

THIRD DIVISION

[G.R. No. 241390, January 13, 2021]

**XXX,* PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

D E C I S I O N

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] dated March 19, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39690, which affirmed the Decision^[3] dated October 27, 2016 of the Regional Trial Court (RTC) of Iba, Zambales, Branch 71, which found petitioner XXX (petitioner) guilty beyond reasonable doubt of violation of Section 5(i) of Republic Act (R.A.) No. 9262,^[4] otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004."

The Facts

In an Information dated February 10, 2012, the Associate Prosecution Attorney II of Iba, Zambales charged petitioner with violation of Section 5(i) of R.A. No. 9262, the accusatory portion of which reads as follows:

That in or about the month of October 2010 or near thereto and up to the present time, in [x x x] and within the jurisdiction of this Honorable Court, the above-named accused, being then married to complainant [YYY], did then and there willfully, unlawfully, and feloniously inflict psychological violence upon the person of said [YYY] by maintaining an [extramarital] affair with Pearl Manto and bringing her to their conjugal home to live together, which acts of the accused caused and still causes mental or emotional anguish, public ridicule or humiliation to said [YYY], to her damage and prejudice.

CONTRARY TO LAW.^[5]

Upon arraignment, petitioner pleaded not guilty to the offense charged. After the pre-trial conference, trial on the merits ensued.

Version of the Prosecution

Private complainant YYY is the legal wife of petitioner. YYY testified that during her 23 years of marriage with petitioner, he had a habit of getting drunk and womanizing. Sometime in October 2010, petitioner started a fight with YYY, as it is his usual habit when he is intoxicated. Petitioner drove YYY and her four children, AAA, BBB, CCC, and DDD, out of the house and claimed the he alone owned the house. YYY, along with her daughters, fled to her parent's house in x x x. However, the spouses' eldest child, EEE, convinced his three sisters to return to their house so

their father will be forced to support them, leaving CCC with their mother. Later on, YYY's daughters, particularly AAA, reported to her through text messages that petitioner was always drunk and even brought them to a videoke bar and introduced one Pearl Manto (Pearl) as their aunt. She thereafter learned from her daughter that the same woman was already eating lunch for two months in their house and ultimately lived with them.^[6]

The estranged spouses' daughter, AAA, corroborated her mother's allegations and testified that her parents had a fight and they were driven out of their home. Out of fear that her father would hurt them, she, along with her mother and siblings, went to her grandmother's house. AAA admitted that when she and her two sisters returned to their house and lived with their father, the latter always had drinking sprees. She also knew Pearl as his father's mistress and that his father frequented the videoke bar where Pearl worked. During her stay with her father, AAA admitted that Pearl lived with them and had her own room in the house. Often, when her father thought that she and her sisters were already asleep, he would transfer to Pearl's room. After two months, the sisters decided to leave their father as he had no time for them and they did not like his mistress.^[7]

Version of the Defense

For his part, petitioner denied having an extramarital or any romantic affair with Pearl. He admitted though that he knew Pearl to be a guest relations officer of a videoke bar, which has already closed.^[8]

Petitioner alleged that the reason why he and YYY fought was the mismanagement by the latter of the family resources by being an incorrigible borrower as evidenced by the real estate mortgage executed by YYY without his consent and a case for *estafa* filed against her. He likewise denied driving his wife and his children away from their conjugal home, rather, it was her who left the house when they had a fight.^[9]

The Ruling of the RTC

The RTC found petitioner guilty beyond reasonable doubt of violation of Section 5(i) of R.A. No. 9262 and sentenced him to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum.^[10]

The RTC held that the prosecution was able to establish all the elements of the offense charged. YYY convincingly testified that she suffered pain from petitioner's womanizing and openly living with his mistress in their conjugal home together with their minor children. Petitioner's acts of evicting his wife and his children from their conjugal home and inviting his mistress to live with him in the same house in the presence of their three minor daughters consisted of psychological violence on both his wife and their children under Section 3 of R.A. No. 9262.^[11]

The Ruling of the CA

In his appeal before the CA, petitioner interposed the following arguments: (1) that the testimony of YYY did not prove the presence of anguish caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of support or custody or access to their children; (2) that the allegation of his

extramarital affair with Pearl is hearsay; (3) that the mental and emotional anguish brought about by the introduction of Pearl to their children was suffered by their children and not by YYY; and (4) that he should be acquitted since YYY and their daughter already executed their respective affidavits of desistance.^[12]

The CA denied the appeal and affirmed the ruling of the RTC.^[13] The CA concurred with the RTC that all the elements of the offense charged were duly established by the prosecution. There is no doubt that petitioner inflicted psychological violence upon his wife when he evicted her and their children from their conjugal home and when he maintained an extramarital affair with Pearl in their conjugal home where they lived as a couple. The said acts caused mental and emotional anguish, public ridicule and humiliation to YYY.

Even if YYY had no personal knowledge of the extramarital affair of petitioner and merely learned about it through their children, this does not mean that the same did not take place and that she was not emotionally affected by them. The testimony of their daughter AAA about the extramarital affair of petitioner is sufficient to establish the existence of psychological violence caused by petitioner against YYY. It is a common occurrence in small towns where the parties live that news and gossips about the philandering ways of either spouse would easily spread. Moreover, the allegation that the psychological violence is merely an isolated incident and not a repetitive act does not support the acquittal of petitioner as the law does not require that the act must be repetitive.^[14]

Aggrieved, petitioner elevated the case before the Court *via* a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court asserting that the CA erred in ruling that the offense charged was proven by moral certainty.

The Issue

The issue for resolution is whether all the elements of psychological violence under Section 5(i) of R.A. No. 9262 were duly established.

The Court's Ruling

The petition is unmeritorious as the CA committed no reversible error in affirming the conviction of petitioner for violation of Section 5(i) of R.A. No. 9262.

Psychological violence under R.A. No. 9262 is duly established.

In the instant case, petitioner was charged and convicted with the crime of violation of Section 5(i) of R.A. No. 9262. Petitioner insists on his innocence and asserts that the prosecution was not able to establish the elements of psychological violence as contemplated by law.

Section 5(i) of R.A. No. 9262 penalizes some forms of psychological violence inflicted against women and their children which are committed through any of the following acts:

- (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 of access to the woman's child/children.

The elements of the aforequoted crime are 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.^[15] (Emphases supplied; citations omitted)

Psychological violence is considered an indispensable element in violation of Section 5(i).^[16] It is defined in Section 3(c) of R.A. No. 9262 as:

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. (Emphases and underscoring supplied)

A judicious study of the case reveals that all the elements of the crime charged were duly established.

The *first and second* elements of the offense are uncontested. The offended party is a woman and her child or children. YYY is the wife of petitioner with whom they have five children. One of their children, AAA, testified in court about the infidelity of her father and how his mistress lived with them in her parents' conjugal home.

As to the third and fourth elements, it is duly established that petitioner committed psychological violence through marital infidelity and public ridicule or humiliation, which caused mental anguish and emotional suffering upon his wife.

Here, the trial court gave greater weight to the categorical and positive testimony of YYY and her daughter AAA over the defenses of denial and alibi of petitioner.

Herein petitioner contends that the presence of psychological violence has not been duly proven beyond reasonable doubt by the prosecution. Petitioner avers that his wife YYY could not have suffered psychological violence since she did not have personal knowledge of the existence of the crime or of his alleged marital infidelity. YYY only came to know of his alleged marital infidelity through their daughter AAA, who sent text messages to her mother regarding his father's mistress. Petitioner posits that the RTC and the CA Decision were based on hearsay evidence.

Petitioner's argument fails to convince.

Truly, hearsay is considered an inadmissible evidence under Section 36, Rule 130 of the Rules of Court.^[17] However, this rule does not apply to independently relevant statements. The *doctrine of independent relevant statement* is clearly discussed in *Gubaton v. Amador, viz.:*

Under the doctrine of independently relevant statements, only the fact that such statements were made is relevant, and the truth or falsity thereof is immaterial. The doctrine on independently relevant statements holds that conversations communicated to a witness by a third person may be admitted as proof that, regardless of their truth or falsity, they were actually made. Evidence as to the making of such statements is not secondary but primary, for in itself it (a) constitutes a fact in issue or (b) is circumstantially relevant to the existence of such fact. Accordingly, the hearsay rule does not apply, and hence, the statements are admissible as evidence.^[18]

In this case, YYY indeed did not have personal knowledge of the marital infidelity of petitioner. YYY's statement may be considered an independently relevant statement, an exception to the hearsay rule, the purpose of which is to merely establish that a statement was made. YYY was only testifying that she and her children were driven out of their home and thereafter she learned through her daughter AAA that her husband, petitioner, is having an affair with Pearl, who eventually lived with her husband and their children in their conjugal home.

An excerpt of YYY's testimony is hereby reproduced, thus:

PROS. BARTOLOME TO WITNESS:

Q Now, you mentioned that you were driven away by your husband?

A Yes, sir.

x x x x

Q So, when you were driven away from your house along with your four children[,], where did you go?

A To my parents in [x x x], sir.

Q And, how about your four children, did they stay also during the same period?

A On the night that I separated from my husband[,], one of my children [EEE] talked to my other three children to return to