



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

XXX256611,

Petitioner,

G.R. No. 256611

Members:

LEONEN, *SAJ.*, *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

- versus -

Promulgated:

OCT 12 2022

PEOPLE OF THE PHILIPPINES,
Respondent.

X- - - - - X

DECISION

LAZARO-JAVIER, *J.*:

The Case

This petition seeks to reverse the Decision¹ dated June 8, 2020 of the Court of Appeals in CA-G.R. CR No. 41696, finding petitioner XXX256611 guilty of violation of Section 5(e)(2),² Republic Act No. (RA) 9262 otherwise

¹ Penned by Associate Justice Victoria Isabel A. Paredes, and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Walter S. Ong, all members of the Fifth Division, *rollo*, pp. 37-48.

² SECTION 5. *Acts of Violence Against Women and Their Children.*- The crime of violence against women and their children is committed through any of the following acts:

x x x x

e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or

known as the “Anti-Violence Against Women and Their Children Act of 2004,” specifically, the deprivation or denial of support without the element of psychological violence. He was sentenced to six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum and ordered to pay a ₱300,000.00 fine. XXX256611 was directed to undergo a mandatory psychological counselling or psychiatric treatment and report compliance to the Regional Trial Court (RTC) – Branch 94, Quezon City.

Antecedents

Under Information dated October 31, 2014, XXX256611 was charged with violation of Section 5(i)³ of RA 9262, *viz.*:

That on or about the year 2009 and continuously up to the present, in Quezon City, Philippines, the above-named accused, did then and there willfully, unlawfully, and feloniously cause psychological and emotional anguish upon the person of one [AAA256611], his common law wife, with whom he has two children by then and there depriving her and their children financial support, thereby causing complainant emotional and psychological anguish, which acts debase, demean[,] and degrade her dignity and human right as a woman, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.⁴

The case was raffled to the RTC – Branch 94, Quezon City.⁵ On arraignment, XXX256611 pleaded “not guilty.”⁶

intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:

x x x x

(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

x x x x

³ SECTION 5. *Acts of Violence Against Women and Their Children.*- The crime of violence against women and their children is committed through any of the following acts:

x x x x

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or access to the woman's child/children

⁴ *Rollo*, pp. 37-38.

⁵ *Id.* at 286.

⁶ *Id.* at 38.

AAA256611⁷ testified that XXX256611 was her live-in partner from 1999 to 2002.⁸ They had two (2) children namely BBB256611 and CCC256611 who were 15 and 11 years old, respectively when the case was filed.⁹ She “felt mad”¹⁰ at XXX256611 because ever since BBB256611 and CCC256611 started going to school, *i.e.* years 2005 and 2009, respectively, he had failed to give them financial support.¹¹ On August 28, 2008, she and XXX256611 had an agreement where the latter promised to give a monthly allowance of ₱1,000.00 for their two (2) children. XXX256611, however, failed to consistently comply with his promise.¹² He only sent money intermittently, sometimes every three (3) months.¹³ In 2010, he totally stopped giving any financial support to them.¹⁴

Sometime in November 2013, she found out that XXX256611 optionally retired as Senior Police Officer 2 of the Philippine National Police, Surigao, Del Sur, Mindanao. In May 2014, XXX256611 promised her, BBB256611, and CCC256611 that he would financially support them as soon as he received his retirement benefits. In June 2014, he received a lump-sum of ₱761,206.68 as retirement benefits,¹⁵ and ₱953,685.99 as commutation of his leave credits.¹⁶ Also, he had been receiving a monthly pension of ₱21,144.63.¹⁷ But still, XXX256611 did not give them even a single centavo.¹⁸

She also presented a Letter dated June 12, 2014 allegedly written by her children BBB256611 and CCC256611 addressed to their father “*Pa kahit ngayon lang maging tatay ka naman sana para sa amin, kahit lang sa natatanggap mo, as well as kasya sa aming dalawa (sic) xxx Sabi mo magbibigay ka pag nakatanggap ka, pero wala. Sa totoo lang wala kang isang salita. xxx*”¹⁹ BBB256611 and CCC256611, however, did not testify in court.

⁷ The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to R.A. No. 760, “An Act providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”; R.A. No. 9262, “An Act Defining Violence Against Women and their Children Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes”; Section 40 of A.M. No. 04-10-11 SC known as the “Rule on Violence Against Women and their Children”, effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

⁸ TSN, June 6, 2017, p. 4.

