



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 253287

Plaintiff-Appellee, Present:

— versus —

KENNETH JOHN GRAHAM
 and JOCELYN ORDINARYO,
 Accused;

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

ROSARIO CRASTE* y
 SOLAYAO,
 Accused-Appellant.

Promulgated:

JUL 06 2022

X-----X

DECISION

LOPEZ, M., J.:

The conviction of accused-appellant Rosario Craste y Solayao (Rosario) for eight counts of qualified trafficking in persons is the subject of review¹ in the appeal assailing the Decision² dated October 14, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10112, which affirmed the findings of the Regional Trial Court [REDACTED] (RTC).

* "Castre" and "Crusty" in some parts of the records

¹ See Notice of Appeal dated October 29, 2019; *rollo*, pp. 30-31.

² *Id.* at 3-29. Penned by Associate Justice Elihu A. Ybañez, with the concurrence of Associate Justices Maria Filomena D. Singh (now a member of this Court) and Geraldine C. Fiel-Macaraig.

ANTECEDENTS

Private complainants BBB 253287,³ aged 16 years old; III 253287, 14 years old; and JJJ 253287, 16 years old, were former employees at [REDACTED] located at [REDACTED]. On March 19, 2012, they sought the help of Barangay Chairperson Rodelio Mamac (Chairperson Mamac) to file criminal charges against Rosario and her co-accused Kenneth John Graham (Kenneth) and Jocelyn Ordinaryo (Jocelyn). They alleged that Rosario recruited them to work at [REDACTED], allegedly owned by Kenneth and managed by Jocelyn. They were forced to engage in prostitution and made to dance wearing only their underwear, specifically panties and bra. Customers who avail of a girl's service, which includes taking them out of the bar and performing sexual services, were charged a "bar fine"⁴ of PHP 1,800.00. Rosario acts as their pimp and Jocelyn constantly checks on them. Meanwhile, Kenneth collects money everyday from the cashier. After work, they stayed at [REDACTED] and were not allowed to go out except when they report for work at [REDACTED].⁵

On March 24, 2012, Police Superintendent Jacqueline Puapo (P/Supt. Puapo), Regional Chief of the Women and Children Protection Desk in Camp [REDACTED], led a surveillance operation conducted at [REDACTED]. They took photos of the hotel and its vicinity. In front of the hotel, they noticed a van which was later boarded by several girls and headed to [REDACTED]. On March 29, 2012, the surveillance team went to [REDACTED] where they found girls dancing onstage wearing only bras and panties. They documented the surveillance and applied for a search warrant before the Regional Trial Court of Manila, Branch 22.⁶

Armed with Search Warrant No. 12-19591 from the Regional Trial Court of Manila, Branch 22, P/Supt. Puapo performed a pre-operational briefing on March 31, 2012. She prepared five pieces of PHP 500 bills as marked money. The team also designated two foreigner assets to act as customers. The team was then divided into two: the first team, composed of about ten police personnel and two personnel from the Department of Social

³ See Section 7 of Republic Act (RA) No. 9208, which provides:

Section 7. *Confidentiality.* — At any stage of the investigation, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the trafficked person and the accused. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. **The name and personal circumstances of the trafficked person or of the accused, or any other information tending to establish their identities and such circumstances or information shall not be disclosed to the public.**

x x x x (Emphasis supplied)

⁴ The term "bar fine" is also used to describe the act of taking a woman out of the bar for sexual or other purposes for compensation; CA *rollo*, p. 118. See also *People v. Lim*, G.R. No. 252021, November 10, 2021, <<https://sc.judiciary.gov.ph/26782/>> [Per J. Inting, Second Division].

⁵ *Rollo*, pp. 11–12. See also CA *rollo*, p. 142.

⁶ CA *rollo*, pp. 117–118.

Welfare and Development (DSWD), would implement the search warrant at [REDACTED]; meanwhile, the second team, composed of about nine police personnel and a DSWD personnel, would conduct an entrapment operation and implement the search warrant at [REDACTED].⁷

At 7:00 p.m. of the same day, the two teams conducted their respective operations. P/Supt. Puapo, together with the foreigner assets, entered [REDACTED]. She observed for about 30 minutes then called the attention of the "mamasang" who introduced herself as "Mommy Rose," later identified as Rosario. P/Supt. Puapo introduced the foreigner assets to Rosario and mentioned that the two wanted to avail of sexual services from the girls dancing on stage. Rosario asked them to choose one and told them that the girls are available for a bar fine of PHP 1,800.00. The team chose QQQ 253287 who was then wearing only a bra and panties. Rosario approached QQQ 253287 and asked her to sit beside the foreigner assets. Thereafter, P/Supt. Puapo called Rosario, telling her that the foreigner assets wanted to take QQQ 253287 outside and that they will pay the bar fine. After giving Rosario the PHP 2,000.00 in marked money, P/Supt. Puapo called the first team to implement the search warrant in the bar. P/Supt. Puapo also called the other team to implement the search warrant at [REDACTED].⁸ The entrapment operation resulted in the arrest of Rosario inside the bar, and Kenneth, who was at [REDACTED]. There were 17 other victims rescued during the operation, namely: CCC 253287, DDD 253287, RRR 253287, EEE 253287, FFF 253287, GGG 253287, HHH 253287, III 253287, JJJ 253287, KKK 253287, LLL 253287, AAA 253287, MMM 253287, NNN 253287, OOO 253287, PPP 253287, and BBB 253287.⁹ The victims were then brought to Camp [REDACTED] where they provided their statements before they were taken to DSWD Haven.¹⁰

In eight Informations filed before the RTC, Kenneth, Rosario, and Jocelyn were all charged with violations of Section 4 (e), in relation to Sections 3 (a) and (c), 6 (a) and (c), and 10 (c) of Republic Act (RA) No. 9208,¹¹ thus:

Criminal Case No. 12-8901

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (c), and 10 (c) of [RA] No. 9208, committed as follows:

⁷ *Id.* at 118 and 143.

⁸ *Id.* at 118–119. See also *rollo*, pp. 12–13. ⁹

⁹ *CA rollo*, pp. 98, 128, and 143.

¹⁰ *Id.* at 116 and 143–144. See also *rollo*, p. 11.

¹¹ Entitled "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 on May 26, 2003.

That on or about the 23rd day of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, KENNETH JOHN GRAHAM, as owner/operator/manager, ROSARIO S. CRASTE as floor manager and JOCELYN D. ORDINARYO as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of the vulnerability of [AAA 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [AAA 253287] being 17 years of age.

CONTRARY TO LAW.¹²

Criminal Case No. 12-8902

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (c), and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd day of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, KENNETH JOHN GRAHAM, as owner/operator/manager, ROSARIO S. CRASTE as floor manager and JOCELYN D. ORDINARYO as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of the vulnerability of [BBB 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [BBB 253287] being 16 years of age.

CONTRARY TO LAW.¹³

¹² Records, pp. 1-2; emphases supplied.

¹³ *Id.* at 90-91; emphases supplied.

Criminal Case No. 12-8903

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO⁴(AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (c), and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd day of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, KENNETH JOHN GRAHAM, as owner/operator/manager, ROSARIO S. CRASTE as floor manager and JOCELYN D. ORDINARYO as owner/operator/manager of [REDACTED] located in [REDACTED] in conspiracy with one another, and by taking advantage of the vulnerability of victims [CCC 253287], [DDD 253287], [EEE 253287], [FFF 253287], [GGG 253287], [HHH 253287], [III 253287], [JJJ 253287], [KKK 253287], [LLL 253287], [AAA 253287], [MMM 253287], [NNN 253287], [OOO 253287], [PPP 253287] and [BBB 253287], for the purpose of exploitation such as prostitution, pornography and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage said victims to engage in prostitution through sexual services or lascivious conduct and pornography in consideration of the payments and benefits given to them, to their damage and prejudice.

That the crime was committed in a large scale, as it was committed against sixteen (16) persons.

CONTRARY TO LAW.¹⁴

Criminal Case No. 12-8904

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (a), and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd day of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, KENNETH JOHN GRAHAM, as owner/operator/manager, ROSARIO S. CRASTE as floor manager and JOCELYN D. ORDINARYO as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of the vulnerability of [JJJ 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to

¹⁴ *Id.* at 93-94; emphases supplied.

engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [JJJ 253287] being 16 years of age.

CONTRARY TO LAW.¹⁵

Criminal Case No. 12-8905

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (a) and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, **KENNETH JOHN GRAHAM**, as owner/operator/manager, **ROSARIO S. CRASTE** as floor manager and **JOCELYN D. ORDINARYO** as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of the vulnerability of [III 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [III 253287] being 14 years of age.

CONTRARY TO LAW.¹⁶

Criminal Case No. 12-8906

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Section 3 (a) and (c), 6 (a), and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, **KENNETH JOHN GRAHAM**, as owner/operator/manager, **ROSARIO S. CRASTE** as floor manager and **JOCELYN D. ORDINARYO** as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of

¹⁵ *Id.* at 96–97; emphases supplied.

¹⁶ *Id.* at 99–100; emphases supplied.

the vulnerability of [OOO 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [OOO 253287] being 16 years of age.

CONTRARY TO LAW.¹⁷

Criminal Case No. 12-8907

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (a), and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, **KENNETH JOHN GRAHAM**, as owner/operator/manager, **ROSARIO S. CRASTE** as floor manager and **JOCELYN D. ORDINARYO** as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of the vulnerability of [LLL 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [LLL 253287] being 17 years of age.

CONTRARY TO LAW.¹⁸

Criminal Case No. 12-8910

The undersigned Prosecution Attorneys of the Department of Justice accuse **KENNETH JOHN GRAHAM, ROSARIO S. CRASTE and JOCELYN D. ORDINARYO (AT-LARGE)** of the crime of **Qualified Trafficking in Persons** punishable under Section 4 (e), in relation to Sections 3 (a) and (c), 6 (a) and 10 (c) of [RA] No. 9208, committed as follows:

That on or about the 23rd of March 2012, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused,

¹⁷ *Id.* at 102–103; emphases supplied.

¹⁸ *Id.* at 104–105; emphases supplied.

KENNETH JOHN GRAHAM, as owner/operator/manager, ROSARIO S. CRASTE as floor manager and JOCELYN D. ORDINARYO as owner/operator/manager of [REDACTED], in conspiracy with one another, and taking advantage of the vulnerability of [DDD 253287] and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, did then and there willfully, unlawfully and knowingly hire, maintain and manage to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to her, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority, complainant [DDD 253287] being 17 years of age.

CONTRARY TO LAW.¹⁹

In addition, Kenneth and Jocelyn were charged with violation of Section 3 of RA No. 9231²⁰ (*Anti-Child Labor Law*) by private complainants III 253287, BBB 253287, JJJ 253287, OOO 253287, LLL 253287, AAA 253287, and DDD 253287, docketed as *Criminal Case No. 12-8908*.²¹ Rosario was also charged with violation of Article 34 (f) in relation to Section 38 (b) of Presidential Decree (PD) No. 442²² (*Labor Code of the Philippines*) by private complainants BBB 253287, III 253287, JJJ 253287, QQQ 253287, KKK 253287, CCC 253287, FFF 253287, NNN 253287, and EEE 253287, docketed as *Criminal Case No. 12-8909*.²³

During their arraignment on July 18, 2012, Kenneth and Rosario pleaded “not guilty” to all the offenses charged.²⁴ Jocelyn remained at large.²⁵ Trial ensued.

The prosecution presented as witnesses: private complainants DDD 253287, GGG 253287, III 253287, JJJ 253287, OOO 253287, and QQQ 253287; P/Supt. Puapo; Senior Police Officer 1 Anthonette Lamanilao Ramos (SPO1 Ramos); and Police Officer 3 Arthur Bautista (PO3 Bautista). As for Social Welfare Officer Presentacion T. Pinaroc of the DSWD, her testimony was stipulated upon by the parties.²⁶

¹⁹ *Id.* at 113–114; emphases supplied.

²⁰ Entitled “AN ACT PROVIDING FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOR AND AFFORDING STRONGER PROTECTION FOR THE WORKING CHILD, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 7610, AS AMENDED, OTHERWISE KNOWN AS THE ‘SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT’,” approved on December 19, 2003.

²¹ Records, pp. 107–109.

²² Entitled “A DECREE INSTITUTING A LABOR CODE THEREBY REVISING AND CONSOLIDATING LABOR AND SOCIAL LAWS TO AFFORD PROTECTION TO LABOR, PROMOTE EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND INSURE INDUSTRIAL PEACE BASED ON SOCIAL JUSTICE,” approved on May 1, 1974.

²³ Records, pp. 110–112.

²⁴ *Rollo*, p. 10. See also *CA rollo*, p. 97.

²⁵ *CA rollo*, p. 146.

²⁶ *Id.* at 101–129. See also *rollo*, pp. 10–11.

Private complainants had similar experiences while working in [REDACTED]. They testified that: (a) when they first arrived at the bar, they were forced to dance on stage wearing only bras and panties;²⁷ (b) Jocelyn, or Mommy Josie, was a manager of the bar because she distributes their salaries aside from their share in the “bar fine” and is also a *mamasang*;²⁸ (c) Kenneth, or Daddy Ken, owned the bar because he comes in almost every night to drink, operates a computer in the cashier’s area, and sometimes gives directions to girls through the floor managers;²⁹ (d) Rosario transacts with clients regarding their “bar fine” as a *mamasang*;³⁰ (e) the PHP 1,800.00 “bar fine” would be split between the bar (PHP 1,000.00) and the girl (PHP 800.00);³¹ and (f) when “bar fined,” they would either go bar-hopping at other establishments, or taken to a hotel for sexual intercourse, or both.³²

The victims’ testimonies only differ with regard to their personal circumstances and the manner by which they were recruited. DDD 253287 (16 years old) testified that she was accompanied by her friend to apply at [REDACTED].³³ GGG 253287 testified that she went with her cousins to apply at the bar. She likewise stated that she knew that JJJ 253287, OOO 253287, SSS 253287, and TTT 253287 were minors working in the bar.³⁴

Meanwhile, III 253287 (13 years old), JJJ 253287 (16 years old), OOO 253287 (14 years old), and QQQ 253287 (14 years old) were recruited by Rosario in [REDACTED], albeit not simultaneously.³⁵ III 253287 testified that Rosario offered her a job as a waitress in Manila along with BBB 253287, KKK 253287, and FFF 253287. They were brought to [REDACTED] and then proceeded to [REDACTED].³⁶ III 253287 added that Rosario would give her a condom every time she would be taken out by a customer.³⁷ JJJ 253287 testified that Rosario offered her a job as a waitress in Manila on February 7, 2012. Rosario brought her and three other girls to [REDACTED] before going to [REDACTED].³⁸ OOO 253287 testified that Rosario recruited her to be a waitress at a bar sometime in November 2009 and was taken there by Rosario’s husband.³⁹ Lastly, QQQ 253287 testified that her cousin introduced her to Rosario who recruited her along with fourteen other girls. Rosario did not come with them on their trip to [REDACTED] but they were met by Julie, [REDACTED]’s stay-in cook, when they arrived at Manila.⁴⁰

²⁷ CA rollo, pp. 101, 105, 110, 122, and 125.

²⁸ *Id.* at 102–103, 105, 111, 122, and 126–127.

²⁹ *Id.* at 102–103, 106, 111–113, 115, 122–124, and 126.

³⁰ *Id.* at 101, 105, 110, 122, and 125.

³¹ *Id.* at 102, 105, 110, 122, and 125.

³² *Id.* at 101, 105, 122, and 125.

³³ *Id.* at 105.

³⁴ *Id.* at 125.

³⁵ *Id.* at 101, 109, 114, and 121.

³⁶ *Id.* at 109.

³⁷ *Id.* at 110.

³⁸ *Id.* at 121–122.

³⁹ *Id.* at 101.

⁴⁰ *Id.* at 114–115.

P/Supt. Puapo testified on the conduct of the surveillance up to the implementation of the search warrants,⁴¹ while SPO1 Ramos and PO3 Bautista corroborated P/Supt. Puapo's testimony on the implementation of the search warrant in [REDACTED].⁴²

The prosecution offered as evidence, *inter alia*, the birth certificates of OOO 253287, DDD 253287, JJJ 253287, and BBB 253287; the baptismal certificate of III 253287; the sworn statements of AAA 253287, BBB 253287, DDD 253287, EEE 253287, GGG 253287, III 253287, JJJ 253287, LLL 253287, MMM 253287, OOO 253287, PPP 253287, and RRR 253287; and the joint sworn statement of QQQ 253287, KKK 253287, CCC 253287, FFF 253287, and NNN 253287. The RTC admitted all of these over the objections of the defense.⁴³

On the other hand, Rosario's defense is denial. She presented Kenneth's daughter, Maria Kristina Graham (Maria), and BBB 253287 as her witnesses. Maria testified that she resides in Australia but talks to her father Kenneth all the time. Her first cousin Jocelyn owned [REDACTED] and Rosario is the floor manager. She knew that the meaning of "bar fine" was taking out a girl by paying a certain amount, but was not aware that there were minors employed in the bar.⁴⁴

In turn, BBB 253287 testified that she and other private complainants were only prevailed upon by a certain Mommy Lai or Laila Cortez to identify Rosario as the perpetrator. Rosario recruited her in [REDACTED] to work as a waitress. They travelled to [REDACTED] with III 253287, KKK 253287, and other girls who were also recruited by Rosario. When they arrived in [REDACTED], Mommy Lai gave them panties and bra as their costumes and told them to dance sexy on stage. She also knew of the bar fine arrangement, but clarified that this was transacted by Mommy Jocelyn with the customers. In all six times she was bar fined, it was Mommy Jocelyn who negotiated with the customers, and not Rosario. The truth is that Rosario kept on asking for their birth certificates as proof of their age and she later drove them out of the bar upon learning that they were in fact minors. Irked by Rosario's decision, Mommy Lai decided to take revenge. She accompanied BBB 253287 and the other private complainants to Chairperson Mamac to help retrieve their personal belongings from Rosario. In exchange, Mommy Lai coaxed them to file charges to implicate Rosario, Jocelyn, and Kenneth. She added that Mommy Lai instructed them on what to say and how to answer questions.⁴⁵

⁴¹ *Id.* at 117-121.

⁴² *Id.* at 128-131.

⁴³ *Id.* at 131.

⁴⁴ *Id.* at 134-135.

⁴⁵ *Id.* at 135-138.

During the course of the trial, Kenneth died, which resulted in the dismissal of the cases against him.⁴⁶

In a Judgment⁴⁷ dated May 2, 2017, the RTC adjudged Rosario guilty of eight counts of qualified trafficking in persons in *Criminal Case Nos. 12-8901 to 12-8907 and 12-8910*. The trial court found that she acted as a pimp at [REDACTED], by recruiting the victims to engage in prostitution. This was accomplished through the “bar fine” scheme wherein customers will pay PHP 1,800.00 to take a girl out of the bar for sexual services.⁴⁸ The RTC rejected Rosario’s defense of bare denials. As for the defense witnesses, the RTC observed that Maria, Kenneth’s daughter, did not rebut the testimonies of the prosecution witnesses, while BBB 253287’s narration contains an admission that she was among those recruited, hired, and transported by Rosario. The RTC concluded that the defense of denial cannot overturn the positive identification by private complainants and the police officers who performed the entrapment/rescue operation,⁴⁹ thus ruling:

WHEREFORE, premises considered, as the prosecution has proven the guilt beyond reasonable doubt of the accused, Rosario S. Craste for violation of Section 4 (e) in relation to Section 3 (a) and (c), Section 6 (a) and Section 10 (c) of Republic Act No. 9208[,] as amended by Republic Act No. 10364 in Criminal Cases Nos. 12-8901 to 12-8907 and 12-8910, the said accused is hereby sentenced to suffer **LIFE IMPRISONMENT** and to pay a fine of **One Million Pesos ([PHP] 1,000,000.00)** in each of these cases and to pay the sum of **One Hundred Thousand Pesos ([PHP] 100,000.00)** to each of the private complainants, [OOO 253287], [DDD 253287], [III 253287], [QQQ 253287], [JJJ 253287] and [GGG 253287] the sum of **One Hundred Thousand Pesos ([PHP] 100,000.00)** as moral damages.

As the prosecution failed to prove the guilt beyond reasonable doubt of the accused Rosario S. Craste for violation of Section 3 of Republic Act No. [9]231 (An act providing for the elimination of the worst forms of child labor and affording stronger protection for the working child, amending for this purpose Republic Act No. 7610, as amended, otherwise known as the “Special Protection of Children against Child Abuse, Exploitation and Discrimination Act”) in Criminal Case No. 12-8908 and for violation of Article 34 (f) in relation to Section 38 (b) under P.D. 442 (A Decree instituting a Labor Code thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Insure Industrial Peace based on Social Justice) in Criminal Case No. 12-8909, she is hereby **ACQUITTED** in these two (2) cases.

As the accused, Jocelyn D. Ordinaryo remains at large, let the records of these cases against her be sent to the **ARCHIVES** subject to the revival upon the arrest of the said accused. An alias warrant of arrest against the said accused is hereby ordered issued.

⁴⁶ *Id.* at 146.

⁴⁷ *Id.* at 89–150. Penned by Presiding Judge Bernardita Gabitan-Erum.

⁴⁸ *Id.* at 142.

⁴⁹ *Id.* at 145–146.

SO ORDERED.⁵⁰ (Emphases in the original)

In an Order⁵¹ dated August 1, 2017, the RTC denied Rosario's motion for reconsideration prompting her to appeal before the CA.⁵²

In her appeal brief,⁵³ Rosario claimed that the RTC erred in convicting her of the charges because she was merely instigated by the police officers to commit the crime which led to her arrest. She also pointed to the inconsistencies in the testimonies of private complainants. Lastly, she argued that she should not have been convicted of the offenses as she was merely a scapegoat.⁵⁴

On the other hand, the People, represented by the Office of the Solicitor General, countered that: (a) there was a valid rescue operation conducted by the police operatives; (b) Rosario's guilt was proven by reasonable doubt; and (c) the RTC correctly gave full weight and credit to the testimonies of the victims.⁵⁵

In a Decision⁵⁶ dated October 14, 2019, the CA affirmed the RTC's ruling with modification as to the fine and damages, *viz.*:

FOR THESE REASONS, the Decision dated 02 May 2017 of the Regional Trial Court of ██████████, in Criminal Case Nos. 12-8901 to 12-8907 and 12-8910 finding Rosario Craste Y Solayao guilty beyond reasonable doubt of violation of Section 4 (e) in relation to Sections 3 (a) and (c), 6 (a) and 10 (c) of RA [No.] 9208, as amended by RA [No.] 10364, is hereby **AFFIRMED with MODIFICATION** in that accused-appellant is **ORDERED** to pay in each cases the following:

- (1) [F]ine in the amount of [PHP] 2,000,000.00;
- (2) [PHP] 500,000.00 as moral damages; and
- (3) [PHP] 100,000.00 as exemplary damages.

Also, interest at the rate of 6% per annum shall be imposed on all the damages awarded from the time judgment had become final until fully paid.

SO ORDERED.⁵⁷ (Emphases in the original)

Aggrieved, Rosario appealed the CA Decision.⁵⁸ The parties manifested that they would forego the filing of their respective supplemental briefs.⁵⁹

⁵⁰ *Id.* at 150.

⁵¹ *Id.* at 151–169.

⁵² *Id.* at 169.

⁵³ *Id.* at 65–87.

⁵⁴ *Id.* at 75–86.

⁵⁵ *Id.* at 189–203.

⁵⁶ *Rollo*, pp. 3–29.

⁵⁷ *Id.* at 28–29.

⁵⁸ See Notice of Appeal dated October 29, 2019; *id.* at 30–31.

⁵⁹ *Id.* at 40–42 and 45–47.

The main issue here is whether Rosario is guilty beyond reasonable doubt of eight counts of qualified trafficking in persons as charged in the Informations.

RULING

Notably, an appeal in criminal cases throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.⁶⁰

Rosario was not instigated to commit human trafficking; the arrest was made after a valid entrapment/rescue operation

In *People v. Mendoza*,⁶¹ the Court clarified the distinctions between instigation and entrapment, viz.:

Instigation means luring the accused into a crime that he, otherwise, had no intention to commit, in order to prosecute him. On the other hand, entrapment is the employment of ways and means in order to trap or capture a lawbreaker. Instigation presupposes that the criminal intent to commit an offense originated from the inducer and not the accused who had no intention to commit the crime and would not have committed it were it not for the initiatives by the inducer. In entrapment, the criminal intent or design to commit the offense charged originates in the mind of the accused; the law enforcement officials merely facilitate the apprehension of the criminal by employing ruses and schemes. In instigation, the law enforcers act as active co-principals. Instigation leads to the acquittal of the accused, while entrapment does not bar prosecution and conviction.⁶²

Further, in *People v. Doria*,⁶³ the Court explained the litmus test to determine the validity of an entrapment operation, to wit:

Initially, an accused has the burden of providing sufficient evidence that the government induced him to commit the offense. Once established, the burden shifts to the government to show otherwise. When entrapment is raised as a defense, American federal courts and a majority of state courts use the "subjective" or "origin of intent" test laid down in *Sorrells v. United*

⁶⁰ *People v. Estonilo*, G.R. No. 248694, October 14, 2020, <<https://sc.judiciary.gov.ph/15359/>> [Per J. Perlas-Bernabe, Second Division].

⁶¹ 814 Phil. 31 (2017) [Per J. Peralta, Second Division].

⁶² *Id.* at 42, citing *People v. Dansico*, 659 Phil. 216, 225-226 (2011) [Per J. Brion, Third Division].

⁶³ 361 Phil. 595 (1999) [Per J. Puno, *En Banc*].

States to determine whether entrapment actually occurred. The focus of the inquiry is on the accused's predisposition to commit the offense charged, his state of mind and inclination before his initial exposure to government agents. All relevant facts such as the accused's mental and character traits, his past offenses, activities, his eagerness in committing the crime, his reputation, *etc.*, are considered to assess his state of mind before the crime. The predisposition test emphasizes the accused's propensity to commit the offense rather than the officer's misconduct and reflects an attempt to draw a line between a "trap for the unwary innocent and the trap for the unwary criminal." x x x Some states, however, have adopted the "objective" test. This test was first authoritatively laid down in the case of *Grossman v. State* rendered by the Supreme Court of Alaska. Several other states have subsequently adopted the test by judicial pronouncement or legislation. Here, the court considers the nature of the police activity involved and the propriety of police conduct. The inquiry is focused on the inducements used by government agents, on police conduct, not on the accused and his predisposition to commit the crime. For the goal of the defense is to deter unlawful police conduct. The test of entrapment is whether the conduct of the law enforcement agent was likely to induce a normally law-abiding person, other than one who is ready and willing, to commit the offense; for purposes of this test, it is presumed that a law-abiding person would normally resist the temptation to commit a crime that is presented by the simple opportunity to act unlawfully.⁶⁴

Applying both the subjective and objective tests, we find that the police operatives conducted a valid entrapment operation. Rosario, as the *mamasang* of private complainants, was predisposed to commit the offense of trafficking even before P/Supt. Puapo initiated contact with her. The victims testified that Rosario regularly dealt with customers regarding their bar fine. Rosario's act of transacting with the customers who pay the bar fine when taking the victims out for sexual services was first revealed to the police operatives during the surveillance operation, which enabled them to secure the search warrant implemented during the entrapment. Even if one were to argue that the inquiry as to which girl is available for bar fine came from P/Supt. Puapo, such conduct was not likely to induce a law-abiding person to commit the offense of human trafficking. Rosario's casual response to P/Supt. Puapo that their team could choose which girl they liked and her subsequent act of receiving the marked money for the bar fine invariably showed that she was already engaged in illegal trafficking of persons. She needed no prodding, inducement, or instigation. She was simply caught in the act of committing the offenses charged.⁶⁵

More importantly, instigation is a positive defense that is in the nature of a confession and avoidance. This means that Rosario, in effect, admitted the commission of the act — except that she claims that the criminal intent originated from the mind of the inducer or the law enforcer. For this reason, instigation is incompatible with Rosario's defense of denial that she was merely pointed to by the victims as their *mamasang* upon instructions of

⁶⁴ *Id.* at 610-612; citations omitted.

⁶⁵ *People v. De la Peña*, 276 Phil. 30, 36 (1991) [Per J. Melencio-Herrera, Second Division].

Mommy Lai. To be sure, instigation and denial cannot be invoked simultaneously as defenses.⁶⁶

The alleged inconsistencies in the testimonies of the prosecution witnesses are immaterial

Rosario argues that there are patent inconsistencies in the testimonies of private complainants warranting her acquittal. *First*, JJJ 253287 testified that she was recruited and personally accompanied by Rosario while travelling to ██████████; however, she admitted during cross-examination that she travelled to ██████████ without Rosario. *Second*, OOO 253287 testified that she was recruited by Rosario but her sworn statement, which she confirmed as true, stated that she was assisted by her aunt to apply for work at ██████████. *Third*, OOO 253287 admitted that she lied about her age and name when she applied for work and even used a fake birth certificate. *Fourth*, III 253287 and DDD 253287 testified that Rosario prohibited them from going out of ██████████, but this was contradicted by OOO 253287 who testified that they were not prevented from going out. *Fifth*, P/Supt. Puapo testified that she was the one who approached Rosario and conveyed that her foreigner friends wanted to avail of sexual services from the girls dancing on the stage. However, QQQ 253287 testified that she was “tabled” by a woman with foreigner companions. When she was told by the woman that she would be bar fined by her foreigner companions, that was the time she approached them and called the attention of Rosario.⁶⁷

We are not convinced. In *People v. Gonzaga*,⁶⁸ we held that in order to obtain an acquittal, the inconsistencies must be material and must relate to the elements of the crime:

Unfortunately for the appellant, “[f]or a discrepancy or inconsistency between the testimonies of witnesses to serve as basis for acquittal, it must refer to significant facts vital to the guilt or innocence of the accused x x x An inconsistency which has nothing to do with the elements of the crime cannot be a ground for the acquittal of the accused.”

x x x x

Furthermore, minor inconsistencies do not negate or dissolve the eyewitnesses’ positive identification of the appellant as the perpetrator of the crime. “[M]inor inconsistencies in the narration of witnesses do not detract from their essential credibility as long as their testimony on the whole is coherent and intrinsically believable. Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed x x x Witnesses are not expected to remember every single detail of an incident with perfect or total recall.” “The witnesses’ testimonies need only

⁶⁶ *People v. Legaspi*, 677 Phil. 181, 193--194 (2011) [Per J. Leonardo-De Castro, First Division].

⁶⁷ *CA rollo*, pp. 81-83.

⁶⁸ 647 Phil. 65 (2010) [Per J. Del Castillo, First Division].

to corroborate one another on material details surrounding the actual commission of the crime.”⁶⁹

Here, the alleged contradictions in the prosecution witnesses’ testimonies regarding their travel to [REDACTED] and their inability to leave [REDACTED] do not relate to Rosario’s guilt for the offenses charged. These circumstances are not material elements of trafficking in persons.

Too, the details of the entrapment operation are not inconsistent as they are rather sequential. P/Supt. Puapo testified that she first approached Rosario to disclose their interest in availing of sexual services from a girl dancing on the stage. When Rosario agreed, she instructed them to choose any girl and revealed the amount of the “bar fine.” P/Supt. Puapo’s team chose QQQ 253287 who was then instructed by Rosario to sit with the foreigner assets. Moments later, they called Rosario to pay the “bar fine.” Meanwhile, QQQ 253287 testified that she was “tabled” by a lady customer with foreigner companions. When they informed her that she will be “bar fined,” she called the attention of her *mamasang* Rosario.⁷⁰ Although there seems to be an inconsistency as to who actually summoned Rosario before payment was made, this does not relate to her guilt in committing the crime charged; neither does it negate the positive identification of Rosario as the perpetrator of the act.

Further, settled is the rule that the matter of assigning values to the accounts and declarations of the witnesses is a function best performed by trial court judges. Their unique opportunity to observe the witnesses’ deportment during trial puts them in the best position to ascertain the sincerity and truthfulness of testimonies. As such, this Court will not disturb, much less overturn, the RTC’s factual findings and assessment of witnesses’ credibility, absent any showing that facts and circumstances of weight and substance were overlooked or misapplied.⁷¹ This rule is more stringently applied when the CA concurred with the trial court, as in this case.⁷²

In this case, the RTC gave credence to the testimonies of the police officers. It also found as sincere, straightforward, and honest the testimonies of DDD 253287, III 253287, JJJ 253287, GGG 253287, QQQ 253287, and OOO 253287. The RTC held that there was no motive on the part of private complainants to testify against Rosario other than to declare that they were recruited and hired as waitresses but ended up working as dancers offering sexual services for a fee to foreigners in [REDACTED], with Rosario as their *mamasang*. The CA affirmed the findings of the RTC, and hence, there is no reason to overturn this finding of credibility by the lower courts.⁷³

⁶⁹ *Id.* at 85–86; citations omitted.

⁷⁰ *CA rollo*, pp. 115–119.

⁷¹ *People v. XXX*, G.R. No. 219093, January 8, 2020 [Notice, Third Division], citing *People v. Aguilar*, 565 Phil. 233, 247 (2007) [Per J. Chico-Nazario, Third Division].

⁷² *People v. Sanchez*, 681 Phil. 631, 636 (2012) [Per J. Brion, Second Division].

⁷³ *CA rollo*, pp. 142–145.

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Criminal Case Nos. 12-8902, 12-8904, 12-8905, 12-8906, and 12-8910

In *Criminal Case Nos. 12-8902, 12-8904, 12-8905, 12-8906, and 12-8910*, Rosario was charged with hiring, maintaining, and managing BBB 253287, JJJ 253287, III 253287, OOO 253287, and DDD 253287, respectively, to engage in prostitution.

The relevant provisions of RA No. 9208 are reproduced below:

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 persons, 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.

(b) *Child* — refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.


(c) *Prostitution* — refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

x x x x

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;

x x x x



(e) To maintain or hire a person to engage in prostitution or pornography;

x x x x

Section 6. *Qualified Trafficking in Persons*.— The following are considered as qualified trafficking:

(a) When the trafficked person is a **child**;

x x x x (Emphases supplied)

In *People v. Casio*,⁷⁴ we determined the elements of trafficking in persons, which consist of the **acts** performed, the **means** employed, and the **purpose** of the accused, thus:

- (1) 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.”
- (2) 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[”]; and
- (3) 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.”⁷⁵

The prosecution was able to establish all these elements beyond reasonable doubt.

Both the RTC and the CA found that BBB 253287, JJJ 253287, III 253287, OOO 253287, and DDD 253287 were recruited and maintained by Rosario for the purpose of prostitution or sexual exploitation. They were offered for sexual services to foreign customers of ██████████ in exchange for the payment of the “bar fine” with Rosario as their *mamasang*. All of them are considered minors under Section 3 (b) of RA No. 9208, as proven by the birth certificates of OOO 253287, DDD 253287, JJJ 253287, and BBB 253287, and the baptismal certificate of III 253287. The minority of the victims dispenses with the need to prove the existence of threat, force, coercion, abduction, fraud, deception, abuse of power, or the giving of payment as means to perpetrate trafficking in persons, pursuant to the second paragraph of Section 3 (a). OOO 253287’s alleged dishonesty regarding her age is likewise irrelevant. We have previously held that knowledge of the accused about the victim’s minority is immaterial.⁷⁶ Hence, Rosario’s knowledge of OOO 253287’s minority is inconsequential.⁷⁷

⁷⁴ 749 Phil. 458 (2014) [Per J. Leonen, Second Division].

⁷⁵ *Id.* at 472–473; citation omitted.

⁷⁶ *People v. Bandojo, Jr.*, 842 Phil. 511, 526 (2018) [Per J. A. Reyes, Jr., Second Division].

⁷⁷ *Id.*

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At any rate, it was proven that Rosario employed fraud in recruiting the victims because she promised them jobs as waitresses, when in fact, they were employed as dancers and offered for prostitution.

As a consequence of BBB 253287, DDD 253287, III 253287, JJJ 253287, and OOO 253287 being children, we find that Rosario evidently committed qualified trafficking in persons under Section 6 (a) of RA No. 9208.

Criminal Case Nos. 12-8901 and 12-8907

In *Criminal Case Nos. 12-8901 and 12-8907*, Rosario was charged with hiring, maintaining, and managing AAA 253287 and LLL 253287, respectively, to engage in prostitution.

The RTC, in convicting Rosario in these cases, relied on the respective sworn statements of AAA 253287⁷⁸ and LLL 253287⁷⁹ executed before the police station. The defense objected to their admission because the sworn statements were not identified by AAA 253287 and LLL 253287 in open court as the prosecution failed to present them as witnesses. The RTC overruled the objection and admitted the sworn statements as an exception to the hearsay rule citing the Rule on Examination of a Child Witness.⁸⁰ This rule allows the admission of hearsay statement when the child is unavailable, and the testimony is corroborated by other admissible evidence, as provided in Section 28 (d).⁸¹ The RTC ruled that the sworn statements of AAA 253287 and LLL 253287 were corroborated by other prosecution witnesses, whose testimonies were offered to prove all the offenses charged in the Informations.⁸² The RTC erred.

The Child Witness Rule applies in the examination of **child witnesses** who are victims of or witnesses to a crime, thus:

Section 1. *Applicability of the Rule.* — Unless otherwise provided, **this Rule shall govern the examination of child witnesses who are victims of crime**, accused of a crime, and witnesses to crime. It shall apply

⁷⁸ Records, pp. 65–67.

⁷⁹ *Id.* at 41–42.

⁸⁰ A.M. No. 00-4-07-SC (December 15, 2000).

⁸¹ Section 28. *Hearsay Exception in Child Abuse Cases.* — A statement made by a child describing any act or attempted act of child abuse, not otherwise admissible under the hearsay rule, may be admitted in evidence in any criminal or non-criminal proceeding subject to the following rules:

x x x x

(d) When the child witness is unavailable, his hearsay testimony shall be admitted only if corroborated by other admissible evidence.

⁸² *CA rollo*, pp. 146–150.

in all criminal proceedings and non-criminal proceedings involving child witnesses.

x x x x

Section 4. *Definitions.* —

(a) A “child witness” is any person who at the time of giving testimony is below the age of eighteen (18) years. In child abuse cases, a child includes one over eighteen (18) years but is found by the court as unable to fully take care of himself or protect himself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.

x x x x (Emphases supplied),

In *XXX v. People*,⁸³ we reiterated the guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance, established in *People v. Pruna*,⁸⁴ to wit:

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;

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.

⁸³ 861 Phil. 77 (2019) [Per J. Caguioa, Second Division].

⁸⁴ 439 Phil. 440 (2002) [Per C.J. Davide, Jr., *En Banc*].

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.⁸⁵

Applying the foregoing, we find that the Child Witness Rule does not apply to AAA 253287 and LLL 253287's case. As regards AAA 253287, the prosecution failed to follow the above guidelines to prove that she is below the age of 18 years to qualify as a child witness. No document, as required in the first two guidelines, was presented, and neither did the prosecution present the testimony of a qualified witness. Additionally, the trial court did not make a categorical finding as to her age. Hence, there is no proof in the records that AAA 253287 was under the age of 18 to qualify as a child witness when she executed her sworn statement. Further, Section 28 (d) of the Child Witness Rule explicitly requires that before the hearsay statement may be admitted, the child witness must be unavailable. Section 28 (a)⁸⁶ likewise states that the proponent must prove the fact of unavailability of the child witness. The prosecution failed to prove the unavailability of AAA 253287 before offering her sworn statement in evidence.

Similarly, LLL 253287 does not qualify as a child witness. Her sworn statement revealed that she was born on January 31, 1991.⁸⁷ Thus, she was already 21 years old on March 23, 2012, the relevant date on the Information for *Criminal Case No. 12-8907*. There was also no evidence presented by the prosecution to prove her age in compliance with the above-quoted guidelines.

Consequently, AAA 253287 and LLL 253287's unidentified sworn statements cannot be treated as exceptions to the hearsay rule. We have held that hearsay evidence, whether objected to or not, has no probative value unless the proponent can show that the evidence falls within the exceptions to the hearsay evidence rule.⁸⁸ The prosecution failed in this regard; thus, the unidentified sworn statements may not be admitted in evidence to prove the truth of the facts asserted therein.

We must emphasize that in criminal cases, the admission of hearsay evidence would be a violation of the constitutional provision that the accused shall enjoy the right to confront the witnesses testifying against him and to

⁸⁵ *XXX v. People*, 861 Phil. 77, 87-88 (2019) [Per J. Caguioa, Second Division], citing *People v. Pruna*, *id.* at 470-471.

⁸⁶ Section 28. *Hearsay Exception in Child Abuse Cases.* — x x x

(a) Before such hearsay statement may be admitted, its proponent shall make known to the adverse party the intention to offer such statement and its particulars to provide him a fair opportunity to object. If the child is available, the court shall, upon motion of the adverse party, require the child to be present at the presentation of the hearsay statement for cross-examination by the adverse party. **When the child is unavailable, the fact of such circumstance must be proved by the proponent.**

x x x (Emphasis supplied)

⁸⁷ See Exhibit "I"; records, p. 41.

⁸⁸ *People v. Cariño*, 850 Phil. 457, 477 (2019) [Per J. Gesmundo, First Division].

cross-examine them. A conviction based on proof that violates the constitutional right of an accused is a nullity and the court that rendered it acted without jurisdiction in its rendition. Such a judgment cannot be given any effect especially on the liberty of an individual.⁸⁹ To be sure, this Court would not hesitate to reverse a conviction by the lower courts if it was based on hearsay evidence.⁹⁰

AAA 253287 and LLL 253287's sworn statements being inadmissible in evidence, there is no direct or circumstantial evidence which may prove that Rosario recruited, maintained, or managed them for prostitution. Therefore, we find that the prosecution failed to prove beyond reasonable doubt the crimes charged in *Criminal Case Nos. 12-8901 and 12-8907*. Accordingly, Rosario must be **acquitted** for lack of evidence.

Criminal Case No. 12-8903

In *Criminal Case No. 12-8903*, Rosario was charged, along with the deceased Kenneth, as owner, operator, or manager, and Jocelyn, as owner, operator, or manager, of committing qualified trafficking in persons for hiring, maintaining, and managing victims CCC 253287, DDD 253287, EEE 253287, FFF 253287, GGG 253287, HHH 253287, III 253287, JJJ 253287, KKK 253287, LLL 253287, AAA 253287, MMM 253287, NNN 253287, OOO 253287, PPP 253287, and BBB 253287, to engage in prostitution through sexual services and lascivious conduct in consideration of the payments and benefits given to them.

We find that the RTC properly convicted Rosario of trafficking in persons committed in large scale, characterized as qualified trafficking in persons under Section 6 (c) of RA No. 9208:

Section 6. *Qualified Trafficking in Persons*. — The following are considered as qualified trafficking:

x x x x

(c) When the crime is committed by a syndicate, or **in large scale**. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. **It is deemed committed in large scale if committed against three (3) or more persons**, individually or as a group;

x x x x (Emphases supplied)

⁸⁹ *Id.* at 477-478.

⁹⁰ See *People v. Montenegro*, 479 Phil. 663, 674-676 (2004) [Per J. Azcuna, *En Banc*]; *People v. Garillo*, 446 Phil. 163, 178 and 180 (2003) [Per J. Quisumbing, *En Banc*]; *People v. Quidato, Jr.*, 357 Phil. 674, 681 and 683 (1998) [Per J. Romero, Third Division]; and *Ostias v. C.A.*, 326 Phil. 107, 128-129 (1996) [Per J. Hermosissima, Jr., *En Banc*].

As already discussed, the victims commonly testified that Rosario acted as their pimp or *mamasang* as she is the one directly transacting with the customers who wanted to avail of sexual services by paying the “bar fine.” The offense is committed in large scale because there were more than three victims.

However, only GGG 253287, FFF 253287, and KKK 253287 are entitled to damages. GGG 253287 personally testified as to her ordeals, while FFF 253287, and KKK 253287 were mentioned by III 253287 in her testimony that they were recruited together, brought to [REDACTED], and made to dance wearing only panties and bras.

With respect to BBB 253287, DDD 253287, III 253287, JJJ 253287, and OOO 253287, convicting Rosario of qualified trafficking in persons, and awarding the corresponding damages to them, will violate her right against double jeopardy enshrined in the Constitution.⁹¹ In *People v. Udang, Sr.*,⁹² citing *Nierras v. Dacuycuy*,⁹³ we reiterated that the rule on double jeopardy prohibits identity of elements in two offenses. Stated differently, prosecution for the same offense is forbidden, thus:

People v. Abay must therefore be abandoned. As held in *Nierras v. Dacuycuy*:

[A] single criminal act may give rise to a multiplicity of offenses and where there is variance or differences between the elements of an offense in one law and another law as in the case at bar there will be no double jeopardy because **what the rule on double jeopardy prohibits refers to identity of elements in the two (2) offenses.** Otherwise stated prosecution for the same act is not prohibited. **What is forbidden is prosecution for the same offense.**⁹⁴ (Emphases supplied)

Here, the proscription against double jeopardy will be violated if Rosario will be convicted of qualified trafficking in persons (committed by in large scale) with respect to BBB 253287, DDD 253287, III 253287, JJJ 253287, and OOO 253287 when she was already found guilty of qualified trafficking in persons (committed against minors) with respect to the same act and the same victims. The iteration is evident because there is no variance in the elements of the two offenses and they only differ in the circumstance qualifying each.

⁹¹ See Section 21, Article III of the 1987 Constitution which provides:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act. (Emphasis supplied)

⁹² 823 Phil. 411 (2018) [Per J. Leonen, Third Division].

⁹³ 260 Phil. 6 (1990) [Per J. Paras, *En Banc*].

⁹⁴ *People v. Udang, Sr.*, 823 Phil. 411, 433 (2018), citing *Nierras v. Dacuycuy*, *id.* at 13.

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As regards, CCC 253287, EEE 253287, HHH 253287, LLL 253287, AAA 253287, MMM 253287, NNN 253287, and PPP 253287, they cannot be awarded damages because they were not presented as witnesses to prove their entitlement thereto. Also, their respective sworn statements were not identified in court, hence, they cannot be admitted and given probative value for being hearsay. Lastly, none of the other victims testified as to whether CCC 253287, EEE 253287, HHH 253287, LLL 253287, AAA 253287, MMM 253287, NNN 253287, and PPP 253287 were recruited, transported, transferred, harbored, or received through any of the means and for any of the purposes as provided for in RA No. 9208.

Penalty and Damages

RA No. 9208 penalizes qualified trafficking in persons as follows:

Section 10. *Penalties and Sanctions.* — The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

x x x x

(c) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two million pesos ([PHP] 2,000,000.00) but not more than Five million pesos ([PHP] 5,000,000.00);

x x x x

The lower courts correctly imposed the penalty of life imprisonment for qualified trafficking in persons in *Criminal Case Nos. 12-8902, 12-8903, 12-8904, 12-8905, 12-8906, and 12-8910*. Also, the CA properly increased the fines imposed by the RTC in these cases to PHP 2,000,000.00. Further, prevailing jurisprudence provides that victims are entitled to moral damages of PHP 500,000.00 and exemplary damages of PHP 100,000.00, plus legal interest at the rate of 6% per annum from finality of judgment until full payment.⁹⁵

The Court notes, however, that the RTC and the CA did not award BBB 253287 moral and exemplary damages even though Rosario was convicted of qualified trafficking in persons in *Criminal Case No. 12-8902*. Therefore, it is fitting for this Court to award the same damages to BBB 253287 as one of the victims.⁹⁶

Correspondingly, Rosario must be ordered to pay BBB 253287 (*Criminal Case No. 12-8902*), DDD 253287 (*Criminal Case No. 12-8910*),

⁹⁵ *People v. Estonilo*, G.R. No. 248694, October 14, 2020, <<https://sc.judiciary.gov.ph/15359/>> [Per J. Perlas-Bernabe, Second Division], citing *People v. Maycabalong*, 867 Phil. 486, 497 (2019) [Per J. J. Reyes, Jr., First Division].

⁹⁶ See Article 100 of the Revised Penal Code.

GGG 253287, FFF 253287, and KKK 253287 (*Criminal Case No. 12-8903*), III 253287 (*Criminal Case No. 12-8905*), JJJ 253287 (*Criminal Case No. 12-8904*), and OOO 253287 (*Criminal Case No. 12-8906*) moral damages of PHP 500,000.00 and exemplary damages of PHP 100,000.00 each, subject to legal interest at the rate of 6% per annum from finality of judgment until full payment.

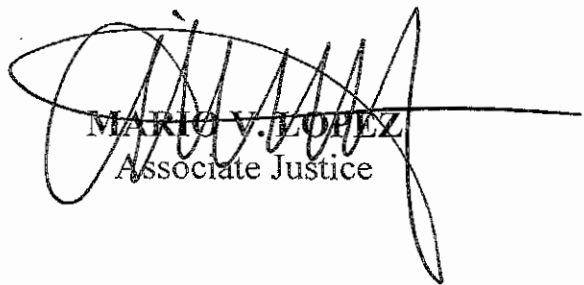
The Court however **deletes** the awards in favor of QQQ 253287 for lack of basis. *Criminal Case No. 12-8909* or the Information for violation of Article 34 (f) in relation to Section 38 (b) of PD No. 442, wherein QQQ 253287 was named as private complainant, is not included in the present appeal as it was dismissed by the RTC, resulting in Rosario's acquittal.

ACCORDINGLY, the appeal is **PARTLY GRANTED**. The Decision dated October 14, 2019 of the Court of Appeals in *CA-G.R. CR-HC No. 10112* is **AFFIRMED** with **MODIFICATIONS** as follows:

- (a) In *Criminal Case Nos. 12-8902, 12-8904, 12-8905, 12-8906, and 12-8910*, accused-appellant Rosario Craste y Solayao (Rosario) is found **GUILTY** beyond reasonable doubt of qualified trafficking in persons, defined under Section 4 (a) and (e), in relation to Section 6 (a) and (c), and penalized under Section 10 (c) of Republic Act (RA) No. 9208. Accordingly, she is sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of PHP 2,000,000.00 for each offense. In addition, she is ordered to pay each of the victims, BBB 253287, DDD 253287, III 253287, JJJ 253287, and OOO 253287, the amounts of PHP 500,000.00 as moral damages and PHP 100,000.00 as exemplary damages, both with legal interest at the rate of 6% per annum from the finality of this Decision until full payment;
- (b) In *Criminal Case No. 12-8903*, Rosario is found **GUILTY** beyond reasonable doubt of qualified trafficking in persons, defined under Section 4 (a) and (e), in relation to Section 6 (a) and (c), and penalized under Section 10 (c) of RA No. 9208. Accordingly, she is sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of PHP 2,000,000.00. In addition, she is ordered to pay the victims, GGG 253287, FFF 253287, and KKK 253287, the amounts of PHP 500,000.00 as moral damages and PHP 100,000.00 as exemplary damages, both with legal interest at the rate of 6% per annum from the finality of this Decision until full payment;
- (c) In *Criminal Case Nos. 12-8901 and 12-8907*, Rosario is **ACQUITTED** of the crimes charged for lack of evidence; and
- (d) The awards in favor of QQQ 253287 are **DELETED** for lack of basis.

✓

SO ORDERED.



MARIO V. LOPEZ
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice




JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

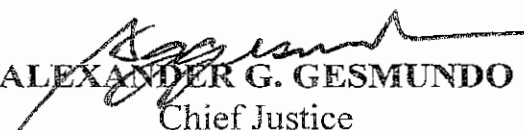
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

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