



Mis. ADCB.H
MISAEL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

Republic of the Philippines
Supreme Court
Manila

SEP 30 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff -Appellee,

G.R. No. 210798

Present:

- versus -

CARPIO,* J.,
VELASCO, JR.,
Chairperson,
DEL CASTILLO,**
PEREZ, and
REYES, JJ.

BEVERLY VILLANUEVA y
MANALILI @ BEBANG,
Accused-Appellant.

Promulgated:

September 14, 2016
Mis. ADCB.H

X ----- X

DECISION

PEREZ, J.:

On appeal is the Decision¹ dated 10 May 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05027. The CA affirmed the 28 January 2011 Decision² of the Regional Trial Court (RTC) of Las Piñas City, Branch 254 in Criminal Case No. 07-0417, finding accused-appellant, Beverly Villanueva y Manalili, guilty beyond reasonable doubt of violation of Section 6 of Republic Act (R.A.) No. 9208.

On 18 May 2007, an Information for the violation of Sec. 6 of R.A. 9208 was filed against accused-appellant. The accusatory portion of the Information reads:

That sometime during the period from April 25, 2007 up to May

* Additional Member per Raffle dated 14 September 2016.

** Additional Member per Raffle dated 2 September 2016.

¹ Rollo, pp. 3-27; Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Francisco P. Acosta and Angelita A. Gacutan concurring.

² Records, pp. 381-391; Penned by Presiding Judge Gloria Butay Aglugub.

17, 2007, in the city of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the owner/manager of ON TAP VIDEOKE, did then and there willfully, unlawfully and feloniously recruit and hire [AAA],³ a 13- year old minor, to work as a Guest Relations Officer (GRO) of said establishment, thereby exploiting and taking advantage of her vulnerability as a child.⁴

On arraignment, accused-appellant entered a plea of NOT GUILTY.⁵ A Petition for Bail was granted and accused-appellant was allowed to post bail. The public prosecutor manifested that they will adopt the evidence presented during the hearing of the Petition for Bail as the same evidence in the main case, with the further manifestation that other witnesses will be presented by the prosecution.⁶ Trial on the merits ensued thereafter.

The Facts

The antecedent facts as culled from the CA decision and records of the case are summarized as follows:

On 25 April 2007, AAA ran away from home after finding out that she was adopted and after being scolded by her mother, who became the private complainant in this case. The friends of AAA informed private complainant that AAA was staying at the On Tap Videoke Bar, working as a Guest Relations Officer. Private complainant sought assistance from the Channel 2 TV program “XXX” to regain custody over AAA. Private complainant, accompanied by the TV crew, lodged a preliminary complaint with the Southern Police District (SPD) Headquarters of Taguig City against On Tap Videoke Bar and a task force was created for the rescue of AAA. Police Officer 1 Ariel Sullano (PO1 Sullano), accompanied by private complainant was tasked to go inside the videoke bar to talk to AAA. PO2 Thaddeus Abas (PO2 Abas) and the other police officers were stationed outside the bar, awaiting the predetermined signal. After the operation, AAA was taken to the SPD headquarters, together with accused-appellant and five (5) other videoke bar employees who were without the necessary Mayor’s and Health Permits. Private complainant executed a complaint-affidavit against On Tap Videoke Bar and AAA was endorsed to the Social Development Center of the Department of Social Welfare and Development (DSWD)-Las Piñas. Accused-appellant and the five (5) apprehended employees were booked, investigated and underwent medical examinations.

³ The real name of the victim is withheld to protect her privacy. See *People v. Cabalquinto*, 533 Phil. 703 (2006).

⁴ Records, p. 1.

⁵ Id. at 85.

⁶ Id. at 172-175.

On 17 May 2007, accused-appellant and the five (5) employees were referred to the inquest prosecutor with charges for violation of R.A. No. 7610⁷ and working without Mayor's/ Health Permit, respectively. The Office of the City Prosecutor charged accused-appellant with human trafficking under R.A. 9208, instead of violation of R.A. 7610 for the reason that accused-appellant "recruited and exploited AAA, a 13-year old minor, to work as a GRO in her bar by taking advantage of her vulnerability as a child."⁸

On 24 May 2007, a Petition for Bail was filed by accused-appellant, alleging that the evidence of guilt was not strong. The prosecution presented the testimonies of PO2 Abas and the private complainant to prove otherwise.

Meanwhile, on 31 May 2007, an Affidavit of Desistance⁹ was executed by private complainant, which formed part of the exhibits. The Affidavit of Desistance was executed after the private complainant had the opportunity to talk to AAA after the rescue operation and after AAA revealed that she was merely allowed to stay at the videoke bar after she ran away from home.¹⁰

PO2 Abas testified as to the filing of the complaint and the entrapment and rescue operation conducted. He narrated that during the operation, he was stationed a couple of blocks from the videoke bar;¹¹ and that upon the execution of the pre-arranged signal, he and his companion officers rushed to the bar to take custody of AAA and other girls working without permits.¹² On cross-examination, PO2 Abas admitted that he was only acting based on the preliminary complaint filed by private complainant;¹³ and that he was not aware of why AAA was in the videoke bar or who had custody over AAA.¹⁴ When asked about the other details of the investigation and the operation, he failed to give coherent answers and insisted that his only designation was to secure the GROs and the other persons in the videoke bar.¹⁵

The prosecution then presented private complainant as the second

⁷ An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

⁸ Records, p. 2.

⁹ Id. at 133-134.

¹⁰ TSN, 3 July 2007, p. 25.

¹¹ TSN, 19 June 2007, p. 18.

¹² Id. at 19.

¹³ Id. at 52.

¹⁴ Id. at 51.

¹⁵ Id. at 50.

witness. She recounted the details of the rescue operation and the subsequent filing of the complaint against accused-appellant. On cross-examination, she clarified that she had never been to the videoke bar before the rescue operation;¹⁶ and that when she saw her daughter in the videoke bar, she was neither drinking, singing, nor smoking.¹⁷ When asked about the conversation she had with her daughter after the rescue, private complainant revealed that AAA claimed that she was neither hired nor recruited as a GRO at the videoke bar.¹⁸ Private complainant further narrated that she signified her lack of intention to pursue her complaint against accused-appellant after hearing the side of her daughter.¹⁹ Unfortunately, while the trial was ongoing, AAA absconded from DSWD custody, resulting in the prosecution's failure to obtain her testimony.

The Petition for Bail was granted by the court and accused-appellant was allowed to post bail. To supplement the testimonies of the witnesses presented during the bail hearing, the prosecution offered the testimony of P/Chief Insp. Jerome Balbontin (PCI Balbontin). He narrated that on May 16, 2007, the private complainant, accompanied by the TV crew, reported that her missing 13-year old daughter was seen working as a GRO at the On Tap Videoke Bar.²⁰ According to the witness, he was not present during the operation²¹ but he sent SPO1 Camaliga, PO2 Andador, PO1 Sullano, PO2 Abas, PO2 Espinosa, among others, to conduct the surveillance and rescue.²² He further narrated that after the rescue operation, the TV crew interviewed the child at the police station;²³ and that unfortunately, the footage of said interview and the rescue operation could not be obtained.²⁴

The defense presented Wilfred Aquino (Aquino), the videoke bar waiter, as first witness. He testified as to the events which transpired during the rescue operation. He narrated that two male individuals asked him to call AAA; that AAA approached their table to speak with them; and that after five minutes, the policemen announced the rescue operation.²⁵ The witness insisted that accused-appellant was not aware of AAA's stay in the videoke bar because it was her father, Rosito Villanueva, Sr., who allowed AAA to stay in the videoke bar.²⁶ Wilfred also insisted that AAA has been staying in the videoke bar for two weeks before the rescue operation; and

¹⁶ TSN, 3 July 2007, p. 16.

¹⁷ Id. at 17-18.

¹⁸ Id. at 21.

¹⁹ Id. at 22.

²⁰ TSN, 4 September 2007, p. 6.

²¹ Id. at 19.

²² Id. at 9

²³ Id. at 10.

²⁴ Id. at 16.

²⁵ TSN, 11 June 2009, p. 12.

²⁶ Id. at 25.

that during such stay; she was always in the kitchen helping them wash glasses.²⁷ On cross-examination, he testified that his immediate superior was Rosito Villanueva, Jr., (Villanueva, Jr.) accused-appellant's brother, who was the one managing the videoke bar.²⁸

Villanueva, Jr. was the second witness for the defense. He testified as to the circumstances surrounding AAA's stay in the videoke bar. He claimed that while he was on vacation, his father took over the management of the videoke bar and allowed the temporary stay of AAA, upon the request of their employee.²⁹ Like Aquino, Villanueva, Jr. claimed that accused-appellant was unaware of AAA's stay in the videoke bar because accused-appellant had no hand in the daily operations and management. On cross-examination, he testified that the videoke bar was merely registered under his sister's name; and that all earnings belonged to him because the videoke bar was put up by his sister for him.³⁰

Accused-appellant maintained that at the time the raid was conducted, she was at her sister's house. Her brother called her to apprise her of the situation, prompting her to rush to the bar to handle the situation. She went with the authorities to the SPD Headquarters and presented herself as the registered owner of the videoke bar. Accused-appellant vehemently denied hiring and/or recruiting AAA as a GRO, insisting that she was not involved in the day-to-day operations. Asserting that she was unaware that AAA was staying at the bar, accused-appellant explained that she merely provided capital for the business and that her brother, Villanueva, Jr., was the one managing the same. Both accused-appellant and her brother aver that it was their father who allowed AAA to stay at the videoke bar upon the request of one of the waiters.

Ruling of the Regional Trial Court

The RTC found accused-appellant's denial unavailing and incredible, considering that the corroborating testimonies came from witnesses who were not disinterested. The court found it impossible for accused-appellant unaware of AAA's stay in the videoke bar, given that she was the registered owner thereof. The RTC gave weight on the successful rescue operation conducted by the police and the TV crew. In sum, the court ruled that despite the failure of the prosecution to present AAA in court, the

²⁷ Id. at 22.

²⁸ Id. at 29.

²⁹ TSN, 3 December 2009, p. 11.

³⁰ Id. at 24-25.



circumstantial pieces of evidence were sufficient to establish accused-appellant's guilt beyond reasonable doubt, for the reason that a direct link between accused-appellant's commission of the crime and the minor victim was established.³¹ The dispositive portion of the decision reads:

WHEREFORE, finding accused BEVERLY VILLANUEVA y MANALILI @ "BEBANG" GUILTY of *Qualified Trafficking in Persons* under Section 6 of Republic Act 9208, the Court hereby sentences her to suffer the penalty of *Life Imprisonment* and to pay a fine of 3 Million pesos. Her license/permit to operate the ON TAP VIDEOKE BAR is ordered cancelled.³²

Ruling of the Court of Appeals

Accused-appellant challenged the RTC decision on appeal, alleging that the lower court relied on the weakness of the defense rather than on the strength of the evidence for the prosecution. Accused-appellant argued that the same set of evidence, which was the basis for granting the petition for bail, was merely adopted in the main case. Thus, accused-appellant contends that there can be no conclusion other than that the prosecution failed to substantiate the allegations in the Information. Moreover, accused-appellant insisted that the lower court erred in not giving the private complainant's Affidavit of Desistance due weight and consideration.

The appellate court found the appeal bereft of merit. Enumerating the different circumstantial evidence presented, the CA ruled that the conviction was warranted. The appellate court held that the "[affidavit of desistance is] not the sole consideration that can result to an acquittal"³³ hence, in view of the lack of circumstances to support the Affidavit of Desistance, acquittal was not warranted. The pertinent and dispositive portions of the decision read:

Thus, the trial court did not err in imposing upon accused-appellant the penalty of life imprisonment and fine of ₱3,000,000.00. The order for the cancellation of her permit to operate the ON TAP VIDEOKE BAR is also correct. x x x

x x x x

WHEREFORE, the trial court's Decision dated January 28, 2011 is **AFFIRMED**.³⁴

³¹ Records, p. 391.

³² Id.

³³ *Rollo*, p. 25.

³⁴ Id. at 25-26.

In a Resolution³⁵ dated 3 October 2013, the Court of Appeals gave due course to accused-appellant's Notice of Appeal.

On 19 February 2014,³⁶ we required the parties to submit their respective supplemental briefs. Accused-appellant filed a supplemental brief;³⁷ whereas the Office of the Solicitor General adopted all the arguments raised in its brief, in lieu of filing a supplemental brief.

Our Ruling

The crux of the controversy is whether the circumstantial pieces of evidence presented by the prosecution inexorably lead to the conclusion that accused-appellant is guilty beyond reasonable doubt of the crime of Qualified Trafficking. After a thorough review of the facts and evidence on record, we rule for accused-appellant's acquittal.

