

**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**FIRST DIVISION**

**XXX,**

Petitioner,

**G.R. No. 252087**

Present:


- versus -

**PERALTA, C.J.,**  
*Chairperson,*  
**CAGUIOA,**  
**CARANDANG,**  
**ZALAMEDA, and**  
**GAERLAN, JJ.**

Promulgated:

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

**FEB 10 2021**



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**DECISION**

**CARANDANG, J.:**

In this Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, XXX<sup>2</sup> (petitioner) seeks his acquittal and the reversal of the Decision<sup>3</sup> dated November 5, 2019 and Resolution<sup>4</sup> dated January 23, 2020 of the Court of Appeals (CA) in C.A.-G.R. CR No. 41597 which denied reconsideration and affirmed the Judgment<sup>5</sup> dated March 19, 2018 of the Regional Trial Court

<sup>1</sup> *Rollo*, pp. 8-20.

<sup>2</sup> Section 44 of Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004) requires the confidentiality of all records pertaining to cases of violence against women and their children. Per said section, all public officers and employees are prohibited from publishing or causing to be published in any format the name and other identifying information of a victim or an immediate family member. The penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand pesos (P500,000.00) shall be imposed upon those who violate the provision. Pursuant thereto, in the courts' promulgation of decisions, final resolutions and/or final orders, the names of women and children victims shall be replaced by fictitious initials, and their personal circumstances or any information, which tend to identify them, shall likewise not be disclosed.

<sup>3</sup> Penned by Associate Justice Walter S. Ong, with the concurrence of Associate Justices Germano Francisco D. Legaspi and Ricardo D. Rosario (now a Member of this Court); *id.* at 27-40.

<sup>4</sup> *CA rollo*, p. 138.

<sup>5</sup> Penned by Presiding Judge Philger Noel B. Inovejas; records, pp. 308-322.



(RTC) of Balanga City, Bataan, Branch 93 in Criminal Case No. 16554 finding him guilty of beyond reasonable doubt of violating Section 5(i) of Republic Act No. (R.A.) 9262, otherwise known as the “Anti-Violence against Women and Children Act of 2004.”

### Facts of the Case

The records show that in an Information<sup>6</sup> dated October 12, 2016, the Balanga City Prosecutor’s Office accused the petitioner as follows:

The undersigned accuses [XXX] of the crime of VIOLATION OF SEC. 5 (i) of R.A. 9262, committed as follows:

That in the year 2005, and subsequent thereto, in Balanga City, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the accused did then and there willfully, unlawfully and feloniously deprive, deny, refuse his minor child [CCC] of financial support thereby causing mental and emotional anguish to his wife, [AAA].

CONTRARY TO LAW.<sup>7</sup>

Trial was held after petitioner pleaded “not guilty” upon arraignment.<sup>8</sup>

### Version of the Prosecution

The prosecution presented AAA<sup>9</sup> and her sister, BBB,<sup>10</sup> as witnesses.<sup>11</sup>

AAA testified that since 1997, she and petitioner had been living together without the benefit of marriage in BBB’s house in Tenejero, Balanga City.<sup>12</sup> On November 3, 2000, CCC<sup>13</sup> was born to her and petitioner.<sup>14</sup> Petitioner and AAA were officially married on May 17, 2001.<sup>15</sup> Before CCC’s birth up to the time this case was filed, AAA had no source of income and was entirely dependent on either petitioner or her sister for support.<sup>16</sup>

Petitioner continued to live in BBB’s house with AAA and CCC until 2004<sup>17</sup>. As a mechanic in Makati City, petitioner worked for five days a week

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<sup>6</sup> Records, p. 1.

<sup>7</sup> Id.

<sup>8</sup> Id. at 27.

<sup>9</sup> Supra note 2.

<sup>10</sup> Id.

<sup>11</sup> Records, p. 309; *rollo*, p. 28.

<sup>12</sup> TSN dated June 15, 2017, pp. 4-5.

<sup>13</sup> Supra note 2.

<sup>14</sup> Records, p. 79.

<sup>15</sup> Id. at 80.

<sup>16</sup> TSN dated June 15, 2017, pp. 4-5.

<sup>17</sup> Id.

and would only go home to Balanga on Saturdays.<sup>18</sup> He gave AAA and CCC anywhere between ₱1,000 to ₱2,000 per month.<sup>19</sup> Sometime in 2005, petitioner suddenly stopped coming home and providing support.<sup>20</sup> AAA complained for support from petitioner before the *barangay* in Arellano, Orion. During the *barangay* conciliation proceedings, it was agreed that petitioner would provide monthly support in the amount of ₱4,000.00. He did not full his promise to give ₱4,000.00 per month and gave AAA only ₱1,000.00 once.<sup>21</sup> After that, AAA no longer saw petitioner for the longest time until she chanced upon him at a Chowking restaurant.<sup>22</sup> In 2016, she filed the criminal complaint<sup>23</sup> against him because her sister BBB was already too sick to support her and CCC.<sup>24</sup>

