

LINA TALOCOD, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 250671. October 07, 2020

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated July 30, 2019 and the Resolution[3] dated November 28, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 40871, which affirmed the Decision[4] dated October 6, 2017 of the Regional Trial Court of xxxxxxxxxxxx (RTC) in Criminal Case No. 1169-V-12 finding petitioner Lina Talocod (petitioner) guilty beyond reasonable doubt of violating Section 10 (a), Article VI of Republic Act No. (RA) 7610,[5] otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

The Facts

This case stemmed from an Information[6] dated October 23, 2012 filed before the RTC accusing petitioner of committing acts of child abuse, defined and penalized under Section 10 (a), Article VI of RA 7610, the accusatory portion of which states:

That on or about November 5, 2011, in xxxxxxxxxxxx and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully committed (sic) acts of child abuse against one [AAA], 11 years old (DOB: September 9, 2000), by uttering the following words "Huwag Mong Pansinin Yan. At Putang Ina Yan (while angrily pointing her finger at him)...Mga Walang Kwenta Yan, Mana-Mana Lang Yan!", thereby subjecting said minor to psychological abuse, cruelty and emotional maltreatment prejudicial to his natural development.

CONTRARY TO LAW.[7] (Emphasis in the original)

The prosecution alleged that, in the morning of November 5, 2011, AAA,[8] an 11-year old with other children along the road near his residence in xxxxxxxxxxxx. As his playmates were bothering passing motorists by throwing sand and gravel on the road, AAA berated and told them to stop. Upset by AAA's reprimand, one of the children, EEE, reported the incident to her mother, herein petitioner. Together with EEE, petitioner immediately confronted AAA about his behavior, and while pointing a finger at the latter, furiously shouted: "Huwag mong pansinin yan. At putang ina yan. Mga walang kwenta yan. Mana-mana lang yan!" Upset by what petitioner said, AAA ran home and cried, later relaying the incident to his mother, BBB. Allegedly, AAA was traumatized as a result of petitioner's utterance of harsh words and expletives, since after the purported incident, he no longer went out to play with other children and started to suffer from nightmares.[9]

In defense, petitioner claimed that the words she actually uttered were: "anak wag mo na patulan yan walang kwenta makipag-away," and that the same were addressed to EEE, not to AAA.[10]

The RTC Ruling

In a Decision[11] dated October 6, 2017, the RTC found petitioner guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced her to suffer the penalty of imprisonment for an indeterminate period of four (4) years, nine (9) months, and eleven (11) days of prision correccional, as minimum, to six (6) years, eight (8) months, and one (1) day of prision mayor, as maximum. The RTC also ordered petitioner to pay AAA the amount of P20,000.00 as moral damages, with legal interest at the rate of six percent (6%) per annum from the finality of its decision until full payment.[12] The trial court ruled that the prosecution had successfully established all the elements of Section 10 (a), Article VI of RA 7610, as it was shown that petitioner's harsh words and expletives caused AAA, an 11-year old child, to suffer from nightmares and compulsive fear.[13]

Aggrieved, petitioner appealed to the CA, arguing that she should be acquitted on account of: (a) her lack of specific intent to debase, degrade, or demean the intrinsic worth and dignity of AAA as a human being, as the words she allegedly uttered were mere expressions of common usage; and (b) the absence of evidence showing that AAA suffered psychological injury, since an expert witness was not presented in court.[14]

The CA Ruling

In a Decision[15] dated July 30, 2019, the CA affirmed the conviction of petitioner in toto.[16] The CA ruled that petitioner's utterance of harsh words and expletives at AAA, while simultaneously pointing a finger at him, were indicative of an intent to debase, degrade, or demean the latter's intrinsic worth and dignity as a child. In any case, the CA found petitioner's intent immaterial, observing that the crime of Child Abuse under Section 10 (a), Article VI of RA 7610 is considered *malum prohibitum* and thus, mere acts or words which debase, degrade, or demean a minor were already constitutive of the offense. Moreover, it found the presentation of an expert witness to prove the existence of psychological injury unnecessary, holding that such element had been sufficiently established by the testimony of AAA himself.[17]

Undaunted, petitioner moved for reconsideration,[18] which was denied in a Resolution[19] dated November 28, 2019.

