Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CARLOS PAULO BARTOLOME *y* ILAGAN and JOEL BANDALAN *y* ABORDO, *Petitioners,*	**G.R. No. 227951**
	Present:
- *versus* -	LEONEN, *J.*, *Chairperson*, HERNANDO, INTING, DELOS SANTOS, and LOPEZ, J., *JJ.*
PEOPLE OF THE PHILIPPINES, *Respondent.*	Promulgated: June 28, 2021

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DECISION

INTING, *J.*:

Assailed in the present Petition[1] for Review on *Certiorari* under Rule 45 of the Rules of Court is the Decision[2] dated August 30, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07930 which affirmed the Decision[3] of Branch 20, Regional Trial Court (RTC), Imus, Cavite convicting Carlos Paulo Bartolome *y* Ilagan (Bartolome) and Joel Bandalan *y* Abordo (Bandalan) (collectively, petitioners) for violation of Section 4(a) of Republic Act No. (RA) 8049[4] (Anti-Hazing Law).

[1] *Rollo*, pp. 3-20.
[2] *Id.* at 28-49; penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Jane Aurora C. Lantion and Zenaida T. Galapate-Laguilles, concurring.
[3] *Id.* at 75-79; penned by Acting Presiding Judge Josefina E. Siscar.
[4] Entitled "An Act Regulating Hazing and Other Forms of Initiation Rites in Fraternities, Sororities, and Organizations and Providing Penalties Therefor," approved on June 7, 1995.

Likewise assailed is the CA Resolution[5] dated October 26, 2016 denying petitioners' Most Respectful Motion for Reconsideration[6] of the assailed CA Decision.

The Antecedents

In an Information[7] filed by the Office of the City Prosecutor of Imus, Cavite before the RTC, petitioners were accused as follows:

> That sometime on October 22, 2009 or thereabouts at Area C, Dasmariñas, Cavite, and within the jurisdiction of this Honorable Court, the above-named accused, being members of the TAU GAMMA PHI FRATERNITY, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully, and feloniously conduct initiation rites and practice and subjected neophyte JOHN DANIEL SAMPARADA y Llamera to physical suffering while undergoing said initiation rites or practice, which is a prerequisite for admission into the said fraternity, that led to the untimely death of JOHN DANIEL SAMPARADA *y* Llamera, to the damage and prejudice of his legal and lawful heirs.
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> CONTRARY TO LAW.[8]

Upon arraignment, petitioners pleaded not guilty to the charge.[9]

Pre-trial and trial ensued.

Version of the Prosecution

On October 22, 2009, Police Officer I Mark Nova, the desk officer of Silang Municipal Police Station, received a call from Estrella Hospital informing them that a victim of hazing was brought to their hospital. Three police officers, namely: Senior Police Officer II Jo Norman A. Patambang (SPO2 Patambang), Police Officer III Elmer A. Mendoza (PO3 Mendoza), and Police Officer III Arwin M. Torres (PO3 Torres), went to Estrella Hospital to investigate. The hospital staff told them that

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5 *Rollo*, p. 50; penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Jane Aurora C. Lantion and Zenaida T. Galapate-Laguilles, concurring.

6 *Id.* at 81-86.

7 Records, pp. 1-2.

8 *Id.* at 2.

9 See Order dated March 3, 2010, *id.* at 48.

the deceased was a victim of hazing as shown by the bruises he sustained on his thighs.[10]

During the investigation, SPO2 Patambang learned that the victim was brought to the hospital by three male individuals. However, only two of the three males, the petitioners herein, were identified. SPO2 Patambang learned from petitioners that the victim was John Daniel Samparada (Samparada), an 18-year-old college student from Lyceum of the Philippines, Cavite.[11]

SPO2 Patambang recovered from petitioners a document which bore the name of Tau Gamma Phi Fraternity, markings connected with the organization, and the handwritten name of Bartolome. From this, SPO2 Patambang deduced that petitioners were members of Tau Gamma Phi Fraternity.[12]

Also, in the course of the investigation, petitioners told SPO2 Patambang that the hazing happened around 10:00 a.m. on October 22, 2009, in a farm at Area C, Dasmariñas, Cavite. After the hazing, petitioners and Samparada went to Silang, Cavite for an outing where the latter lost consciousness. Thus, petitioners brought him to Estrella Hospital.[13]

Version of the Defense

Petitioners averred that on October 22, 2009, they went to the house of a certain Ivan Marquez (Ivan) for a night swimming. There, Ivan introduced Samparada to them. Petitioners left the group and bought provisions for their night swimming. When they came back, all of a sudden, Samparada fell on the floor, hit his head on the pavement, and complained of difficulty in breathing. They immediately brought Samparada to Estrella Hospital. Later on, police officers arrived at the hospital and interrogated them about what happened to Samparada. The police officers brought them to the police station and forced them to admit their participation in the infliction of injuries upon Samparada that resulted in his death.[14]

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[10] *Rollo*, p. 29.
[11] *Id.*
[12] *Id.* at 29-30.
[13] *Id.* at 30.
[14] *Id.* at 30-31.

