

FIRST DIVISION

[G.R. No. 117363, December 17, 1999]

**MILA G. PANGILINAN, PETITIONER, VS. HON. COURT OF
APPEALS AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

Is the conviction of the accused-appellant by the Regional Trial Court under an information falling with the jurisdiction of the Municipal Trial court valid?

On 20 September 1990, appellant Mila G. Pangilinan was charged with the crime of Estafa in an information^[1] which reads:

The undersigned Asst. Prov'l. Prosecutor accuses Mrs. Mila Pangilinan of the Crime of Estafa, committed as follows:

That on or about the 15th day of June, 1984 in the municipality of Tanay, Rizal Philippines and within the jurisdiction of this Honorable Court the above-named accused, by means of false pretenses and misrepresentations introduced and misrepresented herself that she was instructed by Mr. Rodolfo Elnar, father of Miss Luzviminda SJ Elnar, a girl 15 years of age, to get one (1) stereo component, marked Fisher PH 430K valued at more or less P17,000.000, one (1) headphone, one (1) electrical jack and two (2) record tapes worth P450.00, or with total amount of P17, 450.00 from their house and falsely alleging that said father of the minor further instructed her that the stereo component be tested in a turntable somewhere in EDSA, Mandaluyong, Metro Manila did then and there willfully, unlawfully and feloniously and taking advantage of the inexperience and feelings of the said minor, induce the said minor Luzviminda SJ Elnar to give her said stereo component and electrical parts belonging to spouses Rolando Elnar and Soledad SJ Elnar when in truth and in fact said accused was not authorized by Mr. Rolando Elnar to have said stereo components be tested and once said accused had in her possession the said articles, she took them away to the damage and prejudice of such Mr. and Mrs. Rolando Elnar in the aforesaid amount of P17,450.00.

CONTRARY TO LAW.

On 12 March 1991, appellant was arraigned before the Regional Trial Court of Morong, Rizal, where she entered a plea of "not guilty". After due trial, said court in a Decision dated 7 October 1992^[2] convicted the appellant of the crime of ESTAFA under Article 315 of the Revised Penal Code.

This unfavorable verdict was appealed to the Court of Appeals which on 13 August 1993, affirmed the conviction but modified the sentence, to wit:

xxx and that there being no proof of mitigating and or aggravating circumstances which attended the commission of the offense, the appellant should suffer the penalty of four (4) months of arresto mayor and a fine of P17,450.00 with subsidiary imprisonment in case of insolvency.^[3]

A Motion for Reconsideration was denied by the respondent court on 11 November 1993.^[4] On 3 December 1993, appellant filed a petition for New Trial in the Court of Appeals^[5] which was denied by said Court on 10 January 1994.^[6] Hence, the present petition for review on *certiorari* under Rule 45 of the Rules of Court premised on the following grounds:

I

THAT THE DECISION OF THE TRIAL COURT CONVICTING HEREIN ACCUSED IS NULL AND VOID FOR LACK OF JURISDICTION OVER THE CRIME CHARGED. BEING NULL AND VOID, THE DECISION OF THE COURT OF APPEALS ON APPEAL HEREIN CANNOT VALIDATE IT;

II

IN THE ALTERNATIVE, ASSUMING WITHOUT ADMITTING THAT THE TRIAL COURT HAD JURISDICTION OVER THE CASE, THE GUILT OF THE PETITIONER HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.^[7]

The Court has carefully reviewed the records of this case and finds the appeal to be impressed with merit.

The information uses the generic term Estafa as the classification of the crime appellant is charged with without citing the specific article of the Revised Penal Code violated.

The trial court, however, presumed that the petitioner was charged with the crime of estafa falling under Article 315 of the RPC. This is evidenced by the trial court's assumption of jurisdiction over the case and its subsequent conviction of the appellant for this form of estafa,^[8] to wit:

WHEREFORE, the court finds the accused MILA PANGILINAN, GUILTY of the Crime of Estafa, in violation of Article 315 of the Revised Penal Code, as amended and hereby sentences her to suffer imprisonment of One (1) year, Eight (8) months and Twenty (20) days of Prision Correccional, as minimum to Five (5) years, Five (5) months and Eleven (11) days of Prision Correccional as maximum, plus costs.

Further to pay the complainant Soledad Elnar the amount of P17,000.00 the value of the unrecovered one stereo component.

SO ORDERED.

In order to find estafa with abuse of confidence under subdivision No. 1, par. (b) of Art. 315, the following elements must be present:

1. That money, goods, or other personal property be received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same;
2. That there be misrepresentation or conversion of such money or property by the offender, or denial on his part of such receipt;
3. That such misappropriation or conversion or denial is to the prejudice of another; and
4. That there is a demand made by the offended party to the offender.

[9]

A circumspect examination of the allegations in the information will disclose that the information under which the appellant is charged with does not contain all the elements of estafa falling under Article 315 (b). There was a failure to allege that demand was made upon the appellant by the offended party.

Thus, as correctly observed by the Court of Appeals in the questioned decision, to which the Solicitor General agrees, appellant was charged under an information alleging an offense falling under the blanket provision of paragraph 1(a) of Article 318 of the Revised Penal Code, which treat "other Deceits."^[10]

As prescribed by law, a violation of Article 318 of the Revised Penal Code is punishable by imprisonment for a period ranging from one (1) month and one (1) day to six (6) months. At the time of the filing of the information in this case, the law in force was Batas Pambansa Blg. 129. Under the express provision of Section 32 of B.P. 129, the offense of which the petitioner was charged with falls within the exclusive original jurisdiction of the Municipal Trial Court:

Section 32. Jurisdiction of Metropolitan Trial courts, Municipal Trial Courts and Municipal Circuit Trial Courts in criminal cases.

xxx

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment of not exceeding four years and two months, or a fine of not more than four thousand pesos, or both such fine and imprisonment regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value, or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence they shall have exclusive jurisdiction where the imposable fine does not exceed twenty thousand pesos.