the amount of Php2,400.00 which he confiscated earlier from “BBB” to the evidence custodian, PO1 Linda Almohallas, who placed the same in an envelope.

Accused Ramirez was only arrested after the rest of the members of the team rescued the other victims. This was done in the morning of December 6, 2009 when accused Ramirez was standing in the vicinity of the FHM grill and after “BBB” positively pointed to her as their pimp. According to PO1 Nemenzo, at the time of the arrest, accused was apprised of her constitutional rights. She was thereafter brought to their office for booking.

Version of the Defense:

Accused Nancy Lasaca Ramirez interposed the defense of denial. To belie the prosecution's accusation, accused herself and her sister, Francy Ramirez, testified in court.

Accused Nancy Lasaca Ramirez declared that she and her sister, Francy, agreed to watch a live band playing in FHM Grill on December 5, 2009. According to her, it was her second time in said place. She was, however, surprised when she was held by two men and pushed towards the van. She asked the reason why she was held but no one answered her question. She was later brought and transferred to another van where she met “BBB” and other girls and some gays. She was later told that the policemen were rounding up the area to arrest prostitutes.

Accused's sister, Francy Ramirez, corroborated accused's testimony that she was with her sister on December 5, 2009 at about 9:00 o'clock in the evening at FHM Grill watching the live band playing therein. According to Francy, her sister arrived there a little bit ahead of her. She admitted that she did not know what her sister was doing when the latter arrived in said place. She declared that her sister had no companion at that time and was only waiting for her near the gate.

On January 9, 2013, the trial court rendered its assailed Judgment finding accused Nancy Lasaca Ramirez guilty as charged.

Hence, this appeal by the accused-appellant anchored on a lone assignment of error:

The Assigned Error:[5]

I.

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

The Court's Ruling:

We affirm the conviction of accused-appellant.

Section 3(a) of Republic Act No. 9208 (RA 9208), otherwise known as the Anti-Trafficking in Persons Act of 2003, defines Trafficking in Persons, as follows:

Trafficking in Persons – refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs. (Emphasis supplied)

Sec. 3(c) thereof also defines prostitution as one which refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

Moreover, Sec. 4 of the same law enumerates the prohibited acts of Trafficking in Persons, one of which is as follows:

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

x x x x x x x x

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

x x x x x x x x

Sec. 6 thereof further states:

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

(a) When the trafficked person is a child;

x x x x x x x x

Here, the trial court found overwhelming pieces of evidence to convict appellant of the crime charged. In so ruling, the trial court ratiocinated, thus:

The prosecution through an overwhelming pieces of evidence was able to establish the act of the accused in negotiating with the police officers who conducted the entrapment operation for the four girls who she pimped to come with them to a motel for a sexual pleasure for fee on the night of December 5, 2009 over and above the defense of the accused of denial. The testimonies of the two minors brazenly identified the accused to be a pimp in the area where the police officers conducted their entrapment operation. As a matter of fact, these two minors were pimped by the accused not just once but for several times already. Clearly, the act of the accused in maintaining these minor girls to engage in prostitution is evidently established.

In the case at bar, what was negotiated by the accused is for the girls to have sexual intercourse with the police officers in exchange of money. Without such negotiation, the girls would not be budged to engage into prostitution. It was the accused who hired the two girls including the two minors who testified in open court with credibility to engage into sexual act with the poseur customers for a fee in the amount of P600.00 for each girl.

Our own independent examination of the records of this case lead Us to the same conclusion. We find no reason to deviate from the findings of the trial court. The records are replete with evidence establishing that indeed appellant was engaged in Qualified Trafficking of Persons. The unwavering testimonies of the two rescued minor victims as well as the positive declaration of the police officers on the culpability of appellant cannot simply be disregarded. On the contrary, they deserve due weight and credence.

The two rescued minor victims, whose minority was indisputably established[6], bravely and brazenly admitted that they were engaged into sex for money and positively identified appellant as one of their pimps.[7] The two young girls revealed in detail that the pimps, including appellant, are usually the ones who deal with and make negotiations with customers and in turn, receive commissions for it. "BBB" specified that the rate usually ranges from Php500.00 to Php700.00. If the agreed price is Php500.00, the hired girl for sex would get Php400.00 while a share of Php100.00 would go to the pimp. If the price is Php700.00, Php550.00 would be the payment for the girl and Php150.00 would be the commission of the pimp. The two young girls further narrated that on December 5, 2009, appellant had pandered them with two customers, whom they later found out to be police officers. They confessed that they had been pimped by appellant for several times already.

