

## THIRD DIVISION

[ G.R. No. 217978, January 30, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NANCY LASACA RAMIREZ A.K.A. "ZOY" OR "SOY" ACCUSED-APPELLANT.**

### DECISION

**LEONEN, J.:**

This is an Appeal assailing the Court of Appeals October 23, 2014 Decision<sup>[1]</sup> in CA-G.R. CEB-CR HC No. 01655, which affirmed the Regional Trial Court January 9, 2013 Judgment<sup>[2]</sup> in Crim. Case No. R-LLP-09-05622-CR. The trial court found Nancy Lasaca Ramirez a.k.a. "ZOY" or "SOY" (Ramirez) guilty beyond reasonable doubt of qualified trafficking of persons in relation to Section 4(e)<sup>[3]</sup> of Republic Act No. 9208, or the Anti-Trafficking in Persons Act of 2003.

In an Information, Ramirez was charged with qualified trafficking of persons in relation to Section 4(e) of Republic Act No. 9208. It read:

That on the 5<sup>th</sup> day of December, 2009, at or about 9:45 o'clock (sic) in the evening, in [REDACTED], Lapu-Lapu City, Philippines, within the jurisdiction of this Honorable Court, the aforementioned accused, did then and there willfully and unlawfully maintain or hire Nica Jean U. Goc-ong, 20 years old, AAA, 16 year old minor, Cindy Pancho, 20 years old and BBB, 15 year old minor, to engage in prostitution and offered them for sex or any form of sexual exploitation to poseur customers.

CONTRARY TO LAW.<sup>[4]</sup>

Ramirez pleaded not guilty on arraignment. Trial on the merits ensued.<sup>[5]</sup>

The prosecution alleged that at around 9:45 p.m. on December 5, 2009, Police Officer 1 Nef Nemenzo (PO1 Nemenzo) and 13 other members of the Regional Anti-Human Trafficking Task Force conducted an entrapment operation in [REDACTED], Lapu-Lapu City. The operation was "based on their surveillance of a widespread sexual service for sale by young girls"<sup>[6]</sup> in the area.<sup>[7]</sup>

The operation was divided into two (2) groups. PO1 Nemenzo's group targeted the area of [REDACTED] KTV Bar in front of [REDACTED] Grill. He would be disguised as a customer negotiating for the prices of the minors' services.<sup>[8]</sup>

In the bar, PO1 Nemenzo and a team member, Police Officer 1 Llanes (PO1 Llanes), ordered beers and waited for the pimps. Two (2) women approached them and introduced themselves as AAA and BBB.<sup>[9]</sup> Upon hearing that they would need two (2) more girls, another woman approached them and introduced herself as Nancy,

who was later identified as Ramirez. She told the police officers that she could provide the girls. Then, BBB and Ramirez left, and after a while, returned with two (2) more girls. They agreed that each girl would cost P600.00 as payment for sexual services.<sup>[10]</sup>

After Ramirez provided the four (4) girls, the group left and hailed a taxi heading for ██████████ Motel. Ramirez had told the girls to accept the money that they would be given. In the taxi, PO1 Llanes handed P2,400.00 to one (1) of the girls. As soon as the girl received it, PO1 Nemenzo and PO1 Llanes introduced themselves as police officers, and turned the girls over to their team leader in a civilian van parked near them. The police officers were told to return to the area and await the other teams' return. Later, Ramirez was arrested when BBB pointed to her as the pimp.<sup>[11]</sup>

The prosecution also presented the testimony of BBB, a minor, who testified knowing Ramirez and that she herself was pimped out by Ramirez several times already. BBB stated that on the night of the incident, Ramirez approached her and asked if she wanted to have sex for P200.00. She accepted and later, she and another girl, AAA, approached two (2) customers. The men said that they needed two (2) more girls, so Ramirez instructed BBB to get a couple more. She came back with two (2) girls, Nica and Cindy. After the deal was made, the six (6) of them boarded a taxi.<sup>[12]</sup>

Before they left, Ramirez instructed BBB to get the money from the two (2) men. While in the taxi, one (1) of the men handed her P2,400.00. She received the money and told her companions to set aside P400.00 as their pimp's share. Instead of going to the motel, the taxi stopped and the men introduced themselves as police officers.<sup>[13]</sup>

The prosecution likewise presented the testimony of AAA, a minor, who testified that she had already been pimped by Ramirez twice. On the night of the incident, AAA testified that Ramirez pimped her and three (3) other girls out to two (2) customers for P2,400.00. She stated that she knew Ramirez to be a pimp because Ramirez would look for customers, negotiate prices, get girls to have sex with the customers, and get commission from it.<sup>[14]</sup>

In her defense, Ramirez testified that at about 9:00p.m. on December 5, 2009, she and her sister, Francly Ramirez, were at ██████████ Grill watching a live band when two (2) men rushed to them, arrested her, and pushed her into a van. She asked why she was being arrested but the men just laughed. In the van, she saw BBB, who told her that police officers were around the area to arrest prostitutes. The men then brought her to a gas station, where they were made to board another van with other women and two (2) gay men. They were brought to the police station in ██████████, Cebu City, where they were investigated for prostitution.<sup>[15]</sup>

In its January 9, 2013 Judgment,<sup>[16]</sup> the Regional Trial Court found Ramirez guilty. The dispositive portion read:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered finding the accused, Nancy Lasaca Ramirez guilty of the crime of Qualified Trafficking of Person in Relation to Sec. 4 (e) of R.A. 9208

beyond reasonable doubt and sentences her to suffer the penalty of life imprisonment and a fine of Two million pesos (P2,000,000.00).

SO ORDERED.<sup>[17]</sup>

Ramirez appealed before the Court of Appeals.<sup>[18]</sup> She argued that she does not work at ██████████ KTV Bar, and that it was BBB who negotiated with the poseur customers about the girls' prices and received the supposed payment for sexual services.<sup>[19]</sup> She posits that the advanced payment made to BBB was "contrary to human nature and natural course of events"<sup>[20]</sup> since no sexual activity had occurred yet. She insists that she was in the area just to watch a live band.<sup>[21]</sup>

In its October 23, 2014 Decision,<sup>[22]</sup> the Court of Appeals denied the Appeal and affirmed the Regional Trial Court January 9, 2013 Judgment. It highlighted the trial court's finding of overwhelming evidence against Ramirez, as two (2) of the minor victims positively identified her as their pimp.<sup>[23]</sup>

The Court of Appeals held that Ramirez not being employed at the ██████████ KTV Bar was irrelevant. It also found that even if BBB initiated the negotiation with the poseur customers, the deal was only closed when Ramirez brought another pair of girls.<sup>[24]</sup> It further noted that it was not uncommon for the payment to be received by the hired girls instead of the pimps. In any case, BBB testified that P400.00 had already been earmarked from the P2,400.00 payment as Ramirez' commission. This was enough to conclude that she was the girls' pimp.<sup>[25]</sup>

Ramirez filed a Notice of Appeal,<sup>[26]</sup> to which the Court of Appeals gave due course,<sup>[27]</sup> elevating the case records to this Court.<sup>[28]</sup>

In its June 29, 2015 Resolution,<sup>[29]</sup> this Court noted the elevation of records and directed the parties to file their supplemental briefs. Both parties manifested that they were no longer submitting supplemental briefs and moved that this Court instead consider the arguments in their briefs submitted before the Court of Appeals.<sup>[30]</sup>

While the case was pending, accused-appellant sent a handwritten letter<sup>[31]</sup> to this Court, insisting that on the night of the incident, she was merely in the area with her sister to watch a live band. She claims that she only met BBB that night, and that BBB suddenly dragged her to look for two (2) more girls. She further alleges that it was BBB who negotiated with the two (2) customers and that she had no idea what was going on.<sup>[32]</sup> She submits that BBB pointed to her as a pimp only because the police officers were threatening to detain her instead.<sup>[33]</sup>

This Court is confronted with the sole issue of whether or not the prosecution proved accused-appellant Nancy Lasaca Ramirez' guilt beyond reasonable doubt of qualified trafficking of persons.

Republic Act No. 9208 defines trafficking in persons as:

SECTION 3. Definition of Terms. — As used in this Act:

(a) Trafficking in Persons — refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the persons, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The crime is still considered trafficking if it involves the "recruitment, transportation, transfer, harboring[, ] or receipt of a child for the purpose of exploitation" even if it does not involve any of the means stated under the law.<sup>[34]</sup> Trafficking is considered qualified when "the trafficked person is a child[.]"<sup>[35]</sup>

In *People v. Casio*,<sup>[36]</sup> this Court enumerated the elements that must be established to successfully prosecute the crime:

The elements of trafficking in persons can be derived from its definition under Section 3 (a) of Republic Act No. 9208, thus:

- (1) The act of "recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders."
- (2) The means used which include "threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another["]; and
- (3) The purpose of trafficking is exploitation which includes "exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."<sup>[37]</sup>

Republic Act No. 9208 has since been amended by Republic Act No. 10364<sup>[38]</sup> on February 6, 2013. In recognition of the amendments to the law, *Casio* clarifies that crimes prosecuted under Republic Act No. 10364 must have the following elements:

Under Republic Act No. 10364, the elements of trafficking in persons have been expanded to include the following acts:

- (1) The act of "recruitment, *obtaining, hiring, providing, offering,* transportation, transfer, *maintaining,* harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders[";]

- (2) The means used include "by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"[;]
- (3) The purpose of trafficking includes "the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs[.]"<sup>[39]</sup> (Emphasis in the original)

Here, accused-appellant was charged with having violated qualified trafficking in relation to Section 4(e) of Republic Act No. 9208, which provides that it is unlawful for anyone "[t]o maintain or hire a person to engage in prostitution or pornography[.]"

The prosecution established that on the night of December 5, 2009, accused-appellant approached PO1 Nemenzo and offered him the sexual services of four (4) girls, two (2) of whom were minors, for P2,400.00. The police operation had been the result of previous surveillance conducted within the area by the Regional Anti-Human Trafficking Task Force. Both minor victims testified that this incident was not the first time that accused-appellant pimped them out to customers, and that any payment to them would include the payment of commission to accused-appellant

This Court in *People v. Rodriguez*<sup>[40]</sup> acknowledged that as with *Casio*, the corroborating testimonies of the arresting officer and the minor victims were sufficient to sustain a conviction under the law. In *People v. Spouses Ybanez, et al.*,<sup>[41]</sup> this Court likewise affirmed the conviction of traffickers arrested based on a surveillance report on the prostitution of minors within the area. In *People v. XXX and YYY*,<sup>[42]</sup> this Court held that the exploitation of minors, through either prostitution or pornography, is explicitly prohibited under the law. *Casio* also recognizes that the crime is considered consummated even if no sexual intercourse had taken place since the mere transaction consummates the crime.<sup>[43]</sup>

Here, accused-appellant cannot use as a valid defense either BBB's and AAA's consent to the transaction, or that BBB received the payment on her behalf. In *Casio*:<sup>[44]</sup>

The victim's consent is rendered meaningless due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking. Even without the use of coercive, abusive, or deceptive means, a minor's consent is not given out of his or her own free will.<sup>[45]</sup>

Similarly, in *People v. De Dios*:<sup>[46]</sup>

It did not matter that there was no threat, force, coercion, abduction, fraud, deception or abuse of power that was employed by De Dios when she involved AAA in her illicit sexual trade. AAA was still a minor when she was exposed to prostitution by the prodding, promises and acts of De Dios. Trafficking in persons may be committed also by means of taking advantage of the persons' vulnerability as minors, a circumstance that