

## FIRST DIVISION

[ G.R. No. 212448, January 11, 2018 ]

AAA,<sup>[\*]</sup> PETITIONER, V. BBB,<sup>[\*]</sup> RESPONDENT.

### D E C I S I O N

**TIJAM, J.:**

May Philippine courts exercise jurisdiction over an offense constituting psychological violence under Republic Act (R.A.) No. 9262,<sup>[1]</sup> otherwise known as the Anti-Violence Against Women and their Children Act of 2004, committed through marital infidelity, when the alleged illicit relationship occurred or is occurring outside the country?

The above question is addressed to this Court in the present Petition<sup>[2]</sup> for the issuance of a writ of *certiorari* under Rule 45 of the Rules of Court, to nullify the Resolutions dated February 24, 2014<sup>[3]</sup> and May 2, 2014<sup>[4]</sup> of the Regional Trial Court (RTC) of Pasig City, Branch 158, in Criminal Case No. 146468. The assailed resolutions granted the motion to quash the Information<sup>[5]</sup> which charged respondent BBB under Section 5(i) of R.A. No. 9262, committed as follows:

On or about April 19, 2011, in Pasig City, and within the jurisdiction of this Honorable Court, [BBB], being then legally married to [AAA], caused herein [AAA] mental and emotional anguish by having an illicit relationship with a certain Lisel Mok as confirmed by his photograph with his purported paramour Lisel Mok and her children and the e-mailed letter by his mother mentioning about the said relationship, to the damage and prejudice of [AAA], in violation of the aforecited law.

Contrary to law.

We briefly recount the antecedents.

Petitioner AAA and BBB were married on August 1, 2006 in Quezon City. Their union produced two children: CCC was born on March 4, 2007 and DDD on October 1, 2009.<sup>[6]</sup>

In May of 2007, BBB started working in Singapore as a chef, where he acquired permanent resident status in September of 2008. This petition nonetheless indicates his address to be in Quezon City where his parents reside and where AAA also resided from the time they were married until March of 2010, when AAA and their children moved back to her parents' house in Pasig City.<sup>[7]</sup>

AAA claimed, albeit not reflected in the Information, that BBB sent little to no financial support, and only sporadically. This allegedly compelled her to fly extra hours and take on additional jobs to augment her income as a flight attendant. There were also allegations of virtual abandonment, mistreatment of her and their

son CCC, and physical and sexual violence. To make matters worse, BBB supposedly started having an affair with a Singaporean woman named Lisel Mok with whom he allegedly has been living in Singapore. Things came to a head on April 19, 2011 when AAA and BBB had a violent altercation at a hotel room in Singapore during her visit with their kids.<sup>[8]</sup> As can be gathered from the earlier cited Information, despite the claims of varied forms of abuses, the investigating prosecutor found sufficient basis to charge BBB with causing AAA mental and emotional anguish through his alleged marital infidelity.<sup>[9]</sup>

The Information having been filed, a warrant of arrest was issued against BBB. AAA was also able to secure a Hold-Departure Order against BBB who continued to evade the warrant of arrest. Consequently, the case was archived. <sup>[10]</sup>

On November 6, 2013, an Entry of Appearance as Counsel for the Accused With Omnibus Motion to Revive Case, Quash Information, Lift Hold Departure Order and Warrant of Arrest<sup>[11]</sup> was filed on behalf of BBB. Granting the motion to quash on the ground of lack of jurisdiction and thereby dismissing the case, the trial court reasoned:

Here, while the Court maintains its 28 October 2011 ruling that probable cause exists in this case and that [BBB] is probably guilty of the crime charged, considering, however, his subsequent clear showing that the acts complained of him had occurred in Singapore, dismissal of this case is proper since the Court enjoys no jurisdiction over the offense charged, it having transpired outside the territorial jurisdiction of this Court.