Hence, the instant petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA erred in affirming petitioner's conviction for violation of Section 10 (a), Article VI of RA 7610.

The Court's Ruling

The petition is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment, whether they are assigned or unassigned.[20] The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.[21] Guided by the foregoing considerations, and as will be explained hereunder, the Court finds that the acquittal of petitioner for the crime charged is in order.

It is well to point out that the enactment of RA 7610 "was meant to advance the state policy of affording 'special protection to children from all forms of abuse, neglect, cruelty, exploitation[,] discrimination[,] and other conditions prejudicial to their development' and in such regard, 'provide sanctions for their commission.' It also furthers the 'best interests of children' and as such, its provisions are guided by this standard." [22] The term "child abuse" is defined under Section 3 (b), Article I of the same law, as follows:

Section 3. Definition of terms.-

x x x x

(b) "Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

x x x x (Emphasis supplied)

RA 7610 defines and penalizes various acts constituting child abuse as defined in the aforementioned provision. It further provides a "catch-all" provision which penalizes other acts of child abuse not specifically addressed by the law, particularly Section 10 (a), Article VI[23] thereof, to wit:

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and other Conditions Prejudicial to the Child's Development. -

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended. shall suffer the penalty of prision mayor in its minimum period.

x x x x (Emphasis and underscoring supplied)

Notably, case law qualifies that for one to be held criminally liable for the commission of acts of Child Abuse under Section 10 (a), Article VI of RA 7610, "the prosecution [must] prove a specific intent to debase, degrade, or demean the intrinsic worth of the child; otherwise, the accused cannot be convicted [for the said offense]."[24] The foregoing requirement was first established in the case of *Bongalon v. People*[25] (*Bongalon*), where it was held that the laying of hands against a child, when done in the spur of the moment and in anger, cannot be deemed as an act of child abuse under Section 10 (a) of RA 7610, absent the essential element of intent to debase, degrade, or demean the intrinsic worth and dignity of the child as a human being on the part of the offender, viz.:

Not every instance of the laying of hands on a child constitutes the crime of child abuse under Section 10 (a) of Republic Act No. 7610. Only when the laying of hands is shown beyond reasonable doubt to be intended by the accused to debase, degrade or demean the intrinsic worth and dignity of the child as a human being should it be punished as child abuse. x x x

x x x x

x x x The records did not establish beyond reasonable doubt that his laying of hands on Jayson had been intended to debase the "intrinsic worth and dignity" of Jayson as a human being, or that he had thereby intended to humiliate or embarrass Jayson. The records showed the laying of hands on Jayson to have been done at the spur of the moment and in anger, indicative of his being then overwhelmed by his fatherly concern for the personal safety of his own minor daughters who had just suffered harm at the hands of Jayson and Roldan. With the loss of his self-control, he lacked that specific intent to debase, degrade or demean the intrinsic worth and dignity of a child as a human being that was so essential in the crime of child abuse.[26]

(Emphasis and underscoring supplied)

The Bongalon ruling was then reiterated and applied in the subsequent cases of *Jabalde v. People*[27] and *Calaoagan v. People*,[28] wherein the Court emphasized that "when the infliction of physical injuries against a minor is done at the spur of the moment, it is imperative (or the prosecution to prove a specific intent to debase, degrade, or demean the intrinsic worth of the child x x x."[29] "Debasement is defined as the act of reducing the value, quality, or purity of something; degradation, on the other hand, is a lessening of a person's or thing's character or quality; while demean means to lower in status, condition, reputation, or character."[30] "[Such] intention x x x can be inferred from the manner in which [the offender] committed the act complained of,]"[31] as when the offender's use of force against the child was calculated, violent, excessive, or done without any provocation.[32]

