

SECOND DIVISION

[G.R. No. 217764, August 07, 2017]

ANTONIETA LUCIDO^[1] @ TONYAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

LEONEN, J.:

This resolves a Petition for Review on Certiorari^[2] assailing the Court of Appeals' Decision^[3] dated August 28, 2014 and Resolution^[4] dated March 13, 2015. The assailed Court of Appeals Decision affirmed with modification the Regional Trial Court Decision^[5] dated June 27, 2011, while the assailed Resolution denied the Motion for Reconsideration.

The Regional Trial Court Decision found Antonietta Lucido (Lucido) guilty of child abuse under Section 10(a)^[6] of Republic Act No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.^[7]

In the Information^[8] dated March 30, 2008, Lucido was charged with child abuse under Section 10(a) of Republic Act No. 7610:

That on or about the month of December, 2007 in Brgy. Atabay, Hilongos, Leyte, within the jurisdiction of the Honorable Court, the above-named accused, did then and there, maliciously, willfully, unlawfully, and intentionally, beat with the use of a belt, pinched, and strangled the child victim [AAA], who was then eight (8) years old, thereby inflicting physical injuries that affected the normal development of the said child victim.

CONTRARY TO LAW.^[9]

Lucido pleaded not guilty upon arraignment.^[10]

On August 10, 2008, the pre-trial was held. Lucido, through counsel, offered to plead guilty to the crime of Less Serious Physical Injuries under Article 265 of the Revised Penal Code or Violation of Article 59, paragraph 8 of Presidential Decree No. 603^[11] or the Child and Youth Welfare Code. However, it was not accepted by the complaining witnesses and the prosecution. Thereafter, trial on the merits ensued.^[12]

On July 1, 2009, Lucido was released on bail.^[13]

The prosecution presented the following as witnesses: the victim AAA, Dr. Conrado Abiera III (Dr. Abiera), the father of the victim FFF, and Maria Hinampas

(Hinampas).^[14] The prosecution established the following facts:

Sometime in August 2007, in Barangay Atabay, Hilongos, Leyte, AAA was placed by her parents in the custody of their neighbor Lucido, alias Tony ay.^[15] The arrangement was made upon the request of Lucido that AAA stay with her since she was living alone.^[16] AAA was eight (8) years old at that time.^[17]

During AAA's stay with Lucido, the child suffered repeated physical abuse in the latter's hands, which included strangulation,^[18] beating,^[19] pinching,^[20] and touching of her sex organ by Lucido.^[21] AAA was also threatened by Lucido that she would be stabbed if she tells anyone about what was being done to her.^[22]

One of Lucido's neighbors, Hinampas, noticed the abrasions on AAA's neck and observed that she was limping as she walked.^[23] The child then related that she was choked and beaten on her leg by Lucido.^[24] AAA's parents learned of her plight,^[25] prompting FFF to go to Lucido's residence and take AAA back with the help of a barangay tanod.^[26]

A subsequent physical examination conducted by Dr. Abiera of Hilongos District Hospital confirmed AAA's story. His findings were as follows:

Multiple abrasions on different parts of the body secondary to pricking
nail marks/scratches

There is redness on the peripheral circumference of the hymen

No hymenal laceration noted.

There is weakness of (L) knee joint upon walking.^[27]

After the prosecution rested its case, the defense presented Lucido, Lucia Mancio Lusuegro (Lusuegro), and Estrella L. Sanchez (Sanchez) as witnesses.^[28] The Court of Appeals summarized their testimonies as follows:

[Lucido] denied that she pinched, beat and hit AAA and that she inserted her finger into AAA's vagina. She claimed that she usually cleaned AAA's vagina and bathed her with hot water. She, likewise, denied that she brought AAA to Bato for sexual intercourse. [Lucido] impute[d] ill motive on Hinampas, whom she claimed to be her enemy, in instituting the complaint against her.

Lucia Mancio Lusuegro ... a neighbor of [Lucido] and AAA's parents at Brgy. Atabay, Hilongos, Leyte, testified that she heard AAA cry only once outside the house of [Lucido]. She never heard any commotion that [Lucido] maltreated AAA.

Estrella Sanchez ... testified that the accusation of child abuse and prostitution was not true. She claimed that the filing of the case against [Lucido] was instigated by Hinampas, with whom [Lucido] had a quarrel.
^[29]

On June 27, 2011, the Regional Trial Court rendered a Decision, convicting Lucido of child abuse, as follows:

WHEREFORE, in view of the foregoing, accused ANTONIETA LUCIDO alyas "Tonyay" is found GUILTY beyond reasonable doubt in violation of Section 10 (a) of Republic Act No. 7610 and hereby sentenced to suffer the penalty of Prison Mayor in its minimum period (SIX (6) YEARS and ONE (1) DAY to EIGHT (8) YEARS imprisonment), and to pay the offended party [AAA] Fifty Thousand Pesos (P50,000.00) as moral damages.

SO ORDERED.^[30]

The Court of Appeals affirmed Lucido's conviction, but modified the penalty imposed by applying the Indeterminate Sentence Law. The dispositive portion of the Decision read:

WHEREFORE, the Appeal is DENIED. The Decision, dated 27 June 2011, of the Regional Trial Court of Hilongos[,], Leyte, 8th Judicial Region, Branch 18 in Criminal Case No. H-1675 is hereby AFFIRMED with MODIFICATIONS, to wit:

(a) the appellant Antonieta Lucido @ "Tonyay" is hereby sentenced to four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum;

(b) an interest at the rate of six percent (6%) per annum shall be applied to the award of moral damages to be reckoned from this date until fully paid;

(c) the bondsman is ordered to surrender the appellant to the court *a quo*, within ten (10) days from notice and to report to this Court the fact of surrender, within ten (10) days from notice of such fact;

(d) in case of non-surrender, the Regional Trial Court of Hilongos[,], Leyte, 8th Judicial Region, Branch 18 is DIRECTED to:

(i) cancel the bond posted for the provisional liberty of the appellant;

(ii) order the arrest of the appellant; and

(iii) immediately commit the appellant to the Bureau of Prisons.

SO ORDERED.^[31]

Lucido's Motion for Reconsideration was likewise denied in the Court of Appeals March 13, 2015 Resolution.

Hence, this Petition^[32] was filed on May 20, 2015. This Court received respondent's Comment^[33] on November 23, 2015.

Petitioner raises the following issues for this Court's resolution:

1. whether the Court of Appeals erred in sustaining her conviction despite the failure

of the prosecution to prove her guilt beyond reasonable doubt; and

2. whether the Court of Appeals erred in not finding that the crime committed was only slight physical injuries and not a violation of Republic Act No. 7610.^[34]

Petitioner contends that the prosecution failed to prove "that the physical injuries inflicted on the child had prejudiced the child's development so as to debase, degrade or demean the intrinsic worth and dignity of the child as a human being." She cites the absence of an expert opinion validating scientifically that the acts complained of proximately caused the "prejudice inflicted upon the child's development."^[35]

Furthermore, petitioner argues that the prosecution was not able to prove the infliction of physical injuries on the child. She avers that Hinampas' testimony of having heard the victim being maltreated several times by Lucido is incredible, exaggerated, and unworthy of belief. First, the victim's own father, whose house was about five (5) meters away from Lucido's house, never testified that he heard the maltreatment done by Lucido upon his own daughter.^[36] Second, two (2) defense witnesses who were neighbors of Lucido testified that they did not hear any noise that would indicate Lucido's maltreatment of AAA.^[37]

Petitioner claims that the charge against her was ill-motivated. She highlights the ongoing enmity between her and Hinampas, one (1) of the witnesses for the prosecution. Petitioner also imputes ill-motive on AAA in falsely testifying against her after having been scolded for damaging petitioner's cellphone.^[38]

Finally, petitioner asserts that the prosecution failed to prove that the acts alleged in the information—beating using a belt, pinching, and strangulating AAA—were intended to "debase, degrade or demean the intrinsic worth and dignity of the child as a human being."^[39] Citing *Bongalon v. People*,^[40] petitioner contends that she could not be convicted of child abuse but only of slight physical injuries defined and punished under the Revised Penal Code.^[41]

On the other hand, respondent argues that the petition must be denied because it raises questions of fact, which could not be done in a petition for review under Rule 45.^[42]

This Court denies the petition.

I

The issues submitted by petitioner—the prosecution's failure to prove that the abuse suffered by the victim had prejudiced her normal development and want of credibility of the prosecution witnesses—are fundamentally factual. However, this Court is not a trier of facts. As a rule, "only questions of law may be raised in a petition for review on *certiorari* under Rule 45."^[43]

It is not the function of this Court to review and weigh anew the evidence already passed upon by the Regional Trial Court and the Court of Appeals absent any showing of arbitrariness, capriciousness, or palpable error.^[44] Petitioner did not

present any substantive or compelling reason for this Court to apply the exception in this case.

Even if this Court disregards this infirmity, the petition still fails to impress. This Court finds no reversible error in the Court of Appeals Decision affirming petitioner's conviction for child abuse.

It is a fact that when the incident happened, the victim was a child entitled to the protection extended by Republic Act No. 7610, as mandated by the Constitution.^[45] Thus, petitioner was properly charged and found guilty of violating Article VI, Section 10(a) of Republic Act No. 7610, which reads:

ARTICLE VI
OTHER ACTS OF ABUSE

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.

- (a) Any person who shall commit any other acts of *child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development* including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period. (Emphasis supplied)

Article I, Section 3(b) of Republic Act No. 7610 defines *child abuse* as the maltreatment of a child, whether habitual or not, including *any* of the following:

- (1) Psychological and ***physical abuse***, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death. (Emphasis supplied)

As defined in the law, child abuse includes physical abuse of the child, whether it is habitual or not. Petitioner's acts fall squarely within this definition.

AAA testified on the physical abuse she suffered in the hands of petitioner. The Regional Trial Court described her narration of the facts to be in "a straightforward, credible and spontaneous manner which could not be defeated by the denial of the accused."^[46] From the appearance of the victim, the trial court likewise observed physical evidence of the abuses and ill-treatment inflicted by the petitioner on AAA aside from the victim's psychological displacement.^[47] AAA's testimony was further