

## THIRD DIVISION

[ G.R. No. 246017, November 25, 2020 ]

**MARIA CONSUELO MALCAMPO-REPOLLO, PETITIONER, VS.  
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**LEONEN, J.:**

A teacher's physical maltreatment of her minor student constitutes child abuse. The specific intent of demeaning, degrading, and debasing the intrinsic worth and dignity of a child is not an essential element for all forms of child abuse under Section 10(a) of Republic Act No. 7610. The prosecution is only required to prove this specific intent when it is alleged in the information or required by a specific provision of law.

This Court resolves the Petition for Review on Certiorari assailing the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals, which affirmed the conviction<sup>[3]</sup> of Maria Consuelo Malcampo-Repollo (Malcampo-Repollo) for child abuse under Section 10(a) of Republic Act No. 7610.

Malcampo-Repollo, a grade school teacher at the Maximo Estrella Elementary School, was charged with child abuse for allegedly hitting, pinching, and slapping her minor student. The Information against her reads:

The undersigned Prosecutor accused MARIA CONSUELO REPOLLO y MALCAMPO for the crime of Violation of R.A. 7610 VI sec. 10(a), committed as follows:

On the 20th day of February 2014 in the [C]ity of Makati, the Philippines, accused, a school teacher, did then and there willfully, unlawfully and feloniously commit child abuse, upon complainant [AAA], a ten year old minor, her student, by then and there hitting, pinching and slapping him thereby causing extreme fear upon said child, which acts prejudiced the child's normal development.

CONTRARY TO LAW.<sup>[4]</sup>

The prosecution presented the minor victim, AAA, his mother BBB, and Police Officer 3 Joan V. Pandoy (PO3 Pandoy) of the Makati Central Police Station's Women and Children Protection Desk.<sup>[5]</sup>

According to the prosecution, around noon on February 20, 2014, Malcampo-Repollo pinched and hit AAA on his back upon thinking that he was chatting with his seatmate. AAA, already in tears, was then ordered to transfer to another seat.<sup>[6]</sup> The teacher then left the room for a while and, when she returned, she heard a student tapping their pen. Thinking it was AAA, she approached the student and

slapped his face.<sup>[7]</sup> Terrified and embarrassed, AAA left the classroom and went home to tell his mother what happened.<sup>[8]</sup>

Mother and son reported the incident to the Women and Children Protection Desk at the Makati Central Police Station, then proceeded to the Philippine General Hospital's Child Protection Unit for a physical examination.<sup>[9]</sup> A medical report was presented stating that he had an oval bruise on his left trunk.<sup>[10]</sup> However, the medico-legal officer who examined AAA was not presented.<sup>[11]</sup>

For its part, the defense presented the testimonies of MalcampoRepollo and Julie Ann Bacayo (Julie Ann), AAA's classmate. She also presented a certification from the school principal attesting to petitioner's good moral character.<sup>[12]</sup>

Per the defense, around noon that day, Malcampo-Repollo gave her students seatwork to do while she and the other teachers painted materials for a school program. She instructed one student, Jerico Onasis (Jerico), to be in charge of reporting misbehaving classmates. Jerico reported that AAA and another student were noisy. When she returned, she saw AAA tapping his pen and instructed him to transfer to the seat in front, before going out of the classroom to finish her painting chores. Not long after, Jerico again reported that AAA had gone back to his seat. When the teacher returned, AAA and another student were no longer in their seats, although AAA's bag was still there, so she assumed that he was just in the restroom. To her surprise, at around 5:00 p.m., she was faced with AAA's mother, who shouted, cursed, and threatened to sue her for allegedly slapping and pinching her son.<sup>[13]</sup>

Malcampo-Repollo denied hitting, slapping, and pinching AAA. Corroborating her testimony, Julie Ann testified that it was she who pinched AAA because he was bothering her.<sup>[14]</sup>

The Regional Trial Court, in its May 2, 2017 Decision,<sup>[15]</sup> gave credence to AAA's testimony and convicted Malcampo-Repollo of child abuse:

**WHEREFORE**, the Court renders judgment finding accused Maria Consuelo Malcampo Repollo **GUILTY** beyond reasonable doubt of the crime of Other Acts of Child Abuse under Republic Act No. 7610. The Court sentences her to suffer the indeterminate penalty of imprisonment of six years of *prision correccional* to seven years of *prision mayor*.

She is directed to indemnify the complaining minor in the following amounts: Php20,000.00 as moral damages, Php20,000.00 as exemplary damages, and Php10,000.00 as temporal damages.

The Court assesses no costs.

**IT IS SO ORDERED.**<sup>[16]</sup> (Emphasis in the original)

Despite the lack of testimony from a medico-legal officer, the trial court ruled a conviction, saying that such testimony was not required to establish that there was physical and emotional maltreatment of a child.<sup>[17]</sup> It did not give credence to the

certification from the principal stating that there were no pending cases against Malcampo-Repollo, because it had no relation to the crime charged against her.<sup>[18]</sup> It noted that child abuse is more despicable if committed by a parent or one who stands in *loco parentis*, or in the place of the parent, such as a teacher.<sup>[19]</sup>

Malcampo-Repollo appealed, but on October 24, 2018, the Court of Appeals affirmed<sup>[20]</sup> her conviction, and modified the penalty:

**WHEREFORE**, the instant appeal is **DENIED**. The May 2, 2017 Decision of the Regional Trial Court, Branch 136, Makati City in Criminal Case No. 14-1410-CR is hereby **AFFIRMED** with **MODIFICATION** that accused-appellant Maria Consuelo M. Repollo is sentenced to suffer the indeterminate sentence of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prison mayor*, as maximum.

**SO ORDERED.**<sup>[21]</sup> (Emphasis in the original)

The Court of Appeals held that the prosecution proved, through AAA's credible testimony, the physical abuse inflicted by Malcampo-Repollo.<sup>[22]</sup> It noted that this was enough to secure a conviction, and the prosecution need not prove that the impugned acts prejudiced AAA's development, as it was a different form of child abuse.<sup>[23]</sup> It also held that Malcampo-Repollo failed to show material inconsistencies and improper motive against AAA to falsely testify against her. It did not give credence to Julie Ann's testimony, deeming it tainted with bias because Malcampo-Repollo, at that time, exercised moral ascendancy over her student.<sup>[24]</sup>

On March 18, 2019, the Court of Appeals denied<sup>[25]</sup> Malcampo-Repollo's Motion for Reconsideration. Hence, she filed this Petition.<sup>[26]</sup>

On August 28, 2019, this Court required the Office of the Solicitor General to file its Comment,<sup>[27]</sup> which it did, as noted by this Court.<sup>[28]</sup> Petitioner filed her Reply,<sup>[29]</sup> as noted by this Court on September 2, 2020.

Petitioner alleges that the prosecution failed to prove her guilt beyond reasonable doubt. She points out how the prosecution failed to present any of Carlito's classmates to corroborate his testimony, making it insufficient and self-serving. She then says that the Court of Appeals merely speculated in saying she had moral ascendancy over Julie Ann, a top student who cannot easily be swayed or influenced.<sup>[30]</sup> She insists that the student's testimony was positive and clear, with no hint of bias in her favor.<sup>[31]</sup>

Petitioner faults the prosecution for failing to present the attending physician who executed the medico-legal report. A medical report, she says, cannot be considered substantial evidence to prove that she inflicted the injuries described in it. While it may prove that Carlito suffered physical abuse, petitioner says it does not prove that she was the one who caused it. Assuming that she did, she maintains that she can only be liable for slight physical injuries, and not other acts of child abuse under Section 10(a) of Republic Act No. 7610.<sup>[32]</sup>

Petitioner relies on *Bongalon v. People*,<sup>[33]</sup> among others, and argues that the prosecution failed to prove that petitioner's laying of hands was intended to debase, degrade, or demean Carlito's intrinsic worth or dignity, there being no evidence that these acts negatively affected his normal course of development. It also was not shown that he suffered psychological distress, emotional suffering, or trauma.<sup>[34]</sup> Thus, she says that the prosecution failed to establish the crucial element of intent required for child abuse under Section 10(a) of Republic Act No. 7610.<sup>[35]</sup>

For its part, the Office of the Solicitor General argues that the Petition must be dismissed outright for raising factual matters beyond the scope of a Rule 45 petition.<sup>[36]</sup> More important, it maintains that the prosecution was able to establish petitioner's guilt, since her acts of pinching, hitting the back, and slapping AAA "were unnecessary, violent[,], and excessive."<sup>[37]</sup> It claims that her acts were aggravated by the emotional trauma Carlito experienced after being embarrassed before his classmates.<sup>[38]</sup>

The Office of the Solicitor General adds that petitioner cannot rely on *Bongalon*, because unlike that case, the Information against her did not allege that the acts were intended to demean the intrinsic worth and dignity of the child as a human being. Moreover, in *Bongalon*, the accused's acts were deemed committed in the spur of the moment, which cannot be said for petitioner.<sup>[39]</sup>

Petitioner reiterates her position in her Reply. She argues that she has established the exemptions to allow a review of the factual questions raised. She then reiterates that it was only Carlito's testimony that directly implicated her in the offense.<sup>[40]</sup> While his testimony may be clear, it is not sufficient to convict her without corroborative testimony.<sup>[41]</sup> She insists that Julie Ann's testimony deserves credence, and that the finding of her supposed moral ascendancy over the student was only speculative.<sup>[42]</sup>

Moreover, petitioner says that AAA's mother testified that she saw no signs indicating that her child was hit or slapped in the face.<sup>[43]</sup> There being reasonable doubt, petitioner says she should have been acquitted.<sup>[44]</sup>

This Court resolves the following issues:

First, whether or not this Court can resolve factual issues in a Rule 45 petition; and

Second, whether or not the prosecution established all the elements of child abuse under Section 10(a) of Republic Act No. 7610.

We deny the Petition.

## I

A Rule 45 petition is proper only for resolving questions of law. After all, this Court is not a trier of facts. There are, however, exceptional cases where this Court may review questions of fact:

(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[.]<sup>[45]</sup> (Citations omitted)

In *Spouses Miano v. Meralco*,<sup>[46]</sup> this Court differentiated a question of law from a question of fact:

*Bases Conversion Development Authority v. Reyes* distinguished a question of law from a question of fact:

Jurisprudence dictates that there is a "question of law" when the doubt or difference arises as to what the law is on a certain set of facts or circumstances; on the other hand, there is a "question of fact" when the issue raised on appeal pertains to the truth or falsity of the alleged facts. The test for determining whether the supposed error was one of "law" or "fact" is not the appellation given by the parties raising the same; rather, it is whether the reviewing court can resolve the issues raised without evaluating the evidence, in which case, it is a question of law; otherwise, it is one of fact. In other words, where there is no dispute as to the facts, the question of whether or not the conclusions drawn from these facts are correct is a question of law. However, if the question posed requires a re-evaluation of the credibility of witnesses, or the existence or relevance of surrounding circumstances and their relationship to each other, the issue is factual.<sup>[47]</sup> (Citations omitted)

Here, petitioner admits that she raises factual questions, but insists that the lower courts should have given credence to Julie Ann's testimony that it was she, and not petitioner, who pinched AAA.<sup>[48]</sup> Petitioner insists that the prosecution's evidence was insufficient to sustain her conviction. Thus, she invokes the following exceptions: (1) that the Court of Appeals misappreciated facts; (2) that its findings were grounded entirely on speculation, surmises, or conjectures; and (3) that it failed to consider relevant facts that would justify a different conclusion.<sup>[49]</sup>

However, a review of the records shows that the lower courts' findings are supported by the evidence on record and consistent with relevant jurisprudence. The Court of Appeals did not gravely abuse its discretion in sustaining petitioner's conviction. Petitioner's guilt for physically maltreating her student has been established beyond reasonable doubt. Nevertheless, we expound on the Petition to clarify the elements