



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **27 July 2020** which reads as follows:*

“**G.R. No. 236842 (XXX v. People of the Philippines)**. – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated August 31, 2017 and Resolution<sup>3</sup> dated January 16, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 38540. The CA affirmed *in toto* the Joint Decision<sup>4</sup> dated February 22, 2016 of Branch 144, Regional Trial Court (RTC), Makati City in Criminal Nos. 06-2173 to 06-2175.

The Court modifies the ruling of the CA.

XXX (petitioner) stands charged with violation of Section 5 (e) (2), (e) (4), and (i) of Republic Act (RA) No. 9262. The provisions read:

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 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

<sup>1</sup> *Rollo*, pp. 7-19.

<sup>2</sup> *Id.* at 20-30; penned by Associate Justice Jose C. Reyes, Jr., (now a member of the Court) with Associate Justices Nina G. Antonio-Valenzuela and Victoria Isabel A. Paredes, concurring.

<sup>3</sup> *Id.* at 31.

<sup>4</sup> *Id.* at 25-26.

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.

(4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;

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 denial of access to the woman's child/children.

Petitioner contends that at the time of the filing of the complaint, his sons, BBB\* and CCC, who were born on October 2, 1975 and November 16, 1974, respectively, were already of legal age and no longer covered by RA 9262.

The contention is well-taken. Indeed, at the time of the effectivity of RA 9262 on March 27, 2004,<sup>5</sup> and the filing of the Informations on November 21, 2006,<sup>6</sup> BBB and CCC were no longer "children"<sup>7</sup> as

\* The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes," approved on June 17, 1992; RA 9262, entitled "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, For Other Purposes," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" November 15, 2004.

<sup>5</sup> *Garcia v. Drilon*, 712 Phil. 44 (2013).

<sup>6</sup> *Rollo*, p. 20.

<sup>7</sup> Children refer to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Act, it includes the biological children of the victim and other children under her care.

defined under RA 9262. This was even admitted by AAA in her testimony. Thus, RA 9262 cannot apply to BBB and CCC. However, it will only affect petitioner's liability under Section 5 (e) (2).

In the Information for Criminal Case No. 06-2175, as discussed above, the alleged denial of financial support to BBB and CCC cannot be taken into consideration considering that they cannot come under the application of RA 9262. Thus, any discussion on petitioner's liability under Section 5 (e) (2) of RA 9262 in the case only concerns AAA. However, the charge must fail because a reading thereof *vis-à-vis* the facts of this case reveals that there is no sufficient basis to conclude that petitioner denied or deprived AAA of financial support. The records do not show that petitioner was even capable of supporting AAA given that he had been largely either jobless or earning a very minimal amount which he claimed was not even enough for his medications for his kidney illness. Further, AAA did not even complain for herself of any denial or deprivation of financial support by petitioner. She only claimed to have been working a lot to support her family financially.

With respect to petitioner's conviction for violation of Section 5 (e) (4) of RA 9262 in Criminal Case No. 06-2174; and for violation of Section 5 (i) of RA 9262 in Criminal Case No. 06-2173, the Court must sustain it. It must be noted that AAA, to whom petitioner was married to at the time of the filing of the Information, is a complainant in the case. Even without considering the complained acts involving petitioner's sons, petitioner's conviction must not be overturned because the prosecution had proven his guilt beyond reasonable doubt for violation of Section 5 (e) (4) and Section 5 (i) of RA 9262 as against AAA.

The RTC and CA correctly found that all the elements of violation of Section 5 (e) (4) and Section 5 (i) of RA 9262 are present considering that the prosecution established that: (a) petitioner maintained an illicit relationship with another woman while his marriage to AAA was subsisting; (b) petitioner and his paramour cohabited in the family home while his own children had to sleep in the "*bodega*" of their store; (c) petitioner barred AAA from staying in the family home which was built mainly through the latter's efforts; and (d) by reason of the foregoing acts, AAA suffered emotional abuse.

Anent the penalty to be imposed, Section 6 of RA 9262 provides that a violation of Section 5 (e) shall be punished by *prision correccional*; while a violation of Section 5 (i) shall be punished

by *prision mayor*. Notably, the penalties provided in RA 9262 are taken from the technical nomenclature in the Revised Penal Code (RPC). In the proper treatment of prescribed penalties found in special penal laws *vis-à-vis* the Indeterminate Sentence Law, the rule is that, if the special penal law adopts the nomenclature of the penalties under the RPC, the ascertainment of the indeterminate sentence will be based on the rules applied for those crimes punishable under the RPC.<sup>8</sup>

Applying the foregoing, the Court modifies the penalties imposed on petitioner in the following manner: (a) for violation of Section 5 (e), petitioner is hereby sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum; and (b) for violation of Section 5 (i), petitioner is sentenced to suffer the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum. In addition, petitioner is also ordered to pay a fine in the amount of ₱100,000.00, to undergo a mandatory psychological counseling or psychiatric treatment, and report compliance to the Court.

**WHEREFORE**, the Decision dated August 31, 2017 of the Court of Appeals in CA-G.R. CR No. 38540 is **MODIFIED** in the following manner:

(a) in Criminal Case No. 06-2175 for violation of Section 5 (e) (2) of RA 9262, petitioner XXX is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt;

(b) in Criminal Case No. 06-2174 for violation of Section 5 (e) (4), petitioner is sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum; and

(c) in Criminal Case No. 06-2173 for violation of Section 5 (i), petitioner is sentenced to suffer the

<sup>8</sup> *Melgar v. People*, G.R. No. 223477, February 14, 2018, 855 SCRA 522, 534-535.

indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum. In addition, petitioner is ordered to pay a fine in the amount of ₱100,000.00, to undergo a mandatory psychological counseling or psychiatric treatment, and report compliance to the Court.

**SO ORDERED.”**

Very truly yours,

  
 TERESITA AQUINO TUAZON  
 Deputy Division Clerk of Court *Utah*  
 09 OCT 2020 10/9

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HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 144  
 Makati City  
 (Crim. Case Nos. 06—2173 to 06-2175)

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COURT OF APPEALS (x)  
 Ma. Orosa Street  
 Ermita, 1000 Manila  
 CA-G.R. CR No. 38540

\*with copy of CA decision dated 31 Aug. 2017  
*Please notify the Court of any change in your address.*  
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