⁹ *Id.* at 5.

¹⁰ *Id.* at 12.

¹¹ *Id.*

¹² *Rollo*, pp. 41–42.

¹³ TSN, June 6, 2017, p. 20.

¹⁴ *Id.* at 21.

¹⁵ *Rollo*, p. 90.

¹⁶ *Id.* at 98.

¹⁷ *Id.* at 89.

¹⁸ TSN, June 6, 2017, p. 22.

¹⁹ *Rollo*, pp. 280–281.

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She emphasized that she had custody of BBB256611 and CCC256611 and solely provided for their needs by also working as a police officer.²⁰

In his defense, XXX256611 claimed he was financially supporting BBB256611 and CCC256611 from the time they were born until 2012.²¹ Per his agreement with AAA256611 in 2008, he complied with his promise to give a monthly allowance of ₱1,000.00 to BBB256611 and CCC256611 through remittances via *Cebuana Lhuiller*. He also gave ₱4,000.00 every month to AAA256611's sister for serving as the nanny of his children while AAA256611 was working.²²

On August 3, 2012, a truck hit him while he was on his way to work. He was confined in the hospital for 40 days for which he incurred around ₱1,400,000.00 for medical expenses per hospital records and receipts presented in court.²³ The truck company only paid him ₱50,000.00 as damages.²⁴ As a result of the accident, he lost one of his legs and his left hand became non-functional.²⁵

In order to pay his hospital bills, EEE256611, his mother, mortgaged a land for ₱300,000.00 with 15% interest.²⁶ In 2012, he also secured two (2) separate loans in the total amount of ₱700,000.00 payable within five (5) years.²⁷ While he received ₱761,206.68 as retirement benefits,²⁸ and ₱953,685.99 as commutation of his leave credits, these amounts were used to pay off his loans and the fee of a "fixer" who settled the loans.²⁹ As for the monthly pension of ₱21,000.00 which he started receiving since November 2016,³⁰ he had been using it for his maintenance, food, and travel expenses from Mindanao to Manila during the hearings of the present case.³¹ In 2017, he was diagnosed with stage three (3) prostate cancer.³²

EEE256611 corroborated that XXX256611 was giving financial support to BBB256611 and CCC256611. It was only after he met an accident in 2012 where he became physically disabled, and now cancer-stricken, that he stopped giving them money.³³

²⁰ *Id.* at 16.

²¹ *Id.* at 17.

²² TSN, November 21, 2017, p. 26; *id.* at 149–250.

²³ *Id.* at 12.

²⁴ *Id.* at 27.

²⁵ *Id.* at 120.

²⁶ *Id.* at 14.

²⁷ *Id.* at 42.

²⁸ *Id.* at 90.

²⁹ *Id.* at 42.

³⁰ TSN, November 21, 2017, *id.* at 28.

³¹ *Id.* at 22.

³² *Id.* at 33.

³³ TSN, January 16, 2018, *id.* at 6.

The Ruling of the RTC

By Decision³⁴ dated April 20, 2018, the trial court rendered a verdict of conviction. The trial court found AAA256611's testimony credible. On the other hand, XXX256611 merely alleged that he continuously gave money to BBB256611 and CCC256611 from the moment they were born until he figured in an accident in 2012 but failed to adduce sufficient evidence in support thereof.³⁵

XXX256611 admitted he received ₱761,206.68 as retirement benefits and ₱953,685.99 as accumulated leave credits yet "he did not spare a single centavo" for his children. Also, he had been receiving ₱21,000.00 monthly pension but, still, failed to give any financial support for them. This financial deprivation surely caused emotional anguish to AAA256611, BBB256611, and CCC256611³⁶ as stated in the letter that BBB256611 and CCC256611 penned for their father.³⁷

The dispositive portion reads, *viz.*:

WHEREFORE, premises considered, judgment is hereby rendered finding accused [XXX256611] guilty beyond reasonable doubt of [v]iolation of Section 5(i)[,] Republic Act No. 9262 otherwise known as the "Anti-Violence Against Women and their Children Act of 2004" and is hereby sentenced to an indeterminate penalty of Two (2) years, Four (4) months and One (1) day of *prision correccional* as minimum, to Six (6) years and One (1) day of *prision mayor* as maximum and to pay a fine of One Hundred Thousand Pesos (P100,000.00) plus costs.

