



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 244048

Present:

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
HERNANDO,  
INTING,  
GAERLAN, and  
DIMAAMPAO, JJ.

- versus -

XXX,<sup>1</sup>

*Accused-Appellant.*

Promulgated:

FEB 14 2022

[Signature]

X-----X

DECISION

**HERNANDO, J.:**

Challenged in this appeal<sup>2</sup> is the July 20, 2017 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07313, which affirmed with modification the February 4, 2015 Judgment<sup>4</sup> of the Regional Trial Court (RTC), Branch 28, [REDACTED],<sup>5</sup> which found accused-appellant XXX (XXX) guilty beyond reasonable doubt of violation of Section 4(a), in relation with Sections

<sup>1</sup> Initials were used to identify the accused-appellant pursuant to Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 entitled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.

<sup>2</sup> CA *rollo*, pp. 148-149.

<sup>3</sup> Id. at 122-139. Penned by Associate Justice Maria Elisa Sempio Diy and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino.

<sup>4</sup> Records, pp. 113-118. Penned by Presiding Judge Rosita L. Lalwani.

<sup>5</sup> Geographical location is blotted out pursuant to Supreme Court Amended Circular No. 83-2015.

6 and 10, of Republic Act No. (RA) 9208,<sup>6</sup> otherwise known as the Anti-Trafficking in Persons Act of 2003, in Criminal Case No. 2013-0202. XXX was meted the penalty of life imprisonment and ordered to pay complainant AAA,<sup>7</sup> also known as BBB (a) a fine of ₱2,000,000.00; (b) ₱500,000.00 as moral damages; (c) ₱100,000.00 as exemplary damages; and (3) interest at the legal rate of six percent (6%) per *annum* on all the amounts of damages awarded from the finality of the decision until fully paid.

### The Antecedents:

XXX was charged with two counts of Qualified Trafficking in Persons under two Informations which read:

Criminal Case No. 2013-0202

That from September 28, 2012 up to April 7, 2013 in [REDACTED] and within the jurisdiction of this Honorable Court the above-named accused, [XXX] did then and there, willfully and unlawfully, by means of deceit, recruit, harbor and compel [BBB] (AAA), 14 years old, to work as waitress and guest relation officer for the purpose of sexual exploitation to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>8</sup>

Criminal Case No. 2013-0203

That from March 2012 up to April 7, 2013 in [REDACTED] and within the jurisdiction of this Honorable Court the above-named accused, [XXX] did then and there, willfully and unlawfully, by means of deceit, recruit, harbor and compel [CCC], 15 years old, to work as waitress and guest relation officer for the purpose of sexual exploitation to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>9</sup>

Upon arraignment, XXX pleaded not guilty to the crimes charged.<sup>10</sup> During the pre-trial, the prosecution and the defense stipulated on the following facts:

<sup>6</sup> AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND FOR OTHER PURPOSES. Approved: May 26, 2003.

<sup>7</sup> "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004." (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

<sup>8</sup> Records, p. 1.

<sup>9</sup> Id. at 114.

<sup>10</sup> Id.

1. The identity of accused, [XXX];
2. That private complainants, [CCC] and [BBB] [AAA], are minors;
3. That accused is residing at [REDACTED];
4. That a certain establishment in the name of [REDACTED] is located at [REDACTED];
5. That the accused manages or owns said [REDACTED] establishment;
6. That the accused was apprehended by police officers at [REDACTED] on April 7, 2013; and
7. That the accused was brought by the PNP [REDACTED] to the Provincial Prosecution Office of [REDACTED] for inquest proceedings.<sup>11</sup>

Thereafter, trial on the merits ensued.

#### Evidence for the Prosecution:

The evidence for the prosecution presented the following version of events:

On September 28, 2012, at around 3 p.m., AAA and DDD were at the house of EEE at [REDACTED], to fetch the latter as the three would attend their friend FFF's birthday party. While waiting for EEE, AAA and DDD were asked by EEE's mother, GGG, if they would want to work as waitresses in a bar in [REDACTED], to which the two instantaneously acceded.<sup>12</sup>

Thereafter, AAA, DDD, and EEE, went to FFF's birthday party. At around 5:00 p.m. of the same day, AAA, DDD, and EEE went back to their respective homes. AAA packed her things and told her mother that she would work in [REDACTED] but intentionally neglected to tell that she would be working as a waitress at a bar.<sup>13</sup>

Afterwards, AAA, DDD, and FFF went back to EEE's house. When they arrived, they saw GGG talking to a woman who was introduced as "Mama Diane" and was later identified as XXX, XXX told AAA, DDD, EEE, and FFF that at 4:00 a.m. the next day, she would bring them to [REDACTED] to work as waitresses in a bar seven days a week with a salary of ₱250 per day. XXX also told them that if a customer approaches, they should say that they were already 18 years old. She added that they could go home every week provided they sought her permission.<sup>14</sup>

<sup>11</sup> Id. at 40.

