



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated September 14, 2022 which reads as follows:

“G.R. No. 251672 (XXX251672, petitioner v. PEOPLE OF THE PHILIPPINES, respondent). – This petition assails the Decision¹ dated June 25, 2019 and Resolution² dated January 23, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 41927, affirming the conviction of XXX251672³ in Criminal Case No. 2016-0815 for violation of Section 10(a) Article VI of Republic Act (RA) No. 7610.⁴

Petitioner XXX251672 was charged with violation of Section 10(a) of RA 7610 under the following Information:

“That on or about 9:15 in the morning of May 9, 2016, in [REDACTED], Camarines Sur and within the jurisdiction of the Honorable Court, the above-named accused, an adult, in utter disregard of the prohibitions of the provisions of Republic Act No. 7610 and taking advantage of the minority of the victim AAA251672, an eight (8)[-] year old minor, having been born on June 15, 2008, did then and there willfully, unlawfully and knowingly attack, hit and bang the head of the victim against the wall, thereby causing injuries to the latter, which require[d] treatment for a period of less than nine (9) days. The above act of the accused debase[d], degrade[d] and demean[ed] the dignity of the minor complainant and also impair[ed] her normal growth and development, to the damage and prejudice of AAA251672.

ACTS CONTRARY TO LAW.”⁵

¹ Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon R. Garcia and Gabriel T. Robeniol; *rollo*, p. 58–68.

² *Rollo*, p. 70–71.

³ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁴ AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES.

⁵ *Rollo*, p. 94.

The case got raffled to the Regional Trial Court (*RTC*) - Branch 28, Naga City. On arraignment, petitioner pleaded not guilty.

At the pre-trial, the prosecution and the defense stipulated that AAA251672 was eight (8) years old on May 9, 2016. Too, AAA251672 and petitioner were both residents of [REDACTED], Camarines Sur.

During the trial proper, the prosecution offered the testimonies of AAA251672 and her guardian BBB251672 whom she called *Mama*. On the other hand, petitioner and his wife YYY251672 testified for the defense.

The parties dispensed with the testimony of Dr. Ray Andrew B. Dimaano⁶ (*Dr. Dimaano*) and stipulated on the existence and due execution of his Medical Certificate dated May 12, 2016, as well as the existence of Police Blotter Entry No. 2016-104.

The Prosecution's Version

AAA251672 testified that she was born on June 15, 2008, as stated in her Baptismal Certificate.⁷ On May 9, 2016, around 9 o'clock in the morning, she went out of their house as she felt the need to go to the bathroom. On her way to the bathroom, she crossed paths with petitioner who, without warning, banged her head against a concrete wall, claiming she had no right to stay in BBB251672's house as she was merely an "*ampon*" of BBB251672 and the latter's same-sex partner. Petitioner then warned her not to tell her adoptive parents what he did to her.⁸

She cried because of the pain she felt and eventually told her Mama BBB251672 what had happened. Thus, BBB251672 brought her to Bicol Medical Center for medical treatment and reported the incident to the *barangay*.⁹

BBB251672 corroborated the testimony of AAA251672. On May 9, 2016, around 11 o'clock in the morning, she went home after casting her vote in the national and local elections. She looked for AAA251672 but she could not find her. When she finally saw AAA251672, the latter was crying as petitioner allegedly banged her head against a concrete wall. There was noticeable swelling on AAA251672's head,¹⁰ prompting her to bring AAA251672 to

⁶ Id. at 95.

⁷ Id. at 60.

⁸ Id.

⁹ Id.

¹⁰ Id. at 60-61.

Bicol Medical Center where AAA251672 was examined and given medicine for the pain. Based on the doctor's assessment, the swelling was severe.¹¹

The next morning, AAA251672 vomited a lot and was brought back to the hospital. But despite the doctor's advice, she was not able to have a CT Scan done on AAA251672 since she (BBB251672) did not have enough money.¹²

Under Medical Certificate dated May 12, 2016, Dr. Dimaano indicated his finding of "HEMATOMA LEFT OCCIPITAL AREA SECONDARY TO ALLEGED MAULING."