The entrapment and rescue operation conducted by the member of the RATTF in M. Patalinghug Ave., Pajo, Lapu-lapu City on December 5, 2009, where appellant was legally arrested and the victims were consequently rescued confirmed these young girls' revelations. PO1 Nemenzo, a member of the Regional Anti Human Trafficking Task Force Region VII, positively identified appellant in court as the same person that they had arrested during said entrapment and rescue operation. He testified in no uncertain terms how the December 5, 2009 entrapment and rescue operation transpired, thus:

Q: Have you conducted entrapment operation somewhere in brgy. Pajo, Lapu-lapu City?

A: Yes.

Q: When would that be?

A: Last December 5, 2009.

Q: Why did your office conducted an entrapment operation there?

A: Because based on our surveillance there was a widespread sexual service for sale by young girls in that area.

x x x x x x x x

Q: What was your role in that operation?

A: I disguise as a customer in order to negotiate with the minor girls for sale.

x x x x x x x x

Q: Who was your partner?

A: SPO1 Ariel Llanes.

Q: In your group can you tell the court exactly where in M. Patalinghug is your target area?

A: Tankiri KTV bar in front of FHM grill.

Q: What time did you conduct the operation?

A: Around 9:45 in the evening.

x x x x x x x x

Q: When you were there what did you do?

A: We disguised as a customer and we bought two (2) bottles of San mig light and waited for the arrival of the pimps.

x x x x x x x x

Q: After you ordered for drinks for Sanmig light and waited for the pimps, what happened next?

A: There was woman who approached us.

Q: Who was this woman, if you know?

A: Woman named Jinky.

Q: Why do you know that her name is Jinky?

A: Because when she approached us she introduced herself to us.

Q: What happened after Jinky introduced herself to you?

A: She also introduced her companion to us named Ruby.

Q: So, what happened after that?

A: PO1 Llanes asked her about the prize.

Q: Aside from this Jinky and Ruby who approached you and your partner, who else were there?

A: Nancy nicknamed Soy.

Q: What did this Nancy nicknamed Soy do there?

A: She came in the middle of our conversation because we need two more young girls and she told us that she can give us what we need.

Q: When Soy entered into your conversation what did she say?

A: She told us that she has two girls.

Q: Before Soy added the two minor girls, can you tell the Court exactly what did Soy tell you?

A: That she will provide for us two young girls because we need four.

x x x x x x x x

Q: When Soy said that she will provide two more girls what happened next?

A: Jinky and Nancy went away and left Ruby and after a while the(y) came back with two other girls.

Q: By the way, is this Nancy or Soy present in court?

A: Yes.

Q: Can you please look around and point to Nancy or Soy?

A: That girl with long hair seating beside the window.

(the person referred to by the witness when asked of her name answered that she is Nancy Ramirez)

Q: When this Nancy came back with two more girls what happened next?

A: We already agreed.

Q: What was your agreement?

A: Each girl cost 600 pesos.

Q: For what purpose?

A: For sex.

x x x x x x x x

Q: When these four girls were provided for by Soy, what happened next?

A: We waited for the taxi.

Q: Then after you waited for the taxi what happened next?

A: The six of us rode the taxi because Jinky requested that we will just go to queensland.

x x x x x x x x

Q: How about Soy, where was she?

A: She remained in the place.

Q: What did Soy say?

A: She told Jinky to accept the money because they might be a SWAT and they might not pay you.

x x x x x x x x

Q: While inside the taxi, what happened?

A: PO1 Llanes handed the money to Jinky because that was the instruction of Nancy.

x x x x x x x x

Q: When PO1 Llanes give the money to Jinky, what happened next?

A: Jinky received it.

Q: After Jinky received the money from PO1 Llanes, what happened next?

A: After Jinky received the money we introduced ourselves as police officer.[8]

x x x x x x x x

We do not doubt at all this and the girls' testimony to prove the guilt of appellant, as in fact the trial court gave due weight and credence to the testimonies of these prosecution's witnesses. Time and again, the High Court has held that when what is at issue is the credibility of the victim, great weight to the trial court's assessment must be given.[9] In fact, the trial court's finding of facts is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.[10] The reason is that the trial court had the full opportunity to observe directly the witnesses' deportment and manner of testifying.[11] It is in a better position than the appellate court to properly evaluate testimonial evidence.[12]

Appellant insists that she is not guilty of the crime charged. She asserts that the record is bereft of any evidence showing that she owned or at least worked in the Tanquiri KTV Bar when the incident transpired. She also questions the testimony of PO1 Nemenzo on the supposed surveillance conducted against her for being lacking in material details.

