



Republic of the Philippines  
SUPREME COURT  
Manila

THIRD DIVISION

CYRIL CALPITO QUI,  
Petitioner,

G.R. No. 196161

Present:

- versus -

PEOPLE OF THE PHILIPPINES,  
Respondent.

SERENO,\* C.J.,  
VELASCO, JR., Chairperson,  
PEREZ,\*\*  
MENDOZA, and  
PERLAS-BERNABE,\*\*\* JJ.

Promulgated:

26 September 2012

*Heo man*

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DECISION

VELASCO, JR., J.:

In her petition for review under Rule 45, Cyril Calpito Qui assails the merits of the December 17, 2010 Resolution<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 33494, which denied her Urgent Petition/Application for Bail Pending Appeal, and the March 17, 2011 CA Resolution<sup>2</sup> which rejected her Motion for Reconsideration.

The pertinent factual antecedents are undisputed.

\* Additional member per Special Order No. 1311 dated September 21, 2012.

\*\* Additional member per Special Order No. 1299 dated August 28, 2012.

\*\*\* Additional member per Special Order No. 1326 dated September 21, 2012.

<sup>1</sup> Rollo, pp. 49-52. Penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Francisco P. Acosta and Amy C. Lazaro-Javier.

<sup>2</sup> Id. at 53.

Petitioner was charged with two counts of violation of Section 10(a),<sup>3</sup> Article VI of Republic Act No. (RA) 7610 or the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*.

In Criminal Case No. Q-00-96544, the Information alleges:

That on or about the month of December 1999 in Quezon City, Philippines, the above-named accused did then and there willfully, unlawfully and feloniously commit acts of cruelty and child abuse upon the person of one Christian John Ignacio, a minor 8 years of age by then and there angrily shouting invectives while pointing her fingers at said minor and threatening to knock down his head which acts are prejudicial to the child's psychological and emotional development, debase, demean and degrade the intrinsic worth and dignity of said Christian John Ignacio as a human being.

CONTRARY TO LAW.

In Criminal Case No. Q-00-96545, the Information reads:

That on or about the 15th day of March 2000 in Quezon City, Philippines, the above-named accused did then and there willfully, unlawfully and feloniously commit acts of cruelty and child abuse upon the person of one Christian John Ignacio, a minor 8 years of age by then and there angrily shouting invectives and threatening to shoot said minor and which acts are prejudicial to the child's psychological and emotional development, debase, demean and degrade the intrinsic worth and dignity of said Christian John Ignacio as a human being.

CONTRARY TO LAW.

On June 18, 2010, the Regional Trial Court (RTC), Branch 94 in Quezon City convicted petitioner as charged, and sentenced<sup>4</sup> her to two

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<sup>3</sup> SEC. 10. *Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.*—

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of PD No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

<sup>4</sup> The *fallo* of the RTC Decision reads:

WHEREFORE, premises considered, this Court finds accused CYRIL CALPITO QUI, GUILTY beyond reasonable doubt of Violation of Section 10 (a), Article VI of Republic Act No. 7610 and hereby sentences her as follows:

In Criminal Case No. Q-00-96544, accused is sentenced to suffer an indeterminate penalty of FIVE (5) YEARS, FOUR (4) MONTHS and TWENTY ONE (21) DAYS of *Prision Correccional* in its maximum period as minimum to SEVEN (7) YEARS, FOUR (4) MONTHS and ONE (1) DAY of *Prision Mayor* in its minimum period as maximum and to pay the costs.

In Criminal Case No. Q-00-96545, accused is sentenced to suffer an indeterminate penalty of FIVE (5) YEARS, FOUR (4) MONTHS and TWENTY ONE (21) DAYS of *Prision Correccional* in its maximum period as minimum to SEVEN (7) YEARS, FOUR (4) MONTHS and ONE (1) DAY of *Prision Mayor* in its minimum period as maximum and to pay the costs.

SO ORDERED. (*Rollo*, p. 50.)

equal periods of imprisonment for an indeterminate penalty of five (5) years, four (4) months and twenty one (21) days of *prision correccional* in its maximum period, as minimum, to seven (7) years, four (4) months and one (1) day of *prision mayor* in its minimum period, as maximum.

