

FIRST DIVISION

[G.R. No. 212448, January 11, 2018]

AAA,^{1} PETITIONER, V. BBB,^{1*} RESPONDENT.*

DECISION

TIJAM, J.:

May Philippine courts exercise jurisdiction over an offense constituting psychological violence under Republic Act (R.A.) No. 9262,^[1] otherwise known as the Anti-Violence Against Women and their Children Act of 2004, committed through marital infidelity, when the alleged illicit relationship occurred or is occurring outside the country?

The above question is addressed to this Court in the present Petition^[2] for the issuance of a writ of *certiorari* under Rule 45 of the Rules of Court, to nullify the Resolutions dated February 24, 2014^[3] and May 2, 2014^[4] of the Regional Trial Court (RTC) of Pasig City, Branch 158, in Criminal Case No. 146468. The assailed resolutions granted the motion to quash the Information^[5] which charged respondent BBB under Section 5(i) of R.A. No. 9262, committed as follows:

On or about April 19, 2011, in Pasig City, and within the jurisdiction of this Honorable Court, [BBB], being then legally married to [AAA], caused herein [AAA] mental and emotional anguish by having an illicit relationship with a certain Lisel Mok as confirmed by his photograph with his purported paramour Lisel Mok and her children and the e-mailed letter by his mother mentioning about the said relationship, to the damage and prejudice of [AAA], in violation of the aforesaid law.

Contrary to law.

We briefly recount the antecedents.

Petitioner AAA and BBB were married on August 1, 2006 in Quezon City. Their union produced two children: CCC was born on March 4, 2007 and DDD on October 1, 2009.^[6]

In May of 2007, BBB started working in Singapore as a chef, where he acquired permanent resident status in September of 2008. This petition nonetheless indicates his address to be in Quezon City where his parents reside and where AAA also resided from the time they were married until March of 2010, when AAA and their children moved back to her parents' house in Pasig City.^[7]

AAA claimed, albeit not reflected in the Information, that BBB sent little to no financial support, and only sporadically. This allegedly compelled her to fly extra hours and take on additional jobs to augment her income as a flight attendant. There were also allegations of virtual abandonment, mistreatment of her and their son CCC, and physical and sexual violence. To make matters worse, BBB supposedly started having an affair with a Singaporean woman named Lisel Mok with whom he allegedly has been living in Singapore. Things came to a head on April 19, 2011 when AAA and BBB had a violent altercation at a hotel room in Singapore during her visit with their kids.^[8] As can be gathered from the earlier cited Information, despite the claims of varied forms of abuses, the investigating prosecutor found sufficient basis to charge BBB with causing AAA mental and emotional anguish through his alleged marital infidelity.^[9]

The Information having been filed, a warrant of arrest was issued against BBB. AAA was also able to secure a Hold-Departure Order against BBB who continued to evade the warrant of arrest. Consequently, the case was archived.^[10]

On November 6, 2013, an Entry of Appearance as Counsel for the Accused With Omnibus Motion to Revive Case, Quash Information, Lift Hold Departure Order and Warrant of Arrest^[11] was filed on behalf of BBB. Granting the motion to quash on the ground of lack of jurisdiction and thereby dismissing the case, the trial court reasoned: Here, while the Court maintains its 28 October 2011 ruling that probable cause exists in this case and that [BBB] is probably guilty of the crime charged, considering, however, his subsequent clear showing that the acts complained of him had occurred in Singapore, dismissal of this case is proper since the Court enjoys no jurisdiction over the offense charged, it having transpired outside the territorial jurisdiction of this Court.

x x x x

The Court is not convinced by the prosecution's argument that since [AAA] has been suffering from mental and emotional anguish "wherever she goes", jurisdiction over the offense attaches to this Court notwithstanding that the acts resulting in said suffering had happened outside of the Philippines. To the mind of the Court, with it noting that there is still as yet no jurisprudence on this score considering that **Republic Act 9262** is relatively a new law, the act itself which had caused a woman to suffer mental or emotional anguish must have occurred within the territorial limits of the Court for it to enjoy jurisdiction over the offense. This amply explains the use of the emphatic word "causing" in

the provisions of **Section 5(i), above**, which denotes the bringing about or into existence of something. Hence, the mental or emotional anguish suffered by a woman must have been brought about or into existence by a criminal act which must logically have occurred within the territorial limits of the Court for jurisdiction over the offense to attach to it. To rule otherwise would violate or render nugatory one of the basic characteristics of our criminal laws - territoriality.

In the listing provided in the law itself - "repeated verbal and emotional abuse, and denial of financial support or custody of minor children of (sic) access to the woman's child/children"- it becomes clear that there must be an act which causes the "mental or emotional anguish, public ridicule or humiliation", and it is such act which partakes of a criminal nature. Here, such act was the alleged maintenance of "an illicit relationship with a certain Liesel Mok" which has been conceded to have been committed in Singapore.

Granting, without conceding, that the law presents ambiguities as written, quashal of the Information must still be ordered following the underlying fundamental principle that all doubts must be resolved in favor of [BBB]. At best, the Court draws the attention of Congress to the arguments on jurisdiction spawned by the law.^[12] (Emphasis in the original)

Aggrieved by the denial of the prosecution's motion for reconsideration of the dismissal of the case, AAA sought direct recourse to this Court via the instant petition on a pure question of law. AAA posits that R.A. No. 9262 is in danger of becoming transmogrified into a weak, wobbly, and worthless law because with the court *a quo's* ruling, it is as if husbands of Filipino women have been given license to enter into extra-marital affairs without fear of any consequence, as long as they are carried out abroad. In the main, AAA argues that mental and emotional anguish is an essential element of the offense charged against BBB, which is experienced by her wherever she goes, and not only in Singapore where the extra-marital affair takes place; thus, the RTC of Pasig City where she resides can take cognizance of the case.

In support of her theory, AAA draws attention to Section 7 of R.A. No. 9262, which provides:

Sec. 7. *Venue* - The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against women and their children under this law. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime **or any of its elements** was committed at the option of the complainant. (Emphasis ours)

As to the ambiguity in the law hypothetically referred to in the assailed order, AAA directs us to:

Section 4. *Construction*. - This Act shall be liberally construed to promote the protection and safety of victims of violence against women and their children.

In his Comment^[13] filed on January 20, 2015, BBB contends that the grant of the motion to quash is in effect an acquittal; that only the civil aspect of a criminal case may be appealed by the private offended party; and that this petition should be dismissed outright for having been brought before this Court by AAA instead of the Office of the Solicitor General (OSG) as counsel for the People in appellate proceedings. BBB furthermore avers that the petition was belatedly filed.

We tackle first the threshold issue of whether or not this Court should entertain the petition.

It must be stated beforehand that BBB is plainly mistaken in asserting that the instant petition was belatedly filed. The date erroneously perceived by BBB as the date of AAA's Motion for Extension^[14] was filed - June 2, 2014 - refers to the date of receipt by the Division Clerk of Court and not the date when the said motion was lodged before this Court. The motion was in fact filed on May 27, 2014, well within the period that AAA had under the Rules of Court to file the intended petition. Thus, considering the timeliness of the motion, this Court in a Resolution^[15] dated June 9, 2014, granted AAA an additional period of thirty (30) days or until June 26, 2014 to file a petition for review.

In AAA's motion for extension of time, it was mentioned that she was awaiting the OSG's response to her Letter^[16] dated May 26, 2014 requesting for representation. Since, the OSG was unresponsive to her plea for assistance in filing the intended petition, AAA filed the present petition in her own name before the lapse of the extension given her by this Court or on June 25, 2014.

We find that under the circumstances, the ends of substantial justice will be better served by entertaining the petition if only to resolve the question of law lodged before this Court. In *Morillo v. People of the Philippines, et al.*,^[17] where the Court entertained a Rule 45 petition which raised only a question of law filed by the private offended party in the absence of the OSG's participation, we recalled the instances when the Court permitted an offended party to file an appeal without the intervention of the OSG. One such instance is when the interest of substantial justice so requires.^[18]

Morillo,^[19] also differentiated between dismissal and acquittal, thus:

