



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**JUNAR D. ORILLO AND
FLORENCIO E. DANIELES,**
Petitioners,

G.R. No. 206905

Present:

LEONEN, *J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

**Promulgated:
JAN 30 2023**

[Signature]

X-----X

DECISION

LEONEN, J.:

Whether the complainant is a private person or a public officer is a matter ought to be considered in deciding libel cases.

This is a Petition for Review on Certiorari¹ assailing the Court of Appeals Decision² and Resolution³ which denied Junar D. Orillo (Orillo) and Florencio E. Danieles's (Danieles) appeal. The Court of Appeals affirmed

¹ *Rollo*, pp. 8-39.

² Id. at 40-56. The July 23, 2012 Decision in CA-G.R. CR No. 33451 was penned by Associate Justice Ricardo R. Rosario (Acting Chair) and concurred in by Associate Justices Jane Aurora C. Lantion and Leoncia Real-Dimagiba of the Special Fifth Division of the Court of Appeals, Manila.

³ Id. at 57. The April 18, 2013 Resolution in CA-G.R. CR No. 33451 was penned by Associate Justice Ricardo R. Rosario (Acting Chair) and concurred in by Associate Justices Jane Aurora C. Lantion and Leoncia Real-Dimagiba of the Former Special Fifth Division of the Court of Appeals, Manila.

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their conviction for libel with modification on the penalty imposed and damages awarded by the Regional Trial Court.⁴

Romeo Cabatian (Cabatian) filed a libel case against Orillo, Danieles, Lito Nepacina (Nepacina), Estelito Francisco (Francisco), Arnel Bertulfo (Bertulfo) and Jean Jardeleza (Jardeleza). The accusatory portion of the Information provides:

That on or about the 26th of April 2002, in the Municipality [of] Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, in conspiracy with one another, with evident purpose of impeaching the virtue, honesty, integrity and reputation of the person of one Romeo Cabatian and with malicious intent of exposing him to public contempt and ridicule, did, then and there willfully, unlawfully and feloniously post at the bulletin board of Pasay Alabang FTI South Expressway Jeepney Operators and Drivers Association's (PAFSEJODA) jeepney terminal, located at Taguig, Metro Manila, a public place, the complaint of accused Jane Jardeleza against said complainant Romeo Cabatian for carnapping filed before the Office of the Pasig City Prosecutor, which have caused him dishonor, discredit, or contempt, the good reputation of said complainant, to his damage and prejudice.

CONTRARY TO LAW.⁵

All of the accused, except Nepacina who was at large, pleaded not guilty during arraignment.⁶

Based on prosecution evidence, Orillo, Danieles, Nepacina, Francisco, and Bertulfo were candidates in the Pasay-Alabang-FTI South Expressway Jeepney Operators and Drivers Association's (PAFSEJODA) election of officers conducted on March 23, 2002. All of them lost, while complainant Cabatian, a retired member of the Philippine National Police, won as Vice President of the association.

Prosecution witnesses Ronald Regala (Regala) and Faustino Villaflor (Villaflor), members of the PAFSEJODA, testified that they were at the FTI Jeepney Terminal in Taguig City around 8:00 a.m. of April 26, 2002. There, they allegedly saw Orillo, Danieles, Nepacina, Francisco, and Bertulfo posting documents on the terminal's bulletin board. They claim that Orillo held a stack of documents which he handed to Nepacina. Meanwhile, Francisco gave instructions, Bertulfo stapled the documents on the bulletin board, and Danieles ensured that the documents were aligned.⁷

⁴ The February 19, 2010 Decision of the Regional Trial Court of Pasig City, Branch 153 in Criminal Case No. 125804 was not attached in the records.

⁵ *Rollo*, p. 42.

⁶ *Id.* at 11 and 76. This is uncontested based on both parties' narration of facts.

⁷ *Id.*

Upon closer inspection of the documents posted, Regala and Villaflor saw that they pertained to a criminal charge of carnapping filed by Jardeleza against Cabatian. They promptly contacted Cabatian to inform him about the post while expressing their dismay on his supposed pending case.⁸

Cabatian, along with a photographer, arrived at the terminal around 9:00 a.m. Seeing that the posted documents were being read by another person, Cabatian instructed the photographer to take pictures. He later took down the posts from the bulletin board.⁹

In his defense, Orillo claimed that on the pertinent dates, he went to Bicol for the town fiesta and baptism of his niece. He allegedly boarded a Peñafrancia Tours bus at 10:00 p.m. on April 25, 2002 and arrived in Bicol at 10:00 a.m. the next day. To substantiate this, he presented his niece's Certificate of Baptism, along with a group picture taken with him during the christening. He also presented a group photo with the town fiesta tarpaulin in the background. He said that the baptism happened on April 27, 2002 while the town fiesta, as reflected in the tarpaulin, was from April 26 to 27, 2002.

Danieles, for his part, alleged that he was a mere spectator. Although Cabatian saw him in the terminal when the latter arrived, Danieles maintained that he had no participation in the incident complained of. In the morning of April 26, 2002, he allegedly parked his jeep at the Taguig terminal. While resting, he noticed a commotion in the area where the bulletin board was. When he came near it, he saw people reading something from the bulletin board which happened to be the documents from the fiscal's office. Danieles claimed that these documents were received by their Board Chairman, Kaime Malaluan, and were kept in the PAFSEJODA office.¹⁰

On February 19, 2010, the Regional Trial Court of Pasig City ruled for conviction,¹¹ except as to Jardeleza who was acquitted. The dispositive portion of its Decision reads:

WHEREFORE, premises considered, the prosecution having proven the guilt of the accused **JUNAR ORILLO, ESTELITO FRANCISCO** and **FLORENCIO DANIELES** beyond reasonable doubt, [the] [c]ourt finds them **GUILTY** of the crime of Libel and hereby sentences them to suffer the penalty of imprisonment of *prision correccional* in its minimum as minimum and *prision correccional* medium as maximum or 6 months and 1 day to 1 year, 8 months and 20 days as minimum and 1 year,

⁸ Id. at 43.

⁹ Id. at 43-44.

¹⁰ Id. at 42-45. *See also rollo*, pp. 79-80 where the Office of the Solicitor General stated that Cabatian was a former policeman, as reinforced by their citation of the supposed contents of Police Senior Inspector Jimmy Gonzales Mandario's report.

¹¹ Id. at 76. As per the Office of the Solicitor General, the criminal complaint was considered withdrawn as against Bertulfo on November 11, 2008 because of his demise on June 27, 2008.

8 months and 21 days to 2 years, 11 months and 10 days as maximum.

Accused **JUNAR ORILLO, ESTELITO FRANCISCO** and **FLORENCIO DANIELES** are directed to pay the [sic] private complainant Romeo P. Cabatian:

1. ₱200,000.00 as damages;
2. ₱20,000.00 as acceptance fee;
3. ₱20,000.00 as termination fee; and
4. ₱2,000.00 per appearance in court hearings.

For failure of the prosecution to prove her guilt beyond reasonable doubt, accused **JEAN JARDELEZA** is **ACQUITTED**.

Let this case be **ARCHIVED** as far as accused Lito Napacina is concerned to be revived upon his apprehension. Issue alias warrant of arrest against him.

SO ORDERED.¹² (Emphasis supplied)

Aggrieved, Orillo and Danieles sought relief from the Court of Appeals claiming that the trial court was mistaken in not giving weight to their alibi, as well as in finding ill motive behind the posting of the supposed libelous articles. They averred that the trial court also erred in awarding damages to complainant in the amount of ₱200,000.00 and attorney's fees. Furthermore, they assailed their conviction on account of the prosecution's failure to present the photographer who took pictures of the documents posted.¹³

On July 23, 2012, the Court of Appeals denied Orillo and Danieles's appeal.¹⁴

The Court of Appeals frowned upon their main defense of denial and alibi¹⁵ ruling that their participation in the posting of the libelous articles has been duly proven.¹⁶

The Court of Appeals held that while Orillo's evidence established his presence in Bicol from April 26 to 27, 2002, it did not irrefutably show that he was already on his way there between 8:00 and 9:00 in the morning of the incident on April 26, 2002. Based on Orillo's testimony that it takes 10 hours to reach Bicol, the Court of Appeals explained that it was not physically improbable for him to be at the crime scene between 8:00 and 9:00 a.m. on April 26, 2002 and still make it to Bicol in time for the town fiesta and christening on April 27, 2002. It held that Orillo had the burden of proving his claim with clear and convincing evidence, which he failed to do.¹⁷

¹² Id. at 41.

¹³ Id. at 45-46.

¹⁴ Id. at 55.

¹⁵ Id. at 47.

¹⁶ Id. at 48.

¹⁷ Id. at 46-47.

The Court of Appeals ruled that the same goes with Daniele's assertion that he was only a spectator. Without any corroborative evidence, it held that Daniele's assertion that he was only impleaded for refusing Cabatian's request for him to testify against his co-accused was self-serving, and thus, held no water. His bare denial, as to the Court of Appeals, cannot prevail over Regala and Villaflor's positive averments about the incident. The Court of Appeals held that in the absence of proof that the prosecution witnesses were impelled by improper motives to falsely testify against the accused, the presumption that they were not actuated stands.¹⁸

Even if the prosecution failed to present the photographer who documented the libelous articles, the Court of Appeals pointed out that Orillo and Daniele were still not able to refute the fact that documents regarding Cabatian's involvement in a carnapping incident were indeed posted on the bulletin board. Moreover, these photographs were part of the testimonies of Regala, Villaflor, and Cabatian who are undeniably competent to testify on the incidents represented.

In ruling that the posting of the documents constituted libel, the Court of Appeals considered its contents which pertained to a "report submitted by Police Senior [Inspector] Jimmy Gonzales Mandario, referring for appropriate action a case for RA 6530 (Anti-Carnapping Act) to the Provincial Prosecutor of Pasig City."¹⁹ The document also contained "the complaint of Jean Jardeleza against. . . Cabatian together with the enclosures, which included the Sinumpaang Salaysay. . . of Jean Jardeleza accusing [Cabatian] of forcibly taking her vehicle, among others[.]"²⁰

The Court of Appeals held that an imputation is libelous if it is defamatory, malicious, given publicity, and the supposed victim is identifiable. It found that all these elements were duly established.²¹ The documents were given publicity considering that they were made in two sets and posted on the bulletin board where third parties, other than those involved, would be able to read them. There was also no doubt that the victim was Cabatian. Lastly, it considered whether the articles were defamatory and whether the posting was done maliciously.²²

From the contents of Jardeleza's Sinumpaang Salaysay, the Court of Appeals adjudged the posted documents as defamatory for ascribing the commission of carnapping to Cabatian, which discredited his character:

¹⁸ Id.

¹⁹ Id. at 48.

²⁰ Id.

²¹ Id. at 53.

²² Id. at 49.

In her sworn statement, Jean Jardeleza narrated that private complainant Cabatian loaned to her husband the amount of ₱150,000.00 with agreed interest rate of 20%. As collateral for said loan, her husband issued a check in the amount of ₱213,000.[00]. While she was making payments on the loan, Cabatian assured her that she need not pay the interest since her husband does not help her earn a living but when she already paid ₱153,000.00, Cabatian insisted to collect the interest and when she failed to settle the same, he forcibly took her vehicle. Jardeleza further recounted that she did not report to the police at once, although she had the incident recorded in the barangay blotter, because she feared Cabatian, the latter being a [police].

*Anyone reading the documents would, no doubt, entertain the idea that Cabatian is not a good person, somebody to be feared. The documents ascribed to Cabatian the commission of the crime of carnapping and brought his character into disrepute. The documents were unquestionably defamatory.*²³ (Emphasis supplied)

It also found the posting malicious as it was meant to harm Cabatian's reputation and expose him to public ridicule. Moreover, it emphasized that the fact that two sets of documents were made meant that whoever posted it wanted more people to read it.²⁴

The Court of Appeals held that the posting could not have been done to warn association members about Cabatian and guide their voting since the posting was done a month after the election. If it had been really done with good intentions, the Court of Appeals pointed out that the posting would have been limited to the PAFSEJODA office where, as Danieles mentioned, the documents were being kept for the information of other PAFSEJODA officers who has the power to take proper action.²⁵ Agreeing with the following findings of the trial court, the Court of Appeals quoted:

The posting of the criminal complaint for carnapping at the bulletin board of the jeepney terminal of PAFSEJODA was malicious. The defense of the accused that they posted the same because the qualifications of a candidate to be elected as an officer of PAFSEJODA provides: "*walang bahid ng kasong criminal sa lipunan*" and that they wanted to inform the members [or] electors of the same, holds no water. *The election of offices of PAFSEJODA was held on March 23, 2002 while the posting of the criminal complaint was on April 26, 2002. The election has already been held and the officers elected when the criminal complaint was posted. There was no longer any reason for the accused to inform the members [or] electors of the same for them to be guided in casting their votes.*

Since the imputation was malicious, the only purpose that accused had in posting the criminal complaint was to injure or destroy the reputation of the private complainant Romeo P. Cabatian. Thus, the fifth element is present. *The accused clearly had an axe to grind against the private complainant Romeo P. Cabatian since they all lost in the election of officers*

²³ Id. at 50.

²⁴ Id. at 51.

²⁵ Id. at 51-52.

of the PAFSEJODA. Their only intention is to dishonor and discredit the private complainant Romeo P. Cabatian.²⁶ (Emphasis supplied)

The Court of Appeals found it striking that only the documents relative to Jardeleza's statements were posted on the bulletin board and none of Cabatian's version of events were included to counter the allegation.²⁷

Despite the documents being privileged as they are declarations made during legal proceedings, the Court of Appeals ruled that appellants remain liable for their evident malice in posting the documents. In any case, the Court of Appeals stressed that this was never raised by Orillo and Danieles since they hinged their defense on denial and alibi which cannot prevail over the affirmative identification of the prosecution witnesses.²⁸

Applying the Indeterminate Sentence Law, the Court of Appeals modified the imposed penalty. While it upheld the award of moral damages, it found ₱200,000.00 excessive and reduced it to ₱20,000.00. For failing to provide justification, the Court of Appeals also deleted the award of attorney's fees.²⁹ The dispositive portion of its Decision reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The assailed decision dated 19 February 2010 of the Regional Trial Court of Pasig City, Branch 153 in Criminal Case No. 125804 is **AFFIRMED** with **MODIFICATIONS**, as follows:

1. Accused-appellants **JUNAR ORILLO** and **FLORENCIO DANIELES** are sentenced to suffer an indeterminate penalty of SIX (6) MONTHS of *arresto mayor*, as minimum, to TWO (2) YEARS, ELEVEN (11) MONTHS and TEN (10) DAYS of *prision correccional*, as maximum.
2. Accused-appellants are likewise ordered to pay moral damages to private complainant Romeo Cabatian in the amount of Twenty Thousand (₱20,000.00); and
3. The award of attorney's fees is **DELETED**.

SO ORDERED.³⁰

On April 18, 2013, the Court of Appeals denied Orillo and Danieles's motion for partial reconsideration for lack of merit,³¹ prompting them to file a Petition for Review³² before this Court.

²⁶ Id. at 51.

²⁷ Id. at 52.

²⁸ Id.

²⁹ Id. at 52-55.

³⁰ Id. at 55-56.

³¹ Id. at 57.

³² Id. at 8-39.

Petitioners assail the Court of Appeals' purported failure to appreciate their defense of alibi. Orillo maintains that it was impossible for him to be at the scene of the crime on April 26, 2002.³³ He points to his statements during direct,³⁴ cross,³⁵ re-direct,³⁶ and re-cross³⁷ examinations, which allegedly establishes his absence in the terminal during the incident.³⁸ Meanwhile, Danieleles insists that he was only included in the charge because he repeatedly refused to testify against his co-accused.³⁹ He was also allegedly surprised when he saw the posts since the documents were sent after the election and were being kept in the PAFSEJODA office. Besides, he points out that it would be improbable for him to get the documents for posting since he and Orillo were barred from entering the terminal by the new set of officers two weeks after the elections.⁴⁰

Petitioners argue that the Court of Appeals was mistaken in admitting the photographs as evidence despite the prosecution's failure to present the photographer who documented the supposed libelous articles.⁴¹ They claim that "before a private document offered as authentic is received in evidence, its due execution and authenticity must be proved by anyone who saw the document executed or written[.]"⁴² As such, the prosecution witnesses are incompetent to identify the photographs since "neither of them took the pictures nor personally developed the said pictures."⁴³

Petitioners also assail the finding that they had ill motives in posting the supposed libelous articles. Considering that the posting happened a month after the election, they insist it was highly improbable for them to have done it since it would no longer serve the purpose of notifying their members about the qualifications of the candidates.⁴⁴ They aver that apart from having no access to the documents after the election, it was not clear from Cabatian's testimony whether the documents were actually posted:

COURT:

Only questions from the Court. I just want to be clarified on the testimony of private complainant that you learned about the posting of these copies of the complaint more or less between 8:00 to 9:00 in the morning.

Q: What time did you arrive at the FTI on that morning to see for yourself that indeed there were those copies of the complaint posted at the bulletin board as related to you by the witnesses?

³³ Id. at 23.

³⁴ Id. at 16-17.

³⁵ Id. at 18-20.

³⁶ Id. at 21-22.

³⁷ Id. at 22-23.

³⁸ Id. at 23.

³⁹ Id. at 29.

⁴⁰ Id. at 14, 24, and 26-28.

⁴¹ Id. at 29-30.

⁴² Id. at 32 *citing* RULES OF COURT, Rule 132, sec. 20.

⁴³ Id.

⁴⁴ Id. at 32-33.

A: Around 8:15 in the morning your Honor.

Q: You arrived there at 8:15 in the morning?

A: Yes, ma'am.

Q: And you are saying that the copies of the complaint could have been posted at around 8:00 in the morning, is that what you are saying?

A: About 8:15, ma'am.

Q: So, it could not be posted after 8:15 because you were already there at 8:15, where did you learn that two (2) copies of the complaint were posted there at about 8:00 in the morning? Who told you that?

A: Ronaldo Regala and Justino Villaflor, ma'am.

Q: What time did they call you up?

A: About 8:00, Your Honor.

Q: Did they exactly tell you that two (2) copies of the complaint were posted at about 8:00 in the morning or just assumed that they were posted at 8:00 in the morning?

A: They did not tell the time but its between 8:00 and 9:00 ma'am.

Q: When you arrived there at 8:15 did you see people reading the two (2) copies of the complaint?

A: Yes, ma'am.

Q: How many of them?

A: Only one.

Q: And after causing these two (2) copies of the complaint photographed [,] you immediately took them out of the bulletin board?

A: Yes, Your Honor.

Q: So you have no knowledge how many of the passengers or anyone among the drivers there or anybody in that area actually read those copies of the complaint?

A: I do not know, ma'am.⁴⁵

In its Comment,⁴⁶ respondent People of the Philippines, through the Office of the Solicitor General, claims that the Court of Appeals was correct in affirming petitioners' conviction for libel. To support its claim that the imputations were defamatory in nature, it emphasizes the Court of Appeals' affirmative finding and adds that the documents posted, on its face, are incriminatory for ascribing the crime of carjacking to Cabatian.⁴⁷

While the incriminatory statements in the documents are privileged as they are made in judicial proceedings, respondent argues that this privilege extends only in so far as the original authors are concerned, that is, Jardeleza and Police Senior Inspector Mandario. Respondent claims this privilege does

⁴⁵ Id. at 33-34.

⁴⁶ Id. at 75-90.

⁴⁷ Id. at 85-87.

not extend to petitioners who lack justifiable motive to post the documents on the terminal's bulletin board.⁴⁸ As petitioners cannot take refuge in the privileged nature of the criminal complaint,⁴⁹ the presumption that they acted maliciously stands since "every defamatory imputation, unless privileged, is presumed to be malicious, even if true, if no good intention and justifiable motive is shown."⁵⁰

Besides, respondent points out that Cabatian already won as an officer of the association at the time the documents were posted. Therefore, the posting cannot be borne out of petitioners' sense of moral duty to inform other members of the qualifications of candidates. The only sensible conclusion, respondent stresses, is that petitioners were motivated by ill will and had really intended to harm Cabatian's reputation.⁵¹

Finally, respondent argues that petitioners' denial and alibi are insufficient to overturn the presumption of malice. In any case, respondent avers that petitioners' issues as to their alibi and lack of improper motive are questions of fact which are beyond the coverage of a Rule 45 petition.⁵²

In their Reply,⁵³ petitioners move for acquittal claiming that the elements of libel were not amply established by the evidence on record. Restating their arguments in the Petition, they claim that the element of publication was wanting for failure to present the photographer who documented the supposed libelous articles.⁵⁴ To bolster their claim that there was also no malice, petitioners stress that from Cabatian's testimony, it was not proven whether the witness for the prosecution saw them posting the documents or that they had reason to do so.⁵⁵

On January 21, 2015, the parties were ordered to file their respective memoranda.⁵⁶ Petitioners repeat⁵⁷ the arguments in their pleadings before this Court hinging on the supposed lack of the element of publication. Meanwhile, respondent merely restates⁵⁸ the arguments presented in its Comment.

We now resolve the issue of whether or not the Court of Appeals erred in affirming petitioners' conviction for libel.

We deny the Petition.

⁴⁸ Id. at 82–86.

⁴⁹ Id. at 80.

⁵⁰ Id. at 86–87.

⁵¹ Id. at 87.

⁵² Id. at 88.

⁵³ Id. at 103–113.

⁵⁴ Id. at 105.

⁵⁵ Id. at 109–110.

⁵⁶ Id. at 118–119.

⁵⁷ Id. at 146–159.

⁵⁸ Id. at 120–138.

I

Before we delve on substantial issues relating to petitioners' conviction for libel, we first rule on their primary defense of denial and alibi.

Both petitioners deny participation in the posting of the supposed libelous documents. Orillo asserts that it was physically impossible for him to be at the Taguig terminal around 8:00 a.m. to 9:00 a.m. of April 26, 2002 as he claimed to be already on his way to Bicol to attend their town fiesta and his niece's baptism.⁵⁹ Meanwhile, Danieleles maintains that he was a mere a spectator and was only impleaded as he declined Cabatian's request for him to testify against his co-accused. Danieleles adds that it was impossible for him to get the documents in the PAFSEJODA office and post it on the bulletin board since he was no longer allowed by the new set of officers to enter the office after the election.⁶⁰

Only questions of law must be raised in a Rule 45 petition. This Court, not being a trier of facts, will not pass upon factual matters because findings of the appellate court thereon are binding and conclusive not only upon the parties but also upon this Court when backed by substantial evidence.⁶¹

While there exist exceptions⁶² to the oft-repeated rule, a mere avowal that the case falls under any of it is not enough. A party seeking for a re-assessment of the factual findings of the Court of Appeals ought to establish the pertinent exception and has the burden of proving that a review of facts is necessary. Nonetheless, this Court still holds full discretion on whether to re-evaluate the factual findings of the Court of Appeals.

Here, ascertaining the merit of petitioners' alibi and denial is a question of fact requiring this Court to reassess the veracity of the parties' arguments. It also entails the determination of the accuracy of the lower courts' assessment of the evidence presented by the parties.⁶³

⁵⁹ Id. at 13–14 and 15–23.

⁶⁰ Id. at 23–30.

⁶¹ *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

⁶² Id. at 182–183 citing *Medina v. Asistio, Jr.*, 269 Phil. 225 (1990) [Per J. Bidin, Third Division].

The exceptions to the rule are as follows: “(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.”

⁶³ Id.

This Court finds no compelling reason to review the factual findings of the Court of Appeals. While petitioners' main defense revolves on their respective denial and alibi, it bears stressing that they failed to establish, let alone plead, that their case falls under any of the exceptions which would warrant a reevaluation of facts. Instead of discharging this burden, petitioners merely insisted on their innocence based on their own accounts of events. As such, this Court is constrained to uphold the Court of Appeals' factual findings relative to their defenses.

Petitioners' participation in the posting of the supposed libelous articles now settled, we then determine whether the Court of Appeals erred in affirming their conviction for libel.

II

The definition of libel is in Article 353 of the Revised Penal Code:

ARTICLE 353. *Definition of Libel.* — A libel is a *public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.* (Emphasis supplied)

The following are its elements:

... (a) the allegation of a discreditable act or condition concerning another; (b) *publication of the charge*; (c) identity of the person defamed; and, (d) *existence of malice.*⁶⁴ (Emphasis supplied, citation omitted)

An allegation is deemed defamatory if it ascribes to another "the *commission of a crime; the possession of a vice or defect, whether real or imaginary; or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put [them] in contempt, or which tends to blacken the memory of one who is dead.*"⁶⁵

The documents posted on the bulletin board, consisting of Police Senior Inspector Mandario's report on the carnapping and Jardeleza's complaint with its pertinent enclosures, were deemed defamatory by the Court of Appeals for ascribing the commission of the crime of carnapping to Cabatian, causing discredit to his character. With particular reference to Jardeleza's Sinumpaang Salaysay, the Court of Appeals explained that any person reading the documents would undeniably think that Cabatian is not a good person and

⁶⁴ *Magno v. People*, 516 Phil. 72, 83 (2006) [Per J. Garcia, Second Division].

⁶⁵ *Brillante v. Court of Appeals*, 483 Phil. 568, 590 (2004) [Per J. Tinga, Second Division].

someone who is to be feared.⁶⁶ It also pointed out that the victim is identifiable as Cabatian.⁶⁷

The findings of the Court of Appeals on the existence of the first and third elements of libel are not contested by petitioners. They only raise issues relating to the elements of publication and presence of malice.

II (A)

There is publication when the supposed defamatory material is made known to a third person other than to whom it refers.⁶⁸ It does not matter if the subject of the defamation has read or heard about it, as a person's "reputation is the estimate in which others hold [them], not the good opinion which [they] [have] of [themselves]."⁶⁹

The two sets of documents relating to Jardeleza's criminal charge against Cabatian were posted on the bulletin board used for the dissemination of the jeepneys' dispatch schedules.⁷⁰ As such, it can reasonably be deduced that any person in the terminal at that time, other than Cabatian, would be able to see and read the documents posted. This is reinforced not only in the statements of Regala and Faustino, who testified on seeing the posts, but also in Daniele's narration of facts. While denying his participation in the posting, Daniele himself confirmed that in the morning of April 26, 2002, he noticed a commotion in the area where the bulletin board was located and that people "were reading something" off of it.⁷¹ It is clear from his account of events that other people were able to peruse the documents posted on the bulletin board. Indubitably, there was publication of the supposed libelous articles.

Petitioners also assail the admission into evidence of the photographs showing the libelous materials posted on the bulletin board despite the prosecution's failure to present the photographer.⁷² They claim that "before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved by anyone who saw the document executed or written."⁷³ Petitioners insist on Cabatian and Regala's incompetence to identify the photographs as "neither of them took the pictures nor personally developed the said pictures[.]"⁷⁴

⁶⁶ *Rollo*, pp. 48–50.

⁶⁷ *Id.* at 49.

⁶⁸ *Brillante v. Court of Appeals*, 483 Phil. 568 (2004) [Per J. Tinga, Second Division].

⁶⁹ *Tulfo v. People*, G.R. No. 187113, January 11, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67112>> [Per J. Leonen, Third Division] *citing* *Vazquez v. Court of Appeals*, 372 Phil. 238 (1999) [Per J. Mendoza, En Banc].

⁷⁰ *Rollo*, p. 87.

⁷¹ *Id.* at 14.

⁷² *Id.* at 29–32.

⁷³ *Id.* at 29 and 108.

⁷⁴ *Id.* Only excerpts from Cabatian and Regala's testimony were quoted by petitioners.

Petitioners' arguments do not convince.

In *Sison v. People*,⁷⁵ this Court elucidated that photographs received in evidence may also be identified by other competent witnesses who can testify on the accuracy of the object or scene being depicted:

The rule in this jurisdiction is that photographs, when presented in evidence, must be identified by the photographer as to its production and testified as to the circumstances under which they were produced. The value of this kind of evidence lies in its being a correct representation or reproduction of the original, and its admissibility is determined by its accuracy in portraying the scene at the time of the crime. *The photographer, however, is not the only witness who can identify the pictures he has taken. The correctness of the photograph as a faithful representation of the object portrayed can be proved prima facie, either by the testimony of the person who made it or by other competent witnesses, after which the court can admit it subject to impeachment as to its accuracy. Photographs, therefore, can be identified by the photographer or by any other competent witness who can testify to its exactness and accuracy.*⁷⁶ (Emphasis supplied, citations omitted)

“A competent witness must be able to ‘assure the court that they know or are familiar with the scenes or objects shown in the pictures and the photographs depict them correctly.’”⁷⁷ On this matter, we find Cabatian and Regala competent to testify on the incident and accuracy of the photographs. It bears stressing that together with Villaflor, Regala testified that he personally saw the posts complained of in the morning of April 26, 2002. Meanwhile, Cabatian, after being informed of the posting, went immediately to the terminal and instructed the photographer to take pictures of the documents posted before he took them down.⁷⁸

Even if we were to disregard the admissibility of the photographs as evidence, what was depicted by the photographs was already admitted by petitioners. We agree with the Court of Appeals that both petitioners do not refute that documents relating to Jardeleza's criminal charge for carnapping against Cabatian were posted on the terminal's bulletin board.⁷⁹ To stress, what petitioners contest here was their alleged participation in the act complained of, as testified to by the witnesses for the prosecution.

Hence, we find the element of publication duly established.

⁷⁵ 320 Phil. 112 (1995) [Per J. Puno, Second Division].

⁷⁶ Id. at 131.

⁷⁷ *Guerrero v. Phil. Phoenix Surety & Insurance, Inc.*, G.R. No. 223178, December 9, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66845>> [Per J. Carandang, First Division].

⁷⁸ Id. at 43-44.

⁷⁹ Id. at 48.

II (B)

At the core of libel is malice.⁸⁰ Malice signifies that the offender is impelled by “personal ill [will] or spite and speaks not in response to duty, but merely to injure the reputation of the person defamed; it implies an intention to do ulterior and unjustifiable harm.”⁸¹

As a precondition, malice has evolved to adopt a distinction between libel charges involving private individuals *vis-à-vis* public officers and public figures.⁸²

In *Tulfo v. People*,⁸³ this Court explained that our laws in libel must not be so broadly interpreted as to dissuade comments on public affairs and conduct of public officials. Thus, in resolving libel cases involving a public officer’s performance of official duties, high regard must be afforded to the guarantees provided under our Constitution.

Save in cases where the prosecution was able to establish that the defamatory statements were made with *actual malice*—that is, “with knowledge that it was false or with reckless disregard whether it was false or not,”⁸⁴ a criminal charge for libel involving a public officer’s performance of official duties must fail.

Reinforcing the actual malice test in construing libel cases involving public officers, this Court in *Tulfo* further elucidated:

The Constitution mandates that “[p]ublic officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”

As early as 1918, this Court in Bustos emphasized the need for full discussion of public affairs and how those in public positions should not be too thin-skinned when comments are made on their official functions.

In the United States, it was not only until the 1964 case of *New York Times v. Sullivan* that the United States Supreme Court laid down “the extent to which the constitutional protections for speech and press limit a State’s power to award damages in a libel action brought by a public official against critics of his official conduct.” The Court, speaking through Justice William Brennan, decreed:

⁸⁰ *Ty-Delgado v. House of Representatives Electoral Tribunal*, 779 Phil. 268 (2016) [Per J. Carpio, En Banc].

⁸¹ *Brillante v. Court of Appeals*, 483 Phil. 568, 591 (2004) [Per J. Tinga, Second Division].

⁸² *Tulfo v. People*, G.R. No. 187113, January 11, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67112>> [Per J. Leonen, Third Division].

⁸³ *Id.*

⁸⁴ *Id.* citing *New York Times v. Sullivan*, 376 U.S. 254 (1964).

The general proposition that freedom of expression upon public questions is secured by the First Amendment has long been settled by our decisions. The constitutional safeguard, we have said, “was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.”

“The maintenance of the opportunity for free political discussion to the end that government may be responsive to the will of the people and that changes may be obtained by lawful means, an opportunity essential to the security of the Republic, is a fundamental principle of our constitutional system.” . . .

The United States Supreme Court in *New York Times* went on to introduce the “actual malice” test. Under this test, a public official cannot recover damages for a defamatory falsehood on their official conduct unless they prove “that the statement was made. . . with knowledge that it was false or with reckless disregard of whether it was false or not.”

In our jurisdiction, this Court adopted with approval the actual malice test and has since applied it to several cases involving libel.

In *Ayer Productions Pty. Ltd. v. Hon. Capulong*, this Court extended the “actual malice” requirement in libel cases involving public officers to “public figures.” It decreed that owing to the legitimate interest of the public in his or her affairs “the right of privacy of a ‘public figure’ is necessarily narrower than that of an ordinary citizen.”⁸⁵ (Emphasis supplied, citations omitted)

A more exacting standard is imposed for criminal libel cases where the plaintiff or complainant is a public figure, particularly a public officer. In those cases, it is on the prosecution to establish that actual malice exists, and not for the defense to refute.⁸⁶

Hence, whether complainant is a private person or a public officer is a matter ought to be considered in deciding libel cases.⁸⁷ Here, the object of the defamatory articles is complainant Cabatian, a private individual.

III

Considering that petitioners did not contest the Court of Appeals’ affirmative finding of the defamatory nature of the imputation, Article 354 of the Revised Penal Code becomes instructive:

⁸⁵ *Id.*

⁸⁶ *Daquer, Jr. v. People*, G.R. No. 206015, June 30, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67818>> [Per J. Leonen, Third Division].

⁸⁷ *Tulfo v. People*, G.R. No. 187113, January 11, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67112>> [Per J. Leonen, Third Division].

ARTICLE 354. *Requirement for Publicity.* — Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

Malice, which pertains to the performance of an act envisioned “in the spirit of mischief or criminal indifference to the rights of others or which must partake of a criminal or wanton nature,”⁸⁸ is assumed from every defamatory imputation especially when it harms the reputation of the defamed person.⁸⁹

Even if true, every defamatory imputation is presumed malicious if there exists no good intention and justifiable motive behind it.⁹⁰ Simply put, if only the defamatory imputation itself is presented before the court, malice is presumed and defendants ought to discharge the burden of proving good intention and justifiable motive to overturn the legal inference.⁹¹

As an exception, the presumption of malice does not attach when the defamatory imputation is considered privileged communication, which may either be absolute or qualified.

Absolutely privileged communications are not actionable despite the author being in bad faith. Falling under this category are the following:

[S]tatements made by members of Congress in the discharge of their functions as such, official communications made by public officers in the performance of their duties, and allegations or statements made by the parties or their counsel in their pleadings or motions or during the hearing of judicial proceedings, as well as the answers given by witnesses in reply to questions propounded to them, in the course of said proceedings, provided that said allegations or statements are relevant to the issues, and the answers are responsive or pertinent to the questions propounded to said witnesses.⁹²

Conversely, qualifiedly privileged communications are only actionable if there is malice or bad faith.⁹³ Qualifiedly privileged communications are

⁸⁸ *Lagaya y Tamondong v. People*, 691 Phil. 688, 701 (2012) [Per J. Del Castillo, First Division].

⁸⁹ *Id.*

⁹⁰ *Buatis Jr. v. People*, 520 Phil. 149 (2006) [Per J. Austria-Martinez, First Division].

⁹¹ *People v. Monton*, 116 Phil. 1116 (1962) [Per J. Makalintal, En Banc].

⁹² *Brillante v. Court of Appeals*, 483 Phil. 568, 592 (2004) [Per J. Tinga, Second Division] *citing Orfanel v. People*, 141 Phil. 519 (1969) [Per J. Concepcion, En Banc].

⁹³ *Id.*

not confined in the enumeration under Article 354 of the Revised Penal Code. Fair commentaries and reports on matters of public interest are also within its ambit.⁹⁴

None of the privileged communications were shown to exist here.

We agree with the Court of Appeals that the posting of the documents cannot be borne out of petitioners' sense of duty to inform the association members of Cabatian's involvement in a carnapping incident and guide them in casting their votes.⁹⁵ To fall within the qualifiedly privileged communication provided under Article 354 (1), the following requisites must concur:

... 1) the person who made the communication had a legal, moral or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one to whom it is made; 2) the communication is addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has the power to furnish the protection sought; and 3) the statements in the communication are made in good faith and without malice[.]⁹⁶ (Citation omitted)

Here, the election happened on March 23, 2002 while the posting occurred on April 26, 2002.⁹⁷ Considering that the election of officers was already done at the time the documents were posted on the bulletin board, the defense that it was made in furtherance of a moral or social duty is negated. We find the following findings of the Court of Appeals on point:

Indeed, there can be no other inference from the appellant's act of posting the documents related to the carnapping complaint in the bulletin board of PAFSEJODA than that the authors thereof meant to injure the reputation of private complainant Cabatian and expose him to public ridicule. That the documents were posted in two sets could only mean that accused-appellants meant for them to be read by more people. It certainly cannot be said that they did so out of a sense of duty to inform the voting members of the involvement of Cabatian in the carnapping case and be guided when they cast their votes, since the publication was done almost a month after the election was held. *If they had any good intentions in publishing the defamatory articles, they would have remained confined to the offices of PAFSEJODA where, as accused-appellant Danieles testified, they were being kept, for the guidance and information of Cabatian's fellow PAFSEJODA officers, who had the authority to take appropriate action thereon.*

Also worth mentioning is that only the documents pertaining to the statement of Jean Jardeleza and its supporting documents were posted. That

⁹⁴ *Philippine Daily Inquirer Inc. v. Enrile*, G.R. No. 229440, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67762>> (2021) [Per J. Caguioa, First Division].

⁹⁵ *Rollo*, pp. 51-52.

⁹⁶ *Lagaya y Tamondong v. People*, 691 Phil. 688, 704-705 (2012) [Per J. Del Castillo, First Division].

⁹⁷ *Rollo*, pp. 43-44.

not a document pertaining to Cabatian's version of the complained of [sic] incident was included shows accused-appellants' disregard as to the truth or falsity of the complaint for carnapping.⁹⁸ (Emphasis supplied)

Further, the defense that the documents posted, being pleadings relative to judicial proceedings, are absolutely privileged communications cannot prosper. The rationale for including judicial utterances and pleadings in the class of privileged communications was explained in *People v. Sesbreno*:⁹⁹

The doctrine of privileged communication that utterances made in the course of judicial proceedings, including all kinds of pleadings, petitions and motions, belong to the class of communications that are absolutely privileged has been expressed in a long line of cases[.] The doctrine of privileged communication rests upon public policy, which looks to the free and unfettered administration of justice, though, as an incidental result it may in some instances afford an immunity to the evil disposed and malignant slanderer[.] While the doctrine is liable to be abused, and its abuse may lead to great hardships, yet to give legal action to such libel suits would give rise to greater hardships[.] *The privilege is not intended so much for the protection of those engaged in the public service and in the enactment and administration of law, as for the promotion of the public welfare, the purpose being that members of the legislature, judges of courts, jurors, lawyers, and witnesses may speak their minds freely and exercise their respective functions without incurring the risk of a criminal prosecution or an action for the recovery of damages[.]* Lawyers, most especially, should be allowed a great latitude of pertinent comment in the furtherance of the causes they uphold, and for the felicity of their clients, they may be pardoned some infelicities of language[.]¹⁰⁰ (Emphasis supplied, citations omitted)

Petitioners were not, in any way, involved in Jardeleza's criminal complaint against Cabatian. They are not the original authors of the documents posted to which the privilege is afforded. Such defense, therefore, is unavailing as to petitioners.