These assertions are far from being persuasive.

In Our considered view, the fact that appellant worked in or was connected with Tanquiri KTV Bar when she was arrested is of no moment. Firstly, it was not the Tanquiri Bar which was the subject of the supposed entrapment operation. Hence, it does not matter whether or not appellant is connected therewith. Secondly, appellant need not be connected with said establishment for her to maintain or hire the victims to engage into prostitution. The testimonies of the two minor victims that appellant hired them to engage into sexual activity or intercourse with the police officers who posed as customers during the entrapment operation, and whose testimonies were substantiated by the declaration of PO1 Nemenzo himself who acted as the poseur customer, were more than sufficient and convincing enough to prove the involvement of appellant in the crime of trafficking of persons. To recall, an act of any person who hires or maintains another person to engage in prostitution or pornography is one of the unlawful acts enumerated in Sec. (4) of R.A. 9208. The culpability of appellant is further established from the fact that she got commissions for each of the girl that she negotiated and offered to the poseur customers for sexual pleasure.

The failure of PO1 Nemenzo to elaborate the details on how the prior surveillance against appellant was conducted does not make the subsequent entrapment operation questionable. We must stress that like in drug-related cases, prior surveillance is not even a prerequisite for the validity of an entrapment operation.[13]

Also, appellant points out that the testimony of PO1 Nemenzo established that it was not she who offered and negotiated the price for each girl as she supposedly approached the police officers only after "BBB" had negotiated with them, thus, negating the fact that she had influenced or offered the girls' sexual services to customers for a fee.

Again, this argument fails to convince Us.

In Our firm belief, it is of no consequence as to who first approached the poseur customers and made the initial

negotiation. It was nonetheless established that it was appellant who eventually facilitated and closed the negotiation with the poseur customers for the sexual services of the four young girls. It must be recalled that the deal was closed when appellant brought another pair of young girls to the poseur customers. In any event, the mere fact that an amount of Php100.00 for each hired girl was set aside for appellant's commission is overwhelming enough to arrive at the conclusion that indeed she was a pimp for these girls, a trafficker for that matter.

Also, it is not uncommon that payment for sexual services may be received by the hired girls rather than by the pimps. It cannot be gainsaid that this set-up may probably be employed by the traffickers if only to evade any culpability particularly in the present case where appellant had apprehensions beforehand that the two men who posed as customers might be police officers. Neither is it uncommon to pay first before the sexual services are rendered if the same was the agreement.

In like manner, appellant cannot be exculpated from the crime just because it was not she, but one of the victims, who received the payment for the supposed sexual services of these young girls. Neither can appellant be vindicated for not having in her actual possession the amount given as payment for the girls. We highlight that upon receipt by one of the victims of such payment for their supposed services, a cut of Php400.00 from the Php2,400.00, was already earmarked as commission for appellant. Hence, there is no doubt as to appellant's culpability.

On the other hand, the defense of denial interposed by appellant must be rejected. Not only is denial an inherently weak defense, it cannot also prevail over the positive testimonies^[14] of the minor victims as well as the police officers in this case. This is so especially in the light of the fact that appellant offered no evidence of any ill-motive on the part of the police officers to falsely charge her with the crime for which she was convicted by the trial court.

All told, We hold that appellant's guilt for the crime charged had been indisputably proven by the prosecution beyond any shadow of doubt.

WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. The assailed Decision dated January 9, 2013 of the Regional Trial Court, Branch 27 of Lapu-lapu City in Crim. Case No. R-LLP-09-05622-CR is hereby AFFIRMED. No pronouncement as to cost.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Penned by Presiding Judge Toribio S. Quiwag; Rollo, pp. 38-41.

[2] Otherwise known as "Anti-Trafficking in Persons Act of 2003".

[3] Record, pp. 2-3.

[4] Record, per Order dated April 23, 2010, p. 58.

[5] Brief for the Accused-Appellant; Rollo, p. 27.

[6] Per Exh. "K" and Exh. "M"; Record, pp. 153 and 160.

[7] Per Judicial Affidavits of "BBB" and "AAA"; Record, pp. 103-108 and pp. 112-117; Affidavits of "AAA" and "BBB" marked as Exhibits "B" and "D", respectively.

[8] Transcript of Stenographic Notes, November 17, 2010, pp. 4-11.

[9] People v. Bosi, G.R. No. 193665, June 25, 2012.

[10] Ibid.

[11] Ibid.

[12] Ibid.

[13] People v. Lucio, G.R. No. 191391, June 19, 2013.

[14] People v. Rocabo, G.R. No. 193482, March 02, 2011.

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