

THIRD DIVISION

[G.R. No. 199522, June 22, 2015]

**RICKY DINAMLING, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before the Court is a Petition for Review on *certiorari*, under Rule 45 of the Rules of Court, assailing the Decision^[1] dated August 11, 2011 and Resolution^[2] dated November 25, 2011 of the Court of Appeals, in CA-G.R. CR No. 32912, which affirmed with modification the conviction of petitioner for violation of Section 5(i), in relation to Section 6(f) of Republic Act (RA) No. 9262, otherwise known as the *Anti-Violence Against Women and their Children Act of 2004*.

The facts of the case follow.

On the night of March 14, 2007, petitioner Ricky Dinamling and a friend came from a drinking session and went to the boarding house of AAA.^[3] At that time, Dinamling and the woman AAA were in an ongoing five-year relationship and they had two common children (then aged four and two years old). Dinamling and his friend arrived as AAA was putting the two children to bed. Suddenly, Dinamling started to evict AAA and the children, ordering AAA to pack her things in a trash bag and a carton box for ducklings. His reason for the eviction was that she was allegedly using the place as a "whore house" wherein she "brought (her) partners." AAA initially did not want to leave as she could not carry the children and their things, but she left when Dinamling threw a baby's feeding bottle outside the house, causing it to break. She then went to the house of BBB and requested the latter to fetch her children. When BBB and another friend went for the children, Dinamling already had left with the older child and only the baby was left. The baby was brought by the friends back to AAA. In the past, there were similar incidents that happened between Dinamling and AAA. Dinamling would hit AAA's head, pull her hair and kick her. When AAA went to the police, she was merely told that it was a family problem that could be talked over. Dinamling was, at that time, a policeman himself.^[4]

Six days later, or on March 20, 2007, at around 9:00 p.m., another incident occurred. AAA was at the house of CCC when Dinamling arrived. He shouted and counted down for AAA to come out. When she came out, Dinamling punched her at the left ear, which subsequently bled. When AAA asked him why he kept on following her when she already had left him, Dinamling shouted her family name and told her she was "good-for-nothing." AAA left for the barangay captain's house, but Dinamling caught up with her and kicked her until she fell to the ground. On the road, Dinamling pulled down AAA's pants and panty and shouted at her while people looked on. Dinamling then threw the pants and panty back at AAA and shouted her

family name. Dinamling, then intoxicated, left on a motorcycle.^[5] AAA stayed at her friend's home until she felt some back pain in the next morning. She found out she was bleeding and about to miscarry so she was immediately brought to the hospital. There, she was told that she was 19 weeks pregnant and had an incomplete abortion. She was hospitalized for four days. Dinamling visited her but showed no remorse over his acts.^[6]

As a result of the above incidents, petitioner Ricky Dinamling was charged in two (2) criminal Informations in the Regional Trial Court (RTC) for violation of Section 5(i), in relation to Section 6(f)^[7] of RA No. 9262. The two Informations against him read:

Criminal Case No. 1701:

That on or about the evening of March 14, 2007, at XXX, Ifugao, the above-named accused did then and there willfully, unlawfully and feloniously inflict psychological violence upon AAA, a woman with whom he has two common children, resulting to mental and emotional anguish and public ridicule or humiliation by repeated verbal and emotional abuse consisting of several bad and insulting utterances directed against the victim and a feeding bottle being thrown against the latter in anger.

CONTRARY TO LAW, with the offense being attended by the special qualifying aggravating circumstance of the victim being pregnant at the time.

Criminal Case No. 1702:

That on or about the evening of March 20, 2007 at XXX, Ifugao, the above-named accused did then and there willfully, unlawfully and feloniously inflict psychological violence upon AAA, a woman with whom he has two common children, resulting to mental and emotional anguish and public ridicule or humiliation by boxing the victim on the head, kicking her at the back and removing her pant (sic) and panty (sic).

CONTRARY TO LAW, with the offense being attended by the special qualifying aggravating circumstance of the victim being pregnant at the time.

Upon arraignment, Dinamling pleaded Not Guilty to both charges. Thereafter, the cases were tried jointly.^[8]

For the prosecution, AAA, her mother DDD and Dr. Mae Codamon-Diaz testified. For the accused, only petitioner testified for and in his own defense. His defense was denial and alibi, claiming that he was on duty at the town's police station at the time that the offenses were committed.^[9]

After trial, the RTC rendered its decision on August 4, 2009 finding Dinamling guilty of both charges. For Criminal Case No. 1701, the court sentenced him to suffer imprisonment of from ten (10) years and one (1) day to twelve (12) years of *prision mayor*.^[10] For Criminal Case No. 1702, the court ordered him to suffer

imprisonment of from ten (10) years and one (1) day to twelve (12) years of *prision mayor* in its maximum period.

On appeal to the Court of Appeals, the decision in Criminal Case No. 1701 was affirmed and the one in Criminal Case No. 1702 was affirmed with the modification on the penalty, by applying the Indeterminate Sentence Law, such that Dinamling was sentenced to imprisonment of nine (9) years, four (4) months and one (1) day of *prision mayor*, as minimum, to twelve (12) years of *prision mayor*, as maximum.

Hence, the present petition.

The petition assails the findings of the Court of Appeals for allegedly disregarding his defenses of denial and alibi as well as in discounting the supposedly exculpatory nature of a part of a prosecution witness' testimony. Allegedly, the witness, Dr. Diaz, testified that she was unsure if the abortion was a result of the mauling that AAA suffered or could have been caused by an infection or other factors.^[11]

This Court resolves to deny the petition for lack of merit, but will modify some of the penalties imposed by the appellate court.