BBB testified that she is AAA's sister.<sup>25</sup> BBB previously worked in the USA; after her husband died, she would spend most of each year in the USA and come back to the Philippines for three weeks or a month at a time.<sup>26</sup> BBB owns a four-bedroom house in Tejero, Balanga where petitioner and AAA had lived since before they got married.<sup>27</sup> After petitioner suddenly disappeared in 2005, BBB observed that AAA was always crying. It fell upon BBB to financially support her niece, paying for the latter's schooling and medical expenses, remitting to them US\$1,000.00 per month out of her US pension. BBB decided to enrol Aubrey in Bataan Montessori in 2003, a private school, giving the tuition fee to AAA.<sup>28</sup> Presently, BBB has been paying for Aubrey's schooling at Asia Pacific.<sup>29</sup> It was at BBB's behest that AAA did not work so that she could take care of their father who had suffered from a stroke and then later on, to also look after BBB when she was confined at hospital. BBB admitted that she had no knowledge of petitioner's financial situation.<sup>30</sup>

### Version of the Defense

Petitioner testified that he first met AAA while he was still studying. When AAA got pregnant in 2001, petitioner decided to marry her, but was reluctant to do so because of her dominating personality. Petitioner promised to take responsibility for the child, on the understanding that AAA would not interfere with petitioner's personal life. Despite this arrangement, AAA harassed petitioner and his family. He stopped living with AAA in 2005 because she was violent and was constantly harassing and pestering him. She threw a stainless dustpan at him, scarring the lower left portion of his stomach.<sup>31</sup> Despite this, petitioner maintains that he provided money to AAA

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<sup>18</sup> Id. at 9.  
<sup>19</sup> Id. at 5.  
<sup>20</sup> TSN dated June 8, 2017, p. 6.  
<sup>21</sup> TSN dated June 15, 2017, p. 11.  
<sup>22</sup> Id. at 13.  
<sup>23</sup> Records, p. 1.  
<sup>24</sup> TSN dated June 8, 2017, p. 5.  
<sup>25</sup> TSN dated July 13, 2017, pp. 2-3.  
<sup>26</sup> Id. at 11.  
<sup>27</sup> Id. at 4.  
<sup>28</sup> Id. at 14-15.  
<sup>29</sup> Id. at 5.  
<sup>30</sup> Id. at 16-17.  
<sup>31</sup> TSN dated January 23, 2018, p. 24



and CCC whenever he could, such as when he gave ₱15,000 after one of AAA's siblings died; ₱3,000 so that AAA can have false teeth; and also for CCC's tuition fee at Bataan Montessori School in 2006.<sup>32</sup>

After petitioner left AAA, she filed complaints at the *barangay*, the prosecutor's office, the police, and the public attorney's office. The complaints were intended to force petitioner to live with her again, but petitioner did not want to.<sup>33</sup> On August 9, 2005, they met at the *barangay* for conciliation proceedings, where petitioner offered to provide ₱1,000.00 to ₱2,000.00 per month and to pay for CCC's education, provided that Aubrey goes to public school, as private education is too costly for petitioner.<sup>34</sup> BBB, however, wanted CCC to go to Bataan Montessori, a private school.<sup>35</sup> AAA refused petitioner's offer and proceeded to file a case for abandonment against him, which was dismissed due to AAA's admission that petitioner had been providing ₱4,000.00 per month despite being unemployed.<sup>36</sup> Petitioner admitted that since the *barangay* conciliation proceedings, he stopped providing support. AAA kept harassing petitioner after that.<sup>37</sup> On September 13, 2005, upon AAA's complaint, the police visited petitioner's house twice.<sup>38</sup> On October 3, 2005, AAA also complained at the public attorney's office.<sup>39</sup>

Petitioner worked and earned as a mechanic in his father's shop from 2005 until 2010 when the shop closed.<sup>40</sup> In 2011, he was diagnosed of having hypertensive cardiovascular disease, for which he is taking maintenance drugs.<sup>41</sup> On November 29, 2013, only one month after petitioner's father had passed away, AAA again complained before the prosecutor's office. Petitioner again offered to give what he could, but AAA refused.<sup>42</sup> Presently, petitioner lives with his mother, is without a job, and is being supported by his siblings and his mother for his day to day living. He wants to find work so that he can support his daughter but is afraid to go out of his house because of AAA.<sup>43</sup>

Petitioner's next witness, Remigio G. Aguilar was one of the *barangay* officials present during the conciliation proceedings between AAA and petitioner. He testified that no amicable settlement was reached as AAA abruptly ended the conciliation proceedings by furiously storming out.<sup>44</sup> He recalled that in 2005, petitioner worked as mechanic on a piece-work basis.<sup>45</sup>

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<sup>32</sup> Records, p. 312.

<sup>33</sup> Id.

<sup>34</sup> Id. at 173, 312.

<sup>35</sup> TSN dated January 23, 2018, p. 10.

<sup>36</sup> Records, pp. 186-188.

<sup>37</sup> Id. at 173, 312-313.

<sup>38</sup> Id. at 172.

<sup>39</sup> Id. at 199-200.

<sup>40</sup> Id. at 174; TSN dated January 23, 2018, pp. 17-18.

<sup>41</sup> Id. at 19, 23.

<sup>42</sup> Records, pp. 172-175.

<sup>43</sup> TSN dated January 23, 2018, pp. 28-30.

<sup>44</sup> Records, p. 311.

<sup>45</sup> Id. at 113.

On cross, he said that petitioner is physically fit to work but does not do so and instead just stays at home.<sup>46</sup>

Petitioner next presented his neighbor Nancy Dalisay San Jose (San Jose).<sup>47</sup> San Jose testified that she had witnessed AAA confronting petitioner in front of their house and telling him that he would ruin his life.<sup>48</sup> San Jose does not see petitioner often as he stays at home most of the time. San Jose does not know whether petitioner is sick or not but she knows that he can move swiftly and that he appears to be capable of working.<sup>49</sup>

Petitioner's last witness was Jesselyn Mortejo (Mortejo),<sup>50</sup> a licensed counseling psychologist and psychometrician with experience in administering and interpreting psychological tests since 2000.<sup>51</sup> Mortejo first met petitioner in 2017 upon the latter's request for a psychological evaluation. After conducting structured clinical interviews and screening instruments on the petitioner, Mortejo found that under Diagnostic Statistical Manual of Mental Disorders (DSM) or International Classification of Diseases, petitioner has been showing symptoms of Post-Traumatic Stress Disorder (PTSD) for several years. She observed pronounced avoidance symptoms which cause petitioner to feel or be detached from everyday life, that his thinking has been skewed in a paranoid direction, and that he has a very low coping mechanism for stress and traumatic events. His thinking has been distorted and is the reason for his indolence or lack of motivation to find work. They were attributed to negative experiences with his wife such as incidents of public humiliation, physical violence, and threats that she will ruin his life and has a strong correlation with his cardiovascular disease. Such symptoms may not necessarily be cured, but managed through cognitive-behavioral therapy, after which petitioner may again be capable to work. She clarified, however, that petitioner is not insane, is capable of moral reasoning, and understands that he has an obligation to support his daughter.<sup>52</sup>

### **Ruling of the Regional Trial Court**

The RTC gave full weight to the prosecution evidence and found that it was sufficient to prove all the elements of a violation of Section 5(i) of R.A. 9262, which, citing *Dinamling v. People*,<sup>53</sup> are as follows:

1. the offended party is a woman and/or her child or children;
2. the woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the

<sup>46</sup> TSN dated August 31, 2017, p. 4.

<sup>47</sup> Records, p. 311.

<sup>48</sup> Id. at 160.

<sup>49</sup> TSN dated December 7, 2017, pp. 2-3.

<sup>50</sup> Records, p. 311.

<sup>51</sup> Id. at 210-211.

<sup>52</sup> Id. at 211-213; TSN dated February 20, 2018, pp. 4-17.

<sup>53</sup> 761 Phil. 356 (2015).

- woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
3. the offender causes on the woman and/or child mental or emotional anguish; and
  4. the anguish is caused through x x x denial of financial support x x x<sup>54</sup>

The first and second elements were proven by CCC's birth certificate and petitioner and AAA's marriage of certificate, respectively. The RTC found the third element to have been proven by the following: (1) BBB's testimony that AAA felt ashamed that the former has been the one spending for their day to day living, clothing, shelter, medicines, and hospitalization; (2) AAA chancing upon petitioner spending money at a fast-food restaurant in the company of another girl; (3) her leaving the *barangay* conciliation proceedings in disgust due to the insufficiency of the money offered by petitioner; (4) her constant pestering and harassing of petitioner; and finally, (5) her filing of numerous complaints against petitioner before the *barangay*, prosecutor's office, public attorney's office, and the police. As for the fourth element, the RTC found that all of the foregoing was caused by petitioner's denial of financial support.<sup>55</sup>

The RTC believed that petitioner was capable of supporting CCC and did not consider petitioner's defense strong enough to overturn the prosecution evidence, particularly because he admitted that he had been working and earning as a mechanic at his father's shop from 2005 to 2010.<sup>56</sup> Moreover, the trial judge observed that petitioner appeared to "be very normal without any paralysis in the body, healthy, swift, strong and good-looking."<sup>57</sup> The RTC also noted that petitioner was able to post bail and hire the services of a private lawyer.<sup>58</sup> Thus, on March 19, 2018, the trial court rendered judgment, the dispositive portion of which states:

WHEREFORE, the Court finds the accused [XXX] GUILTY beyond reasonable doubt of VIOLATION OF SECTION 5 (i) OF R.A. 9262. He is hereby SENTENCED to suffer an indeterminate prison term of SIX (6) MONTHS AND ONE (1) DAY of PRISION CORRECCIONAL as minimum to EIGHT (8) YEARS AND ONE (1) DAY OF PRISION MAYOR as maximum.