Acquittal is always based on the merits, that is, the defendant is acquitted because the evidence does not show that defendant's guilt is beyond a reasonable doubt; but dismissal does not decide the case on the merits or that the defendant is not guilty. Dismissal terminates the proceeding, either because the court is

not a court of competent jurisdiction, or the evidence does not show that the offense was committed within the territorial jurisdiction of the court, or the complaint or information is not valid or sufficient in form and substance, etc. The only case in which the word dismissal is commonly but not correctly used, instead of the proper term acquittal, is when, after the prosecution has presented all its evidence, the defendant moves for the dismissal and the court dismisses the case on the ground that the evidence fails to show beyond a reasonable doubt that the defendant is guilty; for in such case the dismissal is in reality an acquittal because the case is decided on the merits. **If the prosecution fails to prove that the offense was committed within the territorial jurisdiction of the court and the case is dismissed, the dismissal is not an acquittal, inasmuch as if it were so the defendant could not be again prosecuted before the court of competent jurisdiction; and it is elemental that in such case, the defendant may again be prosecuted for the same offense before a court of competent jurisdiction.**^[20] (Citation omitted and emphasis in the original)

The grant of BBB's motion to quash may not therefore be viewed as an acquittal, which in limited instances may only be repudiated by a petition for *certiorari* under Rule 65 upon showing grave abuse of discretion lest the accused would be twice placed in jeopardy.^[21]

Indubitably, "the Rules do not prohibit any of the parties from filing a Rule 45 Petition with this Court, in case only questions of law are raised or involved."^[22] "There is a question of law when the issue does not call for an examination of the probative value of the evidence presented or of the truth or falsehood of the facts being admitted, and the doubt concerns the correct application of law and jurisprudence on the matter."^[23]

Further, the question of whether or not the RTC has jurisdiction in view of the peculiar provisions of R.A. No. 9262 is a question of law. Thus, in *Morillo*,^[24] the Court reiterated that:

[T]he jurisdiction of the court is determined by the averments of the complaint or Information, in relation to the law prevailing at the time of the filing of the complaint or Information, and the penalty provided by law for the crime charged at the time of its commission. Thus, when a case involves a proper interpretation of the rules and jurisprudence with respect to the jurisdiction of courts to entertain complaints filed therewith, it deals with a question of law that can be properly brought to this Court under Rule 45.^[25] (Citations omitted)

We are not called upon in this case to determine the truth or falsity of the charge against BBB, much less weigh the evidence, especially as the case had not even proceeded to a full-blown trial on the merits. The issue for resolution concerns the correct application of law and jurisprudence on a given set of circumstances, *i.e.*, whether or not Philippine courts are deprived of territorial jurisdiction over a criminal charge of psychological abuse under R.A. No. 9262 when committed through marital infidelity and the alleged illicit relationship took place outside the Philippines. The novelty of the issue was even recognized by the RTC when it opined that there is still as yet no jurisprudence on this score, prompting it to quash the Information even as it maintained its earlier October 28, 2011 ruling that probable cause exists in the case.^[26] Calling the attention of Congress to the arguments on jurisdiction spawned by the law,^[27] the RTC furnished copies of the assailed order to the House of Representatives and the Philippine Senate through the Committee on Youth, Women and Public Relations, as well as the Committee on Justice and Human Rights.^[28]

The issue acquires special significance when viewed against the present economic reality that a great number of Filipino families have at least one parent working overseas. In April to September 2016, the number of overseas Filipino workers who worked abroad was estimated at 2.2 million, 97.5 percent of which were comprised of overseas contract workers or those with existing work contract; while 2.5 percent worked overseas without contract.^[29] It is thus necessary to clarify how R.A. No. 9262 should be applied in a question of territorial jurisdiction over a case of psychological abuse brought against the husband when such is allegedly caused by marital infidelity carried on abroad.

Ruling of the Court

There is merit in the petition.

"Physical violence is only the most visible form of abuse. Psychological abuse, particularly forced social and economic isolation of women, is also common."^[30] In this regard, Section 3 of R.A. No. 9262 made it a point to encompass in a non-limiting manner the various forms of violence that may be committed against women and their children:

Sec. 3. *Definition of Terms.*- As used in this Act,

(a) "Violence against women and their children" refers to **any act or a series of acts** committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, **which result in or is likely to result** in physical, sexual, **psychological harm or suffering**, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

A. "*Physical Violence*" refers to acts that include bodily or physical harm;

B. "*Sexual violence*" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

x x x x

C. "**Psychological violence**" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and **marital infidelity**. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

D. "**Economic abuse**" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

x x x x

As jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information, threshing out the essential elements of psychological abuse under R.A. No. 9262 is crucial. In *Dinamling v. People*,^[31] this Court already had occasion to enumerate the elements of psychological violence under Section 5(i) of R.A. No. 9262, as follows:

Section 5. Acts of Violence Against Women and Their Children. - The crime of violence against women and their children is committed through any of the following acts:

x x x x

- (i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or access to the woman's child/children.

From the aforementioned Section 5(i), in relation to other sections of R.[.]A[.] No. 9262, the elements of the crime are derived as follows:

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) **The offender causes on the woman and/or child mental or emotional anguish;** and
- (4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.

x x x x

It bears emphasis that **Section 5(i) penalizes some forms of psychological violence** that are inflicted on victims who are women and children. Other forms of psychological violence, as well as physical, sexual and economic violence, are addressed and penalized in other sub- parts of Section 5.

x x x x

Psychological violence is an element of violation of Section 5(i) just like the mental or emotional anguish caused on the victim. Psychological violence is the means employed by the perpetrator, while mental or emotional anguish is the effect caused to or the damage sustained by the offended party. To establish psychological violence as an element of the crime, it is necessary to show proof of commission of any of the acts enumerated in Section 5(i) or similar such acts. And to establish mental or emotional anguish, it is necessary to

present the testimony of the victim as such experiences are personal to this party. x x x.^[32] (Citations omitted and emphasis ours)

Contrary to the interpretation of the RTC, what R.A. No. 9262 criminalizes is not the marital infidelity *per se* but the psychological violence causing mental or emotional suffering on the wife. Otherwise stated, it is the violence inflicted under the said circumstances that the law seeks to outlaw. Marital infidelity as cited in the law is only one of the various acts by which psychological violence may be committed. Moreover, depending on the circumstances of the spouses and for a myriad of reasons, the illicit relationship may or may not even be causing mental or emotional anguish on the wife. Thus, the mental or emotional suffering of the victim is an essential and distinct element in the commission of the offense.

In criminal cases, venue is jurisdictional. Thus, in *Treñas v. People*,^[33] the Court explained that:

The place where the crime was committed determines not only the venue of the action but is an essential element of jurisdiction. It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases, the offense should have been committed or any one of its essential ingredients should have taken place within the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory. Furthermore, **the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information.** And once it is so shown, the court may validly take cognizance of the case. **However, if the evidence adduced during the trial shows that the offense was committed somewhere else, the court should dismiss the action for want of jurisdiction.**^[34] (Emphasis in the original)

In Section 7 of R.A. No. 9262, venue undoubtedly pertains to jurisdiction. As correctly pointed out by AAA, Section 7 provides that the case may be filed where the crime or any of its elements was committed at the option of the complainant. While the psychological violence as the means employed by the perpetrator is certainly an indispensable element of the offense, equally essential also is the element of mental or emotional anguish which is personal to the complainant. The resulting mental or emotional anguish is analogous to the indispensable element of damage in a prosecution for estafa, *viz*:

The circumstance that the deceitful manipulations or false pretenses employed by the accused, as shown in the vouchers, might have been perpetrated in Quezon City does not preclude the institution of the criminal action in Mandaluyong where the damage was consummated. Deceit and damage are the basic elements of estafa.

The estafa involved in this case appears to be a transitory or continuing offense. It could be filed either in Quezon City or in Rizal. The theory is that a person charged with a transitory offense may be tried in any jurisdiction where the offense is in part committed. In transitory or continuing offenses in which some acts material and essential to the crime and requisite to its consummation occur in one province and some in another, the court of either province has jurisdiction to try the case, it being understood that the first court taking cognizance of the case will exclude the others x x x.^[35]

What may be gleaned from Section 7 of R.A. No. 9262 is that the law contemplates that acts of violence against women and their children may manifest as transitory or continuing crimes; meaning that some acts material and essential thereto and requisite in their consummation occur in one municipality or territory, while some occur in another. In such cases, the court wherein any of the crime's essential and material acts have been committed maintains jurisdiction to try the case; it being understood that the first court taking cognizance of the same excludes the other. Thus, a person charged with a continuing or transitory crime may be validly tried in any municipality or territory where the offense was in part committed.^[36]

It is necessary, for Philippine courts to have jurisdiction when the abusive conduct or act of violence under Section 5(i) of R.A. No. 9262 in relation to Section 3(a), Paragraph (C) was committed outside Philippine territory, that the victim be a resident of the place where the complaint is filed in view of the anguish suffered being a material element of the offense. In the present scenario, the offended wife and children of respondent husband are residents of Pasig City since March of 2010. Hence, the RTC of Pasig City may exercise jurisdiction over the case.

Certainly, the act causing psychological violence which under the information relates to BBB's marital infidelity must be proven by probable cause for the purpose of formally charging the husband, and to establish the same beyond reasonable doubt for purposes of conviction. It likewise remains imperative to acquire jurisdiction over the husband. What this case concerns itself is simply whether or not a complaint for psychological abuse under R.A. No. 9262 may even be filed within the Philippines if the illicit relationship is conducted abroad. We say that even if the alleged extra marital affair causing the offended wife mental and emotional anguish is committed abroad, the same does not place a prosecution under R.A. No. 9262 absolutely beyond the reach of Philippine courts.

IN VIEW OF THE FOREGOING, the petition is **GRANTED**. The Resolutions dated February 24, 2014 and May 2, 2014 of the Regional Trial Court of Pasig City, Branch 158, in Criminal Case No. 146468 are **SET ASIDE**. Accordingly, the Information filed in Criminal Case No. 146468 is ordered **REINSTATED**.
SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Jardeleza, JJ., concur.

[1] Section 44 of Republic Act No. 9262 (Anti Violence Against Women and Their Children Act of 2004) requires the confidentiality of all records pertaining to cases of violence against women and their children. Per said section, all public officers and employees are prohibited from publishing or causing to be published in any format the name and other identifying information of a victim or an immediate family member. The penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand pesos (P500,000.00) shall be imposed upon those who violate the provision. Pursuant thereto, in the courts' promulgation of decisions, final resolutions and/or final orders, the names of women and children victims shall be replaced by fictitious initials, and their personal circumstances or any information, which tend to identify them, shall likewise not be disclosed.

[1] AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES. Approved on March 8, 2004.

[2] *Rollo*, pp. 19-45.

[3] Rendered by Presiding Judge Maria Rowena Modesto-San Pedro; *id.* at 49-52.

[4] *Id.* at 53.

[5] *Id.* at 4 and 26.

[6] *Id.* at 57.

[7] *Id.* at 57-58.

[8] *Id.* at 58-59.

[9] *Id.* at 26.

[10] *Id.* at 27.

[11] *Id.* at 49.

[12] *Id.* at 50-51.

[13] *Id.* at 154-160.

[14] *Id.* at 3-6.

[15] *Id.* at 17-A.

[16] *Id.* at 15-17.

[17] 775 Phil. 192 (2015).

[18] *Id.* at 215-216.

[19] *Morillo v. People, et al.*, *supra*.

[20] *Id.* at 212, citing *People v. Salico*, 84 Phil. 722, 732-733 (1949).

[21] *Id.* at 211.

[22] *Del Socorro v. Van Wilsem*, 749 Phil. 823,832 (2014), citing *Rep. of the Phils., et al. v. Sunvar Realty Development Corp.*, 688 Phil. 616, 630 (2012).

[23] *Id.* at 832.

[24] *Morillo v. People, et al.*, *supra*.

[25] *Id.* at 214.

[26] *Rollo*, p. 50.

[27] *Id.* at 51.

[28] *Id.* at 52.

[29] < <https://psa.gov.ph/content/total-number-of-fws-estimated-22-million-results-2016-surveyoverseas-filipinos> > (visited October 30, 2017).

[30] *Garcia v. Judge Drilon, et al.*, 712 Phil. 44, 94 (2013).

[31] 761 Phil. 356 (2015).

[32] *Id.* at 372-376.

[33] 680 Phil. 368 (2012).

[34] *Id.* at 380, citing *Isip v. People*, 552 Phil. 786, 801-802 (2007).

[35] *Tuzon v. Judge Cruz*, 160 Phil. 925, 929 (1975).

[36] *Morillo v. People*, *supra* note 17, at 206.