The petition raises issues that call for an examination of the factual findings of the trial court and the appellate court. As a general rule, under Rule 45, no questions of fact but only questions of law may be raised in a petition for review brought before this Court.^[12] Time and again, the Court has consistently declared that questions of facts are beyond the pale of a petition for review.^[13] Factual findings of the trial court, particularly when affirmed by the appellate courts, are generally binding on this Court.^[14]

But there are recognized exceptions to the rule that questions of fact may not be entertained by this Court in a petition for review, to wit:

- (1) When the factual findings of the Court of Appeals and the trial court are contradictory;
- (2) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (3) When the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible;
- (4) When there is grave abuse of discretion in the appreciation of facts;
- (5) When the appellate court, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) When the judgment of the Court of Appeals is premised on a misapprehension of facts;
- (7) When the Court of Appeals failed to notice certain relevant facts which, if properly considered, would justify a different conclusion;
- (8) When the findings of fact are themselves conflicting;
- (9) When the findings of fact are conclusions without citation of the specific evidence on which they are based; and
- (10) When the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are

contradicted by the evidence on record,^[15]

None of the above-mentioned exceptions, however, are cited by the petitioner as a ground to grant his petition. But even assuming *arguendo*, and in the interest of substantial justice, that any of the exceptions above were indeed invoked, as the petition alleges that the appellate court failed to give weight to petitioner's defenses of denial and alibi as well as to his stance that the testimony of Dr. Diaz exculpates him from the crime, this Court, upon a close examination of the case records, still found no error in the appellate court's finding of guilt in petitioner.

On its face, there is no reason to doubt the veracity and truthfulness of the victim AAA's evidence. In particular, AAA's testimony narrating the specific incidents which gave rise to the charges was clear, categorical and straightforward and, therefore, worthy of credence. Herein below are excerpts of her testimony:

Q. Specifically inviting your attention to that incident in the evening of March 14, 2007, could you please tell the court what transpired?

A. In the evening of March 14, 2007, somewhere around seven or eight o'clock in the evening, I was letting my kids sleep (w)hen (Dinamling) came with a friend. They had a drinking spree and x x x he started to evict us from that boarding house because according to him, I (was) using that boarding house as a whore house (by) bringing in partners, et cetera to that boarding house. That (was) why he was letting us out of it. And he even told me that if I (had) no travelling bag, I (could) use the *basura* (garbage) bag outside and I (could) use the carton where he placed the ducklings to pack our things and leave the place. That night, I (did) not know how to carry them out and I was waiting for him to stop talking and leave but he never left us up to the time he threw the feeding bottle of my baby outside that caused it to break and that was also the time I decided to go to the house of BBB because it is the place where my landlady (was) staying.

x x x x

Q. You mentioned of a feeding bottle.

A. He threw it outside, Sir.

Q. How did you feel as regards these actuations of the accused that evening?

A. That is worst. He was inflicting pain (on) me but that time it was directed (at an) innocent individual and that is very painful.

Q. Personally, did you feel distressed or stressed or fearful at the time the accused was acting that way?

A. When he started acting that way, I fear(ed) he would again inflict those pain (on) us.

Q. So when you went to the house of BBB, what happened next?

A. x x x He (BBB) went to fetch the kids and came home with one of the kids but to my dismay, even the milk of my baby was not there any more; that night because it was around 11:00 o'clock, we had to use the feeding bottle of BBB's son together with the milk because when they went to fetch the kids, the milk was gone.

Q. Was the incident on March 14, 2007 the first time or it

happened (sic) previously?

A. It happened previously. Those were the time(s) that (I was) prompted to go back home and to my relatives for protection but he (came, followed) us where we (went).

Q. In those previous incidents before March 14, 2007, what did he do, if any?

A. There are times he did that in public. He usually starts hitting my head, pulls my hair kicks me and there was a time I went to the police station but they said that (it) is some kind of family problem that we could talk xxx over and so it was left that way. I thought leaving him would be the best thing to do but he kept on following us. ^[16]

x x x x

Q. I am inviting your attention to that incident of March 20, 2007. Will you please tell the court what happened that late afternoon or early evening?

A. I was at the house of CCC waiting for a friend because of what happened on March 14, 2007 when we left the boarding house.

x x x x

Q. What transpired thereat, when you were at that place?

A. After sometime, around 9 o'clock, (Dinamling) came and shouted words that (on) final count, (I) should be out of that place.

Q. And what else happened?

A. After shouting, he boxed me at the left ear.

Q. What transpired next?

A. (T)hen I felt there was blood in my ear. I followed him outside and I inquired (as to) why he (kept on) following us when we (already) left the boarding house and then he started shouting at me, shouting my family name, x x x x that I (was) good for nothing and that I (could) sue him (in) court and he (would) pay me. So I said "I thought when we already left, you were at peace with yourself already." When I was going down, going to the barangay captain's house, he followed me. When I tried to go back, he kicked me. He pulled my pants down and pulled even my panty and he said x x x he (did) that to me because I was worthless.

Q. (At) what particular spot did the accused pull down your pants and your panty?

A. Front of CCC.

Q. What was that spot, road or backyard?

A. Road.

Q. Could you describe the place? Were there houses nearby, that road, that spot where he pulled down your pants and panty?

A. There is a small store and people were looking at us. There are houses above and then one of them told me he saw but he is afraid to come out.

Q. Was it already dark (at) that time?

A. Dark but then there was a street light near the residence.

Q. Was it still early evening?

A. Yes, sir.

Q. About what time?

A. Around 9 o'clock.