Ruling of the RTC

On September 4, 2014, the RTC rendered its Decision[15] convicting petitioners for violation of Section 4(a) of RA 8049. It ruled that the circumstantial evidence proffered by the prosecution is sufficient for the conviction of petitioners. The RTC disposed as follows:

> WHEREFORE, in view of the foregoing, the Court finds the accused Carlos Paulo Bartolome y Ilagan and Joel Bandalan y Abordo GUILTY BEYOND REASONABLE DOUBT of the crime of Violation of Section 4 of R.A. 8049 and are hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Likewise both accused are adjudged liable to pay the heirs of the deceased John Daniel Samparada the amount of Fifty Thousand Pesos (P50,000.00) each as indemnity for the death of the victim and One Hundred Thousand Pesos (P100,000.00) as temperate damages.
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> SO ORDERED.[16]

Aggrieved, petitioners brought the case to the CA. They argued that the elements of Section 4(a) RA 8049 were lacking. Further, they maintained that the material requirements of circumstantial evidence sufficient for a conviction were wanting.[17]

Ruling of the CA

In the assailed Decision[18] dated August 30, 2016, the CA affirmed petitioners' conviction and modified the award of damages. It held that "the prosecution presented sufficient evidence to establish the chain of circumstances incriminating beyond reasonable doubt [petitioners] for the death of [Samparada]."[19] It also ruled that the prosecution had sufficiently established the following material facts: (1) that petitioners are members of Tau Gamma Phi Fraternity; and (2) that Samparada's injuries were brought about by hazing; thus, the inevitable conclusion is that petitioners participated in the hazing of Samparada.[20]

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15 *Id.* at 75-79.
16 Records, p. 201.
17 *Rollo*, p. 32.
18 *Id.* at 28-49.
19 *Id.* at 37.
20 *Id.* at 46.

The dispositive portion of the CA Decision reads:

> WHEREFORE, the trial court's Decision dated September 4, 2014 and Order dated August 7, 2015 are affirmed, subject to the modification that the indemnity for the death of John Daniel Samparada is increased to P75,000.00 for each accused-appellant, who are further ordered to pay P200,000.00 each as moral damages and P100,000.00 each as exemplary damages. Interest of 6% *per annum* is imposed on the civil liability fixed and imposed herein, computed from the date of the finality of this decision until civil liability is fully paid.
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> SO ORDERED.[21]

Petitioners moved for reconsideration, but the CA denied the motion in the assailed Resolution[22] dated October 26, 2016.

Hence, this petition with the following assignment of errors:

> I. WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN DECIDING A QUESTION OF SUBSTANCE IN A MANNER NOT IN ACCORD WITH THE LAW AND APPLICABLE DECISIONS OF THE HONORABLE COURT IN RESOLVING THE CASE BASED ON ERRONEOUS AND INADMISSIBLE CIRCUMSTANTIAL EVIDENCE[.]
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> II. WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN DECIDING A QUESTION OF SUBSTANCE IN A MANNER NOT IN ACCORD WITH THE LAW AND APPLICABLE DECISIONS OF THE HONORABLE COURT WHEN IT WRONGLY RELIED ON THE PRESUMPTION OF GUILT UNDER R.A. NO. 8049 INSTEAD OF THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE AS BASIS OF CONVICTION OF PETITIONERS[.][23]

Petitioners argued that both the RTC and the CA resolved the case based on erroneous and inadmissible circumstantial evidence. They averred that the circumstances established during the trial were not sufficient to conclude that they were the perpetrators of the offense

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[21] *Id.* at 49.
[22] *Id.* at 50.
[23] *Id.* at 12.

charged.[24] They further argued that the application of the presumption of guilt as provided in RA 8049 violated their constitutional right to be presumed innocent.[25]

In its Comment,[26] the Office of the Solicitor General asserted that the offense charged may be proven by circumstantial evidence, which is sometimes referred to as indirect or presumptive evidence.[27] It contended that "the prosecution's evidence, including the testimonies of its witnesses, collectively formed a chain of circumstances that absolutely incriminated petitioners in the killing of [Samparada]."[28] Thus, it maintained that the CA rightfully sustained the RTC's finding that the prosecution's evidence sufficed for the conviction of petitioners.[29]

The Court's Ruling

The petition is impressed with merit.

At the outset, petitioners are seeking relief from the Court through a petition for review on *certiorari* under Rule 45 of the Rules of Court. It is basic that Rule 45 petitions may only raise pure questions of law.[30]

However, consistent with the constitutional right of the accused to be presumed innocent until the contrary is proven,[31] an appeal in a criminal case throws the whole case wide open for review and it becomes the duty of the Court to correct such errors as may be found in the judgment appealed from, whether they are assigned as errors or not.[32]

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[24] *Id.* at 14.
[25] *Id.* at 18-19.
[26] *Id.* at 95-135.
[27] *Id.* at 104.
[28] *Id.* at 112.
[29] *Id.* at 113.
[30] Section 1, Rule 45, Rules of Court provides:

Section 1. *Filing of petition with Supreme Court.* – A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the *Sandiganbayan*, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

[31] Section 14(2), Article III, CONSTITUTION.
[32] *Lapi v. People*, G.R. No. 210731, February 13, 2019, *citing Ferrer v. People*, 518 Phil. 196 (2006).

Especially in criminal cases, the Court will recalibrate and evaluate the factual findings of the courts below when the trial court overlooked material and relevant matters.[33]

The finding of guilt is essentially a question of fact and requires the courts to evaluate the evidence presented in relation to the elements of the crime charged.[34] Thus, the Court is constrained to entertain questions of fact in appeals of criminal cases.

After a careful review of the case and the body of evidence adduced before the RTC, the Court is not convinced that petitioners are guilty beyond reasonable doubt of the offense of hazing. Thus, the Court resolves to reverse the appealed decision and acquit petitioners.