While the aforementioned cases pertain to the commission of child abuse by physical deeds, i.e., the laying of hands against a child, the same treatment has also been extended to the utterance of harsh words, invectives, or expletives against minors. In *Escolano v. People*,[33] which involved facts similar to the instant case,[34] the Court held that the mere shouting of invectives at a child, when carelessly done out of anger, frustration, or annoyance, does not constitute Child Abuse under Section 10 (a) of RA 7610, absent evidence that the utterance of such words were specifically intended to debase, degrade, or demean the victim's intrinsic worth and dignity, to wit:

[T]he Court finds that the act of petitioner in shouting invectives against private complainants does not constitute child abuse under the foregoing provisions of R.A. No. 7610. Petitioner had no intention to debase the intrinsic worth and dignity of the child. It was rather an act carelessly done out of anger. The circumstances surrounding the incident proved that petitioner's act of uttering invectives against the minors AAA, BBB, and CCC was done in the heat of anger.

x x x Evidently, petitioner's statements "bobo, walang utak, putang ina" and the threat to "ipahabol" and "ipakagat sa aso" were all said out of frustration or annoyance. Petitioner merely intended that the children stop their unruly behavior.

On the other hand, the prosecution failed to present any iota of evidence to prove petitioner's intention to debase, degrade or demean the child victims. The record does not show that petitioner's act of threatening the private complainants was intended to place the latter in an embarrassing and shameful situation before the public. There was no indication that petitioner had any specific intent to humiliate AAA, BBB, and CCC; her threats resulted from the private complainants' vexation.[35] (Emphasis and underscoring supplied)

In this case, the records are bereft of any evidence showing that petitioner's utterance of the phrase: "Huwag mong pansinin yan. At putang ina yan. Mga walang kwenta yan. Mana-mana lang yan!" was specifically intended to debase, degrade, or demean AAA's intrinsic worth and dignity as a human being. To the contrary, it appears that petitioner's harsh utterances were brought about by the spur of the moment, particularly, out of her anger and annoyance at AAA's reprimand of EEE. This may be gathered from the testimony of the victim himself on direct and cross-examination, where it was recounted that:

Direct Examination

[Atty. Arthur Corozza]: Now, on November 5, 2011 in the morning, do you recall where were you?

[AAA]: I was outside and we were playing with my friends.

Q: Please tell us the names of your friends.

A: x x x, [EEE].

x x x x

Q: Now, while play in g with [EEE] and [another friend], do you recall if anything happened?

A: [EEE] and [another friend] were playing with gravel and sand and they were scattering it, so I just berated them (pinagsabihan ko sila).

x x x x

Q: Then after that what happened, Mr. Witness?

A: [EEE] told the incident to [his] mother.

Q: And who is the mother?

A: Lina Talocod.

Q: Then after that what happened, Mr. Witness?

A: She told me ["]wag nyong pansinin yan, walang kwenta yan, mga putang-ina yan, mana-mana lang yan.["]

Q: Who told you that?

A: Lina Talocod.

x x x x

Q: x x x Now, what did you notice on Lina Talocod when she uttered those words?

A: She was very angry.[36]

Cross-Examination

[Atty. Ma. Cristina Favis]: On November 5, 2011 how old were you?

[AAA]: 11 years old, ma'am.

Q: And you were then playing with 3 children, am I right?

A: Yes, ma'am.

x x x x

Q: You mentioned that you reprimanded them for playing [with] the gravel and sand? How did you reprimand them?

A: I was telling them not to scatter the gravel and sand because it was scattered on the road.

Q: You testified that [EEE] went to his mother to tell her that you reprimanded them, is that correct?

A: Yes, ma'am.

Q: Could you demonstrate how you reprimanded them?

A: I just did a "simpleng pasaway."

Q: But [EEE] was offended at that time?

A: Yes, ma'am.

Q: Aside from the 4 of you playing at the time who were the persons present?

A: The mother of [EEE].

x x x x

Q: How long did it take for Lina Talocod to confront you?

A: Right after [EEE] told his mother.

Q: Am I correct to say that Lina Talocod confronted you immediately after [EEE] ran to her?

A: Yes, ma'am.

Q: And what did Lina Talocod tell you?

A: She cursed me "Putang-Ina Mo" and she was very angry and told me, "nagmana daw talaga ako sa magulang ko."

Q: Didn't she say "Huwag mong pansinin 'yan, Putang-Ina 'yan. Mga walang kuwenta 'yan, Manamana lang 'yan."? Is that what she told you exactly?

A: Yes, ma'am and she was very angry.[37]

Verily, based on the foregoing narration, there appears no indication that petitioner deliberately intended to shame or humiliate AAA's dignity in front of his playmates. On the contrary, it is rather apparent that petitioner merely voiced the alleged utterances as offhand remarks out of parental concern for her child. Hence, in view of the absence of a specific intent to debase, degrade, or demean the victim's intrinsic worth and dignity in this case, the Court finds that petitioner cannot be held criminally liable for committing acts of Child Abuse under Section 10 (a), Article VI of RA 7610.

WHEREFORE, the petition is GRANTED. The Decision dated July 30, 2019 and the Resolution dated November 28, 2019 of the Court of Appeals in CA-G.R. CR No. 40871 are hereby REVERSED and SET ASIDE. Accordingly, petitioner Lina Talocod is ACQUITTED of the crime charged.

SO ORDERED.

Hernando, Inting, and Delos Santos, JJ., concur.
Baltazar-Padilla, J., on leave.

[1] Dated January 17, 2020. Rollo, pp. 10-23.

[2] Id. at 30-49. Penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios, concurring.

[3] Id. at 52-54.

[4] Id. at 71-77. Penned by Judge Nancy Rivas-Palmones.

[5] Entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992.

[6] Records, p. 1.

[7] Id.

[8] The identity of the minor victim or any information which could establish or compromise his identity, as well as those of his immediate family or household members, shall be withheld pursuant to RA 7610; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.) See further *People v. Ejercito*, G.R. No. 229861, July 2, 2018.

[9] See rollo, pp. 31-33. See also *id.* at 72-74.

[10] See *id.* at 33. See also *id.* at 74-75.

[11] *Id.* at 71-77.

[12] *Id.* at 77.

[13] *Id.* at 76-77.

[14] See Brief of the Accused-Appellant dated January 21, 2019; *id.* at 55-70.

[15] *Id.* at 30-49.

[16] *Id.* at 48.

[17] See *id.* at 36-48.

[18] See motion for reconsideration dated August 23, 2019; *id.* at 99-103.

[19] *Id.* at 52-54.

[20] See *People v. Dahil*, 750 Phil. 212, 225 (2015).

[21] *People v. Comboy*, 782 Phil. 187, 196 (2016).

[22] *Caballo v. People*, 710 Phil. 792, 801-802 (2013).

[23] Section 10 (a) of R A 7610 punishes "four distinct acts, i.e., (a) child abuse, (b) child cruelty, (c) child exploitation and (d) being responsible for conditions prejudicial to the child's development." (*Araneta v. People*, 578 Phil. 876, 885 [2008]; emphasis supplied.)

[24] *Calaoagan v. People*, G.R. No. 222974, March 20, 2019.

[25] 707 Phil. 11 (2013).

[26] *Id.* at 14 and 20-21.

[27] 787 Phil. 255 (2016).

[28] *Supra* note 24.

[29] See *id.*; emphasis and underscoring supplied.

[30] See *id.*, citing *Jabalde v. People*, *supra* note 27 at 270.

[31] *Torres v. People*, 803 Phil. 480, 490-491 (2017).

[32] See *Torres v. People*, *id.*; *Rosalde v. People*, 745 Phil. 77 (2014); and *De Vega v. People*, G.R. No. 240476, October 3, 2018.

[33] G.R. No. 226991, December 10, 2018.

[34] The accused there in shouted the phrase "[p]utang ina ninyo, gago kayo, wala kayong pinag-aralan, wala kayong utak, subukan ninyong bumaba dito, pakakawalan ko ang aso ko, pakakagat ko kayo sa aso ko" at children. (See *id.*)

[35] See *id.*

[36] TSN, June 7, 2013, pp. 12-16.

[37] TSN, April 4, 2014, pp. 3-4.

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