

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

XXX260547,*

Petitioner,

G.R. No. 260547

Present:

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

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

Promulgated:

NOV 26 2024

X-----X

DECISION

LOPEZ, J., *J.*:

This Court resolves a Petition for Review on *Certiorari*¹ seeking the reversal of the Decision² and Resolution³ of the Court of Appeals (CA), which denied the appeal of XXX260547 and affirmed his conviction for violation of Section 5(i) of Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004.

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610, 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.

¹ Rollo, pp. 29-44

² *Id.* at 8-21. The May 25, 2021 Decision in CA-G.R. CR No. 44485 was penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Victoria Isabel A. Paredes and Raymond Reynold R. Lauigan, Special Sixteenth Division, [REDACTED].

³ *Id.* at 23-25. The April 28, 2022 Resolution of the Court of Appeals in CA-G.R. CR No. 44485 was penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Victoria Isabel A. Paredes and Raymond Reynold R. Lauigan, Former Special Sixteenth Division, [REDACTED].

Facts

In an Information,⁴ XXX260547 was charged with violation of Section 5(i) of Republic Act No. 9262, the accusatory portion reads:

That starting in August 2014 and up to present in Brgy. [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused being the lawful husband of private complainant [AAA260547], did then and there, willfully, unlawfully and feloniously commit act or series of acts likely to cause said complainant to suffer psychological abuse by leaving said complainant in order to live with another woman (Melinda B. Lopez) and by totally neglecting to provide his two (2) children with the complainant the necessary support to the damage and prejudice of said [AAA260547].

Contrary to Section 5(i) in relation to Section 6 of [Republic Act No.] 9262 otherwise known as The Anti-Violence against Women and Children Act of 2004.⁵

On March 22, 2017, XXX260547 was arraigned and pleaded not guilty to the charge against him.⁶ After pre-trial,⁷ trial ensued.

The prosecution presented the following witnesses: (1) AAA260547; (2) Angelito Catubig (Angelito); and (3) CCC260547. The gist of their testimonies is as follows:

AAA260547 is XXX260547's wife and they have two children who are already of legal age.⁸ She testified that she is a resident of [REDACTED], Ilocos Sur, but from October 23, 2015 to December 23, 2015, she stayed in Brgy. [REDACTED], Pangasinan because her parents-in-law called for her.⁹ AAA260547 averred that since September 15, 2015, she was already aware that XXX260547 was living together with his mistress, Melinda Lopez (Melinda), and that the two had a child together whom they had baptized.¹⁰ She narrated that she was able to get copies of the birth and baptismal certificates of XXX260547 and Melinda's child. AAA260547 even saw XXX260547 together with Melinda holding their child.¹¹ AAA260547 narrated that these discoveries led her to file a complaint against XXX260547.¹² Finally, AAA260547 averred that she still loves XXX260547, and that she felt pain and wanted to commit suicide when she discovered that XXX260547 was having an affair and had a child with Melinda.¹³

⁴ Records, p. 1.

⁵ *Id.*

⁶ *Id.* at 80-81.

⁷ *Id.* at 89-90.

⁸ TSN, [AAA260547], September 27, 2017, pp. 4-5.

⁹ *Id.* at 5-6 and 14.

¹⁰ *Id.* at 6-10.

¹¹ *Id.* at 10.

¹² *Id.* at 6-8.

¹³ *Id.* at 12-13.

On cross-examination, AAA260547 admitted that she became aware that XXX260547 had a mistress because of gossips¹⁴ and she never underwent any psychological or psychiatric evaluation.¹⁵

Angelito is the Punong Barangay of Brgy. [REDACTED], Pangasinan.¹⁶ He testified that XXX260547 was from Brgy. [REDACTED] but he later moved to Brgy. [REDACTED].¹⁷ He narrated that AAA260547 went to his office on two occasions to complain against XXX260547.¹⁸

On cross-examination, Angelito admitted that he only occasionally sees XXX260547 in the barangay, since the latter is a seafarer who was usually out of the country for the better part of the year.¹⁹

The testimony of BBB260547, niece of XXX260547,²⁰ was presented by the prosecution as rebuttal evidence.²¹ BBB260547 testified that from 2015, XXX260547 has been living together with Melinda in Brgy. [REDACTED] and that they have two children together.²² She also narrated that she was with AAA260547 when the latter went to the municipal civil registrar. BBB260547 also saw the birth certificate of XXX260547's eldest child with Melinda.²³

For its part, the defense presented XXX260547 and CCC260547, as witnesses. Their testimonies can be summarized thusly:

XXX260547 narrated that he worked as a seaman for the past 32 years and his contract ended sometime in 2017.²⁴ He averred that while he was working, AAA260547 received 80% of his salary through the bank as mandated by the Philippine Overseas Employment Agency.²⁵ XXX260547 added that he and AAA260547 quarreled because AAA260547 was unable to save any money and she burdened their family with debt.²⁶ Due to this, he left their conjugal home in Ilocos Sur sometime in 2015 and has since lived by himself in a house given to him by his father in Brgy. [REDACTED].²⁷ He denied living with Melinda but acknowledged that he had a one-night stand with her.²⁸

¹⁴ *Id.* at 14–15.

¹⁵ *Id.* at 15.

¹⁶ TSN, Angelito Catubig, February 19, 2019, p. 5.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 5–6.

¹⁹ *Id.* at 9–10.

²⁰ TSN, [BBB260547], April 30, 2019, p. 3.

²¹ *Id.* at 2.