It must be emphasized that in this jurisdiction, no less than proof beyond reasonable doubt is required to support a judgment of conviction.[35] While the law does not require absolute certainty, the prosecution's evidence must produce in the mind of the Court a moral certainty of the accused's guilt.[36] Where there is even a scintilla of doubt, the Court must acquit.[37]

In *People v. San Jose*,[38] the Court declared:

> The successful prosecution of a criminal case must rest on proof beyond reasonable doubt. The State must establish all the elements of the offense charged by sufficient evidence of culpability that produces a moral certainty of guilt in the neutral and objective mind. Any proof less than this should cause the acquittal of the accused.[39]

In the present case, it is undisputed that no direct evidence was presented to link petitioners to Samparada's death. In fact, the RTC, as affirmed by the CA, convicted petitioners through circumstantial evidence.

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[33] *People v. Esteban*, 735 Phil. 663, 671 (2014).
[34] *Lapi v. People*, G.R. No. 210731, February 13, 2019.
[35] *Aliling v. People*, 833 Phil. 146, 167 (2018).
[36] *Id.*
[37] *Id.*, citing *Caunan v. People and Sandiganbayan*, 614 Phil. 179, 194 (2009)
[38] 836 Phil. 355 (2018).
[39] *Id.* at 358-359.

Direct evidence and circumstantial evidence are classifications of evidence that produce legal consequences.[40] The difference between the two involves the relationship of the fact inferred to the facts that constitute the offense.[41] Their difference does not relate to the probative value of the evidence.[42]

Direct evidence proves a challenged fact without having to draw any inference.[43] On the other hand, circumstantial evidence indirectly proves a fact in issue, such that the fact-finder must draw an inference or reason from circumstantial evidence.[44]

Direct evidence is not always necessary as it has become a settled rule that circumstantial evidence is sufficient to support a conviction.[45] This is but a recognition of the reality that it is not always possible to obtain direct evidence in certain instances due to the inherent attempt to conceal a crime.[46]

The case of *Zabala v. People*[47] enlightens:

> The lack or absence of direct evidence does not necessarily mean that the guilt of the accused cannot be proved by evidence other than direct evidence. Direct evidence is not the sole means of establishing guilt beyond reasonable doubt, because circumstantial evidence, if sufficient, can supplant the absence of direct evidence. The crime charged may also be proved by circumstantial evidence, sometimes referred to as indirect or presumptive evidence. Circumstantial evidence has been defined as that which "goes to prove a fact or series of facts other than the facts in issue, which, if proved, may tend by inference to establish a fact in issue."[48]

Evidence is always a matter of reasonable inference from any fact that may be proven by the prosecution provided the inference is logical and beyond reasonable doubt.[49] Section 4, Rule 133 of the Rules of

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40 *Bacerra v. People*, 812 Phil. 25, 35 (2017).
41 *Id.*
42 *Id.*
43 *Id.*
44 *Id.*
45 *Zabala v. People*, 752 Phil. 59, 67 (2015).
46 *Id.*
47 752 Phil. 59 (2015).
48 *Id.*, citing *Bacolod v. People*, 714 Phil. 90, 95 (2013).
49 *Bacerra v. People*, *supra* note 40 at 36 (2017).

Court provides three requisites in order to sustain a conviction based on circumstantial evidence, to wit:

> SEC. 4. *Circumstantial evidence, when sufficient.* – Circumstantial evidence is sufficient for conviction if:
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> (a) There is more than one circumstance;
> (b) The facts from which the inferences are derived are proven; and
> (c) The combination of all the circumstances is such as to produce conviction beyond reasonable doubt.

Jurisprudence instructs that "for circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent."[50] Thus, conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person.[51]

In the present case, the RTC convicted petitioners of hazing under Section 4(a)[52] of RA 8049 based on the following circumstances adopted during the trial:

> 1. That [Samparada] died on October 22, 2009 due to blunt traumatic injuries to the head and lower extremities as per Medico-Legal Report;
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> 2. That [Samparada] and [petitioners] were all in the house of [Ivan] on October 22, 2009 when [Samparada] lost consciousness;
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> 3. That it was the [petitioners] in this case together with Nicodemus Tolentino who brought [Samparada] to Estrella Hospital in Silang, Cavite;

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[50] *Espinelli v. People*, 735 Phil. 530, 539-540 (2014), citing *People v. Abdulah*, 596 Phil. 870, 876 (2009).

[51] *Id.*

[52] Section 4 of RA 8049 partly reads:

SECTION 4. If the person subjected to hazing or other forms of initiation rites suffers any physical injury or dies as a result thereof the officer and members of the fraternity, sorority or organization who actually participated in the infliction of physical harm shall be liable as principals. The person or persons who participated in the hazing shall suffer:

a) The penalty of *reclusion perpetua* if death, rape, sodomy or mutilation results therefrom.

x x x x

4. That upon interrogation conducted by police officers, the latter seized from [Bartolome] a document with markings related to a fraternity particularly Tau Gamma Phi Fraternity and his name was written therein; and,

5. That during the conduct of investigation, [SPO2 Patambang] learned from the [petitioners] that the incident happened in the field located at Area C, Dasmariñas, Cavite.[53]

Moreover, in affirming the conviction, the CA held that SPO2 Patambang's testimony "clearly linked" petitioners to Tau Gamma Phi Fraternity and the hazing that occurred on October 22, 2009. Pertinent portions of his testimony read:

Q After going out to find out who were the persons who brought the victim to the hospital, what happened next?

