

TENTH DIVISION

[CA-G.R. CR NO. 36369, March 31, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JAYVELYN MERCADO Y RUBIAN, ACCUSED-APPELLANT.**

D E C I S I O N

DIMAAMPAO, J.:

Accused-appellant JAYVELYN MERCADO (JAYVELYN) impugns the *Decision*^[1] dated 31 October 2013 of the Regional Trial Court, Fourth Judicial Region, Calamba City, Branch 34, finding her guilty of violating Republic Act (RA) No. 7610,^[2] in Crim. Case No. 17777-2010-C.

The accusatory averments of the *Information*^[3] dated 3 December 2010 read:

"That on or about September 17, 2010 in the morning at Brgy. San Agustin, Municipality of Bay, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously uttered (sic) statements such as "DI BA SINABI KO NA SA IYO MATAGAL NA NA HUWAG PAPUPUNTAHIN DITO ANG MGA POKPOK NA YAN LALO NA YANG MONGOLOID NA YAN" and "PUTANG INA MO PAPA-TAYIN KITANG MONGOLOID KA" to (AAA),^[4] a sixteen (16) year old minor, which insulting words degraded the worth of the minor as a person, to her damage and prejudice.

CONTRARY TO LAW."

JAYVELYN entered a plea of not guilty when arraigned.^[5] Trial on the merits ensued.

The prosecution sought to establish that on or about 17 September 2010, AAA was at the calibration shop of BBB, her father, when JAYVELYN arrived and screamed at her father: "*Di ba sinabi ko na sa iyo, huwag mo nang papupuntahin yang mga anak mong pokpok lalo na yang mongoloid na yan.*"^[6] AAA revealed that JAYVELYN was the paramour of BBB. JAYVELYN tried to hit AAA, but BBB stopped her and instead took the blow. AAA was so scared as she was not used to hearing such nasty words. Likewise, she felt threatened when her father was wounded by JAYVELYN. AAA called for CCC, her mother, who came rushing to the shop.

By the time CCC arrived, JAYVELYN had already left the shop, although they could still hear her screaming as she was just their neighbor. BBB refused to undergo medico-legal examination reasoning that he did not want to be involved in the case.

AAA admitted that she was spurred by anger when she filed the case against JAYVELYN as she wanted her father's affair with her stopped given that this brought

intense pain and suffering upon her mother.

For the defense, JAYVELYN denied uttering the aforesaid statements against AAA. She avowed that she was not engaged in an illicit affair with BBB.

JAYVELYN claimed that on that fateful day, her son came home crying. When she asked him what happened, the latter narrated that he was at BBB's shop, and that when BBB saw him, BBB cursed him and told him to leave. JAYVELYN went to the shop to confront BBB. At this point, AAA said: "*Mag-ina (kayong) pangit at hindi (kayo) magkaka-asawa kung 'di ka magtutuwad sa kalye.*"^[7]

Sifting through the divergent evidence of the parties, the court *a quo* rendered the assailed *Decision* of conviction, thusly—

"**WHEREFORE**, foregoing premises considered, JUDG-MENT is hereby rendered finding the accused JAYVELYN MERCADO **GUILTY** beyond reasonable doubt of violating Section 10 (a) of Republic Act No. 7610 and hereby imposes upon her the penalty of imprisonment for 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.

Accused JAYVELYN MERCADO is likewise ORDERED to PAY private complainant AAA the amount of P15,000.00 as and by way of Moral Damages.

SO ORDERED."^[8]

Professing her innocence, JAYVELYN (now, appellant) seeks relief before Us raising this solitary error:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

The Appeal is impressed with merit.

We beg to differ with the court *a quo*'s disposition that the action of appellant fell within the purview of child abuse. We endeavor to explicate Our reasons.

Under **Subsection (b), Section 3 of R.A. No. 7610**, child abuse refers to the maltreatment of a child, whether habitual or not, which includes 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;**