

THIRD DIVISION

[G.R. No. 196161, September 26, 2012]

CYRIL CALPITO QUI, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

VELASCO JR., J.:

In her petition for review under Rule 45, Cyril Calpito Qui assails the merits of the December 17, 2010 Resolution^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 33494, which denied her Urgent Petition/Application for Bail Pending Appeal, and the March 17, 2011 CA Resolution^[2] which rejected her Motion for Reconsideration.

The pertinent factual antecedents are undisputed.

Petitioner was charged with two counts of violation of Section 10(a),^[3] Article VI of Republic Act No. (RA) 7610 or the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*.

In Criminal Case No. Q-00-96544, the Information alleges:

That on or about the month of December 1999 in Quezon City, Philippines, the above-named accused did then and there willfully, unlawfully and feloniously commit acts of cruelty and child abuse upon the person of one Christian John Ignacio, a minor 8 years of age by then and there angrily shouting invectives while pointing her fingers at said minor and threatening to knock down his head which acts are prejudicial to the child's psychological and emotional development, debase, demean and degrade the intrinsic worth and dignity of said Christian John Ignacio as a human being.

CONTRARY TO LAW.

In Criminal Case No. Q-00-96545, the Information reads:

That on or about the 15th day of March 2000 in Quezon City, Philippines, the above-named accused did then and there willfully, unlawfully and feloniously commit acts of cruelty and child abuse upon the person of one Christian John Ignacio, a minor 8 years of age by then and there angrily shouting invectives and threatening to shoot said minor and which acts are prejudicial to the child's psychological and emotional development, debase, demean and degrade the intrinsic worth and dignity of said

Christian John Ignacio as a human being.

CONTRARY TO LAW.

On June 18, 2010, the Regional Trial Court (RTC), Branch 94 in Quezon City convicted petitioner as charged, and sentenced^[4] her to two equal periods of imprisonment for an indeterminate penalty of five (5) years, four (4) months and twenty one (21) days of *prision correccional* in its maximum period, as minimum, to seven (7) years, four (4) months and one (1) day of *prision mayor* in its minimum period, as maximum.

On July 1, 2010, petitioner filed her Notice of Appeal. With the perfection of her appeal and the consequent elevation of the case records to the CA, petitioner posthaste filed before the appellate court an Urgent Petition/Application for Bail Pending Appeal which respondent People of the Philippines, through the Office of the Solicitor General (OSG), opposed. The OSG urged for the denial of the bail application on the ground of petitioner's propensity to evade the law and that she is a flight-risk, as she in fact failed to attend several hearings before the RTC resulting in the issuance of three warrants for her arrest.

On December 17, 2010, the CA issued the first assailed Resolution denying petitioner's application for bail pending appeal on the basis of Sec. 5(d) of Rule 114, Revised Rules of Criminal Procedure. Petitioner's Motion for Reconsideration was likewise rejected through the March 17, 2011 CA Resolution.

Thus, this Petition for Review on Certiorari on the following assignment of errors, to wit: (1) there is a manifest absence of all the conditions justifying a denial of bail under Sec. 5 of Rule 114; (2) the conviction of petitioner is for a bailable offense and the evidence of guilt against her is not strong; and (3) since petitioner's conviction by the RTC is under appeal, hence not yet final, she should be accorded the constitutional guaranty of innocence until proved guilty beyond reasonable doubt, which guaranty entitles her to bail. In gist, the core issue boils down to whether petitioner is entitled to bail pending appeal.

The petition is bereft of merit.

Bail pending appeal is governed by Sec. 5 of Rule 114, Revised Rules of Criminal Procedure, which provides:

Sec. 5. Bail, when discretionary. — Upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua, or life imprisonment, admission to bail is discretionary.

The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed with and resolved by the appellate court.

Should the court grant the application, the accused may be allowed to

continue on provisional liberty during the pendency of the appeal under the same bail subject to the consent of the bondsman.

If the penalty imposed by the trial court is imprisonment exceeding six (6) years, the accused shall be denied bail, or his bail shall be cancelled upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:

- (a) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration;
- (b) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without a valid justification;
- (c) That he committed the offense while under probation, parole, or conditional pardon;
- (d) That the circumstances of his case indicate the probability of flight if released on bail; or
- (e) That there is undue risk that he may commit another crime during the pendency of the appeal.

The appellate court may, *motu proprio* or on motion of any party, review the resolution of the Regional Trial Court after notice to the adverse party in either case. (Emphasis supplied.)

Under the present rule, the grant of bail is a matter of discretion upon conviction by the RTC of an offense not punishable by death, *reclusion perpetua* or life imprisonment, as here. The Court held:

Indeed, pursuant to the “tough on bail pending appeal” policy, the presence of bail-negating conditions mandates the denial or revocation of bail pending appeal such that those circumstances are deemed to be as grave as conviction by the trial court for an offense punishable by death, *reclusion perpetua* or life imprisonment where bail is prohibited.^[5]

In the exercise of that discretion, the proper courts are to be guided by the fundamental principle that the allowance of bail pending appeal should be exercised not with laxity but with grave caution and only for strong reasons, considering that the accused has been in fact convicted by the trial court.^[6]

The CA denied petitioner’s application for bail pending appeal on the ground that she is a flight risk, a bail-negating factor under Sec. 5(d) of Rule 114 quoted above. The appellate court anchored its denial on several circumstances, pointed out by the OSG, which showed petitioner’s propensity to evade the law, as when she failed to attend the hearings before the RTC, which compelled said court to issue three