A "Nakita namin yong tatlo (3) na papalayo kaya ang ginawa ng kasama ko ay hinabol at kinausap namin."

Q Mr. Witness, going back to the victim as a side question, what was the preliminary assessment of the Doctor who made the Medical Report with respect to the victim?

A "Pagdating pa lang sa hospital, sabi nila victim ng Hazing."

Q Upon seeing the body of the victim, what was [*sic*] your initial findings?

A "Sa tingin ko talagang sa Hazing gawa ng mga pasa niya sa hita. Mukha naman talagang pinalo."

Q Going back to the original question, after accosting said individuals for questioning, what happened next?

A "Yong isa di na nahold ng tropa, bale yong dalawa lang ang nahld [*sic*] nila. Tinanong ko kung sino yng [*sic*] victim."

Q You asked them who the victim is?

A Yes, sir.

Q These two (2) individuals that you and your fellow police officers questioned, are they present in Court right now?

A Yes, sir.

[53] *Rollo*, pp. 54-55.

Q Will you be able to identify the said persons whom you accosted in the hospital?

A Yes, sir, si Carlos Paulo Bartolome at Joel Bandalan (witness tapped the shoulders of a man wearing yellow T-shirt who when asked gave his name as Carlos Paulo Bartolome and another man also wearing yellow T-shirt when asked gave his name as Joel Bandalan).

Q After confronting said individuals or the accused, what happened next?

A "Tinanong ko sila kung sino yong victim pero ang sabi nila John lang."

Q What happened next Mr. Witness?

A "Hindi sila kumikibo sa mga tanong. Pinaliliwanagan ko sila na isasama ko sila sa Police Station."

Q What happened next? What explanation did you give to the accused in the instant case?

A "Sinabi ko sa kanila na isasailalim sila sa investigation dahil sa pangyayaring Hazing."

Q Then, what happened next?

A "Pinaliwanagan ko sila ng mga karapatan nila at isinama sa Police Station."

Q Can you tell us where is that Police Station where you took these two (2) individuals?

A Silang Municipal Police Station.

Q During the investigation, what was the result of your investigation?

A "Wala po silang sinasabi kungdi sa Area C nangyari yong Hazing. Pero ayaw nila kumibo, kaya lang sila nakapagsalita tulad ng dumating yong parents and relatives nila pero directly, hindi po sila nasagot."[54]

[54] TSN, June 23, 2011, pp. 10-14.

The Court is not convinced that SPO2 Patambang's testimony and the five aforementioned circumstances sufficiently established petitioners' guilt beyond reasonable for the offense of hazing.

The enactment of RA 8049 or the Anti-Hazing Law of 1995, the law under which petitioners were charged, was for the purpose of regulating hazing and other forms of initiation rites in fraternities, sororities, and other organizations.[55] In 2018, during the pendency of the present petition, RA 8049 was amended by RA 11053[56] or the "*Anti-Hazing Act of 2018.*" Superseding Section 4 of RA 8049, Section 14 of RA 11053 now imposes more severe penalties for the offense of hazing.

The intent of the Anti-Hazing Law cannot be overemphasized: it is meant to deter members of a fraternity, sorority, organization, or association from making hazing a requirement for admission.[57]

Associate Justice Marvic M.V.F. Leonen emphasizes the violent nature of hazing and reminds that the Court has considered it as a shameful exercise of cruelty, which should no longer be tolerated. His *ponencia* in the recent case of *Villarba v. Court of Appeals*[58] elucidates:

> Hazing is a form of deplorable violence that has no place in any civil society, more so in an association that calls itself a brotherhood. It is unthinkable that admissions to such organizations are marred by ceremonies of psychological and physical trauma, all shrouded in the name of fraternity. This practice of violence, regardless of its gravity and context, can never be justified. This culture of impunity must come to an end.[59]

Associate Justice Marvic M.V.F. Leonen also underscores the difficulty of proving the violence inflicted by fraternities because of the culture of silence, secrecy, and blind loyalty dictated among fraternity members.

Needless to state, hazing is shrouded in secrecy. "Secrecy and silence are common characterizations of the dynamics of hazing."[60]

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[55] *Dungo, et al. v. People*, 762 Phil 630, 657 (2015).
[56] Approved on June 29, 2018.
[57] *Fuertas v. Senate of the Philippines*, G.R. No. 208162, January 7, 2020.
[58] G.R. No. 227777, June 15, 2020.
[59] *Id.*
[60] *Dungo, et al. v. People*, *supra* note 55 at 671 (2015).

Indeed, crimes are usually committed in secret and under conditions where concealment is highly probable.[61] Considering the concealment of hazing, it is only logical and proper for the prosecution to resort to the presentation of circumstantial evidence to prove it.[62]

Thus, as aptly pointed out by Associate Justice Marvic M.V.F. Leonen and as earlier discussed, hazing, like any other felony, need not be proven by direct evidence; it may be sufficiently proven by circumstantial evidence. Moreover, conviction for hazing is still possible through a single, credible witness.[63]

However, without intending to bring to naught the purpose of the Anti-Hazing Law, the Court especially finds important the legal principle that every person accused of any crime is considered innocent until the contrary is proven.[64] This presumption of innocence in favor of the accused is a right guaranteed by the Constitution and should not be brushed aside. For this reason, in all criminal prosecutions, proof of guilt beyond reasonable doubt is required in order to attain a conviction.[65]

Regrettably, the Court finds reasonable doubt on the guilt of petitioners for violation of the Anti-Hazing Law. The circumstantial evidence presented by the prosecution is insufficient for the conviction of petitioners.

While direct evidence is not necessary and the prosecution may resort to circumstantial evidence, the five circumstances adopted during the trial unfortunately fails to convince the Court that petitioners are guilty of hazing.

Essentially, the prosecution failed to establish the elements of hazing under RA 8049, to wit:

> 1. That there is an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization;

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[61] *Id.* at 678.
[62] *Id.* at 679.
[63] *Villarba v. Court of Appeals*, G.R. No. 227777, June 15, 2020.
[64] See Section 14(2), Article III, CONSTITUTION.
[65] *Aliling v. People of the Philippines*, *supra* note 35.

2. That there must be a recruit, neophyte or applicant of the fraternity, sorority or organization; and

3. That the recruit, neophyte or applicant is placed in some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and other similar tasks or activities or otherwise subjecting him to physical or psychological suffering or injury.[66]

The testimony of SPO2 Patambang and the circumstances adopted during the trial hardly demonstrate the concurrence of the above-mentioned elements. They are insufficient to support the conclusion that Samparada was subjected to hazing and that petitioners, to the exclusion of others, are the persons liable for his death. To the Court, the evidence of the prosecution falls short of providing a combination of circumstances sufficient to produce a conviction beyond reasonable doubt.

The first element, i.e., that there is an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization, was not established.

First, other than SPO2 Patambang's bare testimony that petitioners admitted to him during the conduct of the investigation that a hazing incident occurred in a field located at Area C, Dasmariñas, Cavite, the prosecution presented no evidence to prove that hazing actually took place.

It is significant to note that petitioners' alleged admission of the conduct of hazing did not include an admission of their involvement therein. There was also no disclosure by petitioners of the name of the *fraternity, sorority, or organization* that conducted the alleged hazing. Notably, SPO2 Patambang and other police officers had to conduct further investigation at the Lyceum University where the victim was enrolled. Given the limited information on hand, this was, of course, a prudent action on the part of the police officers as it was necessary for them to establish with moral certainty that Samparada's death was caused by hazing and that petitioners are the persons responsible therefor.

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[66] *Id.* at 663.

Second, the assessment of the hospital staff and the police officers that the injuries sustained by Samparada were caused by hazing remained inconclusive.

Apart from the prosecution's testimonial evidence, the CA considered the following pieces of documentary evidence in affirming the conviction of petitioners for hazing:

1. *Pinagsamang Sinumpaang Salaysay* dated October 22, 2009 of SPO2 Patambang, PO3 Mendoza, and PO3 Torres stating that they were tasked to investigate after a victim of hazing was brought by petitioners to Estrella Hospital and that petitioners, from whom the police officers recovered a document with handwritten markings related to Tau Gamma Phi Fraternity, told the police officers that the hazing occurred in a field in Dasmariñas, Cavite;

2. Initial Investigation Report of SPO2 Patambang;

3. Spot Report dated October 22, 2009 of SPO2 Patambang;

4. Pictures of Samparada showing the injuries he sustained in his thighs and back;

5. Document containing handwritten notes saying "I love Tau Gamma Phi," "Tau Gamma Phi," "Tau Gamma Sigma," Mabuhay Lyceum of Phil. Univ.-CC," "TRISKELION," as well as different names including the name of Bartolome;

6. Photographs of petitioners; and

7. Medico-Legal Report No. A-438-09 dated November 4, 2009 executed by PCI Dr. Jonathan A. Serranillo (PCI Dr. Serranillo), the physician who conducted an autopsy of the body of Samparada.[67]

The medico-legal report indicated that the cause of death of Samparada was "BLUNT TRAUMATIC INJURIES TO THE HEAD AND LOWER EXTREMITIES." It also contained findings of "hematoma" on both of his thighs as well as "multiple abrasions" on his right arm. PCI Dr. Serranillo also found "subdural and subarachnoidal bleeding mostly noted at the left cerebral lobe" and "dural"

[67] *Rollo*, pp. 42-43.

discoloration/contusion at the posterior region of the left middle cranial fossa.[68]

Based on the medico-legal report and the pictures of Samparada showing the injuries he sustained on his thighs and back, the CA declared that the nature, location, and extent of his injuries clearly indicated that he was a victim of hazing.

The Court is not convinced.

While the aforementioned evidence may be indicative that Samparada was subjected to physical suffering, it does not preclude the possibility that the injuries were *not* caused by hazing. In other words, the testimonial evidence along with the medico-legal report and the other documents presented during the trial cannot stand to prove that there occurred an "*initiation rite or practice*" conducted by Tau Gamma Phi Fraternity "*as a prerequisite for admission into membership* [*therein*]" and that Samparada was a subject of such initiation rite or practice.

Third, the document allegedly seized by the police officers from Bartolome, although containing handwritten notes that included his name and markings related to Tau Gamma Phi Fraternity, does not necessarily establish his membership in the fraternity. Moreover, assuming that he indeed had some connection with Tau Gamma Phi Fraternity on the basis of the handwritten notes found in the document, such connection does not automatically mean membership. In fact the possibility that he was himself a mere recruit, neophyte, or applicant who sought admission into membership in Tau Gamma Phi Fraternity is not precluded.

It bears stressing that in the appreciation of circumstantial evidence, the rule is that the circumstances must be proved, and not themselves presumed.[69] In this case, the Court cannot automatically conclude Bartolome's membership in Tau Gamma Phi Fraternity based merely on the handwritten notes found on the document seized from him.

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[68] *Id.* at 43.

[69] *Franco v. People*, 780 Phil. 36, 52 (2016).

For the foregoing reasons, the Court finds a failure on the part of the prosecution to prove the presence of the first element of hazing, *i.e.* that Tau Gamma Phi Fraternity conducted an initiation rite or practice as a precondition for admission of recruits, neophytes, or applicants.

There is also a failure to establish the second element, i.e., that Samparada was a recruit, neophyte, or applicant of Tau Gamma Phi Fraternity.

Such failure likewise connotes the absence of the third element, i.e., that Samparada was placed in some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and other similar tasks or activities or otherwise subjecting him to physical or psychological suffering or injury.

Considering the failure to establish that there occurred an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization, there is no *recruit, neophyte or applicant* of such fraternity, sorority, or organization to speak of. Hence, the second element of the offense of hazing is absent.

Even assuming *arguendo* that petitioners were members of Tau Gamma Phi Fraternity and that "an initiation rite or practice as a prerequisite for admission into membership" in the fraternity actually took place, the second element of the offense is still absent due to the prosecution's failure to establish the presence of a "*recruit, neophyte or applicant*" of Tau Gamma Phi Fraternity.

It bears stressing that nobody testified that Samparada was a recruit, neophyte, or applicant of Tau Gamma Phi Fraternity. Petitioners' supposed membership in Tau Gamma Phi Fraternity does not necessarily prove that Samparada was a recruit, neophyte, or applicant of the organization.

With the prosecution's failure to prove the presence of the second element of hazing, the absence of the third element becomes readily apparent.

Regrettably, there is a dearth of evidence to establish that Samparada applied for membership into or was recruited by Tau Gamma Phi Fraternity, and that as a prerequisite for his admission, Tau Gamma Phi Fraternity, through petitioners, subjected him *"to some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and other similar tasks or activities"* or otherwise *"to physical or psychological suffering or injury."* Simply put, the failure of the prosecution to prove that Samparada was a recruit, neophyte, or applicant of Tau Gamma Phi Fraternity prevents the Court from concluding that the injuries he sustained were due to the fraternity's hazing-related activities.

In addition, the mere presence of petitioners at the time Samparada fell unconscious in the house of Ivan as well as their subsequent act of accompanying Samparada to the hospital falls short of proving that they, to the exclusion of all others, are the persons responsible for the injuries sustained by Samparada.

It must be emphasized that the circumstantial evidence must exclude the possibility that some other person has committed the crime.[70] Thus, the Court declared in *Franco v. People*:[71]

> x x x In the appreciation of circumstantial evidence, the rule is that the circumstances must be proved, and not themselves presumed. The circumstantial evidence must exclude the possibility that some other person has committed the offense charged.[72] (Emphasis omitted)

Unfortunately, the circumstantial evidence in this case hardly excludes the possibility that some other person or persons have caused the injuries sustained by Samparada. Furthermore, the adopted circumstances do not meet the requirement of being "*consistent with each other, consistent with the hypothesis that [petitioners are] guilty,*

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[70] *Lozano v. People*, 638 Phil. 582, 594 (2010).
[71] 780 Phil 36, 52 (2016).
[72] *Id.* at 52, citing *People v. Tinabe*, 644 Phil. 261, 281 (2010).

and at the same time inconsistent with the hypothesis that [they are] innocent."[73]

In sum, the circumstantial evidence presented by the prosecution has failed to establish the elements of hazing and to produce an unbroken chain that leads to one fair and reasonable conclusion pointing to petitioners, to the exclusion of others, as the persons liable for the death of Samparada. Hence, petitioners' conviction for violation of RA 8049 based on circumstantial evidence cannot be upheld.

At this point, the Court deems it apt to discuss its ruling in *Dungo, et al. v. People*[74] (*Dungo* case) *vis-à-vis* the ruling in the present case. The *Dungo case* was eloquently penned by then Associate Justice Jose C. Mendoza and also decided under the provisions of RA 8049.

The present case is similar to the *Dungo* case in that the trial court convicted therein accused, Dandy L. Dungo (Dungo) and Gregorio A. Sibal, Jr. (Sibal), based on circumstantial evidence. Dungo and Sibal were also the ones who brought the hazing victim, Marlon Villanueva (Villanueva), to the hospital.

However, in the *Dungo* case, the conviction of Dungo and Sibal was based on 16 circumstances. In the present case, the RTC and the CA relied merely on five circumstances. While conviction based on circumstantial evidence does not necessarily rest on the number of circumstances established during the trial, the five circumstances relied upon in this case, even if totally adopted by the Court, are not sufficient to prove the presence of the elements of hazing. Moreover, apart from the fact that only a handful of circumstances was proven, there was also a failure on the part of the prosecution to establish circumstances that occurred *before* and *during* the alleged hazing incident.

In stark contrast to the present case, the circumstances in the *Dungo* case overwhelmingly proved the elements of hazing. The prosecution produced an unbroken chain of circumstantial evidence sufficient to support the conviction of Dungo and Sibal for hazing under RA 8049. The 16 circumstances were as follows:

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[73] See note 49.

[74] *Dungo, et al. v. People, supra* note 55.

1. Marlon Villanueva is a neophyte of Alpha Phi Omega, as testified by his roommate Joey Atienza.

2. At around 3:00 o'clock in the afternoon of January 13, 2006, Sunga was staying at their *tambayan*, talking to her organization mates. Three men were seated two meters [a]way from her. She identified two of the men as appellants Sibal and Dungo, while she did not know the third man. The three men were wearing black shirts with the seal of the Alpha Phi Omega.

3. Later at 5:00 o'clock in the afternoon, two more men coming from the entomology wing arrived and approached the three men. Among the men who just arrived was the victim, Marlon Villanueva. One of the men wearing black APO shirts handed over to the two fraternity neophytes some money and told the men "*Mamalengke na kayo.*" He later took back the money and said, "*Huwag na, kami na lang.*"

4. One of the men wearing a black APO shirt, who was later identified as appellant Dungo, stood up and asked Marlon if the latter already reported to him, and asked him why he did not report to him when he was just at the *tambayan*. Dungo then continuously punched the victim on his arm. This went on for five minutes. Marlon just kept quiet with his head bowed down. Fifteen minutes later, the men left going towards the Entomology wing.

5. The deceased Marlon Villanueva was last seen alive by Joey Atienza at 7:00 in the evening of 13 January 2006, from whom he borrowed the shoes he wore at the initiation right *[sic]*. Marlon told Joey that it was his "finals" night.

6. On January 13, 2006 at around 8:30 to 9:00 o'clock in the evening, Susan Ignacio saw more than twenty (20) persons arrive at the Villa Novaliches Resort onboard a jeepney. She estimated the ages of these persons to be between 20 to 30 years old. Three (3) persons riding a single motorcycle likewise arrived at the resort.

7. Ignacio saw about fifteen (15) persons gather on top of the terrace at the resort who looked like they were praying. Later that evening, at least three (3) of these persons went to her store to buy some items. She did not know their names but could identity *[sic]* their faces. After she was shown colored photographs, she pointed to the man later identified as Herald Christopher Braseros. She also pointed out the man later identified as Gregorio Sibal, Jr.

8. Donato Magat, a tricycle driver plying the route of Pansol, Calamba City, testified that around 3:00 o'clock in the morning of January 14, 2006, he was waiting for passengers at the corner of Villa Novaliches Resort when a man approached him and told him that someone inside the resort needed a ride. Magat then

went to the resort and asked the two (2) men standing by the gate who will be riding his tricycle.

9. The four (4) men boarded his tricycle but Magat noticed that when he touched the body of the man who was being carried, it felt cold. The said man looked very weak like a vegetable.

10. Seferino Espina y Jabay testified that he worked as a security guard at the J.P. Rizal Hospital and was assigned at the emergency room. At around 3:00 o'clock in the early morning of January 14, 2006, he was with another security guard, Abelardo Natividad and hospital helper Danilo Glindo a.k.a. Gringo, when a tricycle arrived at the emergency room containing four (4) passengers, excluding the driver. He was an arm's length away from said tricycle. He identified two of the passengers thereof as appellants Dungo and Sibal. Espina said he and Glindo helped the passengers unload a body inside the tricycle and brought it to the emergency room.

11. Afterwards, Espina asked the two men for identification cards. The latter replied that they did not bring with them any I.D. or wallet. Instead of giving their true names, the appellants listed down their names in the hospital logbook as Brandon Gonzales y Lanzon and Jericho Paril y Rivera. Espina then told the two men not to leave, not telling them that they secretly called the police to report the incident which was their standard operating procedure when a dead body was brought to the hospital.

12. Dr. Ramon Masilungan, who was then the attending physician at the emergency room, observed that Marlon was motionless, had no heartbeat and already cyanotic.

13. Dr. Masilungan tried to revive Marlon for about 15 to 20 minutes. However, the latter did not respond to resuscitation and was pronounced dead. Dr. Masilungan noticed a big contusion hematoma on the left sides of the victim's face and several injuries on his arms and legs. He further attested that Marlon's face was already cyanotic.

14. When Dr. Masilungan pulled down Marlon's pants, he saw a large contusion on both legs which extended from the upper portion of his thigh down to the couplexial portion or the back of the knee.

15. Due to the nature, extent and location of Marlon's injuries, Dr. Masilungan opined that he was a victim of hazing. Dr. Masilungan is familiar with hazing injuries, having undergone hazing when he was a student and also because of his experience treating victims of hazing incidents.

16. Dr. Roy Camarillo, Medico-Legal Officer of the PNP Crime Laboratory in Region IV, Camp Vicente Lim, Canlubang, Calamba City, testified that he performed an autopsy on the cadaver of the victim on January 14, 2006; that the victim's cause of death was blunt head trauma. From 1999 to 2006, he was able

> to conduct post-mortem examination of the two (2) persons whose deaths were attributed to hazing. These two (2) persons sustained multiple contusions and injuries on different parts of their body, particularly on the buttocks, on both upper and lower extremities. Both persons died of brain hemorrhage. Correlating these two cases to the injuries found on the victim's body, Dr. Camarillo attested that the victim, Marlon Villanueva, sustained similar injuries to those two (2) persons. Based on the presence of multiple injuries and contusions on his body, he opined that these injuries were hazing-related.[75]

In the *Dungo* case, there is no question that the first two elements of hazing were present. It was established during the trial that the fraternity called Alpha Phi Omega was conducting an initiation rite and that Villanueva was one of the neophytes that sought admission into membership in the fraternity.

