

SECOND DIVISION

[G.R. No. 233089, June 29, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LUCILLE M. DAVID, ACCUSED-APPELLANT.**

DECISION

INTING, J.:

This is an appeal^[1] filed by Lucille M. David (accused-appellant) from the Decision^[2] dated January 16, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07816 that affirmed the Joint Judgment^[3] dated September 15, 2015 of Branch 166, Regional Trial Court (RTC), Pasig City. The RTC found accused-appellant guilty beyond reasonable doubt of the offense of Illegal Recruitment in Large Scale in Criminal Case No. 143740, and the crime of Estafa under paragraph 2(a), Article 315 of the Revised Penal Code (RPC) in Criminal Case Nos. 143742, 143743, 143744, 143745, and 143747.

The Antecedents

Accused-appellant was charged with the following violations in the following Informations filed on April 6, 2010:

Criminal Case No. 143740 for Large Scale Illegal Recruitment in violation of Section 6(l) and (m) of Republic Act No. (RA) 8042^[4]

"That sometime in the months of February 2008 to November 2008 or thereabout, at Block 32, Lot 5, Phase 2-C2, Kaalinsabay Street, Karangalan Village, Pasig City, and within the jurisdiction of this Honorable Court, the above-named accused LUCILLE M. DAVID, of Jasin International Manpower Services, did then and there willfully, unlawfully and criminally recruit, enlist and promise overseas employment to the private complainants, namely: CHERRY C. MARCO, JILL R. GRIJALDO, LEILANIE C. PENERA, ADORACION CASINTAHAN, JOVY MITRA [*sic*], MABELLA [*sic*] R. PINEDA AND ERWIN D. ENRIQUEZ as waitresses and service crew in Canada and the United States, the said accused thereby charging, exacting and collecting from the said private complainants amounts ranging from P45,000.00 to P220,000.00, more or less, and despite the payment of the said fees, the said accused failed to actually deploy the private complainants without valid reasons as determined by the Department of Labor and Employment and despite demand, said accused failed and refused to reimburse the expenses incurred by the said private complainants in connection with their documentation and processing for the purpose of their supposed deployment, to the damage and prejudice of said private complainants.

Contrary to law.^[5]

Criminal Case No. 143742 for *Estafa* under paragraph 2(a), Article 315 of the Revised Penal Code (RPC)^[6]

"That sometime in June 2008 or thereabout, at JASIA IMS principal place of business located at Block 32; Lot 5, Phase 2-C2, Kaalinsabay Street, Karangalan Village, Pasig City, and within the jurisdiction of this Honorable Court, the above-named accused, being then the president and/or proprietor of JASIA IMS, a holder of a POEA suspended license to recruit workers for deployment abroad by means of deceit, fraudulent acts and false pretenses executed prior to or simultaneous with the commission of the fraud, did then and there willfully, unlawfully, and criminally defraud and deceive private complainant MABELLE R. PINEDA, and misrepresent herself as having the capacity to contract, enlist, and transport or actually deploy Filipino workers for employment in Canada and the United States; demand and receive from said private complainant the total amount of SIXTY THOUSAND PESOS (P60,000.00) which was deposited upon the instruction of said accused to her account no. 1110117769 maintained at Banco de Oro on June 13, 2008, as payment of said private complaint Pineda's application and processing fee, and by reason of above-named accused misrepresentation, false assurance and deceit, complainant Pineda was induced to part with and deliver the aforesaid amount to herein accused; that said accused, once in possession of said amount misappropriated the same and contrary to her representations and assurances, she failed to actually deploy said private complainant; that by reason of said unjustified failure to deploy, private complainant Pineda demanded the return and/or reimbursement of the amount of SIXTY THOUSAND PESOS (P60,000.00) which said accused fail and refuse to return and /or reimburse despite repeated demands, to the damage and prejudice of herein complainant MABELLE R. PINEDA."