Accused is further ordered to undergo a mandatory psychological counseling at the SSDD, Quezon City and to submit proof of compliance thereof to the court.

SO ORDERED.³⁸

The Proceedings before the Court of Appeals

On appeal, XXX256611 faulted the trial court for rendering a verdict of conviction. He claimed that the prosecution failed to show AAA256611, BBB256611, and CCC256611 suffered emotional and psychological anguish.³⁹ Also, the letter allegedly penned by BBB256611 and CCC256611 should not be given evidentiary weight since it had not been authenticated.⁴⁰

³⁴ *Rollo*, pp. 286–293.

³⁵ *Id.* at 292.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 293.

³⁹ *Id.* at 282.

⁴⁰ *Id.* at 277.

BBB256611 and CCC256611 were not even presented in court to confirm that they were the ones who wrote the letter.

On the other hand, the Office of the Solicitor General (OSG), through Assistant Solicitor General Eric Remegio O. Panga and State Solicitor Jennifer P. Hernandez, countered that the prosecution adduced sufficient evidence showing that XXX256611 committed economic abuse against AAA256611, BBB256611, and CCC256611. The letter to XXX256611 revealed that despite the lapse of many years, he did not exert any effort to support his children. He had been promising them support but repeatedly reneged on his obligation.⁴¹

The Ruling of the Court of Appeals

In its assailed Decision⁴² dated June 8, 2020, the Court of Appeals affirmed with modification, finding XXX256611 liable for violation of Section 5(e)(2),⁴³ RA 9262.

It agreed with the trial court that XXX256611 deprived BBB256611 and CCC256611 financial support which amounted to economic abuse against women and children. But it found that the prosecution failed to show that such deprivation caused AAA256611, BBB256611, or CCC256611 any mental or emotional anguish. What the prosecution proved was: a) XXX256611 and AAA256611 had a romantic relationship and bore children BBB256611 and CCC256611; b) XXX256611 acknowledged he is the biological father of BBB256611 and CCC256611; and c) XXX256611 failed to provide support for his children. Thus, XXX256611 was guilty of Section 5(e)(2) of RA 9262 or deprivation or denial of support without the element of psychological violence. Under the variance doctrine, XXX256611 may still be liable for violation of Section 5(e)(2) of RA 9262 which allows the conviction of an accused for a crime proved which is different from, but necessarily included, in the crime charged.⁴⁴

⁴¹ *Id.* at 302.

⁴² *Id.* at 37-48.

⁴³ SECTION 5. *Acts of Violence Against Women and Their Children.*- The crime of violence against women and their children is committed through any of the following acts:

x x x x

e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:

x x x x

(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

x x x x

⁴⁴ *Rollo*, p. 46.

The *fallo* reads, thus:

WHEREFORE, the appeal is **DENIED**. The *Decision dated April 20, 2018*, issued by the Regional Trial Court, Branch 94, Quezon City, in Criminal Case No. R-QZN-15-03541-CR finding accused-appellant guilty beyond reasonable doubt of violating Section 5 (i) of Republic Act No. 9262, otherwise known as the “Anti-Violence Against Women and Their Children Act of 2004,” is hereby **MODIFIED** in that accused-appellant is hereby found **GUILTY** beyond reasonable doubt of violating Section 5 (e) (2), Republic Act No. 9262. Accused-appellant is hereby sentenced to: (a) suffer the penalty of imprisonment of six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum; (b) pay a fine in the amount of P300,000.00; and (c) to undergo a mandatory psychological counselling or psychiatric treatment and report compliance to the Regional Trial Court, Branch 94, Quezon City.

SO ORDERED.⁴⁵

XXX256611’s motion for reconsideration was denied under Resolution⁴⁶ dated February 23, 2021.

The Present Petition

XXX256611 now prays anew for his acquittal. He asserts that he did not willfully nor deliberately deprive financial support to AAA256611, BBB256611, or CCC256611. While he received some benefits from his retirement, he used the proceeds to defray the medical bills he incurred following his accident in 2012, his loans, and his daily expenses.⁴⁷ As a result of the accident, he can no longer find another job because he lost his leg and his left hand was no longer functioning. At present, he is suffering from stage three (3) prostate cancer.

In compliance with Resolution⁴⁸ dated December 2, 2021, the People through the OSG filed its Comment.⁴⁹ It reiterates that XXX256611 refused to give financial support to his children despite having the means to do so. AAA256611 has been solely responsible in providing the emotional and financial needs of BBB256611 and CCC256611⁵⁰ which, in turn, brought pain and anxiety to the children.⁵¹ As indicated in the letter of BBB256611 and CCC256611 to XXX256611, he kept on promising that he would send money but failed to make good of his promise.⁵²

⁴⁵ *Id.* at 47–48.

⁴⁶ *Id.* at 50–53.

⁴⁷ *Id.* at 24–25.

⁴⁸ *Id.* at 324.

⁴⁹ *Id.* at 330–338.

⁵⁰ *Id.* at 335.

⁵¹ *Id.*

⁵² *Id.*

Issue

Did the Court of Appeals err in finding XXX256611 guilty for violation of Section 5(e)(2), RA 9262?

Ruling

We acquit.

Section 5(e)(2) of RA 9262 penalizes the acts of:

(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the **purpose or effect of controlling or restricting the woman's or her child's movement or conduct**:

x x x x

(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

x x x x

(Emphases supplied)

In the recent case of *Acharon v. People*,⁵³ the Court *En Banc* decreed that **mere denial** of financial support is **not enough** for a prosecution of violation of Section 5(e) of RA 9262. The Court, thus, abandoned the rulings in *Melgar v. People*⁵⁴ and *Reyes v. People*⁵⁵ where these cases held that denial of financial support, *by itself*, was already sufficient to make a person liable for violation of Section 5(e). *Acharon* emphasized that the language of Section 5(e) is that: the denial of financial support, to be punishable, must have the “**purpose or effect of controlling or restricting the woman's... movement or conduct.**” The use of the word “deprive” connotes **willfulness and intention**. Thus, the **willful** deprivation of financial support, therefore, is the *actus reus* of the offense, while the *mens rea* is the intention to **control or restrict the woman's or her children's conduct**.

⁵³ G.R. 224946, November 7, 2021.

⁵⁴ 826 Phil. 177 (2018).

⁵⁵ G.R. No. 232678, July 3, 2019.

Further, *Acharon* ordained that while Sections 5(e) and 5(i) deal with denial or deprivation of financial support, these separate provisions punish different things. Hence, the variance doctrine is inapplicable. The Court clarified, thus:

Section 5(e) punishes the deprivation of financial support **for the purpose of controlling the woman or to make her lose her agency**. Section 5(i), on the other hand, punishes the **willful infliction of mental or emotional anguish, or public ridicule or humiliation** upon the woman by denying her financial support that is legally due her. Thus, while the portions of Sections 5(e) and 5(i) that deal with denial or deprivation of financial support may seem similar at first glance, they, in reality, deal **with different matters and penalize distinct acts**. As the Court comes to the realization that the said sections punish different things, the Court, therefore, **abandons *Melgar and Reyes* to the extent that they hold that the variance doctrine may be applied for Sections 5(e) and 5(i) of R.A. 9262**.

Finally, the Court clarifies that in either case, whether the accused is prosecuted under Section 5(e) or Section 5(i), **the mere failure to provide financial support is not enough**. In other words, neither Section 5(e) nor 5(i) can be construed to mean that mere failure or inability to provide support is sufficient for a conviction. (Emphases supplied; citations omitted)

Acharon then laid down the elements for violation of Section 5(e) of RA 9262, viz.:⁵⁶

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) The **offender either (a) deprived** or (b) threatened to deprive the woman or her children **of financial support** legally due her or her financial support;
- (4) The offender committed any or all of the acts under the 3rd element **for the purpose of controlling or restricting the woman's or her child's movement or conduct**. (Emphases supplied)

Here, there is no dispute as to the first and second elements of Section 5(e) of RA 9262. XXX256611 had a romantic relationship with AAA256611, and together, they bore children BBB256611 and CCC256611. XXX256611 acknowledged he is the biological father of these children.⁵⁷ We, thus, focus on the third and fourth elements of the crime.

⁵⁶ Supra note 53.

⁵⁷ *Rollo*, p. 88.

As to the third element, although XXX256611 eventually failed to provide financial support and admitted that “he can barely support himself, let alone, BBB256611 and CCC256611,”⁵⁸ mere failure to provide financial support will not rise to the level of criminal liability under Section 5(e).⁵⁹

On this score, XXX256611 testified that on August 3, 2012, he got hit by a truck while he was on his way to work. He got confined in the hospital for 40 days for which he incurred around ₱1,400,000.00 for medical expenses as evidenced by medical records and receipts.⁶⁰ As a result of the accident, he lost one of his legs and his left hand became non-functional.⁶¹

To pay for his hospital bills, EEE256611, his mother, mortgaged a land for ₱300,000.00 with 15% interest.⁶² In 2012, he also secured two (2) separate loans in the total amount of ₱700,000.00 payable within five (5) years.⁶³ While he received ₱761,206.68 as retirement benefits,⁶⁴ and ₱953,685.99 as commutation of his leave credits, these amounts were used to pay off his loans.⁶⁵ As for the monthly pension of ₱21,000.00, he has been using it for his maintenance for his stage three (3) prostate cancer, for his food, and for his travel expenses from Mindanao to Manila to attend the hearings of the present case.⁶⁶ He could no longer work to earn a living due to his physical disability and cancer.

The prosecution did not refute the foregoing testimony nor did the trial court or the Court of Appeals make any contrary factual findings. Hence, we accord weight and credence to petitioner’s testimony on his accident, the consequent amputation of his leg and hospital expenses he incurred, the mortgage of his mother’s properties just to help pay off his hospital expenses, and the meager amount he received as monthly pension, a big portion of which goes to his own subsistence and expenses he had to incur to attend the hearings of this criminal case in Manila.

In other words, he did not deliberately choose not to give support to his children; it was rather the serious accident he figured in that has totally hindered his capacity to do so.⁶⁷ Notably, neither the courts below nor the People refuted this. In fine, XXX256611 is cleared of any malicious intent when he failed to give financial support to his children BBB256611 and CCC256611.

⁵⁸ *Id.* at 284.

⁵⁹ *Supra* note 53.

⁶⁰ TSN, November 21, 2017, p. 12; *Rollo*, pp. 149-250.

⁶¹ *Id.* at 120.

⁶² *Id.* at 14.

⁶³ *Id.* at 42.

⁶⁴ *Id.* at 90.

⁶⁵ *Id.* at 42.

⁶⁶ TSN, November 21, 2017, p. 22.

⁶⁷ See *XXX v. People*, G.R. No. 252087, February 10, 2021.

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Next, under the fourth element, the prosecution must establish that the willful denial or refusal of financial support is **for the purpose of controlling or restricting the woman's and/or her children's actions or decisions.**

Here, records are devoid of any factual allegation that XXX256611 denied financial support for the purpose of controlling the actions or movements of AAA256611, BBB256611, or CCC256611 to make them lose their agency. The prosecution, thus, failed to prove the requisite *actus reus* and *mens rea* under Section 5(e)(2) of RA 9262.

In *Acharon*, the Court ruled that Christian Acharon cannot be held liable for violation of Section 5(e) in the absence of the third and fourth elements. There is no proof that he **deliberately refused** to give support in order to **control his wife's behavior or actions.** The evidence presented by the prosecution only established that he *failed* or was *unable* to provide financial support which is not enough to convict under the law, as in this case.

Meanwhile, Section 5(i) of RA 9262 penalizes a form of psychological violence inflicted on victims who are women and children through the following acts:

x x x x

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and *denial of financial* support or custody of *minor children* or access to the woman's child/children.

Similar to Section 5(e), **mere denial** of financial support is not enough to support a conviction for violation of Section 5(i) of RA 9262. Evidence should show that the accused **willfully or consciously** withheld financial support due to the offended party, *i.e.* the woman and/or her child or children, **for the purpose of inflicting mental or emotional anguish.**⁶⁸ Thus, the elements of violation of Section 5(i) are:

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offended, or is a woman with whom the offended has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) **The offender willfully refuses to give or consciously denies the woman financial support** that is legally due her; and

⁶⁸ Supra note 53.