²² *Id.* at 4–5 and 11–12.

²³ *Id.* at 8.

²⁴ TSN, [XXX260547], March 18, 2019, p. 3–4.

²⁵ *Id.* at 5–6.

²⁶ *Id.* at 7–10.

²⁷ *Id.*

²⁸ *Id.* at 14–15.

On cross-examination, XXX260547 admitted that he had a child with Melinda who he supports financially.²⁹ However, he again denied that he was living with Melinda and asserted that Melinda and their child lived in Brgy. [REDACTED], while he resided in Brgy. [REDACTED].³⁰ XXX260547 acknowledged that as early as 2015, he already stopped sending money to AAA260547 as he no longer trusted her, and they were not communicating with each other.³¹ He also added that AAA260547 never asked for any money from him and at that time, their two children were already of legal age and are already gainfully employed.³²

CCC260547 is a barangay kagawad of Brgy. [REDACTED]³³ and a cousin of XXX260547.³⁴ He testified that XXX260547 has been residing in Brgy. [REDACTED] starting 2014 or 2015 when he separated from his wife.³⁵ CCC260547 added that from 2015 onwards, XXX260547 had been living by himself in Brgy. [REDACTED].³⁶

On cross-examination, CCC260547 admitted that Brgy. [REDACTED] and Brgy. [REDACTED] were adjoining barangays³⁷ and that he testified as a witness because XXX260547 asked him to do so.³⁸

On November 27, 2019, the RTC promulgated³⁹ a Decision,⁴⁰ the dispositive portion reads:

WHEREFORE, in view of the foregoing, accused [XXX260547] is found GUILTY beyond reasonable doubt of violation of Section 5(i) of Republic Act No. 9262 ("*Ani-Violence Against Women and their Children Act*") and is hereby sentenced to suffer an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

In addition to imprisonment, he shall:

- (a) pay a fine in the amount of One Hundred Thousand Pesos (100,000.00) with subsidiary imprisonment in case of non-payment of fine, and
- (b) undergo mandatory psychological counselling or psychiatric treatment and shall report compliance to this court.

²⁹ *Id.* at 15–16.

³⁰ *Id.*

³¹ *Id.* at 17–19.

³² *Id.* at 19–20.

³³ TSN, [CCC260547], March 19, 2019, p. 6.

³⁴ *Id.* at 3–4.

³⁵ *Id.* at 4.

³⁶ *Id.* at 5–6.

³⁷ *Id.* at 7.

³⁸ *Id.* at 8.

³⁹ Records, p. 294

⁴⁰ *Id.* at 282–292. The November 27, 2019 Decision in Criminal Case No. L-10939 was penned by Judge Maria Laarni R. Parayno, of Branch [REDACTED], Regional Trial Court, [REDACTED].

SO ORDERED.⁴¹ (Emphasis in the original)

In convicting XXX260547, the trial court ruled that the prosecution was able to prove all the elements of violation of Section 5(i) of Republic Act No. 9262 through marital infidelity and failure to provide financial support to AAA260547.⁴²

XXX260547 appealed his conviction to the CA.⁴³ In his Appellant's Brief,⁴⁴ XXX260547 argued that the RTC erred when it convicted him of violation of Section 5(i) of Republic Act No. 9262 considering that: (1) the prosecution was unable to prove that AAA260547 suffered from mental or emotional anguish because he had a child with another woman;⁴⁵ (2) his alleged infidelity was based on hearsay;⁴⁶ (3) what the law punishes was repeated marital infidelity and he only had a one-night stand;⁴⁷ and (4) he was not guilty of emotional abuse since he supported AAA260547 and their children when he was still working and since he was no longer employed, he could no longer give them any financial support.⁴⁸

The Office of Solicitor General (OSG) opposed XXX260547's appeal. In its Appellee's Brief,⁴⁹ it argued that XXX260547's guilt was proven to the point of moral certainty considering that: (1) all the elements of violation of Section 5(i) of Republic Act No. 9262 were duly proven by the prosecution;⁵⁰ and (2) the lone testimony of AAA260547 regarding the mental and emotional anguish she suffered because of XXX260547 was sufficient evidence to prove it.⁵¹

On May 25, 2021, the CA promulgated the assailed Decision⁵² which denied XXX260547's appeal. The dispositive portion of the CA Decision reads:

WHEREFORE, the present appeal is **DENIED**. The Decision of the Regional Trial Court of [REDACTED], Pangasinan, Branch [REDACTED] (RTC), in Criminal Case No. L-10939 is hereby **AFFIRMED**.

SO ORDERED.⁵³ (Emphasis in the original)

⁴¹ *Id.* at 292.
⁴² *Id.* at 288–291.
⁴³ CA *rollo*, p. 15.
⁴⁴ *Id.* at 18–32.
⁴⁵ *Id.* at 24.
⁴⁶ *Id.* at 24–25.
⁴⁷ *Id.* at 25–26.
⁴⁸ *Id.* at 28–29.
⁴⁹ *Id.* at 55–68.
⁵⁰ *Id.* at 60–63.
⁵¹ *Id.* at 63–65.
⁵² *Id.* at 8–21.
⁵³ *Id.* at 20.

The CA ruled that XXX260547 is guilty of violation of Section 5(i) of Republic Act No. 9262.⁵⁴ It reasoned that the prosecution was able to prove that XXX260547 had an extra-marital affair which caused AAA260547 to suffer mental and emotional anguish,⁵⁵ but was unable to establish the elements of psychological abuse through deprivation of financial support.⁵⁶

XXX260547 moved for reconsideration⁵⁷ but was denied by the CA in the assailed Resolution.⁵⁸

Hence, XXX260547 filed the present Petition.

XXX260547 claims that the CA erred when it denied his appeal. He argues that the Information filed against him is defective since it failed to charge any offense. XXX260547 points out that not all the elements of violation of Section 5(i) of Republic Act No. 9262 were indicated in the Information, as there was no mention that AAA260547 or any of their children suffered mental or emotional anguish because of the acts imputed against him.⁵⁹ He also asserts that the allegation in the Information that he caused AAA260547 to suffer psychological abuse is a conclusion of law and there were no allegations of fact constituting psychological abuse in the Information.⁶⁰ XXX260547 further asserts that he cannot be held liable for violation of Section 5(i) of Republic Act No. 9262, as the provision punishes repeated incidents of marital infidelity and the prosecution failed to prove that he repeatedly cheated on his wife.⁶¹

On January 25, 2023, this Court issued a Resolution⁶² requiring the OSG to file its comment on the instant Petition.

On April 19, 2023, the OSG filed its Comment⁶³ which prayed for the outright denial of the present Petition.⁶⁴ The OSG argued that the present Petition is *pro forma* as it contained rehashed arguments that were already passed upon by the lower courts.⁶⁵

⁵⁴ *Id.* at 79.

⁵⁵ *Id.* at 80–82.

⁵⁶ *Id.* at 82–84.

⁵⁷ *Id.* at 87–93.

⁵⁸ *Id.* at 24–25.

⁵⁹ *Id.* at 34–35.

⁶⁰ *Id.* at 35–39.

⁶¹ *Id.* at 39–41.

⁶² *Id.* at 128.

⁶³ *Id.* at 135–140.

⁶⁴ *Id.* at 137.

⁶⁵ *Id.* at 136–137.

Issue

Whether the CA erred in affirming XXX260547's conviction for violation of Section 5(i) of Republic Act No. 9262.

This Court's Ruling

The Petition is granted.

This Court can rule on the sufficiency of the Information in this case even if it is a matter raised for the first time by petitioner

XXX260547 argues that the Information that charged him with violation of Section 5(i) of Republic Act No. 9262 is defective, as the alleged facts do not constitute an offense.⁶⁶ However, We note that this is the first time that XXX260547 raised this issue, having failed to question the validity of the Information prior to his arraignment, during trial and even before the CA. The same notwithstanding, XXX260547's belated objection does not prevent this Court from considering the sufficiency of the Information filed in this case.

In *Spouses Tayamen v. People*,⁶⁷ this Court explained that the issue of whether an Information failed to allege an offense *is a defense that can be raised by an accused at any stage of the proceeding*:

Petitioners contend that the Information filed against them is insufficient as it failed to charge an offense considering that the assailed Information did not allege that there was express representation by petitioners that the real property was free from encumbrance. The prosecution, on the other hand, counter-argued that the defect raised by petitioners is merely a formal defect, which can be rectified by amendment of the Information. The prosecution further contend that petitioners' failure to question the defect of the Information before their arraignment and the fact that they participated in the proceedings before the trial court bar them from raising the issue of the sufficiency of the Information on appeal.

As a general rule, an accused may move for the quashal of an Information before his or her arraignment based on the grounds provided for under Section 3, Rule 117 of the Rules of Court, to wit:

(a) That the facts charged do not constitute an offense;

⁶⁶ *Id.* at 34–35.

⁶⁷ 901 Phil. 516 (2021) [Per J. Delos Santos, Third Division].

(b) That the court trying the case has no jurisdiction over the offense charged;

(c) That the court trying the case has no jurisdiction over the person of the accused;

(d) That the officer who filed the information had no authority to do so;

(e) That it does not conform substantially to the prescribed form;

(f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;

(g) That the criminal action or liability has been extinguished;

(h) That it contains averments which, if true, would constitute a legal excuse or justification; and

(i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

As a general rule, failure to assail the Information before an accused pleads is deemed a waiver of any of his or her objections. However, Section 9, Rule 117 of the Rules of Court provides for some exceptions, viz.:

SECTION 9. *Failure to Move to Quash or to Allege Any Ground Therefor.* — The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections *except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.*

Both the RTC and the CA ruled that objections as to matters of form or substance in the Information cannot be made for the first time on appeal. The CA held that petitioners should have moved to quash the Information before their arraignment since the defect can be cured by mere amendment of the subject Information. The CA further held that petitioners were duly apprised of the accusations against them and were accorded opportunity to present countervailing evidence.

However, the Court finds merit in petitioners' position considering that pursuant to Section 9, Rule 117 of the Rules of Court: (a) the accused's failure to enter his or her motion to quash before arraignment on the ground

that the information failed to charge an offense is not deemed a waiver on the deficiency of the Information; and (b) the accused can still assail the sufficiency of the Information on the ground that it charges no offense even after arraignment.

In other words, petitioners are deemed to have waived only the waivable defects in the Information, which do not include the allegation that the Information failed to charge an offense.

The prosecution likewise bemoaned that petitioners cannot question the defect of the Information for the first time on appeal. Indeed, the records show that petitioners: (1) failed to quash the Information before their arraignment; (2) entered a plea; and (3) actively participated in the proceedings before the RTC. Petitioners only questioned the defect of the Information for the first time on appeal.

The ruling in the case of Naya v. Sps. Abing sheds light on this particular issue. The accused in the said case, Orlando P. Naya (Naya), failed to interpose his objections on the defect of the Information. Naya participated in the proceedings before the trial court and presented his defenses and evidence. He was convicted with estafa by the trial court. When the case was elevated via Rule 45 before the Court, the issue on whether the Information failed to charge an offense was not an assigned error. In fact, such issue was never raised by Naya before the RTC, the CA and before the Court. Nonetheless, the Court held that an appeal of a criminal case throws a case wide open for review and the appellate court is mandated to rule on any error, whether it is assigned or not. Even if the issue on the insufficiency of the Information was not assigned by Naya, the Court considered and resolved the particular issue.

From the foregoing, it is clear that the issue on the failure of an Information to charge an offense may be raised at any stage of the proceedings and may even be taken up by the Court motu proprio on appeal.⁶⁸ (Citations omitted, emphasis supplied)

Hence, this Court is not precluded from ruling on the sufficiency of the Information charging XXX260547 with violation of Section 5(i) of Republic Act No. 9262 even if raised only for the first time in the present proceedings.

*The facts charged in the Information
do not constitute an offense*

Rule 110, Section 6 of the Rules of Criminal Procedure states that an information is sufficient so long as it states the acts or omissions complained of as constituting the offense. In *People v. Solar*,⁶⁹ We explained when the facts alleged in an Information can be deemed sufficient to charge a crime or offense:

⁶⁸ *Id.* at 522–525.

⁶⁹ 858 Phil. 884 (2019) [Per J. Caguioa, *En Banc*].

It is thus fundamental that every element of which the offense is composed must be alleged in the Information. *No Information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. The test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law.* In this examination, matters *aliunde* are not considered. To repeat, the purpose of the law in requiring this is to enable the accused to suitably prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.⁷⁰ (Citations omitted, emphasis supplied)

Hence, for petitioner to be validly convicted of violation of Section 5(i) of Republic Act No. 9262, the prosecution is burdened to allege in the Information and to prove beyond reasonable doubt the following essential elements of the crime:

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 to such acts or omissions.⁷¹

In the case at bar, a cursory reading of the Information shows that it failed to allege that AAA260547 suffered mental or emotional anguish due to the acts attributed to XXX260547. Instead, it merely stated that XXX260547 leaving AAA260547 to cohabitate with his paramour and his failure to provide support to their two children were “causing or likely to cause complainant [AAA260547] to suffer psychological abuse”⁷² and that such acts were to AAA260547’s “damage and prejudice[.]”⁷³ However, psychological abuse or violence does not equate to and is an entirely separate element from mental and emotional anguish. We explained the difference between the two in *Dinamling v. People*:⁷⁴

⁷⁰ *Id.* at 927.

⁷¹ *Reyes v. People*, 855 Phil. 991, 1003 (2019) [Per J. Peralta, Third Division].

⁷² Records, p. 1.

⁷³ *Id.*

⁷⁴ 761 Phil. 356 (2015) [Per J. Peralta, Third Division].

*Psychological violence is an element of violation of Section 5(i) just like the mental or emotional anguish caused on the victim. Psychological violence is the means employed by the perpetrator, while mental or emotional anguish is the effect caused to or the damage sustained by the offended party. To establish psychological violence as an element of the crime, it is necessary to show proof of commission of any of the acts enumerated in Section 5(i) or similar such acts. And to establish mental or emotional anguish, it is necessary to present the testimony of the victim as such experiences are personal to this party.*⁷⁵ (Emphasis supplied)

From the foregoing, it is apparent that the prosecutor who prepared the Information against petitioner conflated the third and fourth elements of the crime charged. The acts imputed to XXX260547, i.e., leaving AAA260547 to cohabitate with his paramour and failure to provide support to their two children, cannot be considered *as likely to cause* AAA260547 to suffer psychological abuse or violence. These acts are not considered by law as psychological abuse or violence and to qualify as an offense under Republic Act No. 9262 when there is no allegation that it caused a woman or her child/children to suffer from mental or emotional anguish. To reiterate, as an element of violation of Section 5(i) of Republic Act No. 9262, psychological abuse or violence is the means employed by the offender to cause mental or emotional anguish to the victim.⁷⁶

Verily, causality does not translate to equivalence. For XXX260547 to be fully informed of the charge against him and suitably prepare his defenses, there must be an allegation in the Information that the acts imputed against him caused mental or emotional anguish to his wife or her child/children.

As for equating “mental and emotional anguish” to “damage and prejudice,” this Court cannot countenance the same. The crime charged specifically provides the kind of damage that ought to have been suffered by the victim, i.e., mental or emotional anguish. An allegation that the victim suffered “damage and prejudice” is too general to satisfy the degree of specificity required by law and enable XXX260547 to suitably prepare his defenses. More, it is settled that in case of doubt in the allegations in the Information, such doubt shall be construed in favor of the accused and against the State if only to give life to the constitutional right of the accused to be informed of the nature and cause of the accusation against them and the presumption of innocence of the accused.⁷⁷

To be sure, an accused cannot be convicted of a crime not charged or necessarily included in the Information even if the prosecution satisfies the required burden of proof.⁷⁸ Here, as a consequence of the defects therein, the Information failed to charge any offense against XXX260547. It is axiomatic

⁷⁵ *Id.* at 376.

⁷⁶ *XXX v. People*, G.R. No. 250219, March 1, 2023 [Per J. Hernando, First Division] at 7. This pinpoint citation refers to the copy uploaded in the Supreme Court website.

⁷⁷ *People v. XYZ*, 879 Phil. 725, 758 (2020) [Per J. Gesmundo, Third Division].


⁷⁸ *Villarba v. Court of Appeals*, 874 Phil. 84, 104 (2020) [Per J. Leonen, Third Division].

that an insufficient Information cannot be used as basis for a valid conviction.⁷⁹ Thus, XXX260547's acquittal is in order.

ACCORDINGLY, the Petition is **GRANTED**. The May 25, 2021 Decision and April 28, 2022 Resolution of the Court of Appeals in CA-G.R. CR No. 44485 are **REVERSED** and **SET ASIDE**. XXX260547 is **ACQUITTED** of violation of Section 5(i) of Republic Act No. 9262.

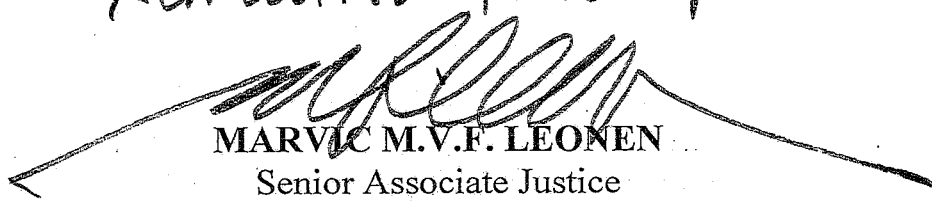
Let entry of judgment be issued immediately.

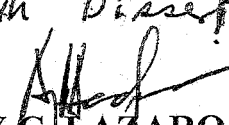
SO ORDERED.

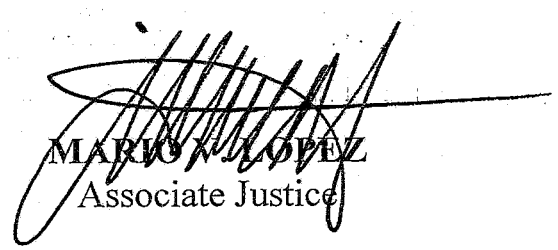

JHOSEP V. LOPEZ
Associate Justice

WE CONCUR:

2 concur. so separate opinion


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

with Dissent

AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

⁷⁹ *People v. Cubay*, 858 Phil. 123, 141 (2019) [Per J. Lazaro-Javier, Second Division].

ATTESTATION

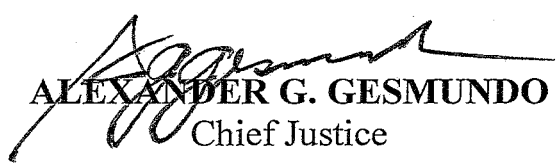
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN

Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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

G.R. No. 260547 (XXX260547, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.)

Promulgated:

NOV 26 2024

X

X

DISSENT

LAZARO-JAVIER, J.:

The *ponencia* reversed the ruling of the trial court and the Court of Appeals and accordingly acquitted petitioner XXX260547 for violation of Section 5(i) of Republic Act No. 9262 in view of the alleged insufficiency of the Information against petitioner. The Information reads:

That starting in August 2014 and up to present in Brgy. [REDACTED], [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused being the lawful husband of private complainant [AAA260547], did then and there, willfully, unlawfully and feloniously commit act or series of acts likely to cause said complainant to suffer psychological abuse by leaving said complainant in order to live with another woman [YYY260547] and by totally neglecting to provide his two (2) children with the complainant the necessary support to the damage and prejudice of said [AAA260547].

Contrary to Section 5(i) in relation to Section 6 of [Republic Act No.] 9262 otherwise known as The Anti-Violence against Women and Children Act of 2004.¹

The Decision held that the Information indicting petitioner failed to allege that his wife AAA260547 and their children suffered mental or emotional anguish due to the acts attributed to petitioner. Instead, it merely stated that petitioner leaving AAA260547 to cohabit with his paramour and his failure to provide support to their two children were “likely to cause complainant [AAA260547] to suffer psychological abuse” and that such acts were to AAA260547’s “damage and prejudice[.]” According to the *ponencia*, however, psychological abuse or violence does not equate to and is an entirely separate element from mental and emotional anguish.

At the outset, allow me to discuss what constitutes a sufficient Information *vis-à-vis* the rights of an accused.

The constitutional right to be informed of the nature and cause of the accusation against an accused requires a sufficient complaint or information. It is deeply rooted in one’s constitutional rights to due process and the

¹ *Ponencia*, p. 2.

presumption of innocence.²

Due process dictates that an accused be fully informed of the reason and basis for his or her indictment. This would allow an accused to properly form a theory and to prepare his or her defense, because he or she is “presumed to have no independent knowledge of the facts constituting the offense [he or she] has purportedly committed.”³

Aside from the usual requirements of an Information under Rule 110, Section 6 of the Rules of Court,⁴ the allegations in the Information are vital because they determine “the real nature and cause of the accusation against an accused[.]”⁵ They are given more weight than a prosecutor’s designation of the offense in the caption. *Quimvel v. People*⁶ is apropos:

Indeed, the Court has consistently put more premium on the facts embodied in the Information as constituting the offense rather than on the designation of the offense in the caption. In fact, an investigating prosecutor is not required to be absolutely accurate in designating the offense by its formal name in the law. What determines the real nature and cause of the accusation against an accused is the actual recital of facts stated in the Information or Complaint, not the caption or preamble thereof nor the specification of the provision of law alleged to have been violated, being conclusions of law. It then behooves this Court to place the text of the Information under scrutiny.

On the other hand, Sections 8 and 9 of Rule 110 of the Rules of Court state how the offense is designated and the cause of accusation indicated in the information, viz.:

Section 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

Section 9. Cause of the accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

Based on the foregoing, an Information is valid as long as it distinctly states the statutory designation of the offense and the acts or omissions

² *Ismael and Ajiyon v. People*, G.R. Nos. 234435-36, February 6, 2023 [Per J. Lopez, M. Second Division].

³ *Villarba v. People*, 874 Phil. 84, 102 (2020) [Per J. Leonen, Third Division].

⁴ (1) the accused’s name; (2) the statute’s designation of the offense; (3) the acts or omissions complained of that constitute the offense; (4) the offended party’s name; (5) the approximate date of the offense’s commission; and (6) the place where the offense was committed.

⁵ *Villarba v. People*, 874 Phil. 84, 104 (2020) [Per J. Leonen, Third Division].

⁶ 808 Phil. 889, 913 (2017) [Per J. Velasco, Jr., *En Banc*].

constitutive thereof.⁷ It is not necessary to follow the language of the statute in the Information.⁸ Further, as stated earlier, the allegations in the Information prevails over the designation of the offense.

Therefore, the test of sufficiency of an information is whether it enables a person of common understanding to know the charge against him, and the court to render judgment properly. The purpose is to allow the accused to fully prepare for his defense, precluding surprises during the trial.⁹

Here, petitioner argues that the Information filed against him is defective since it failed to charge any offense. Petitioner points out that not all the elements of violation of Section 5(i) of Republic Act No. 9262 were indicated in the Information, as there was no mention that AAA260547 or any of his children suffered mental or emotional anguish because of the acts imputed against him. He also asserts that the allegation in the Information that he caused AAA260547 to suffer psychological abuse is a conclusion of law and there were no allegations of fact constituting psychological abuse in the Information. Finally, he claims that he cannot be held liable for violation of Section 5(i) of Republic Act No. 9262, as the provision punishes repeated incidents of marital infidelity and the prosecution failed to prove that he repeatedly cheated on his wife.

I beg to disagree.

The Information is sufficient regardless of the fact that psychological abuse or violence, and not mental or emotional anguish was mentioned in the Information.

In *XXX v. People*,¹⁰ the Court held that psychological violence is the indispensable element under Section 5(i) of Republic Act No. 9262. It is defined in Section 3(c) of the same law as acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

On the other hand, *Dinamling v. People*¹¹ differentiated mental or emotional anguish and psychological violence in that the former is the *effect caused to or the damage sustained* by the offended party *by reason of the latter*. Stated differently, psychological violence is the means employed by

⁷ *People v. ZZZ*, 901 Phil. 251, 256 (2021) [Per J. Hernando, Third Division].

⁸ *People v. Lim*, 914 Phil. 374, 381 (2021) [Per J. Inting, Second Division].

⁹ *People v. Solar*, 858 Phil. 884, 919–920 (2019) [Per J. Caguioa, *En Banc*].

¹⁰ 893 Phil. 840, 846 (2021) [Per J. Delos Santos, Third Division].

¹¹ 761 Phil. 356, 376 (2015) [Per J. Peralta, Third Division].

the perpetrator, while mental or emotional anguish is the effect caused to or the damage sustained by the offended party by reason of psychological violence.

It goes without saying, therefore that it is immaterial in this case that mental anguish was not specifically alleged in the Information since psychological violence is the vital element of the offense. Further, as held in *Dinamling*, emotional anguish is subsumed in psychological violence since the offended party necessarily suffers emotional anguish by reason of psychological violence.

To emphasize, contrary to the ruling of the *ponencia*, the Information properly charged petitioner for violation of Section 5(i) of Republic Act No. 9262. Petitioner's right to be informed of the nature and cause of the accusations against him was not violated since the Information, being sufficient in form and substance, enabled him to properly prepare for his defense.


Another, petitioner claims that there were no allegations of fact constituting psychological abuse in the Information. Petitioner is mistaken. Here, that petitioner left AAA260547 to live with his paramour YYY260547 constituting marital infidelity; and totally neglecting to provide support for their children, are specific allegations of acts of psychological violence which are causing or likely to cause emotional anguish to AAA260547 and her children.

*XXX v. People*¹² further elucidates that in instances where marital infidelity is the act concerned, the requirement of specific criminal intent to cause mental and emotional suffering is satisfied the moment the perpetrator decides to commit the act of marital infidelity, thus:

Moreover, while We agree with *Acharon* that the crimes penalized under Sec. 5(i) are *mala in se* and not *mala prohibita*, thereby requiring specific criminal intent, it is the Court's position that in instances where marital infidelity is the act concerned as in the present case, the requirement of specific criminal intent to cause mental and emotional suffering is satisfied the moment the perpetrator decides to commit the act of marital infidelity. This finds basis on the fact that marital infidelity is inherently immoral and depraved, is in all instances wrong, and cannot be justified by any sort of context, while the same cannot be said for willful denial of financial support. In other words, marital infidelity, divorced from its legal connotations, is an act which is wrong in itself. To pose a rhetoric, what else could adulterers have expected to cause upon their spouse when they committed an act of unfaithfulness, aside from mental and emotional pain?

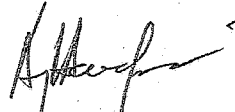
Notably, specific intent to cause mental and emotional anguish upon the victim may be conclusively presumed from the fact of infidelity itself.