The incident traumatized AAA251672 who had since been scared to go out to play like she used to do.¹³

The Version of the Defense

Petitioner interposed denial and alibi.¹⁴

He argued that he was at home taking care of his grandchild during the alleged incident. Though he stepped out once to buy a cigarette, he immediately went back home. From his house, he had no access to the place where AAA251672 allegedly got mauled.¹⁵

His wife YYY251672 was actually the sister of BBB251672. Their relationship turned sour because YYY251672 sided with their younger brother who refused to give BBB251672 a portion of the ancestral property he inherited.¹⁶

Petitioner's wife YYY251672 admitted that she was not in speaking terms with her sister BBB251672 for about ten (10) years already. She corroborated petitioner's testimony that he was at home taking care of their grandchild on May 9, 2016.¹⁷ Too, petitioner never hit their children except for once when he castigated their eldest son for going to an irrigation canal.

¹¹ Id. at 61.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 62.

Ruling of the Regional Trial Court

By Decision¹⁸ dated July 6, 2018 in Criminal Case No. 2016-0815, the trial court rendered a verdict of conviction, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding herein accused [XXX251672], GUILTY beyond reasonable doubt of violation of Section 10 (a) Article VI of Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act”. He is hereby sentenced to suffer a prison term 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.

Accused is ordered to indemnify private complainant AAA251672 the sum of ₱10,000.00 by way of temperate damages; the sum of ₱20,000.00 by way of exemplary damages; and the sum of ₱20,000.00 as moral damages which amounts shall earn interest at the rate of 6% per annum from the finality of this judgment until fully paid.

Accused is likewise ordered to pay a Fine of ₱10,000.00 which amount shall be administered as a cash fund by the Department of Social Welfare and Development pursuant to Section 31(f) of Republic Act 7610, without subsidiary imprisonment in case of insolvency.

In the service of his sentence, accused shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

SO ORDERED.

The trial court ruled that the prosecution established the elements of child abuse under Section 10(a) of RA 7610 to a moral certainty. The minority of AAA251672 was proven through her Baptismal Certificate, Medical Certificate, and not to mention the stipulation of the prosecution and the defense.¹⁹ The act constituting physical abuse, too, was sufficiently established through the testimony of AAA251672.

Further, petitioner’s denial and alibi were rejected. The trial court noted that his house was only ten (10) to fifteen (15) meters away from the place of the incident, hence, it was not physically impossible for him to be at the *locus criminis* when the crime took place.²⁰

¹⁸ Id. at 94–110.

¹⁹ Id. at 98.

²⁰ Id. at 101.

Proceedings before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering a verdict of conviction despite the alleged failure of the prosecution to prove his guilt.²¹ He argued that there was nothing on record to show his supposed intent to debase, degrade, or demean the well-being of AAA251672 -- an essential element of child abuse.²² In truth, BBB251672 concocted the false charge to retaliate against his wife.²³ At any rate, the Medical Certificate failed to specifically state the possible cause/s of AAA251672's injury.²⁴

Meanwhile, the People of the Philippines, through the Office of the Solicitor General (OSG), riposted that all the elements of child abuse were present. First, AAA251672 was only eight (8) years old when the offense was committed. Second, she positively and categorically identified petitioner as her assailant and testified on the abuse she suffered from his act. As it was, AAA251672's testimony conformed with the findings indicated in her Medical Certificate.²⁵

Ruling of the Court of Appeals

By Decision²⁶ dated June 25, 2019 in CA-G.R. CR No. 41927, the Court of Appeals affirmed. It held that the testimony of AAA251672 as a child witness must be given full weight since youth and immaturity are badges of truth.²⁷ Further, petitioner's act of banging AAA251672's head against a concrete wall was an act of child abuse which debased, degraded, or demeaned her intrinsic worth and dignity as a human being.²⁸ Finally, petitioner's alibi should fail considering the short distance between his house and the house of AAA251672.²⁹

Petitioner's motion for reconsideration was denied under Resolution dated January 23, 2020.³⁰

The Present Petition

Petitioner now seeks affirmative relief and prays anew for his acquittal. He essentially reiterates the defenses and arguments he had raised before the courts below.

²¹ Id. at 138.

²² Id. at 88.

²³ Id. at 89.

²⁴ Id.

²⁵ Id. at 114.

²⁶ Id. at 58-68.

²⁷ Id. at 65.

²⁸ Id. at 66.

²⁹ Id. at 67.

³⁰ Id. at 70.

Ruling

It is settled that factual findings of the trial court, when affirmed by the Court of Appeals, are binding and conclusive upon this Court. The Court, too, is not a trier of facts. The function of the Court in petitions for review on *certiorari* is limited to reviewing errors of law that may have been committed by the courts below. Though the rule admits exceptions, none are present in this case.³¹

In any event, the Court finds no reason to reverse the factual findings and legal conclusions of the courts below.

Here, petitioner was charged with child abuse under Section 10(a) of RA 7610 which states:

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 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.

Further, Section 3 of the same law defines child abuse, *viz*:

3 (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.** (Emphases supplied)

The elements of Section 10(a) of RA 7160 are as follows: (a) the victim is a minor; (b) the accused committed an act of abuse against the victim; and (c) said act is clearly punishable under RA 7610.³²

These elements are all present here.

³¹ *Escolano v. People*, 845 Phil. 129, 139 (2018).

³² See *Del Poso v. People*, 802 Phil. 713 (2016).

First. AAA251672 was only eight (8) years old at the time of the incident. Not only did AAA251672's Baptismal Certificate bear her date of birth, both the prosecution and the defense also stipulated on her actual age at the time of the incident.

Second. AAA251672 positively and consistently identified petitioner as her assailant. She testified:

Prosecutor Monserate: So where were you during that time on May 9, 2016 at 9:00 o'clock in the morning?

AAA251627: I was at home, ma'am.

xxx

P: So what were you doing during that time?

A: I was about to go to the toilet and then he arrived and then he called me, ma'am.

P: Where is the toilet located? Is this inside your house or outside your house?

A: Outside the house, ma'am.

P: You said that he arrived and called you, where were you when he called you?

A: I was outside ma'am and then he arrived and suddenly bumped my head on the wall.

P: When you said outside where is this place which you are referring to, outside of what?

A: Outside of our house, ma'am.

P: You said XXX251627 arrived and bumped your head [on] the wall, which wall?

A: A cemented wall, ma'am.

P: Is that the cemented wall of your house?

A: Our neighbor's house wall, ma'am.

P: How far is your neighbor's house from your house?

A: Near, ma'am.

P: Assuming that your house is in this area, where is your neighbor's house?

A: About 2-3 meters, ma'am.

P: You said that he bumped your head on the wall, how did he do that? Can you please demonstrate that to the court?

A: (Witness demonstrates by pushing her right temple going to the left)

P: What kind of wall did your head hit?

A: Just like that (Witness points to the wall of the courtroom).

P: Was it cemented or made of wood?

A: Cemented, ma'am.

P: How strong was the action of XXX251672?

A: It was very strong, ma'am.

P: And what did you feel when your head hit the wall?

A: I cried, ma'am, my head was really aching.

P: Did he tell you anything?

A: Yes, ma'am.

P: And what did he tell you?

A: That I don't have any right at the house, ma'am.

P: Do you know what he meant by that?

A: Yes, ma'am, that I am only an "ampon."³³ (Emphases supplied)

Verily, AAA251672 testified that she was merely walking towards a comfort room when petitioner suddenly banged her head against a concrete wall *sans* any provocation on her part.

AAA251672's testimony conformed with the medical findings of her attending physician that she sustained a hematoma on her left occipital area. Though her Medical Certificate did not specifically state the possible cause/s of her injury, this is of no moment since such piece of evidence is merely corroborative.³⁴ A medical examination of the victim is not indispensable as no law requires it for the successful prosecution of child abuse; a verdict of conviction may still be sustained in its absence.

In *Fernandez v. People*,³⁵ AAA and BBB experienced different kinds of torment from their stepmother, therein petitioner Fernandez. On different occasions, Fernandez banged AAA's head against the floor several times, and hit him on the nape and back with a broom until the broom broke. She also clipped, pulled, and rotated AAA's right ear with rusty pliers after he spilled rice by accident. Fernandez also forbade him from crying so AAA just wiped the blood off his ear with a handkerchief. BBB, on one hand, was prohibited from going to school for a week. On the day she went back to school, her teacher saw that she had several contusions and marks on her body. Her black-eye was also very prominent. The Court ruled that these acts constituted child abuse.

Finally. The deeds and words of petitioner clearly debased, degraded, and demeaned the intrinsic worth and dignity of AAA251672 as a human being. *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.³⁶

³³ *Rollo*, pp. 98–99.

³⁴ See *People v. Manaligod*, 831 Phil. 204 (2018).

³⁵ See 843 Phil. 745 (2018).

³⁶ *Supra* note 29.

Petitioner's act was not merely intended to cause injury to AAA251672 but also to debase, degrade, and demean her intrinsic worth and dignity. This is apparent from his subsequent statement that AAA251672 supposedly had no right to live in the house of BBB251672 since she was a mere "*ampon*". Clearly, petitioner used the phrase disparagingly to trivialize AAA251672's relationship with BBB251672.

To stress, petitioner was not just any adult but the husband of the sister of one of her adoptive mothers. Yet his words and deeds revealed his resolve to reinforce the stigma against children like AAA251672 who live under unconventional family set-ups. His actions fortified the idea on AAA's mind that she was someone whom her supposed extended family would not recognize as one of their own; someone who had no right to live in the property of any member of their family. At the tender age of eight (8), AAA251672 already understood what it meant to be an "*ampon*". She testified during the trial that she was aware of the consequences of her status.

Calling AAA251672 an "*ampon*" and impressing upon her its repercussions is a form of mental conditioning which, in AAA251672's case, adds insult to injury. To elucidate, our laws currently do not allow AAA251672 to be formally adopted by her same-sex parents. Hence, as it stands, she would not be able to rise above her status as an "*ampon*"; her relationship with BBB251672 will not gain legal recognition and she will not be recognized by BBB251672's relatives as BBB251672's heir.

Hence, we agree with the courts below that the elements of child abuse were sufficiently established here.

Petitioner nevertheless claims that the criminal charge was a mere revenge plot of BBB251672 against his wife YYY251672. But it defies logic for BBB251672 to compromise and expose her child, albeit not biologically, to the rigors of trial and humiliation just to take revenge.

Petitioner's defenses of denial and alibi cannot prosper either. In any criminal prosecution, the defenses of denial and alibi are considered weak and have been invariably viewed by the courts with disfavor for they can be easily concocted but are difficult to prove.

At any rate, bare denials cannot prevail over the affirmative testimony of a truthful witness, as here.³⁷ As for petitioner's alibi, the courts below keenly noted that the distance between his and AAA251672's respective houses was about ten (10) to fifteen (15) meters only. Such proximity does not render it impossible for petitioner to commit the crime charged, especially since he himself admitted that he stepped out of his house at one point supposedly to buy a cigarette.

³⁷ See *People v. Pasion*, 752 Phil. 359 (2015).

In fine, we see no reason to reverse the dispositions of the Court of Appeals. 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. The fact that AAA251672 was not, as she could not be formally adopted by her same-sex parents, did not diminish her entitlement to the protection accorded by law.

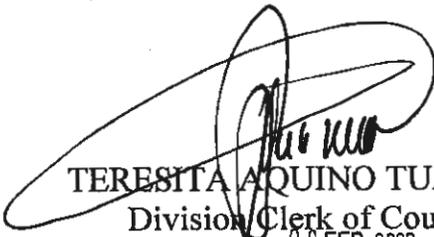
FOR THESE REASONS, the petition is **DENIED**. The Decision dated June 25, 2019 and Resolution dated January 23, 2020 of the Court of Appeals in CA-G.R. CR No. 41927 are **AFFIRMED**.

Petitioner **XXX251672** is found **GUILTY** of violation of Section 10 (a) Article VI of Republic Act No. 7610. He is sentenced to 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. He is further ordered to pay temperate damages of ₱10,000.00, moral damages of ₱20,000.00, exemplary damages of ₱20,000.00, and fine of ₱10,000.00.

These amounts shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.

SO ORDERED." (Leonen, S.A.J., on official leave.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
08 FEB 2023

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