Considering that the defamatory materials involved here do not fall under the protective mantle of privileged communications, either absolute or qualified, the presumption of malice stands. Hence, it is for petitioners to prove good and justifiable motive. This, they miserably failed to do.

Besides, whether there is malice in fact "may be shown by extrinsic evidence that the defendant bore a grudge against the offended party, or that there was *rivalry or ill [feeling]* between them which existed at the date of the publication of the defamatory imputation or that the defendant had an intention to injure the reputation of the offended party as shown by the words used and the circumstances attending the publication of the defamatory

⁹⁸ Id. at 51-52.

⁹⁹ 215 Phil. 411 (1984) [Per J. Gutierrez, Jr., First Division]

¹⁰⁰ Id. at 416.

imputation.”¹⁰¹

Prescinding from the totality of circumstances surrounding petitioners’ posting of the defamatory articles on the bulletin board, buttressed by their failure to adduce good and justifiable motive for doing so, it can reasonably be deduced that their actions were strongly impelled by ill feeling as a result of their loss in the PAFSEJODA elections. More to the point that only documents relevant to Jardeleza’s complaint for carnapping against Cabatian were posted in the bulletin board. Standing alone, these documents paint an incomplete narration of the case for merely presenting complainant’s version of the story. This, as aptly pointed out by the Court of Appeals, reflect petitioners’ indifference as to the truth or falsity of the charges against Cabatian.¹⁰² Indubitably, the foregoing is indicative of malice. Other than to harm or discredit Cabatian’s reputation, no good reason or justifiable motive can be inferred from petitioners’ injurious actions. All told, this Court finds no reversible error on the part of the Court of Appeals in affirming petitioners’ conviction for libel.

Nevertheless, following precedents,¹⁰³ we modify the imposed penalty of imprisonment to fine. Article 355 of the Revised Penal Code reads:

ARTICLE 355. *Libel by Means of Writing or Similar Means.* — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prisión correccional in its minimum and medium periods *or a fine ranging from 200 to 6,000 pesos*, or both, in addition to the civil action which may be brought by the offended party.
(Emphasis supplied)

Discretion is given to courts in deciding “whether to impose a single penalty or conjunctive penalties; that is, whether to impose a penalty of fine, or a penalty of imprisonment only, or a penalty of both [.]”¹⁰⁴ Moreover, under Supreme Court Administrative Circular No. 08-2008, this Court recognized that based on decided cases, there is an “emergent rule of preference for the imposition of fine only rather than imprisonment in libel cases[.]”¹⁰⁵

In the exercise of sound discretion, this Court deems it sufficient to impose upon petitioners the sole penalty of fine rather than imprisonment based on attendant circumstances. Nothing in the records show that

¹⁰¹ *Sazon v. Court of Appeals*, 325 Phil. 1053, 1067–1068 (1996) [Per J. Hermosisima, Jr., First Division].

¹⁰² *Rollo*, p. 52.

¹⁰³ *Sazon v. Court of Appeals*, 325 Phil. 1053 (1996) [Per J. Hermosisima, Jr., First Division]. See also *Brillante v. Court of Appeals*, 511 Phil. 96 (2005) [Per J. Tinga, Second Division]; *Buatis Jr. v. People*, 520 Phil. 149 (2006) [Per J. Austria-Martinez, First Division]; *Lagaya y Tamondong v. People*, 691 Phil. 688 (2012) [Per J. Del Castillo, First Division]; *Paul v. People*, G.R. No. 188616, December 11, 2013 (Notice), [First Division]; and *Punongbayan-Visitacion v. People*, 823 Phil. 212 (2018) [Per J. Martires, Third Division].

¹⁰⁴ *Buatis Jr. v. People*, 520 Phil. 149, 165 (2006) [Per J. Austria-Martinez, First Division].

¹⁰⁵ *Guidelines in the Observance of a Rule of Preference in the Imposition of Penalties in Libel Cases*.

petitioners were previously charged of any criminal offense. Worth stressing is that the range of publication of the defamatory articles is not as extensive in this case. Also, the documents were immediately taken down by Cabatian from the bulletin board upon learning about it. This Court then finds that "the imposition of fine alone would best serve the interest of justice."¹⁰⁶


ACCORDINGLY, the Petition for Review is **DENIED**. The July 23, 2012 Decision and April 18, 2013 Resolution of the Court of Appeals in CA-G.R. CR No. 33451 are **AFFIRMED** with **MODIFICATION** that in lieu of imprisonment, petitioners Junar D. Orillo and Florencio E. Danieles are instead sentenced to pay a **FINE** in the amount of ₱6,000.00 with subsidiary imprisonment in case of insolvency.

SO ORDERED.



MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice



MARIO Y. LOPEZ
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

¹⁰⁶ See Supreme Court Administrative Circular No. 08-2008.

ATTESTATION

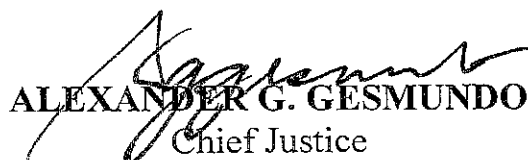
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice