

## **THIRD DIVISION**

**[ G.R. No 247661, June 15, 2020 ]**

**DEEPAK KUMAR, PETITIONER, V. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

### **D E C I S I O N**

**LEONEN, J.:**

The remedy facilitated by Rule 45 of the Rules of Court is appeal by certiorari. For any petition for review on certiorari to prosper and warrant attention by this Court, it must satisfy the basic procedural requisites imposed by Rule 45. Among others, it must not only raise pure questions of law but also questions of such substance as to be of distinctly significant consequence and value. A Rule 45 petition that fails to readily demonstrate "special and important reasons[,]" as required by Rule 45, Section 6, may be denied due course, and disposed without further action by this Court.

This resolves a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45 of the Rules of Court praying that the assailed Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 156711 be reversed and set aside. The assailed Decision denied petitioner Deepak Kumar's (Kumar) Petition for Certiorari under Rule 65 of the Rules of Court and found no grave abuse of discretion on the part of the Regional Trial Court in declining to entertain Kumar's Notice of Appeal, as the trial court decision which Kumar sought to appeal had lapsed into finality. The assailed Resolution denied Kumar's Motion for Reconsideration.

In an August 18, 2016 Joint Decision,<sup>[4]</sup> the Regional Trial Court of Muntinlupa City found Kumar guilty for charges of violating Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004 (the "Anti-VAWC Law"), specifically, that he choked his wife, hit her head, pulled her hair, and forced her into sexual activity. The dispositive portion of this Decision read:

WHEREFORE, the Court finds accused Deepak Kumar guilty beyond reasonable doubt in Criminal Case No. 11-544 for violation of Section 5(a) of Republic Act No. 9262 and is sentenced to a straight penalty of four (4) months of arresto mayor in its medium in the absence of an aggravating or mitigating circumstance, and is further ordered to pay the private complainant P5,000.00 as and for civil indemnity; P10,000.00 as and for moral damages; P5,000.00 as and for temperate damages; and P10,000.00 as and for exemplary damages, all with 6% per annum [interest] from the finality of this decision.

The court also finds accused Deepak Kumar guilty beyond reasonable doubt in Criminal Case No. 11-545 for violation of Section 5(g) of Republic Act No. 9262 and is sentenced to an indeterminate penalty of four (4) years and two (2) months of prision correccional in its medium

as the minimum to eight (8) years and one (1) day of prison mayor in its medium, as the maximum period, in the absence of a mitigating or an aggravating circumstance, with all the accessory penalties under the Revised Penal [Code] and other laws. He is further ordered to pay the private complainant P20,000.00 as and for civil indemnity; P20,000.00 as and for moral damages; P5,000.00 as and for temperate damages[;] and P20,000.00 as and for exemplary damages, all with 6% per annum [interest] from the finality of this decision.

In both cases, the accused is prohibited from threatening or attempting to threaten, personally or through another, the private complainant and her family, or from harassing, annoying, telephoning, contacting, or otherwise communicating with the private complainant, directly or indirectly, and is further ordered to stay away from the private complainant or any member of her family or household, or from their residence or places the private complainant usually goes, at a distance of 500 meter radius. Accused is further prohibited from any use [sic] or possession of any firearm or deadly weapon, and is ordered to surrender the same to the court for appropriate disposition. Accused is warned that any violation of this protection order is punishable by contempt, or it is basis to file another criminal case against him.

SO ORDERED.<sup>[5]</sup>

Despite notice, Kumar was absent during the promulgation of judgment.<sup>[6]</sup> In any case, a copy of this Decision was received by Kumar's counsel of record on August 23, 2016. As no motion, pleading, or any other submission in reference to this Decision was ever filed before the Regional Trial Court, this Decision lapsed into finality. Entry of judgment was thereafter made. Kumar's counsel of record was served notice of such entry on September 8, 2016.<sup>[7]</sup>

A year and a half later, on March 14, 2018, D Dimayacyac Law Firm filed before the Regional Trial Court an Entry of Appearance with Notice of Appeal.<sup>[8]</sup>

In a March 27, 2018 Order, the Regional Trial Court, still through Judge Aguinaldo, denied the Notice of Appeal as the Decision sought to be appealed had become final.<sup>[9]</sup>

Following the denial of his Motion for Reconsideration, Kumar filed a Petition for Certiorari before the Court of Appeals.<sup>[10]</sup>

In its assailed November 23, 2018 Decision,<sup>[11]</sup> the Court of Appeals dismissed Kumar's Rule 65 Petition as it found no grave abuse of discretion on the part of Judge Aguinaldo in denying Kumar's Notice of Appeal.

Following the denial of his Motion for Reconsideration,<sup>[12]</sup> Kumar filed the present Petition.

For this Court's resolution is the sole issue of whether or not the Court of Appeals erred in not finding grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Regional Trial Court Judge Philip A. Aguinaldo in refusing to entertain petitioner Deepak Kumar's Notice of Appeal.

This Court dispenses with the filing of a Comment by respondent and outright denies due course to the present Petition. It fails to present any consideration of such character as those identified in Rule 45, Section 6 of the Rules of Court and as would warrant the exercise of this Court's power of judicial review.

## I

Petitioner comes to this Court by way of a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Other than appeals brought to this Court concerning "criminal cases where the penalty imposed is death, reclusion perpetua or life imprisonment[,]"<sup>[13]</sup> a Petition for Review on Certiorari is the sole procedural vehicle through which appeals may be taken to this Court.

The entirety of Rule 45 reads:

SECTION 1. *Filing of Petition with Supreme Court.* — A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and **shall raise only questions of law, which must be distinctly set forth.** The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

SECTION 2. *Time for filing: extension.* — The petition shall be **filed within fifteen (15) days from notice** of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

SECTION 3. *Docket and other lawful fees; proof of service of petition.* — Unless he has theretofore done so, the petitioner shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of P500.00 for costs at the time of the filing of the petition. Proof of service of a copy, thereof on the lower court concerned and on the adverse party shall be submitted together with the petition.

SECTION 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or

arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42.

SECTION 5. *Dismissal or denial of petition.* — The ***failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents*** which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is ***without merit***, or is ***prosecuted manifestly for delay***, or that the ***questions raised therein are too unsubstantial to require consideration***.

SECTION 6. *Review discretionary.* — A review is not a matter of right, but of sound judicial discretion, and will be ***granted only when there are special and important reasons therefor***. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

- (a) When the court a quo has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
- (b) When the court a quo has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.

SECTION 7. *Pleadings and documents that may be required; sanctions.* — For purposes of determining whether the petition should be dismissed or denied pursuant to section 5 of this Rule, or where the petition is given due course under section 8 hereof, the Supreme Court may require or allow the filing of such pleadings, briefs, memoranda or documents as it may deem necessary within such periods and under such conditions as it may consider appropriate, and impose the corresponding sanctions in case of non-filing or unauthorized tiling of such pleadings and documents or non-compliance with the conditions therefor.

SECTION 8. *Due course; elevation of records.* — If the petition is given due course, the Supreme Court may require the elevation of the complete record of the case or specified parts thereof within fifteen (15) days from notice.

SECTION 9. *Rule applicable to both civil and criminal cases.* — The mode of appeal prescribed in this Rule shall be applicable to both civil and criminal cases, except in criminal cases where the penalty imposed is death, reclusion perpetua or life imprisonment. (Emphasis supplied)

From Rule 45's provisions will be gleaned basic procedural standards which a petitioner must satisfy if one's Rule 45 Petition is to be entertained:

- (1) that the petition does not only exclusively raise questions of law, but also that it distinctly sets forth those legal issues;<sup>[14]</sup>
- (2) that it be filed within 15 days of notice of the adverse ruling that impels it;<sup>[15]</sup>
- (3) that docket and other lawful fees are paid;<sup>[16]</sup>
- (4) that proper service is made;<sup>[17]</sup>
- (5) that all matters that Section 4 specifies are indicated, stated, or otherwise contained in it;<sup>[18]</sup>
- (6) that it is manifestly meritorious;<sup>[19]</sup>
- (7) that it is not prosecuted manifestly for delay;<sup>[20]</sup> and
- (8) that that the questions raised in it are of such substance as to warrant consideration.<sup>[21]</sup>

Failing in these, this Court is at liberty to deny outright or deny due course to a Rule 45 Petition. Any such denial may be done without the need of any further action, such as the filing of responsive pleadings or submission of documents, the elevation of records, or the conduct of oral arguments.

Furthermore, this Court's denial may come in the form of a minute resolution which does not go into the merits of the case, and instead merely states which among the eight (8) standards it is based. A denial by minute resolution does not violate the constitutional imperative that judicial decisions "[express]. . . clearly and distinctly the facts and the law on which [they are] based."<sup>[22]</sup> This is because any such minute resolution is not a judgment on a case, but is a declaration that a Rule 45 petition is insufficient in form and substance.

Hence, it is that petition's manifest inadequacies that prevent it from proceeding any further, not the ultimate quality of its factual and legal assertions.

Rule 45, Section 6 expounds on the eighth standard. Thus, to say that the questions raised in a Rule 45 Petition must be of such substance as to warrant consideration is to say that judicial review shall proceed "only when there are *special and important* reasons."<sup>[23]</sup> The use of the conjunctive "and" *vis-à-vis* the adjectives "special" and "important" means that the reasons invoked for review must be of distinctly significant consequence and value. Rule 45, Section 6 (a) and (b) illustrate the gravity of reasons which would move this Court to act:

- (a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
- (b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned