

THIRD DIVISION

G.R. No. 255466 –BBB255466,<sup>1</sup> Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.

Promulgated:

NOV 27 2024

MISDCB-11

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CONCURRING OPINION

CAGUIOA, J.:

I concur.

The conviction of petitioner BBB255466 for one count of Acts of Psychological Violence under Section 5(i) of Republic Act No. 9262 and one count of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Article III, Section 5(b) of Republic Act No. 7610 should be affirmed.

I write this Concurring Opinion to emphasize that the present case provides the proper framework to determine the specific criminal intent under Section 5(i) of Republic Act No. 9262 when the acts complained of involve physical and verbal abuse.

The factual backdrop of the present case involves BBB255466 and his live-in partner, CCC<sup>2</sup>. They began their relationship in 2003 and have a child, AAA,<sup>3</sup> who was born on January 12, 2005. CCC testified that she suffered repeated abuse from XXX throughout their relationship. BBB255466 would hurt her both physically and verbally. In one incident, he threw a liquefied petroleum gas tank at her. There was also an instance where he chased her with a bolo and threatened to chop her into pieces. When CCC left BBB255466 and lived in La Trinidad, Benguet with their daughter, BBB255466 would often visit her and cause trouble in her boarding house by forcibly gaining access thereto and disturbing the peace of the other occupants of the boarding house. He would forcibly take custody of AAA, and would constantly demand money from CCC. BBB255466 would try to persuade CCC to get back together, but when she refused he would make verbal threats against her.

<sup>1</sup> In line with Amended Administrative Circular No. 83-2015 dated September 5, 2017, titled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances," the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



Notably, the acts alleged in the Information against BBB255466 and the evidence presented, primarily through the testimony of CCC were acts of physical and verbal abuse (i.e., hitting her, slapping and chasing her with a bolo, and threatening her with harm). These are acts which could also very well fall under Section 5(a) of Republic Act No. 9262, which refers to causing physical harm to the woman or her child, or Section 5(b) of the said law, which refers to threatening to cause the woman or her child physical harm. However, BBB255466 was not charged under Section 5(a) or (b), but under Section 5(i) of the law, viz.:

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:

- (a) Causing physical harm to the woman or her child;
- (b) Threatening to cause the woman or her child physical harm;
- (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. (Emphasis supplied)**

Section 5(i) differs from the other provisions in that it specifically requires that the accused had the intent to cause mental or emotional anguish, public ridicule, or humiliation to the woman or her child. It penalizes some form of psychological violence that are inflicted on victims who are women and children. The elements to prove a 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 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 causes on the woman and/or child mental or emotional anguish; and
4. The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.<sup>4</sup>

<sup>4</sup> *Dinamling v. People*, 761 Phil. 356, 373 (2015) [Per J. Peraltà, Third Division].

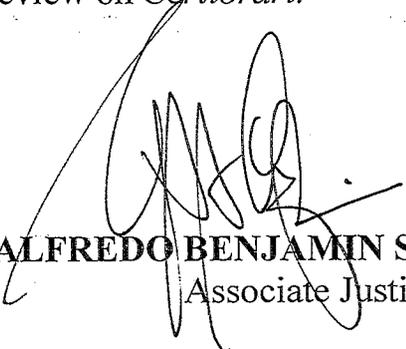


As ruled by the Court in the *En Banc* case of *Acharon v. People*<sup>5</sup> (*Acharon*), conviction under Section 5(i) requires proof that the accused **willfully or intentionally** caused mental or emotional anguish, public ridicule, or humiliation to the woman or her child. Psychological violence is the means employed by the perpetrator. While the discussion in *Acharon* focused on the specific act of denial of financial support, the entirety of Section 5(i) describes a crime that is *mala in se*, meaning that the accused's actions were chosen specifically to cause mental or emotional anguish, public ridicule, or humiliation. It is thus not enough for the woman to experience mental or emotional anguish. Proof of a victim's mental and emotional anguish does not automatically translate to guilt and liability of the accused under the law. Moreover, violence punished under Section 5(i) is not established by simply doing an act which will naturally cause emotional suffering to one's partner. It must be proven that the accused **consciously** committed the acts complained of **for the purpose** of inflicting mental and emotional anguish upon her.

Here, BBB255466 is guilty beyond reasonable doubt of psychological violence under Section 5(i) committed against CCC. CCC's clear and unequivocal testimony provided the details of how BBB255466's actions of repeated physical and verbal abuse were specifically intended to cause her mental and emotional suffering. The cycle of violence committed against CCC throughout their relationship created a perpetual state of fear and emotional turmoil in her. As aptly pointed out by the *ponencia*, BBB255466's actions were deliberate and not merely isolated incidents of abuse. The *cycle of fear* BBB255466 created kept CCC in a constant state of anxiety and hyper-vigilance not only for her own safety but also for their daughter AAA.

The foregoing factual circumstances properly fall within the coverage of Section 5(i) of Republic Act No. 9262. The prosecution in the present case established beyond reasonable doubt BBB255466's intent required under Section 5(i), i.e., that he intended to cause CCC mental or emotional anguish, public ridicule, or humiliation through his repeated verbal and physical abuse throughout their relationship and even after she left him.

In light of the foregoing, I concur with BBB255466's conviction and vote to **DENY** the Petition for Review on *Certiorari*.



ALFREDO BENJAMIN S. CAGUIOA  
Associate Justice

<sup>5</sup> 913 Phil. 731 (2021) [Per J. Caguioa, *En Banc*].