Qualified Trafficking

The elements of trafficking in persons, derived from the expanded definition found in Section 3(a) of R.A. No. 9208 as amended by R.A. No. 10364, are as follows:

- (1) The act of "recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders;"
- (2) The means used include "by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;" and
- (3) The purpose of trafficking includes "the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall still be considered "trafficking in persons" even if it does not involve any of the means set forth in the first

³⁵ CA rollo, p. 237.

³⁶ Rollo, pp. 40-41; Resolution dated 19 February 2016.

³⁷ Id. at 51-71.

paragraph of Sec. 3(a) of R.A. No. 9208.³⁸ Given that the person allegedly trafficked in the case at bar is a child, we may do away with discussions on whether or not the second element was actually proven.

In an attempt to prove the first element, the prosecution stresses the fact that accused-appellant is the registered owner of the On Tap Videoke Bar. The prosecution insists that by merely being the registered owner, accused-appellant necessarily committed the act of recruiting, maintaining or harboring AAA. Such contention is misplaced. Recruiting, harboring, or maintaining a person for the purpose of exploitation are acts performed by persons who may or may not be registered owners of establishments. Thus, being the registered owner *per se* does not make one criminally liable for the acts of trafficking committed in the establishment. What the prosecution should have done was to prove the act of trafficking by other means, and not by mere showing that accused-appellant was the registered owner. The defense, on the other hand, countered the allegation by presenting testimonies of Aquino, an employee of the videoke bar; Villanueva, Jr., manager of the videoke bar and brother of accused-appellant; and accused-appellant herself. The RTC found accused-appellant's denial and the corroborating testimonies as unavailing and incredible, for the reason that such testimonies did not come from disinterested witnesses. This Court is not unaware of the longstanding doctrine that findings of facts and assessment of credibility of witnesses are matters best left to the trial court, which is in the best position to observe the witnesses' demeanor while being examined.³⁹ However, we take exception from such rule, considering that there are facts and circumstances which if properly appreciated, could alter the outcome of the case. That the defense witnesses are closely related to accused-appellant —one being the brother and manager of the videoke bar and the other being an employee—is not a sufficient reason to disregard their testimonies. The declaration of interested witnesses is not necessarily biased and incredible.⁴⁰ More importantly, there was no evidence suggesting that the testimonies of the witnesses were untruthful to begin with.

³⁸ **Section 3. Definition of Terms.** - As used in this Act:

(a) *Trafficking in Persons* - refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as "trafficking in persons" even if it does not involve any of the means set forth in the preceding paragraph.

³⁹ *Cirera v. People of the Philippines*, G.R. No. 181843, 14 July 2014, 730 SCRA 27, 43.

⁴⁰ *People v. Sison*, 267 Phil. 679, 684 (1990).

The prosecution likewise failed to prove the third element—that the recruiting, maintaining or harboring of persons is for the purpose of exploitation. Curiously, AAA was seen by the prosecution witnesses at the videoke bar only on the day the rescue operation was conducted. That AAA was exploited could not be proven by her mere presence at the videoke bar during the rescue operation. The prosecution should have presented evidence as to the nature of work done by AAA, if any. Testimonies as to how often AAA was seen in the bar while entertaining customers could have also lent credence to the prosecution's contention that she was in the videoke bar because she was being exploited.

Lack of Direct Evidence

Since AAA was not presented in court, the prosecution was not able to offer direct evidence showing that accused-appellant actually recruited, harbored or maintained AAA in the videoke bar for the purpose of exploiting her. Neither can private complainant's testimony which merely revolved around the filing of the complaint be considered direct evidence. Private complainant's testimony, if considered in light of all the other evidence, is weak. Private complainant testified roughly a month after the Affidavit of Desistance was executed and filed; thus, she had every opportunity to deny the execution of the Affidavit during the cross-examination. Instead of denying the veracity of such Affidavit, private complainant confirmed its truthfulness and accuracy.⁴¹ Though it can be said that private complainant's affirmative answers were only prompted by the leading questions asked by the defense lawyer during cross-examination, it cannot be denied that the prosecution did not even bother to rebuild its case during re-direct examination. On re-direct examination, private complainant merely testified as to matters regarding AAA's adoption.⁴² She also claimed that she came to know of accused-appellant's trafficking activities through AAA's friends whose identities she cannot remember.⁴³ However, on re-cross examination, private complainant admitted that she did not validate such information before she reached out to the TV program and the authorities.⁴⁴

A review of the scarce jurisprudence on human trafficking would readily show that a successful prosecution for human trafficking, to a certain extent, relies greatly on the entrapment operation.⁴⁵ In entrapment, ways and

⁴¹ Id. at 36.

⁴² Id. at 27-34.

⁴³ Id. at 34.

⁴⁴ TSN, July 3, 2007, p. 36.

⁴⁵ See *People v. Casio*, G.R. No. 211465, 3 December 2014, 744 SCRA 113, 124.



means are resorted to by the authorities for the purpose of capturing the perpetrator *in flagrante delicto*.⁴⁶ Thus, it can be said that testimonies of the apprehending officers regarding the entrapment operation are crucial for a conviction, most especially in cases where the victim is unable to testify. In *People v. Casio*,⁴⁷ the conviction for Qualified Trafficking was brought about by the categorical testimonies of the authorities who conducted the entrapment, on top of the victim's testimony. In the said case, the police operatives testified as to the actual unfolding of circumstances which led them to believe that a crime was being committed *in flagrante delicto*, to wit:

During trial, PO1 Luardo and PO1 Velosa testified that their conversation with accused went as follows:

Accused: *Chicks mo dong?* (Do you like girls, guys?)

PO1 Luardo: *Unya mga bag-o? Kanang batan-on kay naa mi guests naghulat sa motel. (Are they new? They must be young because we have guests waiting at the motel)*

Accused: *Naa, hulat kay magkuha ko.* (Yes, just wait and I'll get them)

At that point, PO1 Luardo sent a text message to PSI Ylanan that they found prospective subject.

After a few minutes, accused returned with AAA and BBB, private complainants in this case.

Accused: *Kining duha kauyon mo ani?* (Are you satisfied with these two?)

PO1 Veloso: *Maayo man na kaha na sila modala ug kayat?* (Well, are they good in sex?)

Similarly, the prosecution in the case at bar built their case around the entrapment operation and the successful rescue of AAA; but unfortunately for the prosecution, both PO2 Abas and PCI Balbontin are incompetent to testify as to matters which occurred during the actual execution of the rescue and entrapment because both witnesses were not present during the operation. The testimonies of PO2 Abas and the Chief Inspector pale in comparison with the testimonies of the police operatives in *Casio*.⁴⁸ Oddly, the prosecution failed to present witnesses who could testify.

⁴⁶ *People v. Gatong-O*, 250 Phil. 710, 711 (1988).

⁴⁷ *Supra* note 45.

⁴⁸ *Id.*

as to the actual conversation that transpired between the undercover authorities and AAA. The testimony of defense witness Aquino, the waiter, is the only evidence on record which narrated certain details surrounding the unfolding of the rescue operation. Aquino merely observed that upon being called by the two men, who turned out to be undercover policemen, AAA approached their table and after five minutes, policemen announced the operation.⁴⁹ AAA's act of approaching the table of the customers after being called is not unequivocal enough as to dispel any other possible scenarios that could have occurred during their 5-minute conversation. In the absence of any evidence categorically showing that a crime was being committed *in flagrante delicto* or that AAA was performing the tasks of a GRO when she approached the table, this Court cannot uphold accused-appellant's conviction based on the rescue operation alone.

Circumstantial evidence did not establish guilt beyond reasonable doubt

While it is recognized that the lack of direct evidence does not *ipso facto* bar the finding of guilt,⁵⁰ we still hold that acquittal is in order for the reason that the circumstantial evidence presented does not lead to the inescapable conclusion that accused-appellant committed the crime. Circumstantial evidence is deemed sufficient for conviction only if: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.⁵¹ It is essential that the circumstantial evidence presented constitutes an unbroken chain which leads to only one fair and reasonable conclusion pointing to the accused, to the exclusion of others, as the guilty person.⁵² The appellate court anchored accused-appellant's conviction on the following circumstantial evidence:

Firstly, AAA was at the On Tap Videoke when the police, accompanied by private complainant and the crew of the TV program XXX, conducted its rescue operation on May 16, 2007.

Secondly, while accused-appellant denied recruiting AAA, she was wearing a sexy attire at the time of the rescue. Even defense witnesses Rosito Villanueva, Jr. and Wilfred Aquino admitted that AAA wore sexy attires at the videoke bar.

Notably, AAA's attire was similar to the uniform of the videoke bar's GROs. x x x

⁴⁹ TSN, 11 June 2009, pp. 32-36

⁵⁰ *People v. Biglete*, 688 Phil. 199, 207 (2002).

⁵¹ Sec. 4 Rule 133, Revised Rules of Court.

⁵² *People v. Canlas*, 423 Phil. 665, 677 (2001); *People v. Calonge*, 637 Phil. 435, 454 (2010).

x x x x

Thirdly, accused-appellant showed propensity of hiring workers without permits. Although the purpose of the rescue operation was to recover AAA, five other (5) workers of the videoke bar were also arrested and booked because they were working thereat without the requisite Mayor's /Health permits.

Fourthly, it appeared that AAA was doing some kind of work at the videoke bar. As testified by defense witness Willfred Aquino and Rosito Villanueva, Jr.:

Q: What was she doing there aside from staying there, Mr. Witness?

A: She was helping in the washing of the glasses in the kitchen, Sir.

x x x x

Q: When the police arrived, AAA was there inside the Videoke Bar?

Witness:

A: She was at the back of the kitchen.

COURT:

What was she doing at the kitchen wearing that seductive dress, washing the dishes?

A: No, your honor. During that times she was just standing at the back and whenever we needed something like glass, she would hand us the glass.⁵³

We rule that the circumstantial evidence cited by the appellate court does not lead to the inescapable conclusion that accused-appellant committed the crime, let alone that a crime was actually committed. As previously mentioned, the mere presence of AAA at the videoke bar does not prove that accused-appellant was maintaining or harboring her for the purpose of exploitation. In fact, such was the holding of the RTC when it granted accused-appellant's petition for bail. Nowhere in the text of R.A. No. 9208 can it be inferred that a presumption arises by the mere fact of presence of a child in a videoke bar or similar establishment. Our survey of jurisprudence likewise does not reveal such established presumption. More to the point, the constitutive crime of trafficking through harboring or receipt of a person must be specifically for purposes of exploitation. In other words,

⁵³

Rollo, pp. 21-33.

establishing mere presence without establishing the purpose therefor cannot be considered as an element of trafficking. In this case, the private complainant's affidavit of desistance categorically explained the child's presence in the videoke bar—for humanitarian reasons of providing shelter to a runaway minor.

That AAA was wearing skimpy clothing similar to those worn by the GROs at the videoke bar during the rescue operation is not inconsistent with the defense's position that AAA merely sought refuge and shelter at the bar after she ran away from home. It is highly possible that AAA borrowed clothes from the videoke bar employees, considering that she ran away from home and was unable to take all her belongings with her. That accused-appellant showed propensity for hiring workers without permits is irrelevant in the case at bar. One may be equipped with the proper permits and yet still be guilty of trafficking. Accused-appellant's propensity for not following ordinances does not necessarily prove commission of the crime of human trafficking. Lastly, even if it be conceded that AAA was washing dishes at the back of the kitchen, such circumstance is still not inconsistent with the defense's position. As a token of gratitude for allowing her to temporarily stay at the bar, AAA could have voluntarily done the chores. From the foregoing, it is obvious that the totality of circumstantial evidence will not lead to an inescapable conclusion that accused-appellant committed the crime charged. It bears stressing that "where the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not meet or hurdle the test of moral certainty required for conviction."⁵⁴

***Reproduction at trial of evidence
presented in the bail hearing***

The prosecution manifested that they will adopt the evidence presented during the hearing of the Petition for Bail as the same evidence in the main case, with a further manifestation that other witnesses will be presented during the trial. In fact, a side by side comparison of the RTC Order granting accused-appellant's petition for bail and the RTC Decision convicting accused-appellant would reveal that summaries of witnesses' testimonies contained in the former were merely lifted and copied verbatim in the latter.

After an evaluation of the evidence and after hearing the testimonies of

⁵⁴ *Franco v. People*, G.R. No. 191185, 1 February 2016.



PO2 Abas and private complainant, the Petition for Bail was granted by the RTC, to wit:

At this moment the prosecution failed to substantiate the allegations in the information that accused recruited and hired minor [AAA] to work as Guest Relations Officer (GRO) of her establishment, thereby exploiting and taking advantage of her vulnerability as a child. The mere presence of the minor at the establishment, cannot by itself, prove the fact of hiring and recruitment. It is unfortunate at this juncture, none of the prosecution witnesses was able to testify on this regard, and was only able to confirm the minor's presence at the videoke bar. Even the alleged mother of the minor testified that she never saw [AAA] drinking, smoking or singing at the establishment. She further testified that the minor admitted to her that she was never hired to work at the establishment and she was only there in order for her to have a place to stay and reside.

x x x This court is bound by the principle that in all criminal cases, all doubts should be resolved in favor of the accused. x x x From the evidence presented so far, without touching on the actual merits and proceedings of the instant case, this court cannot at this point say that the evidence against the accused is strong.⁵⁵

It should be noted that when the prosecution witnesses were presented during the bail hearing, they were subjected to cross, re-direct and re-cross examinations, as well as inquiries by the court; thus, as expected, the court no longer recalled the witnesses for additional examination during the trial. Unfortunately for the prosecution, they were only able to present one more witness, PCI Balbontin, before they finally rested their case.

While the Court is aware that a bail hearing is merely for the purpose of determining whether the evidence of guilt is strong and that the same is not an adjudication upon the merits, we note that in the case at bar, the RTC Order granting the petition for bail casts doubt upon accused-appellant's conviction. In its Order granting the petition for bail, the RTC noted that none of the prosecution witnesses testified as to the fact of hiring and recruitment. Considering that the only additional witness the prosecution presented during trial was PCI Balbontin, it baffles this Court why the RTC found accused-appellant guilty beyond reasonable doubt when the Chief Inspector's testimony was limited to procedural details regarding the filing of the complaint, forming of the task force and the interview conducted by the TV crew. If the Chief Inspector's additional testimony was only limited to those matters, it follows that when the prosecution rested its case, not one of their witnesses testified as to the fact of hiring and recruitment and neither

⁵⁵ Records, pp. 141-142.



did the documentary evidence submitted establish the same. Before this Court is essentially the same set of evidence that was evaluated by the RTC when it ruled that the evidence of guilt was not strong; we thus see no reason why the same set of evidence, only supplemented by a testimony regarding irrelevant procedural matters, would warrant a finding of guilt beyond reasonable doubt.

***Ei incumbit probatio qui dicit,
non qui negat -- he who asserts,
not he who denies, must prove***

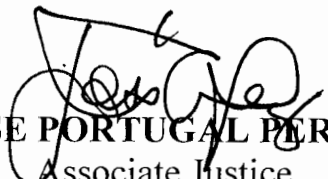
Nothing is more settled in criminal law jurisprudence than that the Constitution presumes a person is innocent until he is proven guilty by proof beyond reasonable doubt.⁵⁶ Countless times, this Court has elucidated that the evidence of the prosecution must stand on its own weight and not rely on the weakness of the defense. The prosecution cannot be allowed to draw strength from the weakness of the defense's evidence for it has the *onus probandi* in establishing the guilt of the accused. In this case, the circumstantial evidence presented by the prosecution failed to pass the test of moral certainty necessary to warrant accused-appellant's conviction. From the foregoing, we rule that the prosecution failed to discharge its burden of proving accused-appellant's guilt beyond reasonable doubt.

WHEREFORE, the appeal is **GRANTED**. The Decision of the Court of Appeals dated 10 May 2013 in CA-G.R. CR-H.C. No. 05027 is hereby **REVERSED** and **SET ASIDE**. For failure of the prosecution to prove her guilt beyond reasonable doubt, BEVERLY VILLANUEVA y MANALILI @ BEBANG is hereby **ACQUITTED** of the charge of violation of Section 6 of Republic Act No. 9208 or Qualified Trafficking. Her immediate **RELEASE** from detention is hereby **ORDERED**, unless she is being held for another lawful cause.

Let a copy of this Decision be furnished the Director of the Correctional Institution for Women, Mandaluyong City, by personal service, for immediate implementation. The Director shall submit to this Court, within five (5) days from receipt of the copy of the Decision, the action taken thereon.

⁵⁶ *Franco v. People*, supra note 54.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice

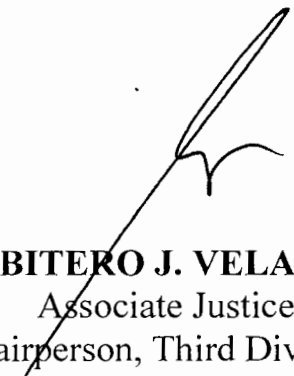

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


BIENVENIDO L. REYES
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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY

Mis. DDCB. H
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

SEP 30 2016