



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**XXX,**

Petitioner,

**G.R. No. 255981**

Present:

-versus-

LEONEN, S.A.J., *Chairperson*  
 LAZARO-JAVIER,\*  
 LOPEZ, M.,  
 LOPEZ, J., and  
 KHO, JR., JJ.

**PEOPLE OF THE  
 PHILIPPINES,**

Respondent.

Promulgated:

**AUG 07 2023**

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**DECISION**

**M. LOPEZ, J.:**

The present Petition for Review on *Certiorari* assails the August 24, 2020 Decision<sup>1</sup> and the February 23, 2021 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 43389, which affirmed XXX's (petitioner) conviction for violation of Section 5(i) of Republic Act (RA) No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004.<sup>3</sup>

\* On official business.

<sup>1</sup> *Rollo*, pp. 31–48. Penned by Associate Justice Eduardo B. Peralta, Jr., with the concurrence of Associate Justice Remedios A. Salazar-Fernando and Associate Justice Louis P. Acosta of the First Division, Court of Appeals, Manila.

<sup>2</sup> *Id.* at 51–54. Penned by Associate Justice Eduardo B. Peralta, Jr., with the concurrence of Associate Justice Remedios A. Salazar-Fernando and Associate Justice Louis P. Acosta of the Former First Division, Court of Appeals, Manila.

<sup>3</sup> Entitled, "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004.

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### Antecedents

Petitioner was charged with violation of Section 5(i) of RA 9262 before Branch [REDACTED], Regional Trial Court (RTC), [REDACTED] under the following Information:

That sometime in November 2012 up to the present in the City of [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused, being then the husband of complainant, did then and there willfully, unlawfully and feloniously deprive his wife AAA and their children, namely: BBB, 16 years old (DOB: March 20, 1997), CCC, 11 years old (DOB: October 2, 2001), DDD, 10 years old (DOB: June 26, 2003) and EEE, 3 years old (DOB: August 7, 2010), the needed love, care, protection, financial support and sustenance legally due them.

CONTRARY TO LAW.<sup>4</sup>

Petitioner pleaded not guilty during arraignment. When the case was referred to Judicial Dispute Resolution, the parties reached an amicable settlement and executed a Compromise Agreement. Consequently, with petitioner's conformity, the case was provisionally dismissed.<sup>5</sup>

On January 30, 2014, the prosecution, through Prosecutor Agapito F. Fajardo, Jr., filed a motion to revive the case. Nonetheless, the parties eventually settled and signed another Compromise Agreement. They mutually agreed, without objection from the prosecutor, for the provisional dismissal of the case, subject to compliance with the terms and conditions of the new Compromise Agreement.<sup>6</sup>

On June 14, 2017, however, the prosecution again moved to revive the case. During the hearing on the Motion on June 28, 2017, the parties amicably settled and signed another Compromise Agreement with amended conditions. Consequently, the Motion to Revive was deemed withdrawn.<sup>7</sup>

On October 5, 2018, the prosecution moved to revive the case on the ground of petitioner's failure to comply with the terms of the June 28, 2017 Compromise Agreement. The RTC granted the motion, and trial ensued.<sup>8</sup>

AAA testified that she and petitioner got married in 1996 and had four children, namely: BBB, CCC, DDD, and EEE.<sup>9</sup> She separated from petitioner in November 2012 because of his infidelity which she personally discovered through

<sup>4</sup> *Rollo*, p. 9.

<sup>5</sup> *Id.* at 32.

<sup>6</sup> *Id.* at 59-60.

<sup>7</sup> *Id.* at 60.

<sup>8</sup> *Id.*

<sup>9</sup> In conformity with Administrative Circular No. 83-2015 (Subject Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names/Personal Circumstances), the complete names and personal circumstances of the victim's family members or relatives, who may be mentioned in the court's decision or resolution have been replaced with fictitious initials.

the exchange of text messages between petitioner and his paramour. When they separated, their children had to stop going to school from 2012 to 2013 because petitioner did not provide financial support for seven months. AAA was likewise not able to pay her debts and had to face a complaint before the *barangay* because of it.<sup>10</sup>

Petitioner owned and managed a trucking business. Since their separation, petitioner had been staying in the barracks, together with their truck drivers. AAA is not convinced that the trucking business is not earning. They had 15 trucks, and every truck generated income, especially those that ply the north route. Normena Hamid was petitioner's secretary and his paramour. She was the one handling the finances of the trucking business.<sup>11</sup>

AAA added that in the July 2017 compromise agreement, petitioner promised that he will provide BBB with a laptop that she can use for her studies. Petitioner, however, only gave the laptop when they complained to the *barangay*. When BBB received the laptop, she had to return it to petitioner because it had no software programs installed, and AAA had no money to buy them. It took a long time before petitioner sent back the laptop with the software programs installed, and this came after AAA filed a motion to revive the case.<sup>12</sup>

On cross-examination, AAA stated that their four children are studying at [REDACTED]. Petitioner paid their tuition fees. He also sent them PHP 5,000.00 a week or PHP 20,000.00 a month in compliance with the compromise agreement. He consistently provided financial support from January to October 2018.<sup>13</sup>

BBB testified that there were instances when they felt like begging from their own father. They would go to him to ask for money and would wait for him until nighttime. Sometime in January 2013, she and CCC went to petitioner to ask for money, but he drove them away. They went home empty handed.<sup>14</sup>

On cross-examination, BBB clarified that she did not say in her sworn statement that petitioner sent her away, because she herself decided to leave when petitioner did not immediately give her money.<sup>15</sup>

BBB testified that she was 15 years old when her parents separated in 2012. She had to stop her schooling from 2012 to 2013 because petitioner failed to provide financial support. Whenever she and her siblings would go to petitioner's house to ask for money, he would make them wait, or would sometimes send them away. In one instance, they were in Gateway mall with petitioner. They asked money from him for their school project, but petitioner told them that he had no money. Yet, petitioner was able to buy pizza for her secretary, Normena, who was

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<sup>10</sup> *Id.* at 63-66.

<sup>11</sup> *Id.* at 64.

<sup>12</sup> *Id.* at 64-65.

<sup>13</sup> *Id.* at 65.

<sup>14</sup> *Id.* at 66.

<sup>15</sup> *Id.* at 67.

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also his girlfriend.<sup>16</sup>

In 2017, BBB intimated to petitioner that she wanted to transfer to [REDACTED]. Petitioner promised that he would accompany her to enroll. When CCC reminded him later about her intention to transfer, petitioner told her that he had no money. Petitioner was likewise remiss in his obligations under the 2017 Compromise Agreement, specifically, with regard to the bonding time with his children, health insurance, and payment of their school and utility bills. If her mother did not borrow money from a money lender, they would have probably stopped going to school because of petitioner's delay in giving financial support. They did not only suffer economic abuse but also psychological and emotional abuse. It tormented her to have to beg money from their own father.<sup>17</sup>

On cross-examination, BBB admitted that it was petitioner paying her tuition fees at [REDACTED] where she is enrolled, and that he bought her a laptop. She confirmed that petitioner would increase or double the amount of money that he would send them whenever he incurred delay. He also sent money to pay the loans that her mother incurred because his financial support was delayed. BBB also admitted that they had bonding moments with petitioner, but she stopped communicating with him since the incident when he failed to give her money for a school project but was able to buy pizza for Normena.<sup>18</sup>

For the defense, petitioner denied that he refused to provide financial support to his children. Although there were times that he incurred in delay when he could not collect from his clients, he would double the amount of money that he would send to make up for it. He also provided transportation allowance in the amount of PHP 1,500.00, even though it is not included in the Compromise Agreement. He also took out health insurance policies from Paramount Insurance for his children, although they had not used it. It is not true that he let his children beg for his financial support. Every time he is able to collect payment from his clients, he would immediately deposit money for his children. This is evidenced by the various deposit receipts that he offered in evidence.<sup>19</sup>

As regards the laptop that he sent for the children, he instructed them to bring it to the technician so they could tell him what specific programs they needed. His children, however, did not follow his instruction. As to the incident involving the pizza, petitioner bought one for AAA and another for his own consumption. BBB, meanwhile, offensively asked him, "*Ano, dadalhin mo sa kabit mo yan?*" Petitioner was irked by her remark and an argument started. BBB then told her siblings, "*Tara na, uwi na tayo. Walang kwentang ama yan.*" BBB was the only person who ever called him a useless father.<sup>20</sup>

With regard to their schooling, petitioner is the one paying their tuition

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 68.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 69

<sup>20</sup> *Id.*



fees. He personally enrolled BBB, CCC, and DDD at [REDACTED]. They would also have bonding moments. He would bring them to Gateway mall in Cubao and would spend two to three hours together. In 2018, his children stopped going out with him because they said that he is a worthless father. It hurts him to be called worthless and disrespected by his own children because he did everything he could for them.<sup>21</sup>

On cross-examination, petitioner averred that he only had nine trucks that are generating income. The trucks with plate number RAS 932 and XPU 396 belong to his friend, Ramil Reyes, who only used his name to purchase those trucks. The other trucks with plate numbers REB 506, REF 464, RGF 993, RCB 248, and NOK 475 are already old and no longer serviceable.<sup>22</sup>

Defense witness Nestor Adonay (Adonay) is a former truck driver of petitioner from 2009 to 2015. He stopped working for petitioner when he suffered a stroke. He testified that petitioner is a kind person. When he was still employed in petitioner's trucking business, he would see petitioner's children visiting the barracks to ask money from petitioner. Whenever petitioner could not give them money, the children would be angry. There was one instance when Adonay heard BBB telling petitioner, "*Maramot ka, Papa. Paano kapag nagkasakit ka? Sino ang tutulong sayo?*" Petitioner would just ignore it and go back to his trucks. He never saw petitioner sending away his children. Adonay confirmed petitioner's testimony as to the difficulty in collecting payments from the clients as the reason why petitioner would be delayed in sending financial support to his children. Adonay recalled that they would also not receive their salary when petitioner was not able to collect from his clients.<sup>23</sup>

### *RTC Ruling*

In a Decision dated May 14, 2019,<sup>24</sup> the RTC found petitioner guilty of violation of Section 5(i) of RA 9262. The RTC ruled that AAA, BBB, CCC, DDD, and EEE suffered not only economic abuse but also psychological, mental, and emotional abuse by reason of petitioner's lack of empathy, love, concern, and respect and his marital infidelity. The RTC ratiocinated further:

The testimonies of the private complainant and the parties' minor children are very telling not only of the economic abuse but more so of the psychological, mental, and emotional abuse they suffered by reason of the lack of empathy, love, concern, respect, and the manner by which the herein accused treat the private complainant and his minor children with the latter.

The accused in his defense staunchly asserted that he has been doing his best to extend financial support to the private complainant and his minor children.

However, for emphasis, violation of Section 5(i) of RA 9262 does not only cover economic abuse. It encompasses psychological, mental, and

<sup>21</sup> *Id.* at 69-70.

<sup>22</sup> *Id.* at 70.

<sup>23</sup> *Id.* at 69.

<sup>24</sup> *Id.* at 59-74.

emotional abuse.

....

It is the defense of the accused that he is not remised [sic] in giving financial support. Admittedly, however, due to business glitches, he would encounter delays, at times, in sending financial support to the private complainant and his minor children.

Notably, however, the accused was silent anent his extra marital affair with his office secretary. Nonetheless, even if there is no conclusive proof of marital indiscretion on the part of the accused, the testimonial evidence for the prosecution clearly proves that the accused caused mental and emotional anguish not only to his wife, the private complainant, but more so, to his minor children[.]

....

Careful evaluation of the testimonial evidence presented and the prevailing jurisprudence, this court finds that all the foregoing elements for violation of Section 5 (i) of RA 9262 as pronounced by the Supreme Court in the above-cited case are present in the case at hand.

....

As to the proper penalty to be imposed, Section 6 of RA 9262 provides that violations of Section 5(i) shall be punished by prision mayor.

**WHEREFORE**, . . . judgment is hereby rendered finding ACCUSED [XXX] guilty . . . for violation of Section 5 (i) of RA 9262. He is hereby sentenced to suffer four (4) years and one (1) day of prision correccional, as minimum, to six (6) years and one (1) day of prision mayor as maximum. In addition, accused is also ordered to pay a FINE in the amount of P100,000.00, and to undergo a mandatory psychological counseling or psychiatric treatment, and report compliance to the Court.

**SO ORDERED.**<sup>25</sup>

Petitioner appealed to the CA. He argued that he did not willfully deprive his children of financial support, although there were times that he was in delay in sending money. In addition, the element of emotional anguish, which was supposedly felt by AAA and his children, was not substantiated by any testimony from an expert witness.

#### *CA Ruling*

In the assailed Decision dated August 24, 2020,<sup>26</sup> the CA affirmed petitioner's guilt for violation of Section 5(i) of RA 9262 as follows:

Per the Appellant's Brief, ████████ conceded his procrastination in giving financial support, but he asserted though that such was not deliberately done and he was of the view that he should be exonerated from the public accusation.

<sup>25</sup> *Id.* at 71-74.

<sup>26</sup> *Id.* at 31-48.

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However, the absence of financial support was not the only act that [AAA] complained of, but also ████████ neglect – brought about by his extra-marital affair which elicited tremendous effect on the private complainant and her children.

....

Let Us relay [AAA]'s marital predicament vis-a-vis appellant's demeanor:

Q. So what can you say as a wife, of course, Normena is the secretary of your husband, the accused?

A. Yes, Sir.

Q. What can you say about their relationship as an employer and employee?

A. Ang masasabi ko po as a secretary, as a normal secretary[,] ang time po ay 8:00 up to 5:00[,] how about kung makarating na nang 9:00 o'clock nandoon pa po siya sa office.

Q. Baka may overtime?

A. Marami pong sabi-sabi na hindi po siya regular secretary. Sa mga nakatira po doon may nagsasabi na hindi na po normal 'yung pagse-secretary niya.

....

[CCC], the second daughter, likewise declared before the court a quo:

Q. Your mother mentioned about the secretary, who is this secretary Normena Hamid?

A. Yes, she is allegedly the girlfriend, Sir.

Q. "Daw," why do you say that she is the girlfriend of your father?

A. There was a time I went there to follow up the support, the door was locked and I was knocking. It took a while for him to open the door and when he did[,] I saw my father zipping up her [sic] shorts.

Q. Who were with him?

A. When we entered the house, I saw her [sic] secretary inside the room with a towel on her head as if she just took a bath, Sir.

....

Q. What did your father tell you when he opened the door?

A. When we entered the house, I told him regarding the support and he told me there was a delayed in [sic] collection and then when I asked why was her secretary taking a bath in that house, he said "nakikiligo lang."

Q. What happened next after that?

A. "Bigla po siyang nagalit, sabi nya po simula ngayon wag na kayong magpakita sa akin, tapos, simula ngayon wala na akong anak. Hindi ko na kayo anak."

Q. May I put on record that at this point, the witness is crying. (Emphasis supplied)

....

Court:

Q. Why are you crying?

A. Kasi po parang inabandona na po kami ng papa namin, parang wala na po kaming tatay.

Q. And how are you affected by that?

A. Emotionally and mentally parang malaki po yung effect sa amin kasi as anak po malaki po yung effect ng mawalan ka ng tatay, financially, mentally and emotionally po. Lalo na po kapag sa school.

....

[BBB], the first daughter, also aired her feelings:

Pros. Buce

Q. So, you mentioned a while ago that you witnessed personally how hard it was to ask for financial support from your father, can you give us specific instances when you witness[ed] the same?

Witness

A. Wherever [sic] we go to the house of our father, he would make us wait and there are times that he sent us away.

....

Q. What is the relationship of [sic] any of this Normina to your father?

A. They said that Normina is the girlfriend of my father.

....

Q. You said "sinasabi", do you mean to say you have no personal knowledge on the alleged allegation of your father with his secretary?

A. Yes, at first until I saw them personally.

Q. What is [sic] that[,] that you witness[ed]?

A. On [sic] May 2017, when I went to the house of my father but he was not there, and I was told to go to the apartment of my cousin, her secretary then [sic] and when I went to the house of my cousin[,] she told me that my father was not there. A man from the outside told me to go to the 2nd door of the apartment. I was surprised why would my father would [sic] stay there because we have no relative in that apartment.

Q. Were you able to go to the 2nd door?

A. Yes.

Q. What did you see, if any?

A. I saw my father lying down at the sofa and the girl was standing fixing her hair. I called my father and he immediately stood up and asked "Anong ginagawa mo dito?" and I asked him "Siya ba yung sinasabi nilang girlfriend mo?". He curses [sic] me "Tang ina mo, bakit nangingialam ka" sabi ko kanina pa ako pabalik balik pa, puputulan na kami ng tubig po tapos makikita pa kita sa bahay sa sinasabi nilang girlfriend mo.

Pros. Buce



Can we make it on record that the witness is crying?

....

Certainly, [REDACTED] denial was bereft of evidentiary weight and must fail in the light of [AAA], [BBB] and [CCC]'s categorical testimony of emotional anguish.

....

... Moreover, his theory that an expert witness was necessary to prove mental and emotional anguish was even immaterial to the indictment. Surely, the testimony alone of the victim was sufficient to pin [REDACTED] for the charge.

**WHEREFORE**, premises considered, the instant **APPEAL** is hereby **DENIED** for lack of merit. Hence, the Decision dated May 14, 2019 in Criminal Case No. 1339-V-13 of the Regional Trial Court, Branch [REDACTED], [REDACTED], which adjudged accused-appellant [XXX] guilty beyond reasonable doubt for violation of Section 5 (i) of Republic Act No. 9262, is hereby **AFFIRMED**.

**SO ORDERED.**<sup>27</sup>

Petitioner moved for reconsideration, but his motion was denied by the CA in the assailed Resolution dated February 23, 2021.<sup>28</sup>

Hence, this Petition.

Petitioner contends that the CA erred in affirming his conviction. He points out that he was merely delayed in giving financial support to his children, but he certainly did not refuse to give it. Delay is not synonymous with refusal, or withdrawal of financial support which is the act that constitutes a violation of RA 9262. Moreover, the prosecution failed to establish, through expert testimony, that AAA and their children suffered mental and emotional anguish as a result of the alleged deprivation of support since no psychologist or psychiatrist was presented. Lastly, there is no conclusive proof of infidelity on the part of petitioner.

### **Ruling**

The Petition is meritorious.

We clarify, at the outset, that petitioner's criminal liability should be adjudged based on his supposed failure to give financial support to his wife and children as this is the only allegation contained in the Information. The pertinent portion of the Information states that petitioner "*did then and there willfully, unlawfully and feloniously deprive his wife AAA and their children, namely: BBB, x x x, CCC, x x x, DDD, x x x and EEE, x x x, the needed love, care, protection, financial support and sustenance legally due them.*" Consequently, the RTC and the CA erred in considering evidence of petitioner's alleged extramarital

<sup>27</sup> *Id.* at 38-48.

<sup>28</sup> *Id.* at 51-54.

relationship with one Normena Hamid to establish his guilt of the crime charged because this was not alleged in the Information. Basic is the principle that an accused cannot be convicted of a crime, even if duly proven, unless it is alleged or necessarily included in the information filed against him.<sup>29</sup>

Petitioner was charged with violation of Section 5(i) of RA 9262, which reads:

SEC. 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:

....

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or denial of access to the woman's child/children.

In *Acharon v. People*,<sup>30</sup> the Court *En Banc* clarified that the failure or inability to provide financial support *per se* is not a criminal act punishable under Section 5(i) of RA 9262. What Section 5(i) penalizes is the act of inflicting psychological violence against women and children by willfully or consciously denying them the financial support legally due to them. The Court explained:

The Court stresses that Section 5(i) of R.A. 9262 uses the phrase "denial of financial support" in defining the criminal act. The word "denial" is defined as "refusal to satisfy a request or desire" or "the act of not allowing someone to do or have something." The foregoing definitions connote willfulness, or an active exertion of effort so that one would not be able to have or do something. This may be contrasted with the word "failure," defined as "the fact of not doing something [which one] should have done," which in turn connotes passivity. From the plain meaning of the words used, the act punished by Section 5(i) is, therefore, *dolo in nature* - there must be a concurrence between intent, freedom, and intelligence, in order to consummate the crime.

....

It is not enough, therefore, for the woman to experience mental or emotional anguish, or for her partner to deny financial support that is legally due her. In order for criminal liability to arise under Section 5(i) of R.A. 9262, insofar as it deals with "denial of financial support," there must, therefore, be evidence on record that the accused willfully or consciously withheld financial support legally due the woman for the purpose of inflicting mental or emotional anguish upon her[.]

It bears emphasis that Section 5(i) penalizes some forms of *psychological violence* that are inflicted on victims who are women and children. In prosecutions under Section 5(i), therefore, "[p]sychological violence is the means employed by the perpetrator" with denial of financial support as the weapon of

<sup>29</sup> *Acharon v. People*, G.R. No. 224946, November 9, 2021 [Per J. Caguioa, *En Banc*], citing *Canceran v. People*, 762 Phil. 558, 566 (2015) [Per J. Mendoza, Second Division].

<sup>30</sup> *Id.*

choice. **In other words, to be punishable by Section 5(i) of R.A. 9262, it must ultimately be proven that the accused had the intent of inflicting mental or emotional anguish upon the woman, thereby inflicting psychological violence upon her, with the willful denial of financial support being the means selected by the accused to accomplish said purpose. (Emphasis and italics in the original)**

**This means that the mere failure or one's inability to provide financial support is not sufficient to rise to the level of criminality under Section 5(i), even if mental or emotional anguish is experienced by the woman. In other words, even if the woman were to suffer mental or emotional anguish due to the lack of financial support, but the accused merely failed or was unable to so provide support, then criminal liability would not arise. A contrary interpretation to the foregoing would result in absurd, if not outright unconstitutional, consequences. (Emphasis supplied)**

Thus, to obtain a conviction under Section 5(i) of RA 9262, the prosecution must prove the following elements: (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 woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode; (3) the offender willfully refuses to give or consciously denies the woman and/or her child or children financial support that is legally due her and/or her child or children; and (4) the offender denied the woman and/or her child or children the financial support for the purpose of causing the woman and/or her child or children mental or emotional anguish.<sup>31</sup>

The act punished under Section 5(i) is inherently wrong, or a crime *mala in se*. Due to its nature, it is crucial to prove the concurrence of the *third* and *fourth* elements to show the causal connection between the *actus reus* and the *mens rea*. Simply put, the criminal intent to cause mental or emotional distress must accompany the unlawful act of withholding financial support. Otherwise, there is no crime committed.<sup>32</sup>

In this case, the presence of the *first* and the *second elements* are not disputed—AAA is the wife of petitioner while BBB, CCC, DDD, and EEE are their children. However, the *third element* of willful refusal or conscious denial to give financial support, and *fourth element* of intent to cause mental or emotional anguish, were not established.

Here, AAA admitted on cross-examination that petitioner paid the children's tuition fees at [REDACTED] and sent them PHP 5,000.00 a week as financial support. From January to October 2018, petitioner consistently sent them monthly financial support. BBB, on the other hand, confirmed that petitioner paid her college tuition fee at [REDACTED]. Also, petitioner would increase, or double the amount of money that he would send to them whenever he was delayed on his

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

obligation. BBB also stated that petitioner would send money to pay the debts that AAA incurred occasioned by his delay.

Pertinently, petitioner provided financial support for AAA, BBB, CCC, DDD, and EEE as shown by the bank deposit receipts offered as evidence. Though petitioner does not deny that he incurred delay on several occasions, and even missed giving financial support in certain months, he would compensate for it by increasing, or doubling the amount of money that he would send the next time. He also paid the children's tuition fees, provided transportation allowance, and took out health insurance policies for them.

It bears to emphasize that delay in giving financial support is not tantamount to willful denial. Here, petitioner's delay is reasonable because his earnings from the trucking business is unpredictable. There were times when he earned a steady income, but there were instances when he could not collect payments from his clients. His predicament is compounded by the limited number of serviceable trucks being used in his business. Expectedly, when he had no collection, petitioner would not be able to send money for his children. Petitioner's former employee, witness Adonay, affirmed that he, too, would not receive his salary on time, if petitioner had no collection.

Clearly, the evidence on record only showed that petitioner was unable to give consistent or regular financial support to AAA and their children. He did not deliberately refuse to give the amounts needed for their sustenance as a means of inflicting psychological violence on his family. To be sure, there were occasional delays in the provision or even instances when petitioner could not give anything at all. Still, the mere inability or the insufficiency of the amounts given are not sufficient to warrant a conviction under Section 5(i) of RA 9262<sup>33</sup> because there was no *mens rea*, or malicious intent on the part of petitioner to cause the mental or emotional harm that were inevitably suffered by AAA and the children.

It also bears to remind, at this juncture, that the law recognizes no distinction between the husband and the wife as regards their responsibility to provide financial support to each other and the family. Suffice it to state that it is not only the father who has the obligation to support the children because the mother has the corresponding obligation as well. It is certainly unjust and not in keeping with the concept of joint parenting to hand all the burden of sustaining the children on one parent alone. While RA 9262 was enacted to protect women, it was not meant to discount women's capacity to provide for themselves, especially when they are capable.<sup>34</sup>

Ultimately, petitioner fulfilled his obligation of financially supporting his children. While the amount may not always be sufficient or the timing not as consistent as AAA wants it to be, the fact remains that petitioner did not deliberately refuse to give financial support to his family. Accordingly, petitioner

<sup>33</sup> XXX256611 v. People, G.R. No. 256611, October 12, 2022 [Per J. Lazaro-Javier, Second Division].

<sup>34</sup> Acharon v People, G.R. No. 224946, November 9, 2021 [Per J. Caguioa, *En Banc*].

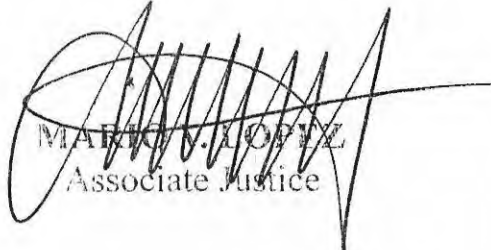
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cannot be held guilty of violating Section 5(i) of RA 9262.

**ACCORDINGLY**, the Petition for Review is **GRANTED**. The Decision dated August 24, 2020 and Resolution dated February 23, 2021 of the Court of Appeals in CA-G.R. CR No. 43389 are **REVERSED**. Petitioner XXX is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. Let an entry of final judgment be issued immediately.

**SO ORDERED.**



MARIC N. LOPEZ  
Associate Justice

**WE CONCUR:**



MARVIC M.V.F. LEONEN  
*Senior Associate Justice*  
*Chairperson*

On official business  
AMY C. LAZARO-JAVIER  
*Associate Justice*



JOSEP T. LOPEZ  
*Associate Justice*



ANTONIO T. KHO, JR.  
*Associate Justice*

**ATTESTATION**

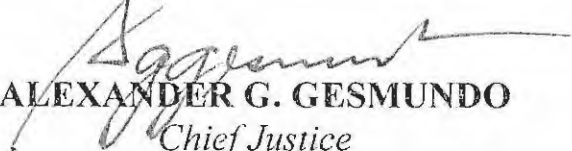
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
*Senior Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Article VII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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.



**ALEXANDER G. GESMUNDO**  
*Chief Justice*