<sup>12</sup> TSN, August 1, 2013, pp. 5-6.

<sup>13</sup> Id. at 6.

<sup>14</sup> Id. at 6-8.

On September 29, 2012, at around 5:30 a.m., XXX, and her live-in partner, YYY, fetched AAA, DDD, FFF, and EEE at the latter's house. The group proceeded to ██████████ town proper where they waited for two other women, identified as Mommy Jessa and Marjorie. Thereafter, they altogether went to ██████████, where they, except for YYY, boarded a ██████████ bus going to ██████████. After seven hours, they arrived at the house of XXX's mother in ██████████ where they partook a meal and rested for a while.<sup>15</sup>

Thereafter, AAA, DDD, FFF, and EEE opted to start working immediately. XXX advised them, except for FFF, to change their names, viz: AAA to BBB, DDD to HHH, and EEE to III. XXX and a certain "Papa Jeff" gave them revealing clothes to wear for work, and applied make-up on their faces. Then, XXX brought the girls to ██████████ KTV Bar which was just a walking distance from the house of XXX's mother.<sup>16</sup>

Upon arrival, XXX instructed AAA, DDD, FFF, and EEE, to sit outside the bar and wait for customers. She also told them that if a customer chose them, they should approach such customer. On their first day, a customer chose EEE to sit beside and drink wine with him. The customer also touched the different parts of EEE's body.<sup>17</sup>

On their second day, AAA, DDD, FFF, and EEE, complained to XXX so the latter allowed them to go home on the condition that they should pay the expenses she incurred for their fare. However, AAA, DDD, FFF, and EEE could not afford to pay so they continued to work in the bar. Their work includes: (a) entertaining the customers by sitting beside and drinking with them in their table, and allowing the customers to touch the different parts of their body for a fee of ₱140; (b) entertaining the customer in a room for a fee of ₱850; and (c) allowing the customer to bring them to a hotel or to take them out of the bar to have sexual intercourse, for a fee of ₱1,600, a.k.a. "bar fine." All the fees were directly paid to XXX.<sup>18</sup>

AAA testified that she experienced all of the above-mentioned work in the bar. However, despite doing their job, XXX did not pay them their salaries. She merely allowed them to make some salary advances.<sup>19</sup>

Sometime between October and November 2012, AAA asked permission from XXX if she could go home to visit the grave of her father. However, XXX did not allow AAA to leave the bar. Thus, AAA, DDD, FFF, and EEE, attempted to escape from the bar but they were caught by the bar waiters.<sup>20</sup>

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<sup>15</sup> Id. at 8-10.

<sup>16</sup> Id. at 10-11 and TSN, December 12, 2013, p. 7.

<sup>17</sup> Id. at 11-12.

<sup>18</sup> Id. at 12-14.

<sup>19</sup> Id. at 14-15.

<sup>20</sup> Id. at 15-16.

One day, when XXX went out to recruit more women workers at the bar, AAA, DDD, FFF, and EEE escaped from the bar and were able to hide in a house owned by EEE's boyfriend located in a subdivision. However, the bar waiters later caught up with AAA and DDD. On the other hand, FFF and EEE were able to escape. They immediately went to the police station to report the incident. The next day, police officers arrived at the bar, fetched AAA and DDD, and brought them to the police station to file a blotter report. Thereafter, AAA, DDD, and EEE returned to [REDACTED]. However, AAA did not tell her mother about what happened in [REDACTED].<sup>21</sup>

On January 13, 2013, AAA again saw XXX. XXX asked AAA and DDD to accompany her to locate a girl named Melody to which the two obliged. Upon finding Melody, XXX told AAA and DDD that she, together with EEE and Melody, would be going back to [REDACTED]. EEE and Melody pleaded with AAA and DDD to go with them since they would be staying only for a day in [REDACTED] and would be going back to [REDACTED] the next day. Thus, AAA and DDD acquiesced to EEE and Melody's request, and together, the four girls, *i.e.* AAA, DDD, EEE and Melody, went to [REDACTED] with XXX.<sup>22</sup>

Upon arrival at [REDACTED] KTV Bar, EEE and DDD escaped leaving behind AAA and Melody who were not able to escape because XXX got suspicious and did not allow AAA and Melody to go outside the bar. XXX forced AAA and Melody to work as prostitutes or guest relation officers.<sup>23</sup>

On April 7, 2013, at about 4 a.m., AAA and a certain JJJ were able to escape from XXX. They boarded a jeepney and went directly to [REDACTED] Bus Terminal. However, XXX and a certain "Ate Grace" followed them at the terminal. AAA and JJJ ran towards a guardhouse, but XXX caught up with JJJ. AAA asked help from the guard who accompanied her to the nearest police station where she reported the incident.<sup>24</sup>

Then, AAA, together with Police Officer (PO) 2 Ramon Panotes, Jr., PO1 Asinas and Senior Police Officer 1 Ajer went back to the bus station to locate XXX and JJJ. When they saw XXX and JJJ, the police officers arrested XXX and brought her to the police station.<sup>25</sup> Thereafter, AAA was examined by Dr. Raoul Alcantara, the Medico-Legal Officer from the National Bureau of Investigation, [REDACTED], who found "crescentic, healed laceration noted at its 7 o'clock position."<sup>26</sup>

#### Evidence for the Defense:

The defense presented the following version of events:

<sup>21</sup> Id. at 17-18.

<sup>22</sup> Id. at 18.

<sup>23</sup> Id. at 18-19 and TSN, August 22, 2013, p. 2.

<sup>24</sup> TSN, August 22, 2013, p. 3.

<sup>25</sup> Id. at 3-4.

<sup>26</sup> Records, p. 79.

Sometime in September 2012, GGG introduced XXX to AAA and referred the latter to work as a waitress in an eatery owned by XXX located in [REDACTED]. XXX's eatery offered "log-log," "pancit," and "dinuguan," and a videoke. After meeting AAA, XXX returned to [REDACTED].<sup>27</sup>

On September 26 or 27, 2012, XXX received a call from GGG telling her that AAA really wanted to work and that her daughter, EEE, would also go with AAA. Thus, AAA and EEE went to [REDACTED].<sup>28</sup>

On September 29, 2012, AAA and EEE arrived in [REDACTED]. However, XXX was surprised to know that there were two other girls, DDD and FFF, who accompanied AAA and EEE. Nonetheless, XXX still paid for the bus fare of AAA, DDD, FFF and EEE. She also employed the other two girls as servers in her eatery.<sup>29</sup>

However, after four days, EEE went back to [REDACTED]. Then, sometime on November 12 or 13, 2012, AAA, DDD, and FFF also stopped working in her eatery and went back to [REDACTED].<sup>30</sup>

By the end of November 2012, AAA and EEE returned to [REDACTED] wanting to work in XXX's eatery again.<sup>31</sup> Thus, XXX allowed them to work there again.<sup>32</sup> In December 2012 and January 2013, EEE and AAA went back and forth between [REDACTED] and [REDACTED].<sup>33</sup> In January 2013, only AAA remained working in XXX's eatery.<sup>34</sup>

However, on April 7, 2013, AAA left without XXX's permission. She noticed that the money in her bag amounting to ₱3,000.00 was missing, as well as the cellular phone, of one of her workers. Thus, she went to the bus terminal to locate AAA. Upon seeing her, AAA immediately ran away. Before XXX could catch up with her, she saw AAA with a police officer. Thereafter, the police officer arrested XXX.<sup>35</sup>

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

On February 4, 2015, the RTC rendered its Judgment<sup>36</sup> convicting XXX of violating Section 4(a) of RA 9208 in Criminal Case No. 2013-0202 committed against AAA, but acquitting XXX in Criminal Case No. 2013-0203 committed against CCC, for insufficiency of evidence. The dispositive portion of the RTC

<sup>27</sup> TSN, June 30, 2014, pp. 3-4.

<sup>28</sup> Id. at 4-5.

<sup>29</sup> Id. at 6-7.

<sup>30</sup> Id. at 8.

<sup>31</sup> Id. at 10.

<sup>32</sup> TSN, July 28, 2014, p. 1.

<sup>33</sup> Id. at 2-3.

<sup>34</sup> Id. at 3.

<sup>35</sup> Id. at 3-6.

<sup>36</sup> Records, pp. 113-118.

Judgment reads:

WHEREFORE, in Criminal Case No. RTC 2013-0202, the prosecution, having established all the elements of the offense charged, accused, [XXX], is hereby found GUILTY of the offense of QUALIFIED TRAFFICKING IN PERSONS and is hereby ordered to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of TWO MILLION (P2,000,000.00) PESOS.

In Criminal Case No. RTC 2013-0203, for insufficiency of evidence, accused, [XXX], is hereby ordered ACQUITTED of the offense charged.

SO ORDERED.<sup>37</sup>

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

On July 20, 2017, the CA rendered its assailed Decision<sup>38</sup> denying XXX's appeal and affirming with modification her conviction in Criminal Case No. 2013-0202 for violating Section 4 (a) of RA 9208. The dispositive portion of which reads:

**IN VIEW OF ALL THESE**, the Appeal is **DENIED**. The Judgment dated February 4, 2015 of Branch 28, Regional Trial Court of ██████████ in Criminal Case Nos. 2013-0202 finding accused-appellant [XXX] guilty beyond reasonable doubt of violation of Section 4 (a) in relation to Sections 6 and 10 of Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003", and sentencing her to suffer the penalty of life imprisonment is **AFFIRMED** with **MODIFICATION** as follows:

Accused-appellant [XXX] is **ORDERED** to pay private complainant:

1. P500,000.00 as moral damages;
2. P100,000.00 as exemplary damages; and
3. Interest at the legal rate of six percent (6%) per annum on all the amounts of damages awarded, commencing from the finality of this decision until such amounts shall have been fully paid.

**SO ORDERED.**<sup>39</sup>

The CA found that the prosecution had proven XXX's guilt beyond reasonable doubt. Section 4 of RA 9208 enumerates the different acts of trafficking in persons while Section 6(a) thereof further enumerates the instances where the crime of trafficking in persons is considered qualified. Lastly, Section 3(b) defined the term "child" as a "person below 18 years of age or one who is over 18 but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a

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<sup>37</sup> Id. at 7.

<sup>38</sup> CA *rollo*, pp. 122-139.

<sup>39</sup> Id. at 138-139.

physical or mental disability or condition.”<sup>40</sup>

The CA ruled that all the elements of Qualified Trafficking in Persons were established by the prosecution, *viz.*: (a) the act of “recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders;” (b) the means used which include “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;” (c) the purpose of trafficking is exploitation which includes “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;” and (d) the victim is a child or a person below eighteen (18) years of age.<sup>41</sup>

The CA opined that XXX peddled AAA and offered the latter’s services to customers in her bar in exchange for money. The offense was qualified because AAA was a minor at that time. Also, AAA and EEE positively identified XXX as the owner of the bar where they were forced to work as prostitutes for XXX’s customers. AAA and EEE’s testimonies were straightforward and honest on all material points. Any inconsistencies pointed out by the defense were minor details of immaterial nature that do not tend to diminish the probative value of the testimonies at issue.<sup>42</sup>

As to the minority of AAA, the CA ruled that XXX’s judicial admission of AAA’s minority in the pre-trial requires no further proof from the prosecution, which may be controverted only upon a clear showing that the admissions were made through palpable mistake or that no admissions were made. The admissions of the parties during the pre-trial as embodied in the pre-trial order are binding and conclusive upon them. Besides, the CA found that AAA’s minority was established by the photocopy of her certificate of live birth.<sup>43</sup>

### Issues

The issues raised for consideration of this Court are:

#### I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO [AAA]’S INCONSISTENT AND INCREDIBLE TESTIMONY.

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<sup>40</sup> Id. at 132-133.

<sup>41</sup> Id. at 134-135.

<sup>42</sup> Id. at 135-136.

<sup>43</sup> Id. at 137.



## II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE MINORITY OF THE PRIVATE COMPLAINANT.<sup>44</sup>

XXX argues that AAA's narration of events is not worthy of credence for being incoherent and contrary to human behavior and experience. She contends that AAA testified that she was able to escape in October or November 2012 and was able to go home, but she did not tell her mother about the events that transpired. In addition, when AAA and EEE again met XXX on January 13, 2013, they agreed to help XXX to find a girl named Melody. They even agreed to return to the [REDACTED] KTV Bar where they were again allegedly "imprisoned" and prostituted. These events happened after AAA allegedly escaped from a horrible and harrowing experience in the hands of XXX.<sup>45</sup>

Moreover, XXX contends that AAA's narration of events contained several loopholes that were left unexplained. AAA testified that when she, DDD, EEE, and FFF escaped, and hid in the house of EEE's boyfriend in [REDACTED], a waiter somehow managed to barge inside the house and brought AAA and EEE back to the bar. Meanwhile, DDD and FFF went to the police station and filed a report against XXX. Later, a police officer fetched AAA and EEE from the bar, and helped them to go home.<sup>46</sup>

First, XXX questions AAA and the other girls' failure to file a report after they escaped from the bar and hid in the house of EEE's boyfriend. They only approached the police when a waiter allegedly barged into the house. Second, XXX also questions how the waiter allegedly barged into the house and dragged AAA and EEE back to the bar in the presence of AAA, EEE, DDD, and FFF, and one male college student. Third, DDD and FFF allegedly filed a report with the police but the same was not presented and offered in evidence.<sup>47</sup>

XXX adds that AAA's narration of events in her testimony and affidavit was inconsistent with each other. She testified that after she escaped with EEE, they proceeded to [REDACTED] bus station but was chased by XXX's mother, "Mama Diane" and Ate Crystal. EEE was caught by Mama Diane but AAA managed to get help from the police officers who later arrested Mama Diane. However, PO2 Panotes testified that it was XXX whom they found and arrested at the bus station. XXX contends that the inconsistency in AAA's allegations clearly shows that they were fabricated to escape her own criminal liability, *i.e.*, fleeing the bar after stealing XXX's money, and a cellular phone. When AAA realized that she was being chased by XXX, the former concocted a story accusing XXX of the crime charged herein.<sup>48</sup>

<sup>44</sup> CA rollo, 31.

<sup>45</sup> Id. at 37-38.

<sup>46</sup> Id. at 38.

<sup>47</sup> Id. 38-39.

<sup>48</sup> Id. at 39.

Furthermore, XXX argues that the prosecution failed to present the original or certified true copy of AAA's birth certificate which was neither lost nor destroyed. The best and primary evidence must be offered in evidence, *i.e.*, the original or certified true copy of the birth certificate. Other evidence may be presented only if the birth certificate is lost or destroyed and not simply because it is inconveniently in a different city. Although the defense admitted AAA's minority, such is only admissible and relevant when used with AAA's testimony as evidence of minority.<sup>49</sup>

On the other hand, the prosecution contends that it has sufficiently established all the elements of the offense of Qualified Trafficking in Persons. The testimonies of all prosecution witnesses are replete with details and consistent with each other. The prosecution insists that there is no inconsistency in AAA's testimony. The record is clear that XXX and Mama Diane are one and the same person. In fact, AAA repeatedly stated that XXX is also called Mama Dianne.<sup>50</sup>

Also, the prosecution argues that not all victims react the same way. AAA, being a minor, who is naive and easily influenced, cannot be expected to react under such circumstances like an adult woman. Delay in reporting to the police or sharing her harrowing experience with loved ones does not diminish her credibility. AAA repetitively expressed that working as a prostitute made her feel ashamed which prevented her from immediately telling her parents.<sup>51</sup>

Furthermore, AAA clarified that she did not intend to return to the bar. However, due to the prodding of her friends EEE and Melody, she went with them to [REDACTED] to visit somebody with the understanding that they would return home the next day. However, XXX brought them back to the bar. After which, they tried to escape. Contrary to being absurd, the prosecution contends that the said incident only shows AAA's naivete. In any case, such inconsistencies pertain only to minor details which do not destroy AAA's credibility as a witness.<sup>52</sup>

Lastly, the prosecution argues that XXX already admitted AAA's minority, thus, there was no need for the prosecution to present the original of the certificate of live birth. The stipulation of facts in criminal cases is expressly sanctioned by law and recognized as declarations constituting judicial admissions. Thus, they are binding upon the parties.<sup>53</sup>

### Our Ruling

After due consideration, we sustain XXX's conviction.

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<sup>49</sup> Id. at 41-45.

<sup>50</sup> Id. at 92-105.

<sup>51</sup> Id. at 106-107.

<sup>52</sup> Id. at 107.

<sup>53</sup> Id. at 108-111.

Section 3(a) of RA 9208 defines the term “Trafficking in Persons” as 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”.

Furthermore, Section 4(a) of RA 9208 states:

**Section 4. Acts of Trafficking in Persons.** — It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer; harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage[.]

The elements of Trafficking in Persons are:

(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.”<sup>54</sup>

The crime of “Trafficking in Persons” becomes qualified when, among others, the trafficked person is a child.<sup>55</sup> In the case at bar, we found that the prosecution had duly established all the elements of Qualified Trafficking in Persons. As testified to by AAA, XXX hired or recruited her and DDD, FFF, and EEE, on the pretext of being waitresses in a bar in ██████████ but were forced to entertain male customers, by accompanying and drinking alcohol with them in the bar or in a private room, to be subjected to lascivious acts, and to engage in sexual intercourse, all for a fee:

<sup>54</sup> *People v. Monsanto y Familiaran/Pamiliaran*, G.R. No. 241247, March 20, 2019, citing *People v. Casio*, 749 Phil. 458, 474 (2014).

<sup>55</sup> Section 6 (a) of Republic Act No. 9208.

- Q When you say Mama Diane, you are referring to the accused in this case?  
A Yes, Ma'am.
- Q So what were the accused and the mother of [EEE] doing when you arrived?  
A They were conversing, Ma'am.
- Q After you arrived, what happened?  
A Mama Diane told us that she would return for us at 4:00 a.m. of the following day because she would bring us to [REDACTED], Ma'am.
- Q Did she inform you about the work that you would do in [REDACTED]?  
A Yes, Ma'am.
- Q What did she tell you?  
A According to her we will work only as witnesses and she changed our ages, Ma'am.
- Q How did she change your ages?  
A She told that we were very young, so when a customer approaches us, we should tell the customer that we are already 18, Ma'am.
- Q Aside from that, did she tell you anything else about your work, if any?  
A No more, Ma'am.
- Q How about with respect to the salary, did she tell you about your salary?  
A Yes, Ma'am.
- Q What did she tell you about the salary that you are going to get as waitress in the bar in [REDACTED]?  
A P250.00 per day, Ma'am.
- Q Did she tell you how many days you are going to work in the bar?  
A Yes, Ma'am.
- Q And what did she tell you?  
A The whole week, Ma'am.
- x x x x
- Q So what happened after you said that you are going to immediately work, what did she do now?  
A We walked towards the bar, Ma'am.
- Q Did you change your clothes or go there using your own clothes?  
A We were told to change our clothes with other clothes, Ma'am.
- Q Who provided the clothes for you?  
A It was Mama Diane, Ma'am.
- Q And what kind of clothes to wear did she give you and the others?  
A The clothes that were daring, Ma'am.

- Q When you say "daring", specifically what kind of clothes did she give to you?  
A Very short shorts and spaghetti clothes, Ma'am.

x x x x

- Q So when you went to the bar, what did you do there?  
A We were told to sit outside, Ma'am.

- Q What was the purpose why you were going to sit outside?  
A We were told that we should wait for customers, Ma'am.

- Q So did you do that?  
A Yes, Ma'am.

- Q Did customers arrive on that night?  
A Yes, Ma'am.

- Q So what happened when the customers arrived, what did you and the rest do?  
A Mama Diane told us that if we were chosen by the customer, we should approach the customer, Ma'am.

x x x x

- Q So, if ever you are chosen by a customer, what do customers usually do?  
A We were made to drink wine and then let us sit beside them and they would touch us in the different parts of our body, Ma'am.

- Q On the next day, did you do the same kind of work?  
A Yes, Ma'am, but we complained already.

- Q And what did she tell you about your complaint?  
A She told us that she would allow us to go home but we should pay the expenses for the fare, Ma'am.

- Q Were you able to pay for the expenses for the fare?  
A No, Ma'am.

x x x x

- Q Can you please describe to us the nature of your work in the bar while you were working there starting September 29, 2012?  
A We invited customers to the table, we treated the customer as VIP and when I say VIP, it means in a room and tabled, Ma'am.

- Q You said that you were being tabled. You talked about a table?  
A Yes, Ma'am.

- Q When you are being tabled by a customer, what usually happens?  
A We just take a seat beside the customer and drink wine and the customer would hold us in different parts of our body, Ma'am.

- Q You also mentioned about this VIP. What usually happens when there is VIP?  
A It is inside the room, Ma'am.
- Q And where is this room located?  
A At the back of the bar where we work, Ma'am.
- Q Who will be inside the small room?  
A The girl and the customer, Ma'am.
- Q And what happens inside the small room?  
A The same, Ma'am, the girl is held in the different parts of her body and would stay there until the wine is consumed.
- Q And you give this VIP service to your customers?  
A Yes, Ma'am.
- Q How about this table, were you usually invited in a table by customers?  
A Yes, Ma'am.
- Q In one night, for example, how many customers do you entertain in a table?  
A About three (3) to five (5), Ma'am.
- Q How about VIPs, how many times have you serviced customers to a VIP treatment?  
A About two times in one month, Ma'am.
- Q You also mentioned about bar fine, what do you mean by bar fine?  
A The girl is taken out of the bar and brought to a hotel and she is used, Ma'am.
- Q When you say the girl is used, what do you mean by that?  
A She is used, Ma'am.
- Q Are you talking about sexual intercourse?  
A Yes, Ma'am.
- Q In your stay at the ██████████ KTV Bar, have you ever had this bar fine experience?  
A Yes, Ma'am.
- Q How many times?  
A Four (4), Ma'am.
- x x x x
- Q By the way, [AAA], what happens every time there is a bar fine customer? What is the procedure in securing a woman to be able to service a bar fine customer?  
A The girl is taken out and brought to a hotel, Ma'am.
- Q How much does the client or customer pay to this bar fine?  
A P1,600.00, Ma'am.

- Q And to whom is this P1,600.00 given?  
A To Mama Diane, Ma'am.
- Q Do you receive any amount from this P1,600.00?  
A None, Ma'am.
- Q How about this VIP, how much does a client pay to have this VIP?  
A P850.00, Ma'am.
- Q And to whom does the customer pay the P850.00?  
A To Mama Diane also, Ma'am.
- Q How about this table, how much is the rate per client every time they take this table?  
A P140.00 per bottle of wine, Ma'am.
- x x x x
- Q So for how long is this bar fine? What is the rule of this bar fine as to the length of time that the customer takes a girl to a bar fine?  
A Three (3) hours only, Ma'am.
- Q And the after that you have to be returned to the bar, is that what you mean?  
A Yes, Ma'am.
- Q So the second time that you were bar fined, what happened, if you can still remember?  
A I was brought to [REDACTED], Ma'am.
- Q And where were you brought?  
A At the [REDACTED] Drive Inn, Ma'am.
- Q And what was done to you by the customer at the [REDACTED] Drive Inn?  
A We had sexual intercourse, Ma'am.
- Q How about in these two (2) other times, did the customers who bar fined have sexual intercourse with you?  
A One of them did not use me, Ma'am.
- Q Why?  
A Because I was having my menstrual period during the time that I was brought out, Ma'am.
- Q How about with the other one, did he have sexual intercourse with you?  
A Yes, Ma'am.
- Q So during these time that you were working with the [REDACTED] bar, did [XXX] give you any form of salary?  
A No, Ma'am, she just allowed us to make some cash advances.

Q And how much would she usually give you as cash advance every time you asked?

A The highest is P200.00 to P300.00, Ma'am.

Q And how often would she give you cash advance of P200.00 to P300.00?

A Once a month only, seldom in a month, Ma'am.<sup>56</sup>

AAA's testimony was corroborated on material points by EEE when she testified thus:

Q While you and your friends were talking about [FFF]'s birthday, what happened?

A My mother approached us and talked with my friends if they want to work, Ma'am.

Q What were the exact words of your mother?

A She said that if they want to work as waitresses in [REDACTED], Ma'am.

Q And then what happened after that?

A My mother asked me to call somebody, Ma'am.

Q And who was that person?

A It was [XXX], Ma'am.

x x x x

Q So when she arrived at your house, what happened?

A She talked to my friends if they want to work as waitresses in [REDACTED], Ma'am.

Q While she was talking to your friends, where were you?

A I was there also, Ma'am.

x x x x

Q So what was she saying about the work as waitresses in [REDACTED]?

A She told us that it was good to work there, we can go home every week and the rate is P200.00 per week, Ma'am.

Q And where was this place where she said there was work?

A In [REDACTED], Ma'am.

Q And did she tell you who owns the place where you are going to work?

A She told us it was owned by her sister, Ma'am.

Q So when she was talking to your friends about the work, what was the response of your friends?

A They agreed, Ma'am, and suddenly she approached me and told me if I want to work as a cashier.

<sup>56</sup> TSN, August 1, 2013, pp. 7-15.



x x x x

- Q So after you and your friends rested, what happened?  
A We were asked by the mother of [XXX] if we want to start working already, Ma'am.
- Q And what was the reply of your group?  
A We said yes, Ma'am.
- Q And then, what happened after that?  
A We were told to wear very short dress and we were made to wear makeup, Ma'am.
- Q Who provided for your clothes?  
A Papa Jeff, Ma'am.

x x x x

- Q And where did you proceed?  
A To the place where we work, Ma'am.
- Q What is that?  
A [REDACTED] Bar, Ma'am.
- Q Who went with you going to the bar?  
A It was Papa Jeff and [XXX], Ma'am.
- Q And what did [XXX] tell you about work? What are you going to do there?  
A She told us to just sit in front, Ma'am.
- Q And what else did she tell you, if any?  
A She told us to just wait for the customers to arrive, Ma'am.
- Q And then, what else, if any?  
A I suddenly asked her if this is the work that we will do, Ma'am.
- Q What was her reply to you?  
A She told us not to complain as it was already our work, Ma'am.
- Q While you were there, what was the kind of work that you did for [XXX]?

x x x x

- A We worked as VIP, bar fine and to drink, Ma'am.

PROS. MANRIQUE:

- Q [EEE], let us go over these one by one. You said you and your friends were made to work at [REDACTED] Bar. You mentioned of a bar fine. What do you mean by a bar fine?  
A Customers would bring us out, Ma'am.
- Q And what would the customers do to you once you are out of the bar?  
A We were kissed and we had sex with customers, Ma'am.

Q And then after you have sexual intercourse with the customer, the customer brings you back to the bar, is that correct?

A Yes, Ma'am.

Q And where do the customers pay to take you out from the bar?

A To Daddy Michael, Ma'am.

Q How about [XXX]?

A She was also there, Ma'am.

Q By the way, [EEE], who owns the [REDACTED] videoke bar?

A [XXX], Ma'am.

Q When you were there, how do you address [XXX]?

A Mama Diane, Ma'am.

x x x x

Q You made mention of this bar fine and this VIP. What is this VIP all about?

A The customer would touch the different parts of our body, Ma'am.

Q And where would they do that, in what place?

A Inside the [REDACTED] Bar, Ma'am.

Q And aside from that, what else was the nature of your work as well as [AAA] while you were inside the bar?

A We were told to drink wine, Ma'am.

Q And who made you drink liquor?

A [XXX], Ma'am.

Q Why did she make you drink liquor?

A We were told to drink, Ma'am.

Q Did you drink that with customers.

A Yes, Ma'am.

Q So what time do you usually start your work at the [REDACTED] Videoke Bar?

A In the afternoon and up to 6:00 o'clock in the morning of the following day, Ma'am.

Q And [AAA] was doing that also?

A Yes, Ma'am.

Q And while you were there, [EEE], were you taken out by customers for bar fines, when you were working at the bar of [XXX]?

A Yes, Ma'am.<sup>57</sup>

It is clear from AAA and EEE's testimonies that XXX recruited or hired AAA, DDD, FFF, and EEE, to allegedly work as waitresses. XXX took advantage of the vulnerability of AAA for the main purpose of exploiting her or

<sup>57</sup> TSN, December 12, 2013, pp. 4-10.

subjecting her to prostitution or sexual exploitation. Contrary to XXX's contention, the alleged inconsistencies or absurdity in AAA's testimony, specifically: (a) the alleged confusion as to the identity of a certain "Mama Diane"; (b) AAA's failure to immediately report her ordeal to the police after her first escape from XXX's bar and their hiding in EEE's boyfriend's house; (c) AAA's failure to report what happened to her in ██████████ to her mother; (d) AAA's amiable encounter with XXX in Laguna whom she helped to find a certain person named "Melody"; and (e) AAA's return to ██████████ with her friends after escaping and returning home to ██████████, will not taint AAA's credibility as a witness. These matters are trivial which do not affect the criminal act committed by XXX, that is, recruiting or hiring AAA to be subjected to prostitution or lascivious acts in exchange of money. The alleged inconsistencies had nothing to do with the elements of the crime Trafficking in Persons. Thus, they cannot be used as grounds for her acquittal.

Besides, well-settled is the rule that when it comes to the issue of credibility of witnesses, the appellate courts generally will not overturn the findings of the trial court as the latter is in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court.<sup>58</sup>

As to the failure of the prosecution to present the original or certified true copy of AAA's birth certificate, we have laid down in *People v. Pruna*<sup>59</sup> the guidelines in appreciating age as an element of the crime or as a qualifying circumstance, thus:

In order to remove any confusion that may be engendered by the foregoing cases, we hereby set the following guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance.

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

- a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

<sup>58</sup> *People v. Paldo*, 723 Phil. 723, 737 (2013), citing *People v. Alo*, 401 Phil. 932, 943 (2000).

<sup>59</sup> *People v. Pruna*, 439 Phil. 440 (2002).

b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

**4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.**

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.<sup>60</sup> (Emphasis supplied.)

Granting that the prosecution failed to offer the original or certified true copy of AAA's birth certificate, the latter's testimony as to her age, *i.e.*, 14 years old at the time of the incident,<sup>61</sup> and XXX's express and clear admission of her age during the pre-trial in the stipulation of facts, sufficiently established AAA's minority. These stipulations are binding on the court because they are considered judicial admissions within the contemplation of Section 4, Rule 129 of the Rules of Court. XXX and her counsel, as well as the prosecutor, signed the stipulation of facts which is therefore recognized as a declaration constituting judicial admission, a waiver of her right to present evidence to the contrary and binding upon the parties.<sup>62</sup> "Although the right to present evidence is guaranteed by the Constitution, such right may be waived expressly or impliedly."<sup>63</sup>

Apropos, we affirm XXX's conviction of Qualified Trafficking in Persons in view of AAA's minority, in violation of Section 4(a), in relation with Sections 6 and 10, of RA 9208.

**WHEREFORE**, the appeal is **DISMISSED**. The July 20, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07313 is hereby **AFFIRMED**. Accused-appellant XXX is hereby found **GUILTY** beyond reasonable doubt of Qualified Trafficking in Persons under Section 4(a), in relation with Section 6 and 10, of Republic Act No. 9208, and is accordingly sentenced to suffer the penalty of life imprisonment, and to pay to complainant AAA, also known as BBB: (a) a fine of ₱2,000,000.00; (b) ₱500,000.00 as moral damages; (c) ₱100,000.00 as exemplary damages; and (3) interest at the legal rate of six percent (6%) per *annum* on all the aggregate amounts of moral and exemplary damages from the finality of the Decision until fully paid.

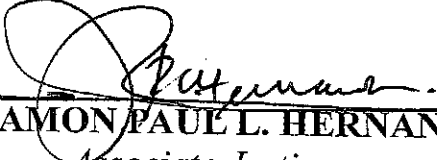
<sup>60</sup> Id. at 470-471.

<sup>61</sup> TSN dated August 1, 2013, pp. 3-4.


<sup>62</sup> *People v. Bodoso*, 637 Phil. 565, 585-586 (2010).


<sup>63</sup> Id. at 586.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

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

  
**JAPAR B. DIMAAMPAO**  
*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.



**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

### CERTIFICATION

Pursuant to Section 13, Article VIII 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*