

FIRST DIVISION

[G.R. No. 222974, March 20, 2019]

**JEFFREY CALAOAGAN, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

GESMUNDO, J.:

This appeal by *certiorari* seeks to reverse and set aside the February 9, 2016 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 35518. The CA affirmed the November 5, 2012 Decision^[2] of the Regional Trial Court of Rosales, Pangasinan, Branch 53 (RTC), finding Jeffrey Calaoagan (*petitioner*) guilty beyond reasonable doubt of violating Sec. 10(a) of Republic Act (R.A.) No. 7610^[3] in Criminal Case No. 4877-R; and modifying the RTC decision in Criminal Case No. 4878-R finding appellant guilty of slight physical injuries under Article 266(1) of the Revised Penal Code (RPC).

Antecedents

Two separate Informations for violation of R.A. No. 7610 were filed against petitioner before the RTC for the alleged physical maltreatment of minors AAA and BBB.^[4] The accusatory portions of the informations state:

Criminal Case No. 4877-R:

That on or about the 31st day of October, 2004 at around 12:00 midnight, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, wilfully, unlawfully, feloniously and for no apparent reason[,] physical[ly] maltreat[ed] the complainant AAA, a minor of about 15 years of age[,] by hitting him with a stone on his left shoulder, thus place (sic) him in an embarrassing (sic) and shameful situation in the eyes of the public.

Contrary to Article VI, Section 10(a), Republic Act 7610.^[5]

Criminal Case No. 4878-R:

That on or about the 31st day of October, 2004, at around 12:00 o'clock midnight, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, wilfully, unlawfully and feloniously and for no apparent reason[,] physically maltreat the complainant BBB, a minor of about 17 years of age[,] by punching his face and head, thus place (sic) him in an embarrassing (sic) and shameful situation in the eyes of the public.

Contrary to Article VI, Section 10(a), Republic Act 7610.^[6]

Petitioner pleaded not guilty to the charges against him.^[7] Thereafter, trial ensued.

Version of the Prosecution

The prosecution presented the private offended parties AAA and BBB, and Dr. Raul Castaños^[8] (*Dr. Castaños*), medico-legal officer. Their testimonies established the following:

AAA was born on December 18, 1988, while BBB was born on September 21, 1987.^[9] They alleged that at around 12:00 midnight on October 31, 2004, they were on their way home to [REDACTED], when they encountered petitioner accompanied by two persons. Petitioner, seemingly annoyed by AAA and BBB, brought AAA near the church and hit AAA's right shoulder with a stone. BBB followed petitioner and AAA, which prompted petitioner to punch BBB on the right cheek.^[10]

Dr. Castaños conducted a medical examination on AAA and BBB. The examination showed that AAA suffered from "confluent abrasion" on the left shoulder and "soft tissue contusion" in the deltoid area; while BBB bore a "soft tissue contusion" on the left periorbital area and on the right occipital parietal area of the head.^[11]

Version of the Defense

Petitioner had a different version of the events at midnight of October 31, 2004. He averred that he and his two companions passed by a group of persons which included AAA and BBB. The group shouted "*Hoy!*" at them, which impelled him to shout back "*Hoy!*" at the group. Thereafter, AAA and BBB's group started hurling stones at him and his companions, which made them run to petitioner's house. AAA and BBB's group then pelted stones at petitioner's house, prompting petitioner to call the police. After the police had responded and left, AAA and BBB returned to petitioner's house. Petitioner claimed that he saw BBB carrying a knife and attempting to attack his sister, Jennifer Malong (*Jennifer*). Consequently, petitioner picked up a bamboo stick and swung it towards AAA and BBB.^[12] However, he claimed that he did not know whom he hit while swinging the bamboo stick.^[13] Thereafter, when he saw other persons entering his gates, petitioner ran inside his house. After the incident, Jennifer went to the police station to report the incident.^[14]

The RTC Ruling

In its November 5, 2012 Decision, the RTC found petitioner guilty beyond reasonable doubt of two (2) counts of Other Acts of Child Abuse, as defined and penalized under Sec. 10, par. (a) of R.A. No. 7610. Accordingly, it sentenced petitioner to suffer the indeterminate penalty of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years and eight (8) months and one (1) day of *prision mayor*, as maximum, in each of the two (2) cases.^[15]

The RTC held that petitioner physically maltreated AAA and BBB. Thus, it ruled that petitioner committed two (2) counts of violation of Sec. 10(a) of R.A. No. 7610 in Criminal Case Nos. 4877-R and 4878-R. The RTC gave credence to AAA and BBB's straightforward testimonies despite the variance between their testimony and the medical findings.^[16]

Aggrieved, petitioner appealed to the CA.

The CA Ruling

In its February 9, 2016 Decision, the CA affirmed petitioner's conviction in Criminal Case No. 4877-R for physically maltreating AAA. It ruled that petitioner had struck AAA, then a minor. It accorded respect to the findings of the RTC in giving merit to the testimonies of AAA and BBB as corroborated by their medical examinations. The CA opined that despite the variance between the testimonies of AAA and BBB and the results of the medical examination, there was no cogent reason to discount AAA and BBB's testimonies. Accordingly, in Criminal Case No. 4877-R, it awarded moral damages in the amount of P20,000.00, with an interest rate of 6% *per annum* from the finality of the decision until its full payment.^[17]

However, in Criminal Case No. 4878-R, the CA held that petitioner was not liable for violating Sec. 10(a) of R.A. No. 7610 for assaulting BBB. Instead, it ruled that petitioner was only guilty of slight physical injuries under Article 266(1) of the RPC because BBB was allegedly already eighteen (18) years old at the time of the incident. Consequently, in this case, the CA sentenced petitioner to suffer the penalty of *arresto menor* and ordered him to pay P20,000.00 as moral damages, and P20,000.00 as temperate damages, with an interest rate of 6% *per annum* from the finality of the decision until its full payment.^[18]

Hence, this petition.

ISSUES

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S DECISION FINDING PETITIONER GUILTY OF VIOLATION OF R.A. No. 7610 IN CRIM. CASE NO. 4877-R BY GIVING FULL CREDENCE TO THE TESTIMONY OF COMPLAINANT AAA THAT HE WAS MAULED BY THE ACCUSED WHO HIT HIM SEVERAL TIMES ON THE LEFT SIDE OF HIS FACE AND WHO ALSO HIT HIM WITH A STONE ON HIS RIGHT SHOULDER, CONTRARY TO THE MEDICO-LEGAL FINDINGS.

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE ACCUSED IN CRIM. CASE NO. 4878-R OF THE CRIME OF PHYSICAL INJURIES, AS DEFINED AND PENALIZED UNDER ARTICLE 266(1) OF THE REVISED PENAL CODE, BY GIVING FULL CREDENCE TO THE TESTIMONY OF COMPLAINANT BBB THAT HE WAS PUNCHED BY THE ACCUSED ONCE ON HIS RIGHT CHEEK, CONTRARY TO THE MEDICO-LEGAL CERTIFICATE FINDINGS.^[19]

Petitioner argues that the CA erred in affirming the RTC decision because AAA's testimony was not consistent with the results of the medical examination showing

that the injury sustained was "confluent abrasion, shoulder left, soft tissue contusion deltoid area." Likewise, he claims that the CA erred in convicting him of slight physical injuries under the RPC because BBB's testimony was contrary to the medical examination findings that the injury sustained was "soft tissue contusion, shoulder left, soft tissue contusion, occipital parietal area head, right."^[20]

In its Comment,^[21] the Office of the Solicitor General (OSG), representing the People of the Philippines, countered that the issues in the petition constitute questions of fact. As such, the petition must be dismissed for being contrary to Rule 45 of the Rules of Court. The OSG also argues that the petition seeks a review of the factual viability of the findings of the courts *a quo* in arriving at their verdicts, without presenting a question of law. Further, it claims that petitioner is guilty of child abuse under Sec. 10(a) of R.A. No. 7610 for hitting AAA, and is likewise guilty of slight physical injuries for striking BBB.

THE COURT'S RULING

The petition is partly meritorious.

*Generally, a question of fact
cannot be entertained by the
Court; exceptions*

As a rule, only questions of law may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court.^[22] Well-settled is the rule that the Court is not a trier of facts. Its function in petitions for review on certiorari is limited to reviewing errors of law that may have been committed by the lower courts.^[23]

Nevertheless, the Court has enumerated several exceptions to this rule: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.^[24]

In this case, two exceptions exist, particularly, that the judgment of the CA was based on misapprehension of facts and that the CA manifestly overlooked certain relevant facts. Thus, as the exception applies, the Court may then entertain a question of fact, such as the existence of the elements of the crimes charged.

*Sec. 10(a) of R.A. No. 7610 requires an
intent to debase, degrade, or demean
the intrinsic worth of a child victim.*

In Criminal Case No. 4877-R, petitioner was charged with violating Sec. 10(a), Article VI of R.A. No. 7610, which states:

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and other Conditions Prejudicial to the Child's Development. —

(a) Any person who shall commit any other acts of **child abuse**, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period, (emphasis supplied)

On the other hand, child abuse is defined by Sec. 3(b) of Republic Act No. 7610, as follows:

Section 3. Definition of terms. —

x x x x

(b) "Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

(2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

(3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or

(4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.^[25]
(emphasis supplied)

Sec. 10(a) of R.A. No. 7610 penalizes an act when it constitutes as child abuse. In relation thereto, Sec. 3(b) of the same law highlights that in child abuse, the act by deeds or words must debase, degrade, or demean the intrinsic worth and dignity of a child as a human being. *Debasement* is defined as the act of reducing the value, quality, or purity of something; *degradation*, on the other hand, is a lessening of a person's or thing's character or quality; while *demean* means to lower in status, condition, reputation, or character.^[26]

When this element of intent to debase, degrade or demean is present, the accused must be convicted of violating Sec. 10(a) of R.A. No. 7610, which carries a heavier penalty compared to that of slight physical injuries under the RPC.^[27]

In *Bongalon v. People*,^[28] the petitioner therein was charged under Sec. 10(a) of R.A. No. 7610 because he struck and slapped the face of a minor, which were done at the spur of the moment and in anger. The Court ruled that only when the accused intends to debase, degrade, or demean the intrinsic worth of the child as a human