

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. MA. LOURDES A. GIRON, IN HER CAPACITY AS PRESIDING JUDGE, BRANCH 102, REGIONAL TRIAL COURT OF QUEZON CITY AND CARMELITA TIZON, GLO...

Ponente: DIAMANTE, J.

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DIAMANTE, J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the Orders dated December 23, 2013 and March 17, 2014, respectively of public respondent Hon. Ma. Lourdes A. Giron, granting bail to accused Carmelita Tizon, Gloria N. Osorio, Nida R. Vicente, Maria Victoria S. Portem, Elena M. Osi, Julieta P. Castro, Angelina A. Nillo and Jaime D. De Jesus, in Criminal Case No. Q-12-176703[*] for Violation of R.A. No. 9208[1] filed with the Quezon City Regional Trial Court (RTC), Branch 102.

Stripped of the non-essentials, the facts of the case are as follows:

On June 18, 2012, Assistant State Prosecutors of the Department of Justice Edna A. Valenzuela and Mary Ann S. Parong, with the approval of Prosecutor General Claro A. Arellano, filed with the Quezon City RTC, an Information[2] charging Carmelita L. Tizon, Gloria N. Osorio, Nida R. Vicente, Maria Victoria S. Portem, Elena M. Osi, Julieta P. Castro, Angelina A. Nillo, Violeta H. Raymundo and Jaime D. De Jesus with Qualified Trafficking in Persons [Section 4(e), in relation to Sections 3(a) (c) and (h), 6(a) and (c), and 10(c) of R.A. No. 9208], following the raid and rescue operation conducted by the National Bureau of Investigation Anti-Human Trafficking Division (NBI-AHTRAD) at the Grand Amihan Night Club in Timog Avenue, Quezon City, on March 22, 2012. Subsequently, the case was assigned to the sala of respondent Judge.

In an Order dated October 8, 2012, the trial court ruled that there is no probable cause to include accused Violeta H. Raymundo in the aforesaid Information.[3]

On January 4, 2013, all of the accused filed a Petition for Bail.[4]

On April 29, 2013, the prosecution filed a Motion for Leave of Court to Admit Attached Amended Informations[5] as it was found out that the real name of private complainant Sheila Mae U. Pimentel is Hannah U. Pimentel and that she is also a minor, having been born on March 2, 1996.

On June 3, 2013, the trial court issued an Order[6] granting the prosecution's aforesaid motion. Thus, the Amended Information now reads:

"The undersigned Assistant City Prosecutor hereby accuses CARMELITA L. TIZON, GLORIA N. OSORIO, NIDA R. VICENTE, MARIA VICTORIA S. PORTEM, ELENA M. OSI, JULIETA P. CASTRO, ANGELINA A. NILLO, and JAIME DE JESUS of the crime of Qualified Trafficking in Persons punishable under Section 4 (e), in relation to Sections 3 (a) (c) and (h), 6 (a) and (c), and 10 (c) of RA 9208, committed as follows:

"That on or about the 22nd day of March 2012, and on dates prior thereto, in Quezon City, and within the

jurisdiction of the Honorable Court, the above named accused CARMELITA L. TIZON, GLORIA N. OSORIO, NIDA R. VICENTE, MARIA VICTORIA S. PORTEM, ELENA M. OSI, JULIETA P. CASTRO, and ANGELINA A. NILLO, as floor managers of Grand Amihan Night Club, located along Timog Avenue, Quezon City, and JAIME D. DE JESUS, as the cashier and owner, respectively, of Grand Amihan Night Club, in conspiracy with one another, and taking advantage of the vulnerability of victims JOANNA ROSE S. ARELLANO, JANNA MAE C. VELASCO, HANNAH U. PIMENTEL, ARLINDA B. ABOYME, DONNALYN M. ALISOSO, MARIETIENE B. AUMENTADO, STEPHANIE F. HERRAN, MARJORIE Y. JACO, MARICEL P. RIVERA, AND CLAIRE M. VILLARIAS, and for the purpose of exploitation, including prostitution and pornography, did there and then willfully, unlawfully and knowingly hire, maintain, manage, and provide said victims to engage in prostitution through sexual service or lascivious conduct, and pornography, in consideration of the payments and benefits given to them, to their damage and prejudice.

That the crime was attended by the qualifying circumstances of minority, victims JOANNA ROSE S. ARELLANO, 17 years of age, JANNA MAE C. VELASCO, 16 years of age, and HANNAH U. PIMENTEL, 16 years of age, and that the crime was committed by a syndicate of seven (7) persons, and in large scale, as it was committed against ten (10) persons.

CONTRARY TO LAW."

On December 23, 2013, the trial court issued an Order[7] granting the Petition for Bail. The dispositive portion of the said Order reads:

"IN VIEW OF THE FOREGOING, the Petition for Bail filed by the accused is hereby GRANTED.

Accordingly, the accused are hereby allowed to post bail in the amount of P200,000.00 each for their provisional liberty.

Let the presentation of prosecution's evidence be scheduled on February 6, 2014 (portion not readable) the morning as previously agreed upon.

SO ORDERED."

On February 3, 2014, private complainants, through counsel, filed a Motion for Reconsideration of the Order of Admission to Bail.[8] In the meantime, accused Gloria N. Osorio, Julieta P. Castro and Nida R. Vicente, filed a Motion to Reduce Bail.[9]

In an Order[10] dated March 17, 2014, the trial court disposed the aforesaid motions as follows:

"WHEREFORE, in view thereof, the Motion for Reconsideration of the Order dated December 23, 2013 is hereby DENIED.

Meantime, the amount of bail fixed for the provisional liberty of the above-named accused is reduced from Two Hundred Thousand Pesos (P200,000.00) to One Hundred Thousand Pesos (P100,000.00) for each accused only insofar as Criminal Case No. Q-12-176704 for Violation of Section 5 (c) of Republic Act 7610 is concerned.

As previously scheduled, the hearing of these cases will proceed on March 20, 2014 at 1:30 in the afternoon.

SO ORDERED."

Hence, the present recourse grounded on the following:

I.

THE RESPONDENT JUDGE GRAVELY ABUSED HER DISCRETION WHEN SHE BLATANTLY DISREGARDED THE CLEAR AND UNEQUIVOCAL LANGUAGE OF SECTION 3(A) OF R.A. 9208 BY

REQUIRING COERCION AND SIMILAR MEANS AS AN INDISPENSABLE ELEMENT OF THE OFFENSE EVEN WHEN THE VICTIMS ARE MINORS.

II.

THE RESPONDENT JUDGE GRAVELY ABUSED HER DISCRETION BY REQUIRING ACTUAL SEXUAL INTERCOURSE AS AN ESSENTIAL ELEMENT OF THE OFFENSE IN CONTRAVENTION OF THE CLEAR MANDATE AND RATIONALE OF THE LAW.

III.

THE RESPONDENT JUDGE GRAVELY ABUSED HER DISCRETION WHEN SHE BLATANTLY DISREGARDED CLEAR EVIDENCE SHOWING THAT THE GUILT OF PRIVATE RESPONDENTS IS STRONG.

The Petition shall fail.

Rule 114, Section 7 of the Rules of Court, as amended, states, "No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution."

When the grant of bail is discretionary, the prosecution has the burden of showing that the evidence of guilt against the accused is strong. However, the determination of whether or not the evidence of guilt is strong, being a matter of judicial discretion, remains with the judge. Judicial discretion, by its very nature involves the exercise of the judge's individual opinion and the law has wisely provided that its exercise be guided by well-known rules which, while allowing the judge rational latitude for the operation of his own individual views, prevent them from getting out of control.[11]

As can be gathered from the grounds raised in the instant petition, what petitioner seeks in the case at bench, is a correction or evaluation of the evidence presented to the trial court during the hearing for bail.

In the case at bench, petitioner contends that it was grave abuse of discretion on the part of respondent Judge when she required coercion and similar means as an indispensable element of the offense charged even when the victims are minors. Petitioner argues that the respondent judge's interpretation of the law is contrary to the clear wording of the second paragraph of Section 3(a) of R.A. 9208 which states that, "the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph."

A close reading of the assailed Orders issued by respondent Judge, however, shows that when she declared that private complainants were not coerced into applying as GRO's at Grand Amihan but instead applied thereat voluntarily, she relied on the testimonies of the private complainants that neither of the accused lured them into applying at Grand Amihan, as well as to the testimonies of the apprehending officers.

In the case of private complainant Marietine Aumentado, she testified that it was a certain Trisha that asked her if she wanted to work as a dancer at Grand Amihan where she will be earning thousands of pesos.[12] In the case of Joanna Rose Arellano, it was a certain Rosemarie that brought her to Grand Amihan. She was informed that she would be working as a waitress but she will also be tabled, meaning she has to sit, drink and entertain guests to which, she acceded.[13] Janna Mae Velasco, on the other hand, testified that it was Bayot, a make-up artist at Grand Amihan that informed her that he was looking for a girl to work at the said establishment. She was told that the work would be that of a dancer and would also entail entertaining guests. She expressed interest after learning that the pay is big.¹⁴ Meanwhile, Hannah Pimentel testified that she came to know about Grand Amihan through a friend named MJ who works thereat. They talked about the work and pay and she agreed to go with MJ to

Grand Amihan. The trial court also took note of the fact that none of the complainants were refrained from leaving the place anytime; that they can leave the establishment if they were not agreeable to what was going on inside. Moreover, the trial court noted that there was nothing in the testimony of the apprehending officers that private complainants were caught in the actual sexual intercourse to conclude that prostitution has been committed.

Thus, herein respondent Judge, after listening to the testimonies of private complainants during the hearing conducted for the bail application of herein private respondents and taking into consideration the testimony of the apprehending officers, made a summary of the evidence presented and convinced that their guilt was not strong, granted the application.

