

TWENTIETH DIVISION

[CA-G.R. CR NO. 02068, November 18, 2014]

**BERNSKY COMADIZO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

QUIJANO-PADILLA, J.:

This is a Petition for Review^[1] assailing the Decision dated January 28, 2013^[2] of the Regional Trial Court (RTC), Branch 53, Lapu-Lapu City in Criminal Case No. 017893-L for Unjust Vexation. The assailed January 28, 2013 Decision affirmed the July 28, 2005 Decision^[3] of the Municipal Trial Court in Cities (MTCC), Lapu-Lapu City in Criminal Case No. R-8964 finding petitioner Bersnky Comadizo guilty beyond reasonable doubt of the crime of unjust vexation punishable under Article 287, paragraph 2 of the Revised Penal Code (RPC).

The Antecedents

Petitioner was charged under an Information^[4] charging him with the crime of Unjust Vexation under paragraph 2, Article 287 of the RPC committed as follows:

“The undersigned accuses BERNSKY COMADIZO of the crime of Unjust Vexation, defined and penalized under Article 287, paragraph 2 of the Revised Penal Code (RPC), as amended, committed as follows:

That on September 1, 1991, at or about 10:15 p.m., in Matumbo, Pusok, Lapu-Lapu City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously vex and annoy Gavinita Collamat, by throwing human excrement, wrapped with cellophane into her house, within public view, to her damage and prejudice.

CONTRARY TO LAW.”

When arraigned on March 17, 1992, herein petitioner, duly assisted by counsel, entered a plea of not guilty. Thereafter, trial on the merits was conducted in accordance with the Rule on Summary Procedure.^[5]

The Prosecution’s Version

A brief summary of the pertinent facts constituting the prosecution’s version as succinctly summarized by the MTCC^[6] is as follows:

“LORENA RAQUESO JURADO testified that she is 14 years of age, single, housemaid of Mrs. Gavinita Collamat for five months already, grade five,

with provincial address at Borbon, Cebu; that she knows the accused, Bernsky Comadizo because he is a neighbor of her employer, Mrs. Collamat; that on September 1, 1991, at about 10:00 o'clock in the evening, she was roused up by her employer from sleep and was instructed to check whether all the car doors were closed; after checking, she rested for a while at the terrace; moments later she saw Bernsky Comadizo went outside their house, bringing with him a cellophane; she then saw Bernsky Comadizo threw the cellophane to the house of her employer; she saw the cellophane hit the roofing of the water tank; she then went to the site and verify the contents of the cellophane; she then found out that the cellophane contained human waste; she then went inside and told her employer of what she saw; her employer told her that action would be taken early the next morning, September 2, 1991. (citation omitted)

MRS. GAVINITA NOVAL COLLAMAT also testified that she is 40 years old, married, a housewife, College level, and a resident of Matumbo, Pusok, Lapu-Lapu City; she knows the accused, Bernsky Comadizo, because they are neighbors since 1984; that on September 1, 1991, at about 10:15 p.m., she was informed by her housemaid, LORENA JURADO, that Bernsky Comadizo threw a cellophane containing human waste into her house which hit the roofing of their water tank; she told her housemaid to wait until the morning; she then brought the matter to their barangay captain the following morning; that she thinks that what Bernsky did was with the blessings of his father because she was instrumental to the closure of the latter's shellcraft business, she being the number one petitioner for its closure; that since 1987, her guava fruits were destroyed, her roof and fences were stoned, her ornamental plants and garden were uprooted and stepped-on, dead and rotten animals were thrown into the premises of their house, her car tires were deflated, human waste was thrown, and their dogs were poisoned, by the men of the Comadizo's. (citation omitted)"

The Appellant's Version

For the defense, petitioner presented his own version, similarly summarized by the MTCC^[7] in this manner:

"In his defense, the accused, BERNSKI LUTG COMADIZO, testified that he is 16 years of age, having been born on March 25, 1975, and that all allegations of the complainant and her witness, are false, concocted and malicious; that the charge of Mrs. Collamat was designed to blunt or forestall the plan of his father, Lutgardo Comadizo, to file the same charge of Unjust Vexation against Mrs. Collamat whom they suspected as the one who threw a bag of human excrement to their house on the same night of September 1, 1991, which incident his father reported to the chief of barangay tanod on the next day, and entered in the Tanod Blotter, a certified true copy of which is marked as Annex "1". Lutgardo Comadizo and Francisco Otto corroborated the testimony of the accused."

After due proceedings, the MTCC rendered its Decision^[8] convicting the petitioner herein of the crime charged, the decretal portion of which reads:

"IN VIEW THEREOF, this Court finds the accused, BERNSKI LUTG COMADIZO, GUILTY beyond reasonable doubt of the crime charged. Taking into consideration his minority at the time of the commission of the offense, he is hereby meted the penalty of PUBLIC CENSURE. He is also Ordered to pay Mrs. Gavinita Noval Collamat the sum of FIVE THOUSAND PESOS (P5,000.00) as compensatory damages, FIVE THOUSAND PESOS (P5,000.00) as Attorney's fees, and TEN THOUSAND PESOS (P10,000.00) as Moral Damages, and to pay the costs of the suit, which amounts shall constitute as lien to the payment of court and other legal fees."^[9]

The MTCC ratiocinated that:

"The accused has invoked the defense of alibi and denial, stating that he was sleeping at about 9:00 p.m. and woke up at about 5:30 to 6:00 the next morning. Prosecution witness Lorena Jurado, however, at a tender age of 14 years old, has served the Collamat family for five months yet, with educational attainment of grade five only, and coming from a remote place of Borbon, Cebu, who had no quarrel with the accused, had positively identified the accused, BERNSKI LUTG COMADIZO as the person who threw a cellophane containing human waste at the house of her employer, on the night of September 1, 1991 at about 10:00 p.m., and consistently held on to her positive identification. Such positive identification of the accused, where (sic) categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial. Furthermore, for the defense of alibi to prosper, it must be established by positive, clear and satisfactory proof that (a) the accused was somewhere else when the offense was committed, and (b) it was physically impossible for the accused to have been present at the scene of the crime or its immediate vicinity at the time of its commission. If there was even a chance for the accused to be present at the crime scene, the alibi will not hold. Furthermore, the complaint for Unjust Vexation lodged by Mrs. Collamat against the accused and his father, Lotgardo Comadizo with the barangay wherein no settlement/conciliation was reached, as attested by the Pangkat Chairman, Ernesto Lofranco (Certification To File Action, Exh. "B"), has given more credence to the validity of the incident and the credibility of Lorena Jurado's testimony. (citations omitted)

September 1, 1991 was indeed a night when human feces rained upon the Collamat's and the Comadizo's. However, the accused, Bernsky Comadizo, having been seen and positively identified as the person who threw human excrement into the house of Mrs. Collamat, who could only be motivated by anger, hate or revenge due to the closure of their family's shellcraft business, to which, the private complainant was instrumental should not be allowed to escape criminal liability."^[10]

Failing to secure a favorable judgment, petitioner appealed^[11] to the RTC raising the following points: it was error for the trial court to accept as gospel truth the testimony of prosecution witness Lorena Jurado (Jurado); that petitioner's defense that he was sleeping soundly at the time the alleged crime was committed should have been seriously considered; the fact that private complainant Gavinita Collamat

(Collamat) was among those who petitioned for the closure of the shellcraft business of petitioner's father is not a compelling motive to get even; and that the award of moral damages, compensatory damages and attorney's fees are markedly unconscionable.

The Ruling of the RTC

After evaluation of the parties' respective allegations and arguments, the RTC rendered its assailed Decision^[12] on January 28, 2013 affirming with modification the judgment rendered by the lower court. The dispositive portion^[13] of the assailed Decision reads:

"WHEREFORE, in light of the foregoing considerations, the decision appealed from is hereby AFFIRMED with modification.

SO ORDERED."

In affirming the conviction of petitioner for the crime charged, the RTC made the following ratiocination, thus:

"In the case at hand the accused did not present any piece of evidence to support his defense. What the accused afforded the Court is but a defense of denial. The categorical declaration by Lorena Jurado lacking any proof of ill motive on her part as a witness should prevail over a mere denial.

Moreover, on the accused's second point of argument, just the same, the Court could not just take such claim to be true (that the accused was 'sleeping' when the alleged crime took place) when the accused did not even bother to substantiate the same by any form of proof whatsoever. Further, this Court sees it unnecessary to take up the third argument raised by the accused as it involves the truth or falsity of a particular fact to which this Court has no way to verify. The positive assertions in the testimonies of the prosecution's witnesses deserve full credence therefore."^[14]

Undeterred, petitioner is now before Us with the following assigned errors:

I.

THERE WAS GRAVE FAILURE OF APPELLATE REVIEW BY THE REGIONAL TRIAL COURT, RENDERING ITS DECISION VOID.

II.

THE REGIONAL TRIAL COURT GRAVELY ERRED WHEN IT ACCEPTED AS GOSPEL TRUTH THE TESTIMONY OF PROSECUTION WITNESS.^[15]

This Court's Ruling

The petition lacks merit.