Costs against the accused.

SO ORDERED. (Emphasis omitted)

Petitioner appealed to the CA, alleging that the RTC erred *first*, by not distinguishing between "failing to provide" and "denying" support. He argues that "denying" connotes a willful intent not to provide support. He maintained that there was no evidence of such considering that he had offered to give

<sup>54</sup> Id. at 373; records, p. 317.

<sup>55</sup> Records, pp. 318-319.

<sup>56</sup> Id. at 318.

<sup>57</sup> Id. at 320.

<sup>58</sup> Id. at 318.

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support based on his capacity to earn, but was refused by AAA. Thus, petitioner admitted that he may have failed to provide support but not in a manner contemplated as an element of a violation of Section 5(i) of R.A. 9262. *Second*, he points out that the evidence does not support the RTC's conclusion that his failure to provide support is due to mere indolence. He took issue with the RTC's view that he is fit to work merely on the observation that he appears to be healthy, strong, and without any physical paralysis, especially in light of Mortejo's professional opinion that he is suffering from PTSD. He also argues that it should not be taken against him that he hired a private lawyer as such was only made possible with the financial support of his siblings. Third, he believes that the RTC was unduly dismissive of Mortejo's expert testimony that he was incapacitated to work is due to paranoid ideations caused by his PTSD.<sup>59</sup>

Respondent, represented by the Office of the Solicitor General (OSG), maintained that all the elements of the crime charged were duly proven at trial.<sup>60</sup>

### **Ruling of the Court of Appeals**

Noting only that the RTC forgot to apply Section 6(f) of R.A. 9262, the CA was unconvinced of petitioner's appeal and disposed of it as follows:

The appeal is DENIED. The *Judgment* dated 19 March 2018 rendered by Branch 93 of the Regional Trial Court, Balanga City, Bataan, finding the appellant ABC guilty beyond reasonable doubt of violation of Section 5(i), of Republic Act 9262 or the Anti-Violence Against Women and Their Children Act of 2004, is AFFIRMED WITH MODIFICATION, in that the appellant is additionally required (i) to pay a fine of One Hundred Thousand Pesos (P100,000.00), and (ii) to undergo mandatory psychological counselling or psychiatric treatment and report its compliance to this Court.

IT IS SO ORDERED.<sup>61</sup>

The petitioner moved for reconsideration,<sup>62</sup> but was denied.<sup>63</sup> He now asks this Court for his acquittal on essentially the same grounds he had raised before the CA.<sup>64</sup>

In its Comment,<sup>65</sup> the OSG maintains that prosecution proved all the elements of the crime. As to petitioner's argument that psychological violence was unproven, the OSG counters that economic abuse under Section 3(D) of R.A. 9262, specifically withdrawal of financial support or deprivation or

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<sup>59</sup> CA *rollo*, pp. 23-30.

<sup>60</sup> Id. at 69-77.

<sup>61</sup> *Rollo*, p. 40.

<sup>62</sup> CA *rollo*, pp. 112-126.

<sup>63</sup> *Supra* note 3.

<sup>64</sup> *Rollo*, pp. 12-20.

<sup>65</sup> Additional *rollo*, pp. 161-175.

threat of deprivation of financial resources, is a form of violence that may fall within the purview of Section 5(i). Thus, the OSG prays that the CA's decision be affirmed *in toto*.<sup>66</sup>

### Issue

The sole issue to be resolved is whether the CA committed reversible error in affirming the RTC's judgment finding the petitioner guilty of violating Section 5(i) of R.A. 9262.

### Ruling of the Court

The petition is meritorious.

The law will not punish a person when he suffers from a mental debilitation which deprived him of the mental faculties necessary to perform an obligation. In this case, while the prosecution established that XXX failed to provide adequate support to his daughter, there is no evidence that he did so intentionally. Moreover, there is convincing evidence that XXX's Post-Traumatic Stress Syndrome and paranoid ideations were of such a nature and degree that he could not bring himself to work and provide for his family even though it may have been proved that he has the physical capacity to do so.

To begin with, We must emphasize that what distinguishes Section 5(i) from the other violations of Section 5 of R.A. 9262, are the indispensable requirements of (1) psychological violence; and (2) emotional anguish or mental suffering. Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party.<sup>67</sup> As We said in the case of *Dinamling*,<sup>68</sup> the "**focus of this particular criminal act [Section 5(i) of R.A. 9262] is the causation** of non-physical suffering, that is, mental or emotional distress, or even anxiety and social shame or dishonor on the offended party."<sup>69</sup>

It is basic that in a criminal case, the prosecution must prove the guilt of the accused by establishing the existence of **all** the elements of the crime charged.<sup>70</sup> In this case, while the prosecution was able to prove that XXX denied support for CCC, We do not think there is proof beyond reasonable doubt that such constituted psychological violence or that it was the cause of AAA's mental and emotional distress. The records show that petitioner was

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<sup>66</sup> Id. at 167, 172-173.