It must be stressed that the grant or the denial of bail in cases where bail is a matter of discretion hinges on the issue of whether or not the evidence on the guilt of the accused is strong, and the determination of whether or not the evidence is strong is a matter of judicial discretion which remains with the judge. In order for the latter to properly exercise his discretion, he must first conduct a hearing to determine whether the evidence of guilt is strong.[15]

In the case of *Basco vs. Rapatalo*,^[16] the Supreme Court enunciated the following duties of a trial judge in a petition for bail in a capital case, viz:

- "(1) Notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation;
- (2) Conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its sound discretion;
- (3) Decide whether the evidence of guilt of the accused is strong based on the summary of evidence of the prosecution;
- (4) If the guilt of the accused is not strong, discharge the accused upon the approval of the bailbond. Otherwise, petition should be denied." (Citations Omitted)

We note that respondent Judge observed the aforesaid requisites in disposing of herein private respondents' petition for bail who were charged with Qualified Trafficking in Persons. Thus, it cannot be said that respondent Judge committed grave abuse of discretion in granting the application for bail.

Grave abuse of discretion is not simply an error in judgment but it is such a capricious and whimsical exercise of judgment which is tantamount to lack of jurisdiction.^[17] Ordinary abuse of discretion is insufficient. The abuse of discretion must be grave, that is, the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility.^[18] It must be so patent and gross as to amount to evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of the law. In other words, for a petition for certiorari to prosper, there must be a clear showing of caprice and arbitrariness in the exercise of discretion.

In its petition, petitioner points to the wrong interpretation by the trial court of the provisions of R.A. 9208, in ascribing grave abuse of discretion on the part of respondent Judge. It argues that the minority of the victim should have been taken into account in the resolution by the trial court of the application for bail; that the fact that the complainants are minor, the trial court should not have required that coercion and similar means be an indispensable element of anti-human trafficking. However, as aptly raised by private respondents, upholding such argument would be tantamount to an automatic and virtual bar to their constitutional right to post bail. It must also be pointed out that in a number of cases, the Supreme Court held that a review of evidence cannot be secured in a

petition for certiorari, prohibition, and mandamus.[19]

In the case of *People vs. Hon. Chavez, et al.*[20] wherein the respondent Judge granted the application for bail of the accused who was charged with Murder but was opposed by the prosecution on the ground that there were witnesses, one, to the shooting of the victim and the other, to the fleeing of the accused from the scene of the crime immediately after the incident, the Supreme Court had this to say:

"Xxx certiorari is not the proper remedy to correct mistakes in the judge's findings and conclusions or to cure erroneous conclusions of law and fact. Moreover, for certiorari to prosper, the burden is on petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent. In jurisprudence, "grave abuse of discretion" implies such "capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.

Xxx

Assuming *arguendo* that respondent judge erred in evaluating the evidence, certiorari will still not lie. As stated earlier, no grave abuse of discretion may be attributed to a court simply because of its alleged wrongful appreciation of facts and evidence. In short, certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court." (Citations Omitted)

WHEREFORE, in view of the foregoing, the instant Petition is hereby DENIED. The assailed Orders dated December 23, 2013 and March 17, 2014, issued by public respondent Hon. Ma. Lourdes A. Giron, in her capacity as Presiding Judge of Branch 102 of Quezon City Regional Trial Court in Criminal Case No. Q-12-176703 for Violation of R.A. 9208, otherwise known as Qualified Trafficking in Persons, are hereby AFFIRMED.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Sadang, JJ., concur.

[*] Also referred to as Criminal Case No. CL-Q-12-176703-021 in the Order dated March 17, 2014.

[1] Otherwise known as the Anti-Trafficking in Persons Act of 2003.

[2] Rollo, pp. 46-48.

[3] Vide note 1 of Amended Information, Id. at 170.

[4] Vide Paragraph 6, Memorandum (Petition for Bail), Id. at 485.

[5] The other Information was for Violation of Section 5(c) of R.A. 7610; Id. at 166-169.

[6] Id. at 176-178.

[7] Id. at 31-42.

[8] Id. at 515-522.

[9] Vide Order dated March 17, 2014, Id. at p. 44.

[10] Id. at 43-45.

[11] *Basco vs. Rapatalo*, A.M. No. RTJ-96-1335, March 5, 1997.

[12] Rollo, p. 39.

[13] Id. at 40.

[14] Id. at 40-41.

[15] Docena-Caspe vs. Judge Bugtas, A.M. No. RTJ-03-1767, March 28, 2003.

[16] Ibidem.

[17] Dueñas, Jr. vs. House of Representatives Electoral Tribunal, G.R. No. 185401, July 21, 2009.

[18] Id.

[19] Resoso vs. Sandiganbayan, G.R. No. 124140, November 25, 1999.

[20] G.R. No. 140690, June 19, 2001.

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