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The Court is not convinced by the prosecution's argument that since [AAA] has been suffering from mental and emotional anguish "wherever she goes", jurisdiction over the offense attaches to this Court notwithstanding that the acts resulting in said suffering had happened outside of the Philippines. To the mind of the Court, with it noting that there is still as yet no jurisprudence on this score considering that **Republic Act 9262** is relatively a new law, the act itself which had caused a woman to suffer mental or emotional anguish must have occurred within the territorial limits of the Court for it to enjoy jurisdiction over the offense. This amply explains the use of the emphatic word "causing" in the provisions of **Section 5(i), above**, which denotes the bringing about or into existence of something. Hence, the mental or emotional anguish suffered by a woman must have been brought about or into existence by a criminal act which must logically have occurred within the territorial limits of the Court for jurisdiction over the offense to attach to it. To rule otherwise would violate or render nugatory one of the basic characteristics of our criminal laws - territoriality.

In the listing provided in the law itself - "repeated verbal and emotional abuse, and denial of financial support or custody of minor children of (sic) access to the woman's child/children"- it becomes clear that there must be an act which causes the "mental or emotional anguish, public ridicule or humiliation", and it is such act which partakes of a criminal nature. Here, such act was the alleged maintenance of "an illicit

relationship with a certain Liesel Mok" which has been conceded to have been committed in Singapore.

Granting, without conceding, that the law presents ambiguities as written, quashal of the Information must still be ordered following the underlying fundamental principle that all doubts must be resolved in favor of [BBB]. At best, the Court draws the attention of Congress to the arguments on jurisdiction spawned by the law.<sup>[12]</sup> (Emphasis in the original)

Aggrieved by the denial of the prosecution's motion for reconsideration of the dismissal of the case, AAA sought direct recourse to this Court via the instant petition on a pure question of law. AAA posits that R.A. No. 9262 is in danger of becoming transmogrified into a weak, wobbly, and worthless law because with the court *a quo's* ruling, it is as if husbands of Filipino women have been given license to enter into extra-marital affairs without fear of any consequence, as long as they are carried out abroad. In the main, AAA argues that mental and emotional anguish is an essential element of the offense charged against BBB, which is experienced by her wherever she goes, and not only in Singapore where the extra-marital affair takes place; thus, the RTC of Pasig City where she resides can take cognizance of the case.

In support of her theory, AAA draws attention to Section 7 of R.A. No. 9262, which provides:

Sec. 7. *Venue* - The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against women and their children under this law. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime **or any of its elements** was committed at the option of the complainant. (Emphasis ours)

As to the ambiguity in the law hypothetically referred to in the assailed order, AAA directs us to:

Section 4. *Construction*. - This Act shall be liberally construed to promote the protection and safety of victims of violence against women and their children.

In his Comment<sup>[13]</sup> filed on January 20, 2015, BBB contends that the grant of the motion to quash is in effect an acquittal; that only the civil aspect of a criminal case may be appealed by the private offended party; and, that this petition should be dismissed outright for having been brought before this Court by AAA instead of the Office of the Solicitor General (OSG) as counsel for the People in appellate proceedings. BBB furthermore avers that the petition was belatedly filed.

We tackle first the threshold issue of whether or not this Court should entertain the petition.

It must be stated beforehand that BBB is plainly mistaken in asserting that the instant petition was belatedly filed. The date erroneously perceived by BBB as the date of AAA's Motion for Extension<sup>[14]</sup> was filed - June 2, 2014 - refers to the date of receipt by the Division Clerk of Court and not the date when the said motion was lodged before this Court. The motion was in fact filed on May 27, 2014, well within

the period that AAA had under the Rules of Court to file the intended petition. Thus, considering the timeliness of the motion, this Court in a Resolution<sup>[15]</sup> dated June 9, 2014, granted AAA an additional period of thirty (30) days or until June 26, 2014 to file a petition for review.

In AAA's motion for extension of time, it was mentioned that she was awaiting the OSG's response to her Letter<sup>[16]</sup> dated May 26, 2014 requesting for representation. Since, the OSG was unresponsive to her plea for assistance in filing the intended petition, AAA filed the present petition in her own name before the lapse of the extension given her by this Court or on June 25, 2014.

We find that under the circumstances, the ends of substantial justice will be better served by entertaining the petition if only to resolve the question of law lodged before this Court. In *Morillo v. People of the Philippines, et al.*,<sup>[17]</sup> where the Court entertained a Rule 45 petition which raised only a question of law filed by the private offended party in the absence of the OSG's participation, we recalled the instances when the Court permitted an offended party to file an appeal without the intervention of the OSG. One such instance is when the interest of substantial justice so requires.<sup>[18]</sup>

*Morillo*,<sup>[19]</sup> also differentiated between dismissal and acquittal, thus:

**Acquittal is always based on the merits, that is, the defendant is acquitted because the evidence does not show that defendant's guilt is beyond a reasonable doubt; but dismissal does not decide the case on the merits or that the defendant is not guilty. Dismissal terminates the proceeding, either because the court is not a court of competent jurisdiction, or the evidence does not show that the offense was committed within the territorial jurisdiction of the court, or the complaint or information is not valid or sufficient in form and substance, etc.** The only case in which the word dismissal is commonly but not correctly used, instead of the proper term acquittal, is when, after the prosecution has presented all its evidence, the defendant moves for the dismissal and the court dismisses the case on the ground that the evidence fails to show beyond a reasonable doubt that the defendant is guilty; for in such case the dismissal is in reality an acquittal because the case is decided on the merits. **If the prosecution fails to prove that the offense was committed within the territorial jurisdiction of the court and the case is dismissed, the dismissal is not an acquittal, inasmuch as if it were so the defendant could not be again prosecuted before the court of competent jurisdiction; and it is elemental that in such case, the defendant may again be prosecuted for the same offense before a court of competent jurisdiction.**<sup>[20]</sup> (Citation omitted and emphasis in the original)

The grant of BBB's motion to quash may not therefore be viewed as an acquittal, which in limited instances may only be repudiated by a petition for *certiorari* under Rule 65 upon showing grave abuse of discretion lest the accused would be twice placed in jeopardy.<sup>[21]</sup>

Indubitably, "the Rules do not prohibit any of the parties from filing a Rule 45 Petition with this Court, in case only questions of law are raised or involved."<sup>[22]</sup> "There is a question of law when the issue does not call for an examination of the probative value of the evidence presented or of the truth or falsehood of the facts being admitted, and the doubt concerns the correct application of law and jurisprudence on the matter."<sup>[23]</sup>

Further, the question of whether or not the RTC has jurisdiction in view of the peculiar provisions of R.A. No. 9262 is a question of law. Thus, in *Morillo*,<sup>[24]</sup> the Court reiterated that:

[T]he jurisdiction of the court is determined by the averments of the complaint or Information, in relation to the law prevailing at the time of the filing of the complaint or Information, and the penalty provided by law for the crime charged at the time of its commission. Thus, when a case involves a proper interpretation of the rules and jurisprudence with respect to the jurisdiction of courts to entertain complaints filed therewith, it deals with a question of law that can be properly brought to this Court under Rule 45.<sup>[25]</sup> (Citations omitted)

We are not called upon in this case to determine the truth or falsity of the charge against BBB, much less weigh the evidence, especially as the case had not even proceeded to a full-blown trial on the merits. The issue for resolution concerns the correct application of law and jurisprudence on a given set of circumstances, *i.e.*, whether or not Philippine courts are deprived of territorial jurisdiction over a criminal charge of psychological abuse under R.A. No. 9262 when committed through marital infidelity and the alleged illicit relationship took place outside the Philippines.

The novelty of the issue was even recognized by the RTC when it opined that there is still as yet no jurisprudence on this score, prompting it to quash the Information even as it maintained its earlier October 28, 2011 ruling that probable cause exists in the case.<sup>[26]</sup> Calling the attention of Congress to the arguments on jurisdiction spawned by the law,<sup>[27]</sup> the RTC furnished copies of the assailed order to the House of Representatives and the Philippine Senate through the Committee on Youth, Women and Public Relations, as well as the Committee on Justice and Human Rights.<sup>[28]</sup>

The issue acquires special significance when viewed against the present economic reality that a great number of Filipino families have at least one parent working overseas. In April to September 2016, the number of overseas Filipino workers who worked abroad was estimated at 2.2 million, 97.5 percent of which were comprised of overseas contract workers or those with existing work contract; while 2.5 percent worked overseas without contract.<sup>[29]</sup> It is thus necessary to clarify how R.A. No. 9262 should be applied in a question of territorial jurisdiction over a case of psychological abuse brought against the husband when such is allegedly caused by marital infidelity carried on abroad.

### **Ruling of the Court**

There is merit in the petition.