¹² G.R. No. 252739, April 16, 2024 [Per J. Hernando, *En Banc*].




Finally, petitioner is incorrect in arguing that he cannot be held liable for violation of Section 5(i) of Republic Act No. 9262 because his marital infidelity is not repetitive. His claim has no basis both in law and jurisprudence. Nothing under Republic Act No. 9262 states that the marital infidelity should be repetitive. Again, the requirement of specific criminal intent to cause mental and emotional suffering is satisfied the moment the perpetrator decides to commit the act of marital infidelity which caused emotional anguish to the offended party.

All told, I vote to sustain the validity of the Information against petitioner and accordingly rule on the merits of the petition.



AMY C. LAZARO-JAVIER

Associate Justice



SECOND DIVISION

G.R. No. 260547 – XXX260547,* Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.

Promulgated:

NOV 26 2024

X

X

SEPARATE CONCURRING OPINION

LEONEN, J.:

I concur. The *ponencia* correctly ordered XXX260547 acquittal because the Information failed to accurately state the crime charged. This resulted in the prosecution's failure to establish his guilt beyond reasonable doubt. Moreover, the *ponencia* more pertinently highlights the problem with the State's intrusion into its peoples' intimate affairs and relationships. I offer the following discussion in support of the *ponencia's* conclusion of acquittal and to enrich discourse on the inherent problem with penalizing "infidelity" in marital relationships.

XXX260547's Petition for Review on *Certiorari* before this Court questioned his prior conviction under Section 5(i) of Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act of 2004." The Information charging XXX260547 with the crime reads as follows:

That starting in August 2014 and up to present in Brgy. [REDACTED], Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused being the lawful husband of private complainant [AAA260547], did then and there, willfully, unlawfully and feloniously commit act or series of acts likely to cause said complainant to suffer psychological abuse by leaving said complainant in order to live with another woman (Melinda B. Lopez) and by totally neglecting to provide his two (2) children with the complainant the necessary support to the damage and prejudice of said [AAA260547].

Contrary to Section 5(i) in relation to Section 6 of [Republic Act No.] 9262 otherwise known as The Anti-Violence against Women and Children Act of 2004.¹

* In line with Amended Circular No. 83-2015, as mandated by Republic Act No. 7610, 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.

¹ *Ponencia*, p. 2.

During trial, the prosecution presented testimonial evidence from XXX260547's wife, AAA260547, Punong Barangay Angelito Catubig (Angelito), and XXX260547's niece, CCC260547. AAA260547 testified that XXX260547 left her and their two children without support to live with his mistress, Melinda Lopez (Melinda), with whom he also had a child. AAA260547 also testified that her children with XXX260547 were already of legal age. Angelito confirmed that AAA260547 had previously filed complaints against XXX260547. Finally, CCC260547 testified that XXX260547 had a second child with Melinda. CCC260547 added that she accompanied AAA260547 to confirm Melinda's children's records with the Municipal Civil Registrar.²


In his defense, XXX260547 testified that he remitted around 80% of his salary in his 32 years as a seafarer to AAA260547, who was unable to save any of it, instead burdening their family with debt. This led him to leave their conjugal home to live by himself. He admitted to having a child with Melinda, subsequently providing them with support, but he denied living together with her. He also admitted that he stopped remitting money and speaking to AAA260547 because "he no longer trusted her."³

The Regional Trial Court found XXX260547 guilty beyond reasonable doubt of Section 5(i) of Republic Act No. 9262 "through marital infidelity and failure to provide financial support" to his wife, AAA260547.⁴

The Court of Appeals affirmed XXX260547's conviction on appeal. It found that XXX260547's extra-marital affair caused AAA260547 "mental and emotional anguish."⁵ The Court of Appeals similarly denied XXX260547's subsequent motion for reconsideration.⁶

Thus, XXX260547 filed the present Petition for Review on *Certiorari*, arguing that the Information charging him with the offense failed to state all the elements constituting a violation of Section 5(i) of Republic Act No. 9262. He also insisted that Section 5(i) punishes repeated marital infidelity, which could not apply to him absent proof of his repeated infidelity to AAA260547.⁷

I agree with the *ponencia's* ruling of acquittal. AAA260547 and the prosecution failed to establish the elements for a conviction under Section 5(i) of Republic Act No. 9262. Further, I offer insight on marital infidelity as it pertains to the protections provided under Republic Act No. 9262.



² *Id.* at 2–3.

³ *Id.* at 4.

⁴ *Id.* at 5.

⁵ *Id.* at 6. Citation omitted.

⁶ *Id.*

⁷ *Id.*

I

The *ponencia* correctly ruled that the Information failed to adequately charge the petitioner with an offense punishable by Section 5(i) of Republic Act No. 9262, which provides:

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:

....

(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)

By charging XXX260547 with acts that were “causing or likely to cause complainant to suffer *psychological abuse*[.]”⁸ the *ponencia* concluded that the prosecution confused the punishable harm of causing “mental and emotional anguish,” with the means for its commission.⁹ The *ponencia*’s reference to *Dinamling v. People*¹⁰ provides ample basis for this conclusion:

Psychological violence is the means employed by the perpetrator, while mental or emotional anguish is the effect caused to or the damage sustained by the offended party.¹¹

Generally, an Information’s failure to charge an offense will not immediately result in an acquittal and would only merit an opportunity for the prosecution to amend the Information.¹² However, I offer the following discussion in support of the XXX260547’s acquittal.

II

I concur with the *ponencia*’s reasoning in granting XXX260547’s acquittal, as it reflects my concerns with criminalizing intimate and private aspects of interpersonal relationships.

Republic Act No. 9262 pursues an equitable purpose by protecting women and children against violence, which may be committed through methods that leverage the systemic inequality inherent in our patriarchal

⁸ *Id.* at 10.

⁹ *Id.* at 10–11.

¹⁰ 761 Phil. 356 (2015) [Per J. Peralta, Third Division].

¹¹ *Id.* at 376.

¹² *Dio v. People*, 786 Phil. 726, 742 (2016) [Per J. Leonen, Second Division].

society. By recognizing forms of violence other than physical violence, the law attempts to realize its institutional role of adapting to evolving social concepts, such as those of consent, personal autonomy, and power inequalities in gender relations.

*Estacio v. Estacio*¹³ discussed the concept of psychological abuse as a form of violence that Republic Act No. 9262 seeks to address:

As a form of *psychological violence*, coercive control pertains to a “*pattern of behavior meant to dominate a partner through different tactics such as physical and sexual violence, threats, emotional insults, and economic deprivation.*”

In relationships where coercive control exists, dominant partners do things that help them exert long-term power and control over their partners, such as isolating them from society, manipulating their children, using their male privilege, or employing economic abuse.

While domestic abuse has traditionally been seen only through physical abuse, violence can and does occur in other forms, such as psychological abuse. It is helpful to not only look at isolated acts — usually of physical abuse — but to also focus on the effects of these acts on the coercion and control of one partner over the other. To achieve a fuller understanding of domestic violence, its distorting consequences on the dynamics that exist in an intimate relationship should be important considerations. Its damaging effects on the freedom of victims to live their lives in peace are, after all, what the law ultimately seeks to eliminate.¹⁴ (Emphasis supplied, citations omitted)

Thus, the law requires the Court to determine how the acts, alleged as psychologically abusive, result in the victim’s mental or emotional anguish. In *XXX v. People*,¹⁵ this Court convicted the accused under Section 5(i) of Republic Act No. 9262 based on established facts showing the victim’s psychological trauma:

Marital infidelity is one of the forms of psychological violence. The prosecution in this case was able to satisfactorily establish petitioner’s marital infidelity, his cohabitation with CCC who even bore him a child, and his abandonment of AAA. BBB’s psychological trauma was evident when she wept in open court upon being asked to narrate petitioner’s infidelity. In particular, BBB explained that she was deeply hurt because her father had another family and loved another woman other than her mother, BBB.¹⁶ (Emphasis supplied, citations omitted)

¹³ 885 Phil. 157 (2020) [Per J. Leonen, Third Division].

¹⁴ *Id.* at 177–178.

¹⁵ G.R. No. 250219, March 1, 2023 [Per J. Hernando, First Division].

¹⁶ *Id.* at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

Further, *Araza v. People*¹⁷ discussed the need to consider the parties' personal circumstances in establishing the existence of psychological violence that results in emotional suffering or anguish.¹⁸

*Psychological violence is an indispensable element of violation of Section 5(i) of R.A. No. 9262. Equally essential is the element of emotional anguish and mental suffering, which are personal to the complainant. Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party. The law does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser. Rather, the law only requires emotional anguish and mental suffering to be proven. To establish emotional anguish or mental suffering, jurisprudence only requires that the testimony of the victim to be presented in court, as such experiences are personal to this party.*¹⁹ (Emphasis supplied, citations omitted)

I therefore agree with the *ponencia*'s reference to "the degree of specificity required by law"²⁰ in alleging and proving the elements of the crimes punished under Section 5(i) of Republic Act No. 9262. Not only did the Information fail to allege the acts of psychological violence that led to AAA260547's emotional suffering, but the evidence on record also failed to establish the parties' personal circumstances that show the emotional abuse and suffering punishable under Republic Act No. 9262.

III

The lower courts' prior findings of guilt beyond reasonable doubt reflect the tendency to correlate marital infidelity with sexual infidelity. These conclusions fail to see how marital infidelity encompasses more than non-monogamy. More pertinently, marital infidelity involves the abuse and violation of the agreement between parties to a marital relationship.

In any event, marital infidelity, while hurtful, will not by itself amount to psychological violence, as contemplated under Republic Act No. 9262. Instead, our law requires proof of how these acts have affected the marital relationship and the parties' emotional well-being. This requires the court to weigh the circumstances of the parties' intimate relationship that are deeply personal and rarely objective. Thus, any determination of marital infidelity as psychological violence requires the court's conscious discernment and judicial restraint.

Every intimate relationship is unique. To craft rigid jurisprudential rules of what does and does not amount to marital infidelity will

¹⁷ 882 Phil. 905 (2020) [Per C.J. Peralta, First Division].

¹⁸ *Id.* at 919.


¹⁹ *Id.*

²⁰ *Ponencia*, p. 11.

unreasonably exclude a broad majority of intimate relationships, effectively negating people's richly varied culture, beliefs, and personal experiences.

More broadly, conscious judicial restraint allows our people to define for themselves what marital infidelity is, relative to their own unique relationships and experiences. This is a matter in which the State has neither any expertise nor any right to interfere, as it pertains to the most intimate and private aspect of a person's rights—the right to choose whom and how to love, as well as when that love may be betrayed or withdrawn.

ACCORDINGLY, I vote to **GRANT** the Petition.



MARVIC M.V.F. LEONEN
Senior Associate Justice