<sup>67</sup> *Araza v. People*, G.R. No. 247429, September 8, 2020.

<sup>68</sup> *Dinamling v. People*, supra note 53.

<sup>69</sup> *Dinamling v. People* supra note 53 at 380.

<sup>70</sup> *People v. Aranda*, 297 Phil. 630, 640 (1993).



willing to provide support and in 2005, had attempted to negotiate with AAA as to the amount both at the barangay and before the City Prosecution Office, thus:

COURT: Cross?

PROS. LASAM: Yes, Your Honor. In paragraph 5 of you (*sic*) Panghukumang Salaysay, you said that you offered to [AAA] Php 1,000.00 to Php 2,000.00 as financial support to your child. Is that correct?

WITNESS ([XXX]): Yes, sir.

PROS. LASAM: That was sometime in 2005?

WITNESS: Yes, Sir.

**PROS. LASAM: But [AAA] refused it?**

**WITNESS: Yes, Sir.**

PROS. LASAM: But if you really wanted to support the child you could just have open (*sic*) a bank account for a child and deposit (*sic*) the amount you offered to [AAA]. Is that correct?

WITNESS: That is correct, Sir.

PROS. LASAM: And you did not do that?

WITNESS: *Kasi po ganito, nag-usap po kami sa barangay pinaguusapan na po namin kung paano ireremit iyong pera ng bata. Nag-offer po kami na magbubukas ng ATM card at pagaaralin ang bata kaya lang hindi sa private, sa pampublikong eskuwelahan. Siyempre iniisip ko din po iyong welfare nung bata kahit na ginaganon niya ako at tsaka magulang ko. Wala naman po akong ginawang masama sa kanya. Lahat po in favor sa kanya an ginagawa ko.*

COURT: Okay record the answer of the witness in a vernacular.

PROS. LASAM: My question is, if you really have an intention to support the child you could just open a bank account of a child and deposit the amount which you offer to [AAA]?

WITNESS: That's correct, Sir.

PROS. LASAM: But you did not do that?

WITNESS: *Opo hindi ko na nagawa iyon dahil nung nag-usap po kami sa barangay tumalikod na po siya at doon na siya gumawa ng eskandalo. Kasama po niya iyong Lupon ng Barangay Tenejero at Lupon ng Barangay Arellano. Iyon po ang naguusap, nung time po na iyon hindi na siya bumalik noon. Ang ginawa po niyang step noon nagdemanda na siya doon sa City Prosecutor ng abandonment.<sup>71</sup>*

x x x x

PROS. LASAM: You were mentioning an (*sic*) Resolution of the Prosecutor's Office?

WITNESS: Yes, sir.

PROS. LASAM: From what portion of the Resolution are you saying that you merely followed?

WITNESS: There is no exact amount stated there as to how much I am going to give. We were looking for a petition, Sir.

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PROS. LASAM: Why are you expecting that the Prosecutor's Office will fix an amount for the support of the child when that is not the issue being complaint (sic) of by [AAA]?

WITNESS: Is it not that there should be a fix (sic) amount that I should give her? At the time when we talked to Assistant City Prosecutor Prunay there was a computation how much I should give, we ended an amount of Php5,000.00 to Php6,000.00.

PROS. LASAM: But are you aware that City Prosecutor Prunay computed the amount of the suggested support that you give to the child because Fiscal Prunay is trying her best to amicably settle the dispute between you and [AAA]. Is that correct?

WITNESS: That is correct, Sir.

PROS. LASAM: And since you did not arrived to (sic) an amicable settlement why do you expect for the Prosecutor's Office to fix the amount that you will give?

WITNESS: *Actually hindi nga po kami nagkasundo doon ng nag-amicable. Before the pre-trial, nung kami na po ang nagdefend ng aming ano, nagpunta po kami sa inyo nagkausap po tayo then nag offer din po ako sa kanila kaya lang ayaw naman po nila makipagsettle.* (Actually we did not arrive in (sic) the (sic) amicable settlement. **During the pre-trial we went to Fiscal Lasam and offered for a settlement but she refused.**)<sup>72</sup>

So, it appears that petitioner was not unwilling to provide support *per se*, but could not do so because the amount he could offer was not sufficient for AAA to realize the aspirations she had set for CCC, e.g., that the latter be schooled privately. While We cannot fault AAA for setting such aspirations for her child, it remains that petitioner was not in a position to meet such. That petitioner attempted to find a way to provide support within his means indicates that he did not willfully set out to cause psychological violence upon AAA, even when the latter was constantly harassing him, which later on caused his PTSD. Consequently, We cannot conclude beyond reasonable doubt that he caused AAA's emotional distress.

Esguerra's PTSD and paranoia incapacitated him from performing normally. Furthermore, in her judicial affidavit, Mortejo testified that Esguerra's PTSD and paranoia were a direct result of AAA's actions, *viz.* :

Q.9. (Atty. Layug): What was your initial findings?

A.9: Based on the result of intake interview, observation and collateral interview, Mr. [XXX] went through the most severe traumas and tends to have experienced a life-threatening event such as what happened to him. The client reported that he is experiencing repeated distressing memories and dreams. There were also observed defensiveness and suspiciousness in the way he responded to the interview.

<sup>72</sup>

Id. at 11-12.

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Q.10: What examinations did you administer to him?

A.10: PTSD Diagnostic Scale for DSM 5. The two major methods of assessment that can be performed to measure symptoms of PTSD include clinical interviews and screening instruments just like this one. It measures symptoms but may also reflect the clinical diagnosis according to the Diagnostic Statistical Manual of Mental Disorders (DSM) or International Classification of Diseases.

Q.11: What were your findings after that?

A.11: The personality assessment and clinical profile of Mr. [XXX] is indicative of someone with PTSD symptoms or **Post Traumatic Stress Disorder** – events that involve people who experienced or witnessed a life-threatening event that are at their worst, both the physical and psychological manifestations of the disorder are very pronounced, making it impossible for him to perform his every day job responsibilities. Avoidance symptoms present in [XXX]'s behavior come with PTSD that cause him to feel or be detached from everyday life. Thoughts that other people are trying to harm them that are exaggerated or unfounded can be considered paranoid. Thus, being assaulted may understandably skew thinking in a paranoid direction.

Q12. Did you interview other persons regarding [XXX]'s state? Why or why not?


A12. Yes ma'am. The following person were interviewed during the evaluation: [h]is sister, Nerry Ann Paquing, his mother and a close relative named Nancy Dalisay.

Q13. What did you find out?

A13. According to them, they have witnessed how [XXX] have (sic) suffered emotionally because of his wife's violent behaviors.

Q14. What are the sources of his distress?

A14. His distress came from the negative experiences he had from his wife such as incidents of public humiliation, physical violence and threats that she will ruin his life. Such experiences skewed his thinking in a paranoid direction and produces significant anxiety and stress. He cited the following: "*Patuloy pa rin ang pang[g]ugulo niya sa akin at sinabi pang sisirain nya ang buhay ko at di ako matatahimik; Kapag nakikita nya ako kahit saan nagwawala sya at hinihiya ako, sinisigawan at minumura sa harap ng tao, sa school ng anak ko, sa barangay hall, sa Chowking Balanga, sa Orion Parish Church; Hindi mawala ang trauma sa akin nang pagtatangka nya na saksakin ako ng tulis ng dustpan; May mga insidente na may nagsasabi sa aking kakilala ko na may naghahanap sa akin at nagtatanong-tanong sa akin;*



*Dalawang beses na akong pinuntahan ng pulis sa bahay dahil sa reklamo ni [AAA].*<sup>73</sup>

x x x x

Q17. Can he be healed of his malady?

A17. As with most mental illnesses, no cure exists for PTSD, but the symptoms can be effectively managed to restore the affected individual to normal functioning. **The best hope for treating PTSD is a combination of medication and therapy. By working with a healthcare professional, individuals with PTSD can resolve their triggering factors and learn new and effective ways of coping with the stress of the past trauma.**

Q18. **What was the effect of the case being filed against him?**

A18. **It aggravated his condition and added to the triggering factors of his anxieties and stress.**<sup>74</sup>

On cross-examination, Mortejo was resolute on her findings and testified that because of his incurable PTSD and paranoid thinking, XXX cannot be expected to work normally, unless he undergoes treatment, *viz.*:

PROS. LASAM: **A person suffering from Post-Traumatic Stress Disorder can still do or can still find a job, is that correct?**

WITNESS: **No, Sir. Because one of the significant feature of PTSD, or person having a PTSD is one who have this (sic) exaggerated thoughts that other people might harm him, in short he has a developed a deserted cognitive thinking leading to a paranoid direction. So PTSD individuals have a paranoid ideation and they have exaggerated excuses or in short avoidance symptoms, Sir.**

PROS. LASAM: But can you said (*sic*) that this is a (*sic*) curable?

WITNESS: **As with other mental illness this is not a curable (sic) but the symptoms can effectively manage (sic) if they would undergo therapist (sic).**

PROS. LASAM: So assuming that Mr. [XXX] was indeed suffering from Post-Traumatic Stress Disorder or PTSD that will still be cured (*sic*)?

WITNESS: The term is not cure, Sir, but management of symptom (*sic*).

PROS. LASAM: Were you able to find out when did this PTSD occur?

WITNESS: Base (*sic*) on the evaluation Sir, it has been existing already for several years since the time that PTSD was developed when an individual was exposed, experienced, or witness traumatic experiences regardless of its severity.<sup>75</sup>

<sup>73</sup> Records, pp. 211-212. Citations omitted; emphasis, underscoring, and italics supplied.

<sup>74</sup> Id. at 213.

<sup>75</sup> TSN dated February 20, 2018, p. 6. Emphasis and underscoring supplied.

X X X X

PROS. LASAM: So he knows there is something wrong on (*sic*) him. So he should be faulted why he remain like that, if that is your findings?

WITNESS: Actually Sir, his thinking is already distorted that's why instead of doing something to improve his condition, avoidance symptoms were developed. He just tend (*sic*) to avoid or be detached everyday life and he was not capable of performing minimal role expectations like finding a job because that is his coping mechanism that he have (*sic*) learned. Avoidance symptoms are common for PTSD clients.<sup>76</sup>

X X X X

PROS. LASAM: Are you saying that the person suffering from PTSD should remain in the house because he was suffering from that?

WITNESS: No, Sir. I recommended the cognitive behavioral therapy in my report, that [XXX] should undergo treatment like this.

PROS. LASAM: Are you saying that Mr. [XXX] should always stay in the house?

WITNESS: No, Sir.

PROS. LASAM: If he should not always stay in the house he must go out of the house?

WITNESS: Yes, Sir.

PROS. LASAM: So he has a capability to work outside?

WITNESS: Maybe after the treatment, Sir. If he would go under therapy and he will be restored into normal functioning of an individual then will be the time he could. But for now Sir he could not be effectively perform (*sic*) minimal work expectations because of the paranoid and the avoidance symptoms.<sup>77</sup>

X X X X

PROS. LASAM: But Mr. [XXX] is physically fit to work if he really wanted to?

WITNESS: According to him he has seen a medical doctor telling him that he suffered from cardiovascular disease.

PROS. LASAM: But that diagnosed (*sic*) was only lately during the hearing but on the very same day that he is going to testify that is the only time he issued a certification, is that correct? So prior to that he is fit to work. He is physically fit, is that correct?

WITNESS: Just like what I have said Sir, if the person is reporting that he is not capable while he can, the truth is he can, then, there is something wrong with him. There is really something wrong with him, and he needs professional help to correct his distorted thinking. To correct

<sup>76</sup> Id. at 7. Emphasis and underscoring supplied.

<sup>77</sup> Id. at 8. Emphasis and underscoring supplied.

the skewed thinking that lead to the paranoid and avoidance symptoms. **Because it influence (sic) him to be incapable of performing minimal role expectations. So working is a minimal role expectation for a person his age that is expected to work. And he is incapable of doing that, Sir. Because of his distorted thinking.**<sup>78</sup>

Upon clarification by the trial judge, it was established that XXX is not insane. However, Montejo testified that while he is not insane, he does not have the cognitive strength to overcome his paranoia. Because of this, he is only capable of functioning normally at home with his mother, viz.:

**COURT: Based on your findings is [XXX] insane?**

**WITNESS: Not insane, Your Honor. But he is suffering from mental illness called PTSD.**

COURT: Okay, thank you. Since he is not insane he knows what is good, he knows what is bad?

WITNESS: Not in all aspects Sir. But in his case there is a distorted thinking[,] a paranoid ideation.<sup>79</sup>

x x x x

COURT: Does he knows (sic) that he needs to work in order to earn money?

WITNESS: Yes, Your Honor, he knows that.

COURT: Does he knows (sic) that a father should support his daughter?

WITNESS: Yes, Your Honor.

COURT: Okay. So in other words his became (sic) PTSD did not anyway affected (sic) his mental faculty as a rational being?

WITNESS: The moral functioning, Your Honor, is not affected in his case. But his cognitive ability, especially to battle or fight his paranoid ideation are (sic) too strong for him.

COURT: Did [XXX], the accused in this case, told (sic) you that at present he takes care of his mother and that he does the household chores. Does (sic) he told (sic) you that?

WITNESS: Yes, Your Honor.

COURT: You said a while ago that [XXX] is suffering from PTSD that is why he does not want to work outside?

WITNESS: Yes, Your Honor.

COURT: How could you explain his attitude that despite the fact he is suffering from PTSD at present he can works (sic) at home [and] in fact he takes care of his mother who is elderly and sick, and at the same time do (sic) the household chores like washing the dishes, and washing the clothes, clean (sic) the house. How could you explain that?

WITNESS Your Honor, the person suffering from PTSD could not work in an environment that he feels he is not secure. But for the case of [XXX] the only place he could find security is their home. He felt secured with his mother,

<sup>78</sup> Id. at 10-11. Emphasis and underscoring supplied.

<sup>79</sup> Id. at 16. Emphasis and underscoring supplied.

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with his family that's why he could perform normally within the house.<sup>80</sup>

We agree that XXX is not insane, but that is beside the point, because he did not raise such a defense to begin with. It is a well-settled principle in criminal law that while criminal intent need not be proved in the prosecution of acts *mala prohibita* which are generally punished in such special penal laws as R.A. 9262, the prosecution still has the burden to prove that the prohibited act was intentional or voluntary. There is a well-settled distinction between intent to commit the crime and intent to perpetrate the act. A person may not have consciously intended to commit a crime; but if he did intend to commit an act – and that act is, by the very nature of things, the crime itself – then he can be held liable for the *malum prohibitum*.<sup>81</sup> Conversely, if a person did not intend to perpetrate an act which has been defined by law to be the crime itself, then he is not guilty of the act. Here, the evidence shows that petitioner could not provide support because: (1) AAA prevented him from doing so by refusing what he could offer; and (2) he was suffering from an incurable mental illness which, though not sufficient to be considered a form of insanity, was to a degree that effectively incapacitated him from earning.

In light of the foregoing, We agree with petitioner's contention that the third and fourth elements of a violation of Section 5(i) of R.A. 9262 were not proven beyond reasonable doubt.

As a final note, We cannot subscribe to the OSG's view that economic abuse, as defined under Section 3(D) of R.A. 9262,<sup>82</sup> is equivalent to psychological violence, which Congress saw fit to define separately under Section 3(C).<sup>83</sup> There is a categorical difference between psychological violence and economic abuse. Thus, in *Melgar v. People*,<sup>84</sup> the Court ruled that economic abuse under Section 3(D) is penalized by Section 5(e)<sup>85</sup> – not by Section 5(i). Incidentally, in *Melgar*, We applied the variance doctrine and found the accused guilty of violating Section 5(e) of R.A. 9262 on account of

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<sup>80</sup> Id. at 16-17.

<sup>81</sup> *People v. Lacerna*, 344 Phil. 100, 122 (1997).

<sup>82</sup> D. "Economic abuse" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following;

1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;

2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;

3. destroying household property;

4. controlling the victim's own money or properties or solely controlling the conjugal money or properties.

<sup>83</sup> "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

<sup>84</sup> 826 Phil. 177 (2018).

<sup>85</sup> Id. at 184-185.

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the prosecution's failure to prove mental or emotional anguish under Section 5(i).<sup>86</sup>

In the present case, the prosecution also failed to prove that XXX caused mental or emotional anguish upon AAA. However, We cannot find him guilty under Section 5(e),<sup>87</sup> because just the same, it was not upon his own volition that he could not provide support.

**WHEREFORE**, the instant petition is **GRANTED**. The Decision dated November 5, 2019 and the Resolution dated January 23, 2020 of the Court of Appeals in CA-G.R. CR No. 41597 finding XXX guilty under Section 5(i) of Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," is **REVERSED** and **SET ASIDE**. Petitioner XXX is hereby **ACQUITTED** of the crime charged against him.

**SO ORDERED.**

  
**ROSMARID. CARANDANG**  
*Associate Justice*

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<sup>86</sup> Id. at 187.

<sup>87</sup> Section 5. Acts of Violence Against Women and Their Children. – The crime of violence against women and their children is committed through any of the following acts:

x x x x

(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:

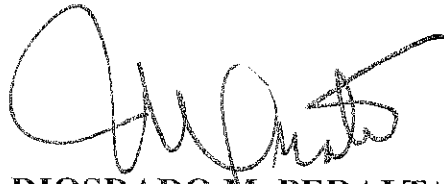
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(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

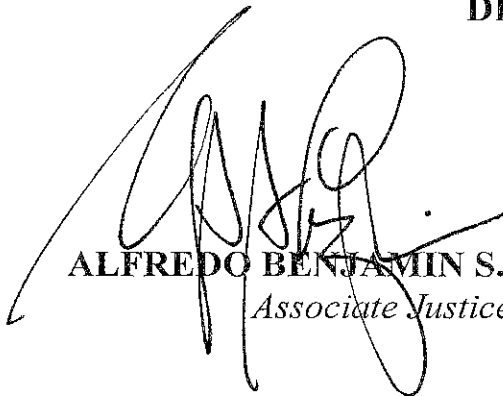
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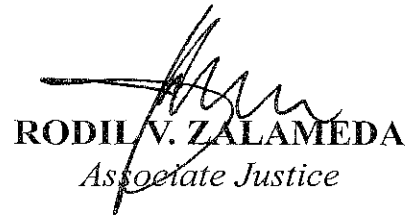
**WE CONCUR:**




**DIOSDADO M. PERALTA**  
*Chief Justice*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



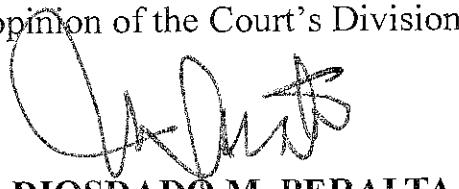
**RODIL V. ZALAMEDA**  
*Associate Justice*



**SAMUEL H. GAERLAN**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
*Chief Justice*