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- (4) The offender denied the woman the financial support **for the purpose of causing the woman and/or her child mental or emotional anguish.**⁶⁹ (Emphases supplied)

Still in *Acharon*, the Court acquitted the accused of violation of Section 5(i) for failure of the prosecution to prove that a) he willfully refused to provide financial support to his wife; and b) such denial to provide financial support was intended to cause his wife mental or emotional anguish. The Court elucidated, thus:

In order for criminal liability to arise under Section 5(i) of -R.A. 9262, insofar as it deals with “denial of financial support,” there must, therefore, be evidence on record that the accused willfully or consciously withheld financial support *legally due* the woman for the purpose of inflicting mental or emotional anguish upon her. In other words, the *actus reus* of the offense under Section 5(i) is the **willful denial of financial support**, while the *mens rea* is the **intention to inflict mental or emotional anguish upon the woman. Both must thus exist and be proven in court before a person may be convicted of violating Section 5(i) of R.A. 9262.**

x x x x

Applying the foregoing discussion to the facts of the present case, the Court finds that Acharon is not guilty of violating Section 5(i) of R.A. 9262 for the failure of the prosecution to establish the third and fourth elements of the crime. The Court finds him innocent, for there is undenied evidence that Acharon tried, as he successfully did for a time, to provide financial support. He testified under oath that he failed to continue providing support only when his apartment in Brunei was razed by fire, and when he met a vehicular accident there. There is also no dispute that he had already paid Php71,000.00 out of the Php85,000.000 of the debt that *the spouses* – not the husband alone – were obligated to pay from their community property.

While Acharon eventually failed to continue providing financial support, this, however, is not enough to support a conviction under Section 5(i) of R.A. 9262. **Again, to be convicted under Section 5(i), the evidence must establish beyond reasonable doubt that the accused intended to cause the victim mental or emotional anguish, or public ridicule or humiliation through the denial of – not the mere failure or inability to provide – financial support, which thereby resulted into psychological violence.** As the prosecution failed to establish that fact, *i.e.* willful refusal to provide financial support, then Acharon cannot be held guilty of violating Section 5(i) of R.A. 9262. (Emphases supplied)

Here, no evidence was adduced showing such deprivation was aimed to caused AAA256611, BBB256611, or CCC256611 any mental or emotional anguish. More, the prosecution failed to show that XXX256611 specifically chose such act of depriving financial support as a means to inflict mental or emotional suffering on AAA256611, BBB256611, or CCC256611. AAA256611 also failed to present details of her personal experiences which

⁶⁹ *Id.*

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supposedly caused her mental or emotional anguish as a result of XXX256611's inability to financially support their children. Her allegation that she "felt mad" when XXX256611 failed to financially support BBB256611 and CCC256611 when they started going to school did not equate to such mental or emotional anguish within the contemplation of the law.

As for the purported letter dated July 12, 2014 **allegedly** penned by BBB256611 and CCC256611, being unauthenticated, the same cannot be given evidentiary weight to establish the supposed mental and emotional suffering of these children. As it was, both BBB256611 and CCC256611 did not testify to confirm the authenticity of the said letter. Nor did AAA256611 testify that she actually saw her children write it or that her children, at the very least, confided to her that they wrote the said letter and the same were intended for their father.⁷⁰

All told, XXX256611's conviction for violation of Section 5(e)(2) of RA 9262 should be reversed and set aside.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated June 8, 2020 and Resolution dated February 23, 2021 of the Court of Appeals in CA-G.R. CR No. 41696 are **REVERSED** and **SET ASIDE**. Petitioner XXX256611 is **ACQUITTED** in Criminal Case No. R-QZN-15-03541-CR. Let an entry of final judgment be issued immediately.

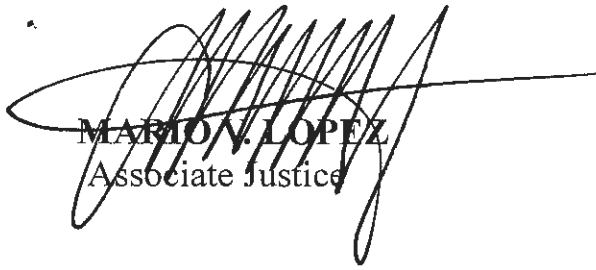
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice
Chairperson


⁷⁰ See *Maglasang v. People*, G.R. No. 248616, January 12, 2021.



MARIO V. LOPEZ
Associate Justice



JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

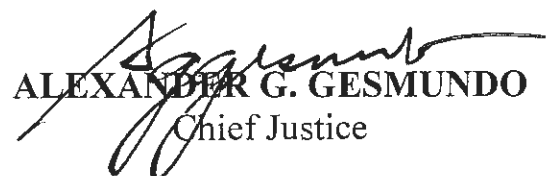
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above 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