There is likewise no doubt as to the presence of the third element of hazing in the *Dungo* case. The Court found that Dungo and Sibal took part in the hazing conducted by Alpha Phi Omega and, together with their fellow fraternity officers and members, inflicted physical injuries upon Villanueva as a requirement of his admission to the fraternity.[76]

In the present case, nobody testified that Samparada was a recruit, neophyte, or applicant of Tau Gamma Phi Fraternity. Moreover, the prosecution merely presumed that Samparada was a victim of Tau Gamma Phi Fraternity's hazing-related activities on the basis of the document seized from Bartolome that contained markings related to the fraternity, among others.

Interestingly, apart from the circumstantial evidence, the Court in the *Dungo* case also considered the presumption in paragraph 6, Section 4 of RA 8049 which provides that the presence of any person during a hazing is *prima facie* evidence of his participation as principal, unless he prevented the commission of the punishable acts.[77] This provision is unique because a disputable presumption arises from the mere presence of the offender during the hazing, which can be rebutted by proving that the accused took steps to prevent the commission of hazing.[78] Thus, a person who is found to be present in the commission of hazing may be

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[75] *Id.* at 680-682.
[76] *Id.* at 683.
[77] *Id.* at 674.
[78] *Id.*

convicted as a principal thereof when he fails to rebut the *prima facie* presumption found under paragraph 6, Section 4 of RA 8049.

The *prima facie* presumption under paragraph 6, Section 4 of RA 8049, however, finds no application in the present case. To begin with, the prosecution failed to prove that a hazing incident occurred. Thus, even if petitioners were proven to be present when Samparada suffered the injuries that led to his death, there can be no *prima facie* presumption of their participation in the conduct of hazing. In other words, before the *prima facie* presumption can apply against petitioners, there is a need to first satisfy the elements of hazing which, unfortunately, the prosecution failed to do.

In fine, the totality of the circumstantial evidence in this case failed to establish with moral certainty that Samparada is a victim of hazing and that petitioners are the persons responsible for his death. Specifically, the prosecution failed to show that Samparada's injuries which led to his death were inflicted upon by petitioners during an initiation rite carried out by Tau Gamma Phi Fraternity as a prerequisite for Samparada's admission into membership in the fraternity.

The Court reminds that it is the primordial duty of the prosecution to present its side with clarity and persuasion, so that conviction becomes the only logical and inevitable conclusion. It is required of the prosecution to justify the conviction of the accused with moral certainty. Upon the failure to meet this test, acquittal becomes the constitutional duty of the Court, lest its mind be tortured with the thought that it has imprisoned an innocent man for the rest of his life.[79]

The Court holds in high regard RA 8049 and the reason that it was signed into law:

> Hazing has been a phenomenon that has beleaguered the country's educational institutions and communities. News of young men beaten to death as part of fraternities' violent initiation rites supposedly to seal fraternal bond has sent disturbing waves to lawmakers. Hence, R.A. No. 8049 was signed into law on June 7, 1995. x x x
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> x x x x

[79] *People v. Mon*, G.R. No. 225778, November 21, 2018.

> R.A. No. 8049 is a democratic response to the uproar against hazing. It demonstrates that there must, and should, be another way of fostering brotherhood, other than through the culture of violence and suffering. The senseless deaths of these young men shall never be forgotten, for justice is the spark that lights the candles of their graves.[80]

Nevertheless, in any crime, the accused enjoys the constitutional presumption of innocence and his guilt must be proven beyond reasonable doubt in order to attain a conviction.

The police officers as well as the prosecution must be reminded that "through careful case-build up and proper presentation of evidence before the court, it is not impossible for the exalted constitutional presumption of innocence of any accused to be overcome and his guilt for the crime of hazing be proven beyond reasonable doubt. The prosecution must bear in mind the secretive nature of hazing, and carefully weave its chain of circumstantial evidence."[81]

Unfortunately, considering the failure of the prosecution's evidence to meet the required quantum of proof for the conviction of petitioners for violation of RA 8049, it is the constitutional duty of the Court to order the acquittal of petitioners.

The Court once again reminds:

> "[A]ccusation is not synonymous with guilt. The freedom of the accused is forfeited only if the requisite quantum of proof necessary for conviction be in existence. This, of course, requires the most careful scrutiny of the evidence for the State, both oral and documentary, independent of whatever defense is offered by the accused. Every circumstance favoring the accused's innocence must be duly taken into account. The proof against the accused must survive the test of reason. Strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the accused could be laid the responsibility for the offense charged."[82]

WHEREFORE, the petition is **GRANTED**. The Decision dated August 30, 2016 and the Resolution dated October 26, 2016 of the Court

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[80] *Dungo, et al. v. People*, *supra* note 55 at 683-684 (2015).

[81] *Id.*

[82] *People v. Fabito*, 603 Phil. 584, 611 (2009), citing *People v. Muleta*, 368 Phil. 451, 477 (1999).

of Appeals in CA-G.R. CR-HC No. 07930 is hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioners Carlos Paulo Bartolome *y* Ilagan and Joel Bandalan *y* Abordo are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt for violation of Section 4(a) of Republic Act No. 8049.

The Director of the Bureau of Corrections is **ORDERED** to immediately cause the release of petitioners from detention, unless they are being held for some other lawful cause, and to inform the Court of his action within five (5) days from receipt of this Decision. A copy shall also be furnished to the Director General of Philippine National Police for his information.

Let an entry of final judgment be issued immediately.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

See separate Dissenting and Concurring Opinion

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

I join the Dissenting and Concurring Opinion of J. Leonen

RAMON PAUL L. HERNANDO
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice