

QUIRICO MARI, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 127694. May 31, 2000

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-127694/>

PARDO, J.:

The case before the Court is an appeal from a decision of the Court of Appeals, the dispositive portion of which reads:

"WHEREFORE, the conviction of petitioner Quirico Mari for the offense of serious slander by deed is hereby AFFIRMED, but with a modified penalty of one (1) month and one (1) day of arresto mayor, as minimum, to two (2) years and four (4) months of prision correctional, as maximum.

"SO ORDERED." [1]

The facts, as found by the Court of Appeals, are as follows:

Complainant Norma Capintoy and petitioner Quirico Mari were co-employees in the Department of Agriculture, with office at Digos, Davao del Sur, although complainant occupied a higher position.

On December 6, 1991, petitioner borrowed from complainant the records of his 201 file. However, when he returned the same three days later, complainant noticed that several papers were missing which included official communications from the Civil Service Commission and Regional Office, Department of Agriculture, and a copy of the complaint by the Rural Bank of Digos against petitioner. Upon instruction of her superior officer, Honorio Lumain, complainant sent a memorandum to petitioner asking him to explain why his 201 file was returned with missing documents.

Instead of acknowledging receipt of the memorandum, petitioner confronted complainant and angrily shouted at her: "Putang ina, bullshit, bugo." He banged a chair in front of complainant and choked her. With the intervention of the security guard, petitioner was prevailed upon to desist from further injuring complainant.

Petitioner's version is that, he borrowed from complainant his service record and not his 201 file which contained his personal records. The service record which he borrowed did not include the missing documents. Acknowledging that complainant was higher in rank than him, he claimed that it was complainant who provoked him into acting the way he did and he was just reacting to the provocation.

On January 7, 1992, complainant filed with the Municipal Trial Court, Digos, Davao del Sur a criminal complaint against petitioner for slander by deed. [2]

On May 20, 1992, complainant filed an amended criminal complaint, adding that the crime was aggravated by the fact that the offended party was a woman. [3]

After trial, on September 22, 1994, the Municipal Trial Court, Digos, Davao del Sur rendered decision, the dispositive portion of which reads:

"In the light of the foregoing, the court is of the opinion that the accused is guilty of the offense charged and that private complainant has been slandered and embarrassed by the accused.

"Finding, therefore, accused guilty beyond reasonable doubt of the charge filed against him and crediting in favor of the prosecution one (1) ordinary aggravating circumstance, the Court hereby sentences the accused to an Indeterminate Sentence of five (5) months and eleven (11) days to two (2) years, eleven (11) months and eleven (11) days and to pay private complainant the amount of FIVE THOUSAND (P5,000.00) PESOS as moral damages, FIVE THOUSAND (P5,000.00) PESOS attorney's fees and to reimburse her the cost of suit.

"Private complainant is, however, ordered to pay the docket fee corresponding to the damages she is entitled to receive, by virtue of this decision.

"SO ORDERED.

"Digos, Davao del Sur, September 22, 1994."[4]

In due time, petitioner appealed to the Regional Trial Court.

After due proceedings, on December 1, 1995, the Regional Trial Court, Davao del Sur, Digos, Branch 19 rendered decision adopting the trial court's findings of fact, and affirming the appealed decision in toto.[5]

On June 18, 1996, petitioner filed with the Court of Appeals a petition for review.[6]

On July 16, 1996, the Court of Appeals ordered respondents to file their comment on the petition, which shall be considered as an answer in the event the petition is given due course.[7]

On December 9, 1996, the Court of Appeals rendered decision affirming the judgment a quo convicting petitioner of serious slander by deed, but modifying the penalty to an indeterminate sentence of one (1) month and one (1) day of arresto mayor, as minimum, to two (2) years and four (4) months of prision correccional, as maximum.[8]

Hence, this appeal.[9]

At issue is whether the Court of Appeals erred in sustaining the conviction of petitioner for serious slander by deed assailing the trial court's finding that petitioner shouted invectives at complainant in the presence of several persons and then choked her. Petitioner submits that the prosecution failed to prove that he choked the complainant; that the choking was an after-thought as shown by inconsistencies in the testimonies of the prosecution witnesses.

The issue raised is factual, which would bar us from reviewing the same in an appeal via certiorari.[10] The findings of fact of the Court of Appeals supported by substantial evidence are conclusive and binding on the parties and are not reviewable by this Court,[11] unless the case falls under any of the exceptions to the rule,[12] such as diverse factual findings of the lower courts[13] or the findings are entirely grounded on speculations.[14] Petitioner failed to prove that the case falls within the exceptions.[15]

However, we regret to note that the Municipal Trial Court, Digos, Davao del Sur, the Regional Trial Court, Digos, Davao del Sur and even the Court of Appeals erred in the proper application of the Indeterminate Sentence Law.

In the first place, the municipal trial court found the attendance of an "ordinary aggravating circumstance." The court did not state what this aggravating circumstance was, as required.[16] True, the amended criminal complaint alleged that the crime had been aggravated by the fact that the offended party is a woman. However, the mere fact that the victim is a woman is not per se an aggravating circumstance.[17] There was no finding that the evidence proved that the accused in fact deliberately intended to offend or insult the sex of the victim, or showed manifest disrespect to the offended woman or displayed some specific insult or disrespect to her womanhood. There was no

proof of specific fact or circumstance, other than the victim is a woman, showing insult or disregard of sex in order that it may be considered as aggravating circumstance.[18] Hence, such aggravating circumstance was not proved, and indeed, in the circumstances of this case may not be considered as aggravating.[19] Consequently, the trial court erred in "crediting in favor of the prosecution one (1) ordinary aggravating circumstance." On review, the Regional Trial Court Judge did not notice the error because it did not make its own findings of fact, and followed the line of least resistance by simply adopting the trial court's "finding of fact as well as its reasons for making so." Neither did the Court of Appeals notice the error, even if the Solicitor General in his comment noted that the sentence imposed on the accused was excessive, meaning that there was no aggravating circumstance proved.[20]

In the second place, in applying the Indeterminate Sentence Law, the court shall fix minimum and maximum penalties.[21] If the offense is punished by the Revised Penal Code, as in this case, the court shall sentence the accused to an indeterminate penalty, the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum term of which shall be within the range of the penalty next lower to that prescribed by the Code for the offense.[22] The court shall fix the minimum penalty within the number of months or years covered by the penalty next lower in degree to that prescribed by the Code for the offense without regard to any modifying circumstance attendant to the commission of the crime.[23] The court has the unqualified discretion to fix the term of the minimum penalty.[24] The only limitation is that it must be within the range of the penalty next lower to that prescribed by the Code for the offense committed, without regard to its three (3) periods[25] or reference to the degrees into which it may be subdivided.[26] Then, the court shall fix the maximum period. In doing so, the court shall now consider the attending circumstances, finding whether any modifying circumstance attended the commission of the crime. In this case, there was no modifying circumstance, hence, the maximum penalty imposable must be within the range of the medium period of the penalty prescribed by the Code for the offense.[27] The penalty prescribed by law for serious slander by deed under Article 359 of the Revised Penal Code is *arresto mayor* maximum to *prision correccional* minimum or four (4) months and one (1) day to two (2) years and four (4) months or a fine ranging from P200.00 to P1,000.00. The penalty next lower in degree is *arresto mayor* minimum and medium periods, or one (1) month and one (1) day to four (4) months. Consequently, the minimum shall be taken from any of its periods, but must be definite, say, one (1) month and one (1) day, as minimum. The maximum shall be taken from the medium period of the prescribed penalty, that is, within the range of one (1) year and one (1) day to one (1) year and eight (8) months of *prision correccional* but also a specific, definite, fixed period, say, one (1) year and one (1) day, as maximum. Notice that the trial court imposed five months of *arresto mayor* as minimum, exceeding the range provided by law. However, the minimum fixed by the Court of Appeals was correct, that is, one (1) month and one (1) day of *arresto mayor*. The maximum fixed by the trial court of two (2) years, eleven (11) months and eleven (11) days was wrong as it exceeded the prescribed range because that period is within the maximum of the penalty prescribed by the Code, which could not be imposed in the absence of any aggravating circumstance. The maximum penalty fixed by the Court of Appeals (two (2) years and four (4) months of *prision correccional*) was also wrong because it exceeded the range of the medium period of the prescribed penalty.

Prescinding from the foregoing, it would serve the ends of justice better if the petitioner were sentenced to pay a fine instead of imprisonment. The offense while considered serious slander by deed was done in the heat of anger[28] and was in reaction to a perceived provocation. The penalty for serious slander by deed may be either imprisonment or a fine.[29] We opt to impose a fine.

ACCORDINGLY, the Court hereby SETS ASIDE the decision of the Court of Appeals and in lieu thereof renders judgment finding petitioner guilty beyond reasonable doubt of serious slander by deed defined and penalized

under Article 359 of the Revised Penal Code, and sentencing him to pay a fine of P1,000.00, with subsidiary imprisonment in case of insolvency.

With costs.

SO ORDERED.

Puno, and Kapunan, JJ., concur.

Davide, Jr., C.J., (Chairman), on official leave.

Ynares-Santiago, J., no part.

[1] In CA-G. R. CR No. 19521, promulgated on December 9, 1996, Agcaoili, J., ponente, Imperial and Guerrero, JJ., concurring.

[2] Docketed as Criminal Case No. 7227; Petition, Rollo, p. 9.

[3] Petition, Annex "B", Rollo, p. 25.

[4] Petition, Annex "C", Rollo, pp. 26-30.

[5] Petition, Annex "D", Rollo, pp. 31-34.

[6] Docketed as CA-G. R. CR No. 19521, CA Rollo, pp. 12-24.

[7] CA Rollo, p. 39.

[8] Petition, Annex "A", Rollo, pp. 20-23.

[9] Filed on February 1, 1997; Petition, Rollo, pp. 8-19.

[10] *Maglaque vs. Planters Development Bank*, 307 SCRA 156, 161 [1999], citing *Guerrero vs. Court of Appeals*, 285 SCRA 670 [1998]; *Rongavilla vs. Court of Appeals*, 294 SCRA 289 [1998]; *Cristobal vs. Court of Appeals*, 291 SCRA 122 [1998]; *Sarmiento vs. Court of Appeals*, 291 SCRA 656 [1998].

[11] *Atillo III vs. Court of Appeals*, 266 SCRA 596 [1997]; *Don Orestes Romualdez Electric Cooperative, Inc. vs. NLRC*, G.R. No. 128389, November 25, 1999.

[12] *Cebu Shipyard and Engineering Works, Inc. vs. William Lines, Inc.*, 306 SCRA 762, 774-775 [1999]; *Fuentes vs. Court of Appeals*, 268 SCRA 703 [1997].

[13] *Yobido vs. Court of Appeals*, 281 SCRA 1 [1997].

[14] *Philippine Deposit Insurance Corporation vs. Court of Appeals*, 283 SCRA 462 [1997].

[15] *Rivera vs. Court of Appeals*, 348 Phil. 734, 743 [1998].

[16] Rule 120, Section 2, second paragraph, 1985 Rules of Court on Criminal Procedure, as amended.

[17] *People vs. Braña*, 30 SCRA 307, 315 [1969].

[18] *People vs. Mangsant*, 65 Phil. 548, 550 [1938]; *People vs. Mori*, 55 SCRA 382, 404 [1974]; *People vs. Gervacio*, 133 Phil. 805 [1968]; *People vs. Limaco*, 88 Phil. 35, 44 [1951]; *U. S. vs. de Jesus*, 14 Phil. 190 [1909]; *People vs. Metran*, 89 Phil. 543 [1951]; *People vs. Jaula*, 90 Phil. 379 [1951].

[19] Chief Justice Aquino, in his text on *The Revised Penal Code*, Vol. 1, 1987 ed. p. 314, wrote that sex was not considered aggravating in libel or slander against a woman, citing Court of Appeals rulings.

[20] See Comment, CA Rollo, pp. 45-57, at pp. 56-57.

[21] *People vs. Ducosin*, 59 Phil. 109 [1933]; *Bacar vs. de Guzman*, 271 SCRA 328, 340 [1997]; *People vs. Feloteo*, 290 SCRA 627, 636-637 [1998].

[22] *Barrameda vs. Court of Appeals*, G. R. No. 96428, September 2, 1999; *People vs. Feloteo*, *supra*.

[23] *People vs. Gabres*, 335 Phil. 242, 256-257 [1997]; *People vs. Cesar*, 131 Phil. 121, 125-126 [1968]; *Jacobo vs. Court of Appeals*, 337 Phil. 7, 23 [1997]; *de la Cruz vs. Court of Appeals*, 265 SCRA 299 [1996]; *Quinto vs. People*, G. R. No. 126712, April 14, 1999.

[24] People vs. Onate, 78 SCRA 43 [1977]; Bacar vs. de Guzman, supra, at pp. 340-341.

[25] Bacar vs. de Guzman, supra.

[26] People vs. Ducosin, 59 Phil. 109, 116-118 [1933]; People vs. Gonzales, 73 Phil. 549, 552 [1942]; People vs. Onate, supra.

[27] Article 64 in relation to Article 65, Revised Penal Code.

[28] Pader vs. People, G. R. No. 139157, February 8, 2000.

[29] Article 359, Revised Penal Code.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.