CONTRARY TO LAW.^[7]

Criminal Case Nos. 143743, 143744, 143745, and 143747 are also for *Estafa* under paragraph 2(a), Article 315 of the RPC wherein the Informations are similarly worded with the Information in Criminal Case No. 143742 except for the names of the private complainants, the amounts involved, and the dates covered.^[8]

In Criminal Case No. 143743, private complainant Jovy S. Mira (Jovy), who alleged that accused-appellant fraudulently took from her P65,000.00 on June 27, 2008.^[9]

In Criminal Case No. 143744, private complainant Adoracion P. Casintahan (Adoracion), who alleged that accused-appellant fraudulently took from her US\$800.00 and P181,000.00 sometime in November 2008.^[10]

In Criminal Case No. 143745, private complainant Cherry C. Marco (Cherry), who alleged that accused-appellant fraudulently took from her P45,000.00 sometime in February 2008.^[11]

In Criminal Case No, 143747, private complainant Jill D. Grijaldo (Jill), who alleged that accused-appellant fraudulently took from her P45,000.00 sometime in February 2008.^[12]

Two other Informations also for *Estafa* under paragraph 2(a) of Article 315 of the RPC were also filed against accused-appellant in Criminal Case No. 143741 and 143746. However, the RTC, in its Order^[13] dated April 25, 2014 granted the Demurrer to Evidence in Criminal Case Nos. 143741 and 143746. Thus, the RTC acquitted accused-appellant in Criminal Case Nos. 143741 and 143746.^[14]

Version of the Prosecution

I. In Criminal Case Nos. 143740 and 143742

Purita R. Pineda (Purita), the mother and attorney-in-fact of Mabelle R. Pineda (Mabelle), testified that on June 13, 2008, she and Mabelle went to Banco de Oro (BDO), Ermita and deposited P60,000.00 in Account No. 1110117769 that is under accused-appellant's name as placement fee for Mabelle's job application in Canada.^[15] Purita further testified that she and Mabelle went to JASIA International Manpower Services (JASIA) office where they talked to accused-appellant. The accused-appellant told Purita that she was going to Canada with her daughter and that it would not take long before her daughter goes to Canada. Mabelle then told accused-appellant that they already deposited the placement fee in accused-appellant's account.^[16] While accused-appellant confirmed that she received the amount, Mabelle was never deployed to Canada and was not able to recover the amount she deposited despite mediation efforts.^[17]

II. In Criminal Case Nos. 143740 and 143743

Jovy testified that while he was in Riyadh, he came to know JASIA in various websites stating that there were openings for housekeepers in Canada. He called the agency regarding the job openings. Upon arriving in the Philippines, he met up with the accused-appellant who then asked him to pay P60,000.00 as cash bond.^[18] He deposited the amount in accused-appellant's BDO account on June 27, 2008.^[19]

Jovy narrated that a year later, accused-appellant informed him that the employment contract and his Canadian visa had arrived. Accused-appellant then asked him to sign the contract and pay CAD\$150.00 as processing fee. However, accused-appellant did not give him the original copy of the contract considering that the contract had to be submitted to the Canadian Embassy for processing. Accused-appellant then told him to wait within two weeks for a letter through the mails which would direct him to undergo medical examination in an accredited clinic. However, three weeks passed without Jovy receiving any letter.^[20]

Jovy further testified that he found out from the Philippine Overseas Employment Administration (POEA) that Jani King, the supposed Canadian employer, was not an accredited overseas employer; and that no job order under such name was listed in the POEA. He tried to contact accused-appellant, but found out that JASIA was already closed.^[21]

III. In Criminal Case Nos. 143740 and 143744

Adoracion testified that sometime in November 2008, she and her friend, Lailanie C. Penera^[22] (Lailanie), went to JASIA. because accused-appellant told the in to apply as housekeepers in the United States (US). During the orientation which they attended, accused-appellant told the participants that there were already job orders and that they just needed to produce US\$4,500.00 each in exchange for the respective job orders. She was able to raise US\$800.00 which she delivered to accused-appellant. Upon payment, accused-appellant told her to wait for her job order considering that she was not included in the first batch.^[23]

Adoracion narrated that sometime in February 2009, accused-appellant asked her to come to JASIA's new office. She had then an interview in the US Embassy on March 6, 2009 and was given a visa. Accused-appellant then told her that she passed the interview. Accused-appellant then asked her to pay P130,000.00 as processing fee to be paid to the POEA and P51,000.00 for her plane ticket.^[24] After giving the placement fee and amount for the plane ticket, accused-appellant told her to wait for the processing of her papers by the POEA and for the plane ticket.^[25]

Adoracion further narrated that later in March 2009, accused-appellant informed her that she had the plane ticket already. After accused-appellant gave her a photocopy of the travel itinerary, she went home; she was surprised to find out that the ticket was dated year 2004. She called accused-appellant in her office but she was told that the latter was busy. She called again but accused-appellant could no longer be reached. She and Lailani then discovered at the POEA that JASIA's license was suspended. Thus, she was never deployed to the US and never recovered the money she gave to accused-appellant.^[26]

IV. In Criminal Case Nos. 143740 and 143745

Cherry testified that she came to know of JASIA from her former manager. The former manager arranged a meeting and Cherry was able to talk to accused-appellant's husband, who told her that there was a hiring for service crew in Canada. She then sent to accused-appellant the required documents through LBC. A week later, she, together with a certain Jill, met accused-appellant in JASIA's office. Accused-appellant told them to pay the initial placement fee and/or bond of P60,000.00. Thus, Cherry deposited the amount of P45,000.00 in accused-appellant's bank account. Accused-appellant then confirmed receipt of the payment and asked Cherry the date for the payment of the balance. After a week, Cherry followed up her application and was promised deployment by December 2008. However, time passed without her being deployed.^[27]

Cherry further testified that in 2009, accused-appellant asked her if she wanted to be deployed instead in the US while waiting for the Canadian job order. She agreed, but her US visa application was denied. She wanted to pull out her application and requested for the refund of her money, but she would not contact accused-appellant anymore.^[28] She no longer went to accused-appellant's office because she learned through her co-applicants that accused-appellant's office was already closed and padlocked.^[29]

V. In Criminal Case Nos. 143740 and 143747

Jill testified that in February 2008, she asked her cousin, Cherry to go with her to JASIA and apply as service crew in Canada. Accused-appellant told them that there were vacant slots for service crew in Canada, but also told them that they needed to pay a placement fee in the amount of P90,000.00. Jill then deposited P45,000.00 in accused-appellant's account as she could only pay half. She also gave all her employment requirements with accused-appellant's promise that she will be deployed in Canada before December 2008. However, she was not deployed because according to accused-appellant, there was a problem with the employer in Canada. The accused-appellant then offered her employment in the US and scheduled her for an interview at the US Embassy. However, she was denied a visa because there was proof of employment for her in the US. She then asked for the return of her placement fee which accused-appellant was unable to do.^[30]

Version of the Accused-Appellant

Accused-appellant filed a Demurrer to Evidence (With Prior Leave of Court).^[31] However, the RTC denied it with respect to Criminal Case Nos. 143740, 143742, 143743, 143744, 143745, and 143747 in its Order^[32] dated April 25, 2014.

On the witness stand, accused-appellant testified that she was the sole proprietor of JASIA; and that it was JASIA's practice to collect US\$300.00 per applicant for its services only after the applicant was successfully deployed abroad.^[33]

Accused-appellant further testified that she knows the private complainants; that Jovy went to JASIA to follow-up his job application in Canada which JASIA already forwarded to the employer; that after a few months, Jovy became impatient for the Labor Market Opinion (LMO) to arrive; that consequently, she mentioned to Jovy the ongoing interview conducted by a US employer to which Jovy signified his interest; that she explained to Jovy that if he would withdraw his application in Canada, the cash bond could not be refunded anymore since it was already forwarded to the Canadian employer; and that Jovy, however, did not show up at his scheduled interview in the US Embassy.^[34]

Accused-appellant furthermore testified that Jovy did not sign an employment contract with Jani King considering that he has not paid a cash bond for his application, and that Jovy signed a contract with New Hope and not with Jani King.

As to Adoracion, accused-appellant testified that she thought Adoracion was able to leave the country since she never heard from her again from the time her US visa was approved. It was also her US employer and not accused-appellant who processed her plane ticket.^[35]

As regards Cherry and Jill, accused-appellant argued that each of them only paid P45,000.00 and that it was JASIA which shouldered the balance; that both were not deployed in Canada because they pulled out their applications, were unable to wait for the arrival of the LMO, and wanted to apply in the US instead. However, both failed in their interview at the US Embassy.^[36]