

## SECOND DIVISION

[ G.R. No. 175842, March 18, 2015 ]

**NILO MACAYAN, JR. Y MALANA, PETITIONER, VS. PEOPLE OF  
THE PHILIPPINES, RESPONDENT.**

### DECISION

**LEONEN, J.:**

This resolves a Petition for Review on Certiorari praying that the assailed Decision<sup>[1]</sup> dated June 31, 2006 of the Court of Appeals be reversed and set aside and that a new one be rendered acquitting petitioner Nilo Macayan, Jr.

The assailed Decision of the Court of Appeals affirmed with modification (by increasing the duration of the penalty) the Decision<sup>[2]</sup> dated November 15, 2002 of the Regional Trial Court, Quezon City, which found Nilo Macayan, Jr. (Macayan) guilty beyond reasonable doubt of the crime of robbery.

In the Information dated February 20, 2001, Macayan was charged with robbery as follows:

That on or about the 16<sup>th</sup> day of February 2001, in Quezon City, Philippines, the said accused, with intent to gain and by means of force and intimidation, did then and there willfully, unlawfully and feloniously rob / divest one ANNIE UY JAO of the amount of P4,000.00 in cash in the manner as follows: on the date and in the place afore-mentioned, said accused threatened complainant that he would destroy her and her entire family and that he will have her and members of her family kidnapped unless she gives to him the amount of P200,000.00, Philippine Currency and thereafter negotiated with said Annie Uy Jao at McDonald's located at Quezon Avenue, this City, thus creating fear in the mind of said complainant who was compelled to give as in fact she gave and delivered to the accused the amount of P4,000.00, Philippine Currency, to the damage and prejudice of said Annie Uy Jao in the amount aforementioned.

CONTRARY TO LAW.<sup>[3]</sup>

The case was docketed as Criminal Case No. Q-01-98670 and raffled to Branch 101 of the Regional Trial Court, Quezon City.<sup>[4]</sup>

During trial, the prosecution presented as it witnesses: Annie Uy Jao, the private complainant; Rodrigo Mapoy, team leader of the NBI operatives who conducted the supposed entrapment operation that led to Macayan's arrest; and Resurreccion R.

Bajado, a forensic chemist. Macayan was the sole witness for the defense.<sup>[5]</sup>

Annie Uy Jao (Jao) is the owner of Lanero Garments Ext (Lanero). In 1995, she hired Macayan as a sample cutter and to undertake materials purchasing for her garments business.<sup>[6]</sup>

In her testimony, Jao acknowledged that in 2000, when her business was doing poorly, she allowed her employees to accept engagements elsewhere to augment their income, provided they prioritize their work at Lanero. It came to her attention that Macayan and his wife (also an employee at Lanero) accepted work for a rival company. Thus, Jao confronted Macayan to impress upon him the need to prioritize work at Lanero. Macayan still took his work at Lanero for granted, so Jao confronted him again. In this confrontation, Macayan allegedly responded, "*Kung gusto mo, bayaran mo na long ako at aalis ako.*" Macayan then stopped reporting for work.<sup>[7]</sup>

Following this, Jao was surprised to find out that Macayan had filed a Complaint for illegal dismissal against her (docketed as NLRC-NCR Case No. 00-09-05057-00). Several conferences were set for this illegal dismissal case. Immediately after the postponement of the conference on February 12, 2001, Macayan allegedly threatened Jao that her family would be harmed and/or kidnapped if she did not give him P200,000.00. Marjorie Angel (Angel), Jao's secretary, was supposedly present when she was threatened. The following day, Macayan allegedly called Jao to reiterate his threat and to specify the time and place — February 16, 2001, sometime between 6:00 and 7:00 p.m. at McDonald's Banawe Branch — in which the P200,000.00 should be handed to him. Jao claimed that she was sure it was Macayan speaking to her, as the person on the phone addressed her as "Madam," which was how he customarily called her.<sup>[8]</sup>

Fearing for her family's safety, Jao sought assistance from the National Bureau of Investigation (NBI). She asked that an entrapment operation be set up. The NBI operatives asked her to prepare bills totalling P4,000.00 to be marked and used in the operation.<sup>[9]</sup>

On February 16, 2001, Jao, Angel, and the NBI operatives arrived at McDonald's Banawe. They stayed there for about 30 minutes before Macayan called Angel and told her that they were to meet at McDonald's Quezon Avenue instead. They arrived there at about 7:30 p.m. Macayan called Angel again and told her that he was moving the venue to McDonald's EDS A. They then proceeded to McDonald's EDS A and waited for Macayan, while the NBI operatives waited outside. Macayan arrived and proceeded to where Jao and Angel were seated. Jao handed him an envelope containing the marked bills. Macayan pulled the bills halfway out of the envelope, and the NBI operatives accosted him.<sup>[10]</sup>

Prosecution witness Rodrigo Mapoy, team leader of the NBI operatives who arrested Macayan, testified to the circumstances before and the conduct of the entrapment operation. The testimony of forensic chemist Resurreccion R. Bajado regarding the marked bills handed to Macayan was subject of a joint stipulation by the prosecution and the defense.<sup>[11]</sup>

Macayan, testifying for himself, emphasized that he enjoyed a relatively trouble-free

employment with Lanero. However, sometime in 1999, after his wife gave birth to their first child, he discovered that Jao had not been remitting required premiums to the Social Security System.<sup>[12]</sup>

On August 18, 2000, as his child was confined in a hospital, Macayan inquired with Jao regarding his Medicare benefits. This displeased Jao. The following day, she prevented him from performing his tasks at work. Construing this as harassment, he stopped reporting for work.<sup>[13]</sup>

Thereafter, Macayan filed a Complaint for illegal dismissal against Jao. In the course of the proceedings for this illegal dismissal case, no less than 11 conferences/hearings were set. As evidenced by these conferences' minutes or constancias, at no instance did Jao ever attend, as it was either her legal counsel or Angel who did so. Macayan recalled that in one of these conferences, he expressed to Angel his willingness to settle the case for P40,000.00.<sup>[14]</sup>

On February 16, 2001, at about 9:00 a.m., Angel called Macayan. She told him that Jao was ready to settle the illegal dismissal case. She added that Jao wanted to pay him already, as Jao was leaving for Hong Kong. Angel set a rendezvous later in the day at McDonald's Banawe. At about 11:00 a.m., Angel called him again, resetting the rendezvous to McDonald's EDSA. She even reasoned that this venue was more convenient for her since she was going home to Zambales.<sup>[15]</sup>

Macayan arrived at the agreed venue at about 9:00 p.m. He saw Angel standing outside McDonald's. He approached Angel, who then accompanied him inside and led him to a four-seat corner table. He was surprised to see Jao present. Jao then brought out of her bag a piece of paper indicating that Macayan received the settlement amount for the illegal dismissal case. Macayan signed this as he was of the understanding that this was necessary to the settlement. Jao then pulled out a white envelope, handed it to Macayan, and told him to count its contents. While counting the contents, a flash bulb went on somewhere to his right. Then, a man who claimed to be an NBI operative struck a blow on the right side of Macayan's face and told him, "*Tatanga-tanga ka. Pupunta ka rito ng walang kasama, ikaw ngayon ang me [sic] kaso.*"<sup>[16]</sup>

Handcuffed, he was taken aboard a minivan and physically abused. He was taken to several police stations in the hope that an inquest fiscal was available. It was only at 10:00 a.m. of the following day that an inquest fiscal, Prosecutor Hilda Ibuyan, became available.<sup>[17]</sup>

The Information charging him with robbery dated February 20, 2001 was then prepared, and the criminal case (docketed as Criminal Case No. Q-01-98670) was filed and raffled to Branch 101 of the Regional Trial Court, Quezon City.

In the meantime, on October 31, 2001, the illegal dismissal case was decided in Macayan's favor by Labor Arbiter Daisy G. Cauton-Barcelona. A total of P186,632.00 was awarded to him.<sup>[18]</sup> On appeal, the National Labor Relations Commission would find that Macayan was entitled to unpaid benefits though he was legally dismissed. The Decision of the National Labor Relations Commission was subsequently affirmed by the Court of Appeals with modification as to the applicable rate of interest.<sup>[19]</sup>

After trial, the Regional Trial Court, Quezon City rendered the Decision<sup>[20]</sup> convicting Macayan of robbery. The trial court found the prosecution's version of events "from the time of the telephone overtures of the Accused which is consistent with the elements of intimidation and/or extortion, up to complainant Annie Uy Jao's reporting the matter to the NBI, to the time of the NBI entrapment" as "ring[ing] a loud bell of truth and consistency, not to say credibility."<sup>[21]</sup> It accorded the presumption of regularity to the entrapment operation and held that the forensic findings connecting the marked money to Macayan militated against his defense.<sup>[22]</sup>

The dispositive portion of the trial court's Decision reads:

*PREMISES CONSIDERED, this Court, therefore, finds the Accused GUILTY BEYOND REASONABLE DOUBT of the crime of robbery and hereby sentences him to suffer the indeterminate penalty (there being no mitigating/aggravating circumstance) of FOUR (4) MONTHS and ONE (1) DAY of ARRESTO MAYOR as minimum to FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of PRISION CORRECCIONAL as maximum.*

*Lastly the P4,000.00 marked money exhibit, which has been claimed to be owned by the private complainant, is ORDERED RELEASED to her after the finality of this Decision.*

*SO ORDERED.*<sup>[23]</sup> (Emphasis and underscoring in the original)

Macayan then appealed to the Court of Appeals. He filed his Appellant's Brief<sup>[24]</sup> on August 25, 2004.

The Office of the Solicitor General, representing the People of the Philippines at the appellate stage, did not file an appellee's brief. Instead, it filed a Manifestation and Motion in Lieu of Appellee's Brief<sup>[25]</sup> recommending that Macayan be acquitted. It asserted that his guilt was not established beyond reasonable doubt.

Noting that Jao was never present in any of the conferences for the illegal dismissal case and that the sole witness who could confirm if she was indeed threatened or intimidated on or immediately after such an occasion (i.e., Angel) was never presented, the Office of the Solicitor General asserted that the fourth requisite of the offense of robbery (i.e., violence against or intimidation of a person) could not have been made by Macayan on the occasion of a conference for the illegal dismissal case. It added that the other occasion when Macayan was supposed to have threatened Jao was equally dubious since Jao's sole reason for claiming that it was Macayan speaking to her (i.e., her having been addressed as "Madam") was insufficient to ascertain that person's identity.<sup>[26]</sup>

On July 31, 2006, the Court of Appeals Tenth Division rendered the assailed Decision<sup>[27]</sup> affirming Macayan's conviction and increasing the duration of the penalty imposed. It reasoned that Jao's sole, uncorroborated testimony was nevertheless positive and credible. As regards Jao's having been threatened after the postponement of the February 12, 2001 conference in the illegal dismissal case,

the Court of Appeals reasoned that constancias are "not the best evidence of attendance"<sup>[28]</sup> and that, in any case, Jao was threatened after and not during the conference.

The dispositive portion of this Decision reads:

**WHEREFORE**, premises considered, the decision of the Regional Trial Court of Quezon City, Branch 101, in Criminal Case No. Q-01-98670 is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellant is hereby sentenced to an indeterminate sentence of one (1) year, seven (7) months and eleven (11) days of prision correccional as **MINIMUM**, to six (6) years, one (1) month and eleven (11) days of prision mayor as **MAXIMUM**.

**SO ORDERED.**<sup>[29]</sup> (Emphasis in the original)

On December 18, 2006, the Court of Appeals Tenth Division rendered the Resolution<sup>[30]</sup> denying Macayan's Motion for Reconsideration.<sup>[31]</sup>

Hence, this Petition was filed.<sup>[32]</sup>

Asked by this court to file a Comment, the Office of the Solicitor General instead filed a Manifestation and Motion<sup>[33]</sup> to adopt as its Comment the same Manifestation and Motion in Lieu of Appellee's Brief that it filed with the Court of Appeals. Thus, the Office of the Solicitor General reiterated its position that Macayan's guilt beyond reasonable doubt has not been established and that he must be acquitted.

On September 11, 2007, Macayan filed the Manifestation in Lieu of Reply<sup>[34]</sup> in view of the Office of the Solicitor General's earlier Manifestation and Motion.

For resolution is the sole issue of whether Macayan's guilt beyond reasonable doubt has been established.

We reverse the Decision of the Court of Appeals and acquit petitioner Nilo Macayan, Jr. of the charge of robbery.

## **I**

Rule 133, Section 2 of the Revised Rules on Evidence specifies the requisite quantum of evidence in criminal cases:

Section 2. Proof beyond reasonable doubt. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.