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REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:*

G.R. No. 223384 – Razel John F. Cantorna v. People of the Philippines

X-----X

The Case

This Petition for Review on Certiorari¹ seeks to reverse and set aside the Court of Appeals' Decision² dated December 7, 2015 in CA-G.R. CR No. 35793 affirming petitioner's conviction for two (2) counts of less serious physical injuries, and Resolution³ dated February 26, 2016 denying petitioner's motion for reconsideration.

The Proceedings before the Metropolitan Trial Court

The Charge

Petitioner Razel John F. Cantorna was charged with Attempted Homicide and Less Serious Physical Injuries, along with Alfon Malana and Arthur Malana who both remain at large.

The Information for Attempted Homicide⁴ reads as follows:

That on or about November 8, 2008, in the City of Manila, Philippines, the said accused conspiring and confederating together with others whose true names, real identities and present whereabouts are still unknown, with intent to kill, did then and there willfully, unlawfully and feloniously commence the commission of the crime of homicide directly by overt acts, to wit: by then and there hitting one PAUL MATTHEW

¹ *Rollo*, pp. 8-19.

² Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justice Elihu A. Ybañez and now SC Associate Justice Ramon Paul L. Hernando, *rollo*, pp. 29-42.

³ *Id.* at 44-45.

⁴ Criminal Case No. 453638

pu/w

CEBEDO y ESTRELLA with a guitar on his head and on the different parts of his body and thereafter continuously mauling him after they caught up on him when the latter was able to run away, but said accused did not perform all the acts of execution which should have produced the crime of homicide as a consequence, by reason or causes other than his own spontaneous desistance, that is, by the timely arrival of a tricycle driver together with complainant's friend, one Vincent Santos, who immediately brought said PAUL MATTHEW CEBEDO y ESTRELLA to UST Hospital for medical treatment.

CONTRARY TO LAW.

The Information for Less Serious Physical Injuries⁵ reads:

That on or about November 8, 2008, in the City of Manila, Philippines, the said accused conspiring and confederating together with one whose true name, real identity and present whereabouts are still unknown and helping one another, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon VINCENT SANTOS, by then and there hitting him on the head and mauling him, thereby inflicting upon the latter physical injuries which have required and will require medical attendance for a period of not less than nine (9) days but not more than thirty (30) days and incapacitated and will incapacitate the said VINCENT SANTOS from performing his customary labor during the same period of time.

CONTRARY TO LAW.

The two (2) cases were consolidated and raffled to the Metropolitan Trial Court (MeTC)-Branch 29, Manila. On arraignment, petitioner pleaded not guilty to both charges. Trial ensued.

Version of the Prosecution

The prosecution offered the testimonies of complainants Paul Matthew Cebedo and John Vincent Santos.⁶ They testified that on November 8, 2008, around 9 o'clock in the evening, they went to Trisha's store along M. Dela Fuente Street, Sampaloc, Manila. There, they saw petitioner John Razel Cantorna, his girlfriend Bernadette Acuesta, his companions and co-accused Arthur Malana and Alfon Malana, and two (2) other unidentified men. When they left the store, petitioner, Arturo, and Alfon trailed them along Laong Laan Street, Dapitan, Manila. As they reached Shell Gasoline Station in Laong Laan Street, petitioner attacked and hit John Vincent in the right side of his head. Arthur and Alfon also punched John Vincent in the head. Paul Matthew tried to pacify the assailants, but petitioner hit his

⁵ Criminal Case No. 458661.

⁶ *Rollo*, p. 31.

head with a guitar. As a result, complainants both fell on the ground. A man driving his tricycle rescued and rushed them to the hospital.⁷

Paul Matthew sustained a laceration in his head which required stitches, multiple wounds and bruises in his body. He also experienced abdominal pain caused by the beatings. John Vincent, on the other hand, sustained hematomas in his forehead and in the right side of his head, and abrasion on his left knee. His nose was swollen with traces of blood clot.⁸

Version of the Defense

Petitioner and Dannyver Plopino testified for the defense.

Petitioner denied the charges against him. He claimed that he saw complainants at Trisha's store on the day of the incident. Alfon told him that John Vincent was giving him a dagger look. Thereafter, Alfon, Arthur, and another friend named Ban followed complainants along Laong Laan Street. When complainants reached the gasoline station along Laong Laan Street, Alfon punched Vincent. He rushed to the scene to pacify Alfon. Then he saw Ban hit Paul Matthew with a guitar and then kicked him. When Paul Matthew fell on the ground, Ban and Alfon ran away. He then called Bernadette and they both went home.⁹

Dannyver testified that he was playing billiards across the gasoline station when the incident happened. He went out when he heard the commotion. He saw three (3) persons chasing a bloodied man. He only saw petitioner after the mauling incident, as the latter was crossing the street from the gasoline station. He later said he saw petitioner cross the street towards the gasoline station and tried to pacify one of the assailants who wanted to run after the bloodied victim.¹⁰

The Metropolitan Trial Court's Ruling

In its Decision dated October 18, 2012, the MeTC found petitioner guilty of two (2) counts of less serious physical injuries, *viz*:

WHEREFORE, in Criminal Case No. 453638, accused RAZEL JOHN F. CANTORNA is found guilty beyond reasonable doubt of Less Serious Physical Injuries as defined under Article 265 of the Revised Penal Code. He is hereby sentenced to suffer a straight prison term of ONE (1) MONTH of *arresto mayor*.

⁷ *Id.*

⁸ *Id.* at 80.

⁹ *Id.* at 32.

¹⁰ *Rollo*, pp. 65 and 67; TSN, September 3, 2012, pp. 20 and 22.

In Criminal Case No. 458661 accused RAZEL JOHN F. CANTORNA is found guilty beyond reasonable doubt of the crime charged in the information. He is sentenced to suffer a straight prison term of ONE (1) MONTH of *arresto mayor*.

He is likewise ordered to pay:

- a) complainant Paul Matthew E. Cebedo the sum of P3,570 as actual damages; and
- b) complainant Vincent Santos the sum of P2,500 as actual damages.

SO ORDERED.¹¹

The Ruling of the Regional Trial Court (RTC)

On petitioner's appeal, the RTC¹² affirmed through its Decision dated April 22, 2013.¹³ It ruled that complainants' positive identification of petitioner deserves greater weight over the latter's denial. Dannyver Plopino's testimony was not clear and convincing enough to controvert complainants' positive testimony. He did not actually see how the mauling started and his statement contradicted that of petitioner.

In another vein, although the defense presented Bernadette Acuesta's judicial affidavit to support petitioner's version, the same bore no probative weight because she did not appear in court to identify the same and testify thereon.¹⁴

By Order dated May 31, 2013, the RTC denied petitioner's motion for reconsideration.¹⁵

Petitioner further went up to the Court of Appeals *via* a petition for review. He questioned the alleged uncorroborated and inconsistent testimonies of the prosecution witnesses.¹⁶

The Ruling of the Court of Appeals

In its Decision¹⁷ dated December 7, 2015, the Court of Appeals, too, affirmed. It sustained the trial court's factual findings on the credibility of the witnesses and its assessment of the evidence on record. It also noted that there was no showing of any ill motive on the part of complainants to indict petitioner for the crimes charged.

¹¹ *Rollo*, at 32-33.

¹² Regional Trial Court-Branch 34, Manila.

¹³ *Rollo*, pp. 33-34. Criminal Case Nos. 12-293848-49.

¹⁴ *Id.* at 33-34.

¹⁵ *Id.* at 34.

¹⁶ *Id.* at 83-84.

¹⁷ *Id.* at 29-42.

Petitioner filed a motion for reconsideration¹⁸ which the Court of Appeals denied through Resolution¹⁹ dated February 26, 2016.

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays anew for his acquittal. He asserts that the Court of Appeals misapprehended the facts and failed to cite specific basis for its conclusions.²⁰

The Office of the Solicitor General, on the other hand, ripostes that the petition raises factual issues beyond the Court's cognizance. At any rate, the lower courts correctly accorded probative weight to the eyewitnesses' positive testimonies.²¹

Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction?

Ruling

Petitioner essentially faults the Court of Appeals for affirming the trial court's factual findings on the credibility of the witnesses and its assessment of the evidence on record.

Weighing the evidence necessarily involves the consideration of factual issues which are not the proper subject of a petition for review under Rule 45 of the Rules of Court.²² For the Court is not a trier of facts,²³ its jurisdiction under Rule 45, Section 1²⁴ being limited only to errors of law. As such, the Court is not duty-bound to review, examine, and evaluate or weigh anew the probative value of the evidence presented and considered in the tribunals below, more so when not one, not two but three courts below, including the Court of Appeals all agree on the facts,²⁵ as in this case.

¹⁸ *Id.* at 21-26.

¹⁹ *Id.* at 44-45.

²⁰ *Id.* at 8-18.

²¹ *Id.* at 78-96, Comment dated January 10, 2017.

²² *Republic of the Philippines v. Alfredo R. De Borja*, 803 Phil. 8, 17 (2017); *Heirs of Jose Lim, represented by Elenito Lim v. Juliet Villa Lim*, 628 Phil 40, 46 (2010).

²³ *Abelardo v. People*, G.R. No. 191996 (Notice), November 25, 2015.

²⁴ Section 1. *Filing of Petition with Supreme Court.* - A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

²⁵ *Abelardo v. People*, G.R. No. 191996 (Notice), November 25, 2015; *Puse v. Puse*, 629 Phil. 483, 498 (2010).

Indeed, the Court has consistently deferred to the factual findings of the trial court, in light of the unique opportunity afforded it to observe the demeanor and spontaneity of the witnesses in evaluating the credibility of their testimony.²⁶

While Rule 45 admits of recognized exceptions which allow the Court to review factual issues, none exists in this case. There is, therefore, no cogent reason for the Court to disturb the trial and appellate courts' uniform factual findings and conclusions on the credibility of the witnesses here.

But even though the Court exercises leniency and recalibrates the parties' evidence, the same would yield the same result. For the prosecution's evidence sufficiently supports a verdict of conviction against petitioner.

For one, complainants positively identified petitioner as among those assailants who attacked them. They uniformly testified that it was actually petitioner who initiated the attack. Petitioner punched John Vincent in the head. Then his co-accused followed suit and attacked John Vincent too. When Paul Matthew tried to stop the fight, petitioner hit him in the head with a guitar.

As for the failure of Paul Matthew to immediately include petitioner's name in the statement he submitted to the barangay, Paul Matthew explained that at that time he did not know petitioner's name albeit he was positive about petitioner's participation in the attack launched against him and John Vincent.

The defense witnesses, on the other hand, failed to refute complainants' positive testimonies. Dannyver admitted he never saw how the mauling incident started since he was playing billiards at that time. He was across the street and a road away from where the mauling incident took place²⁷ and Laong Laan Street was not well-lighted.²⁸ Too, the three (3) courts below found that his testimony actually contradicted petitioner's own version of the incident. Dannyver's testimony depicted a scenario that when he saw petitioner for the first time that day, the mauling incident was already on-going since he already saw the bloodied victim running away from the assailants. Petitioner's testimony, on the other hand, depicted a substantially different scenario – *i.e.* the mauling incident had just started at the time petitioner crossed the street.

For sure, petitioner's uncorroborated defense of denial is a self-serving negative evidence which cannot be given greater weight than the

²⁶ *Republic of the Philippines v. Alfredo R. De Borja*, 803 Phil. 8, 17 (2017).

²⁷ *Rollo*, p. 55; TSN, September 3, 2012, p. 10.

²⁸ *Rollo*, p. 64; TSN, September 3, 2012, p. 19.

positive and credible testimonies of the prosecution witnesses who were not shown to have had any ill motive to testify against him.²⁹

As for the penalty, the trial court imposed a straight penalty of one (1) month of *arresto mayor*. The same should be modified. The penalty for less serious physical injuries is *arresto mayor*,³⁰ which ranges from one (1) month and one (1) day to six (6) months.³¹ There being no aggravating and no mitigating circumstance, the penalty should be taken from the medium period of *arresto mayor*, which is two (2) months and one (1) day to four (4) months.³²

Going now to the award of actual damages for loss resulting from the injuries, complainants are rightfully entitled to the amount duly established by competent evidence, *i.e.* ₱3,570.00 for Paul Matthew, and ₱2,500.00, for John Vincent. Pursuant to recent jurisprudence,³³ these amounts are subject to interest at the rate of six percent (6%) per annum from finality of this Resolution until fully paid.

ACCORDINGLY, the petition is **DENIED**. The Decision dated December 7, 2015 and Resolution dated February 26, 2016 of the Court of Appeals in CA-G.R. CR No. 35793 are **AFFIRMED** with **MODIFICATION**.

Petitioner is sentenced to a straight penalty of three (3) months of *arresto mayor* for each count of less serious physical injuries, and to pay Paul Matthew E. Cebedo and John Vincent Santos the sum of ₱3,570.00 and ₱2,500.00, respectively, plus interest at six percent (6%) per annum from finality of this Resolution until fully paid.

SO ORDERED."

Very truly yours,


TERESITA AQUINO TUAZON

Deputy Division Clerk of Court *WAT* 11/20

21 NOV 2019

²⁹ *People v. Elimancil*, G.R. No. 234951, January 28, 2019; *People v. Gonzales*, G.R. No. 233544, March 25, 2019; *People v. Miranda*, 762 Phil. 170, 181 (1015).

³⁰ Article 265, Revised Penal Code.

³¹ Article 27, Revised Penal Code.

³² See *Engr. Pentecostes, Jr. v. People of the Philippines*, 631 Phil. 500, 513 (2010).

³³ *People v. Matsuo*, G.R. No. 238751 (Notice), February 13, 2019.

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*With copy of CA Decision dated 7 December 2015
Please notify the Court of any change in your address.
GR223384. 10/02/2019B(114 & 161[b])URES