



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **February 5, 2020** which reads as follows:*

“G.R. No. 249611 – Erick Cauilan y Tamayao v. People of the Philippines – The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

This is a Petition for Review on *Certiorari*¹ seeking to reverse and set aside the Decision² dated May 14, 2019 and the Resolution³ dated September 12, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 39174. The CA affirmed the Decision of the Regional Trial Court (RTC), Branch 1, Tuguegarao City, Cagayan, finding Erick Cauilan y Tamayao (petitioner) guilty of attempted homicide with modification as to the penalty imposed. The Municipal Trial Court in Cities (MTCC), Branch 1, Tuguegarao City found petitioner guilty of grave threats.

The instant case stemmed from an Information⁴ charging petitioner for the crime of attempted homicide, the accusatory portion of which states:

That in the evening of March 17, 2014, in the City of Tuguegarao, Province of Cagayan and within the jurisdiction of this Honorable Court, the accused ERICK CAUILAN y TAMAYAO, and two (2) JOHN DOES, who were on board their respective vehicles entered inside the Meynards Resort located at Pallua Sur, this city, that when the private complainant ROCKIE L. MORGADO and his wife were about to leave the

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¹ *Rollo*, pp. 9-20.

² Penned by Associate Justice Pedro B. Corales, with Associate Justices Stephen C. Cruz and Germano Francisco D. Legaspi, concurring; *id.* at 85-96.

³ *Id.* at 112-113.

⁴ *Id.* at 25.

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place on board their motorcycle, one of the accused intentionally sideswipe his motorcycle causing the private complainant and his wife to fall down; that due to fear, the private complainant ran away, but the accused ERICK CAUILAN y TAMAYAO, and two (2) JOHN DOES, who were armed with bladed weapon, gave chase and were able to catch up with him when he stumbled, and by conspiring and confederating with one another, with intent to kill, did then and there, willfully, unlawfully, and feloniously, attack, assault and stab the private complainant but luckily, he was not hit; that accused commenced the commission of the crime of Homicide directly by overt acts but did not perform all the acts of execution which would have produced it by reasons of causes other than their own spontaneous desistance.

That due to the incident, the accused ERICK CAUILAN y TAMAYAO was immediately arrested by members of the PNP assigned at the Tuguegarao City Police Station and [detained] at PTU Buntun, this city, while the two (2) JOHN DOES eluded arrest.

CONTRARY TO LAW.

The prosecution alleged that private complainant Rockie L. Morgado and wife Shielalyne Morgado were in a resort in Pallua Sur, Tuguegarao City when they heard petitioner shout "*May baril kayo ilabas ninyo kilalanin ninyo ang binabangga ninyo.*" At the time, private complainant's group was having a drinking spree when petitioner and his two companions approach private complainant's group. Petitioner confronted private complainant and tried to smash his head with a bottle of liquor. Private complainant was able to parry the attack and run towards the hotel to ask for help. They returned to their cottage when petitioner and his companions left and thereafter decided to leave the resort. While they were already on board their motorcycle, petitioner and his companions arrived on a motorcycle and car and sideswiped private complainant's vehicle. Private complainant and his wife fell to the ground and ran towards the gate of the hotel but petitioner and his companions were able to chase them. Thereafter, petitioner and his companions started stabbing private complainant but failed to inflict injury upon him. The assailants fled when petitioner recognized private complainant and uttered, "*huwag to pre, kapatid ni Spawn.*"⁵

The defense, on the other hand, denied the accusation against petitioner. While the petitioner admitted that he was having a drinking spree in the same resort where private complainant and his group were

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⁵ Id. at 87-88.

staying, he clarified that he did not go to the cottage of private complainant. He maintained that he did not participate in the stabbing incident since he was just behind the group that assaulted private complainant. He further stated that when the police arrived, he was the only one left in the scene which led private complainant to point at him as the assailant.⁶

The MTCC Ruling

In a Decision⁷ dated January 7, 2016, the MTCC found petitioner guilty of grave threats and sentenced him to suffer the penalty of *arresto mayor* or a straight penalty of four months of imprisonment and to pay a fine of ₱300.00. It held that there was no evidence to prove that petitioner had the intent to kill private complainant. The records merely show that petitioner and his companions brought out their knives and aimed them at private complainant but they did not do any further act. The MTCC stressed that the prosecution failed to demonstrate the manner by which petitioner sideswiped private complainant's motorcycle, the speed of petitioner's vehicle, and the injuries sustained by the victim.

The RTC Ruling

In a Judgment⁸ dated September 20, 2016, the RTC modified the MTCC's Decision and held that petitioner was guilty of the crime of attempted homicide for which he was sentenced to suffer the penalty of *prision correccional* medium, two years and one day to four years and two months of imprisonment. It enunciated that the following circumstances established intent to kill private complainant: (1) petitioner tried to hit him with a bottle; (2) petitioner sideswiped his vehicle causing him and his wife to fall on the ground; (3) petitioner chased him; and (4) thereafter, petitioner drew his knife and aimed it at private complainant.

The CA Ruling

The CA affirmed the RTC Decision with modification in that petitioner was sentenced to suffer the indeterminate penalty of six months of *arresto mayor*, as minimum, to four years and two months

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⁶ Id. at 88.

⁷ Id. at 30-40.

⁸ Id. at 52-54.

of *prision correccional*, as maximum, and was ordered to pay private complainant civil indemnity and moral damages in the amount of ₱20,000.00 each.

Petitioner moved for reconsideration but the same was denied in a Resolution dated September 12, 2019.

Hence, the instant petition.

Our Ruling

The petition is without merit.

An appeal in a criminal case opens the entire case for review on any question including one not raised by the parties. When an accused appeals from the sentence of the trial court, he or she waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate. An appeal confers upon the appellate court jurisdiction to examine the records, revise the judgment appealed from, increase (or reduce) the penalty, and cite the proper provision of the penal law. The appellate court may, and generally does, look into the entire records to ensure that no fact of weight or substance has been overlooked, misapprehended, or misapplied by the trial court.⁹ (Citations omitted)

Petitioner argues that the MTCC gravely erred in finding him guilty of grave threats, which is not necessarily included in the offense of attempted homicide as charged in the Information. He further asseverates that the RTC and the CA gravely erred in finding him guilty of attempted homicide, invoking violation of the double jeopardy rule.

Guided by the foregoing consideration, the Court is constrained to reject petitioner's contentions because when he appealed the MTCC's judgment of conviction for grave threats, the RTC assumes the duty to correct errors as may be found in the assailed judgment, including error in the designation of the crime for which he was convicted. Consequently, when he filed an appeal to assail the MTCC's judgment of conviction, he is deemed to have abandoned his right to invoke the prohibition on double jeopardy.

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⁹ *Geroche v. People*, 748 Phil. 464, 470 (2014).

Going to the merits of this case, the prosecution in this case satisfactorily demonstrated petitioner's intent to kill private complainant. It was established that petitioner tried to smash private complainant's head with a bottle but the latter was able to prevent the attack and escaped. When petitioner and his companions saw the opportunity to attack private complainant before they leave the resort, they sideswiped the latter's vehicle to prevent the latter from fleeing the scene. Petitioner's resolute mind to carry out his evil plan was evident when they chased private complainant and started stabbing him. It is well to note that at the onset of these encounters, an ill-tempered petitioner challenged private complainant's group and shouted, "*may baril kayo ilabas ninyo kilalanin ninyo ang binabangga ninyo.*" Indubitably, the intent to kill can be inferred and proved by the totality of the acts of petitioner before and during the incident.

Finally, as aptly held by the RTC, there was no spontaneous desistance on the part of the petitioner in light of his prior overt acts which sufficiently manifest his desire to kill private complainant.¹⁰

In view of the above disquisition, the Court adopts the factual findings and conclusions of law of the CA and affirms the finding of guilt for the crime of attempted homicide. Accordingly, petitioner is sentenced to suffer the indeterminate penalty of six months of *arresto mayor*, as minimum, to four years and two months of *prision correccional*, as maximum, and is ordered to pay private complainant civil indemnity and moral damages in the amount of ₱20,000.00 each. All monetary awards shall earn legal interests at the rate of 6% per annum from the date of finality of this Resolution until full payment pursuant to prevailing law and jurisprudence.¹¹

WHEREFORE, the petition is **DENIED**. The Decision dated May 14, 2019 and the Resolution dated September 12, 2019 of the Court of Appeals in CA-G.R. CR No. 39174 are **AFFIRMED with MODIFICATION** in that the award of damages shall earn interest at the rate of 6% per annum from the date of finality of this Resolution until fully paid.

The counsel for petitioner is hereby required to **COMPLY** within five (5) days from notice hereof, with A.M. No. 07-6-5-SC dated July 10, 2007 re: statement of contact details (*e.g.*, telephone number, fax number, cellular phone number or e-mail address) of parties or their counsels in all papers and pleadings filed with the

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¹⁰ *Rollo*, pp. 53-54.

¹¹ *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

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Supreme Court; the Cash Collection and Disbursement Division is directed to **RETURN** to petitioner the excess payment for the legal fees in the amount of ₱170.00 under O.R. No. 0266271–SC-EP dated October 27, 2019; and the petitioner is required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed first motion for extension of time to file a petition for review on certiorari pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. CR No. 39174)

Cash Collection and Disbursement Division (x)
Supreme Court

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

The Hon. Presiding Judge
Regional Trial Court, Branch 1
Tuguegarao City, 3500 Cagayan
(Crim. Case No. 17964)

Judgment Division (x)
Supreme Court

The Hon. Presiding Judge
Municipal Trial Court in Cities, Branch 1
Tuguegarao City, 3500 Cagayan
(Crim. Case No. 29420)

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