On July 1, 2010, petitioner filed her Notice of Appeal. With the perfection of her appeal and the consequent elevation of the case records to the CA, petitioner posthaste filed before the appellate court an Urgent Petition/Application for Bail Pending Appeal which respondent People of the Philippines, through the Office of the Solicitor General (OSG), opposed. The OSG urged for the denial of the bail application on the ground of petitioner's propensity to evade the law and that she is a flight-risk, as she in fact failed to attend several hearings before the RTC resulting in the issuance of three warrants for her arrest.

On December 17, 2010, the CA issued the first assailed Resolution denying petitioner's application for bail pending appeal on the basis of Sec. 5(d) of Rule 114, Revised Rules of Criminal Procedure. Petitioner's Motion for Reconsideration was likewise rejected through the March 17, 2011 CA Resolution.

Thus, this Petition for Review on Certiorari on the following assignment of errors, to wit: (1) there is a manifest absence of all the conditions justifying a denial of bail under Sec. 5 of Rule 114; (2) the conviction of petitioner is for a bailable offense and the evidence of guilt against her is not strong; and (3) since petitioner's conviction by the RTC is under appeal, hence not yet final, she should be accorded the constitutional guaranty of innocence until proved guilty beyond reasonable doubt, which guaranty entitles her to bail. In gist, the core issue boils down to whether petitioner is entitled to bail pending appeal.

The petition is bereft of merit.

Bail pending appeal is governed by Sec. 5 of Rule 114, Revised Rules of Criminal Procedure, which provides:

**Sec. 5. Bail, when discretionary. — Upon conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment, admission to bail is discretionary.** The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed with and resolved by the appellate court.

Should the court grant the application, the accused may be allowed to continue on provisional liberty during the pendency of the appeal under the same bail subject to the consent of the bondsman.

**If the penalty imposed by the trial court is imprisonment exceeding six (6) years, the accused shall be denied bail, or his bail shall be cancelled upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:**

- (a) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration;
- (b) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without a valid justification;
- (c) That he committed the offense while under probation, parole, or conditional pardon;
- (d) That the circumstances of his case indicate the probability of flight if released on bail; or
- (e) That there is undue risk that he may commit another crime during the pendency of the appeal.

The appellate court may, *motu proprio* or on motion of any party, review the resolution of the Regional Trial Court after notice to the adverse party in either case. (Emphasis supplied.)

Under the present rule, the grant of bail is a matter of discretion upon conviction by the RTC of an offense not punishable by death, *reclusion perpetua* or life imprisonment, as here. The Court held:

Indeed, pursuant to the “tough on bail pending appeal” policy, the presence of bail-negating conditions mandates the denial or revocation of bail pending appeal such that those circumstances are deemed to be as

grave as conviction by the trial court for an offense punishable by death, *reclusion perpetua* or life imprisonment where bail is prohibited.<sup>5</sup>

In the exercise of that discretion, the proper courts are to be guided by the fundamental principle that the allowance of bail pending appeal should be exercised not with laxity but with grave caution and only for strong reasons, considering that the accused has been in fact convicted by the trial court.<sup>6</sup>

The CA denied petitioner's application for bail pending appeal on the ground that she is a flight risk, a bail-negating factor under Sec. 5(d) of Rule 114 quoted above. The appellate court anchored its denial on several circumstances, pointed out by the OSG, which showed petitioner's propensity to evade the law, as when she failed to attend the hearings before the RTC, which compelled said court to issue three warrants for petitioner's arrest. There is no dispute, and petitioner does not deny the fact, that on various dates, specifically on August 24, 2005, February 20, 2006 and March 8, 2010, the RTC issued warrants for her arrest. The March 8, 2010 RTC Order also directed the forfeiture of her bail bond.

Petitioner's plea for bail pending appeal is bereft of merit.

The CA properly exercised its discretion in denying petitioner's application for bail pending appeal. The CA's determination as to petitioner being a high risk for flight is not without factual mooring. Indeed, the undisputed fact that petitioner did not attend the hearings before the RTC, which compelled the trial court to issue warrants for her arrest, is undeniably indicative of petitioner's propensity to trifle with court processes. This fact alone should weigh heavily against a grant of bail pending appeal.

Petitioner's penchant to disobey court processes may also be deduced from the fact that she lied in order to wiggle out of, and justify her non-appearance on the March 8, 2010 hearing before the RTC. Petitioner gave the convenient but false excuse that her father, Cirilo Calpito, was

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<sup>5</sup> *Leviste v. Court of Appeals*, G.R. No. 189122, March 17, 2010, 615 SCRA 619, 648.

<sup>6</sup> *Yap v. Court of Appeals*, G.R. No. 141529, June 6, 2001, 358 SCRA 564, 573.

hospitalized on said hearing day (i.e., March 8, 2010) and that Cirilo died on March 24, 2010. The lies foisted on the court were exposed by: (1) the Death Certificate of Cirilo Calpito clearly showing that he died on March 24, 2009 or a year before the aforesaid March 2010 RTC hearing; and (2) the Certification issued by Dr. Aniana Javier stating that Cirilo went to her clinic on March 9, 2009.

Lest it be overlooked, the RTC notice sent to petitioner's bonding company was returned with the notation "moved out," while the notice sent to petitioner's given address was returned unclaimed with the notation "RTS no such person according to Hesita Family" who were the actual occupants in petitioner's given address. The fact of transferring residences without informing her bondsman and the trial court can only be viewed as petitioner's inclination to evade court appearance, as indicative of flight, and an attempt to place herself beyond the pale of the law.

Petitioner's argument that she has the constitutional right to bail and that the evidence of guilt against her is not strong is spurious. Certainly, after one is convicted by the trial court, the presumption of innocence, and with it, the constitutional right to bail, ends.<sup>7</sup> As to the strength of evidence of guilt against her, suffice it to say that what is before the Court is not the appeal of her conviction, let alone the matter of evaluating the weight of the evidence adduced against her.

Consequently, the Court agrees with the appellate court's finding of the presence of the fourth circumstance enumerated in the above-quoted Sec. 5 of Rule 114, Revised Rules of Criminal Procedure, and holds that the appellate court neither erred nor gravely abused its discretion in denying petitioner's application for bail pending appeal. The appellate court appeared to have been guided by the circumstances provided under the Rules. As the Court categorically held in *People v. Fitzgerald*, "[A]s for an

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<sup>7</sup> *Leviste v. Court of Appeals*, supra note 5, at 650; citing *Obosa v. Court of Appeals*, G.R. No. 114350, January 16, 1997, 266 SCRA 281 and *Yap v. Court of Appeals*, supra note 6.

accused already convicted and sentenced to an imprisonment term exceeding six years, **bail may be denied or revoked based on prosecution evidence as to the existence of any of the circumstances under Sec. 5, paragraphs (a) to (e) x x x.**"<sup>8</sup> Evidently, the circumstances succinctly provided in Sec. 5 of Rule 114, Revised Rules of Criminal Procedure have been placed as a guide for the exercise of the appellate court's discretion in granting or denying the application for bail, pending the appeal of an accused who has been convicted of a crime where the penalty imposed by the trial court is imprisonment exceeding six (6) years.

In all, the Court finds the CA to have exercised its discretion soundly when it denied petitioner's application for bail pending appeal.

**WHEREFORE**, the instant petition is **DENIED** for lack of merit. Accordingly, the assailed December 17, 2010 and March 17, 2011 Resolutions of the Court of Appeals in CA-G.R. CR No. 33494 are **AFFIRMED**. No costs.

**SO ORDERED.**




**PRESBITERO J. VELASCO, JR.**  
Associate Justice

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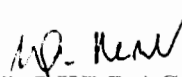
<sup>8</sup> G.R. No. 149723, October 27, 2006, 505 SCRA 573, 583.

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice


  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**ESTELA M. BERLAS-BERNABE**  
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

#### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice