Supreme Court of the Philippines
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JADE KARLA TAN *y* CABANGON, Petitioner,	**G.R. No. 265929**
	Present:
- versus -	LEONEN, *SAJ., Chairperson,* LAZARO-JAVIER, LOPEZ, J., KHO, JR., and VILLANUEVA, *JJ.*
PEOPLE OF THE PHILIPPINES, Respondent.	**Promulgated:** JAN 13 2026

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DECISION

LOPEZ, J., *J.*:

This Court resolves a Petition for Review on *Certiorari*[1] filed by petitioner Jade Karla Tan *y* Cabangon (Jade) assailing the Decision[2] and Resolution[3] of the Court of Appeals (CA). The CA affirmed the Decision[4] and Resolution[5] of the Regional Trial Court (RTC) finding Jade guilty of cyber libel. Jade was alleged to have defamed Atty. Ramon A. Orfanel (Orfanel), who was the incumbent municipal mayor of Catanauan, Quezon at the time the statements were made.

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1 *Rollo*, pp. 12–268.

2 *Id.* at 216–230. The March 14, 2022 Decision in CA-G.R. CR No. 44396 was penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Perpetua Susana T. Atal-Paño and Michael P. Ong of the Ninth Division, Court of Appeals, Manila.

3 *Id.* at 257–260. The February 10, 2023 Resolution in CA-G.R. CR No. 44396 was penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Perpetua Susana T. Atal-Paño and Michael P. Ong of the Former Ninth Division, Court of Appeals, Manila.

4 *Id.* at 136–147. The May 14, 2019 Decision in Criminal Case No. 14151-G was penned by Presiding Judge Edilwasif T. Baddiri of Branch 96, Regional Trial Court, Catanauan, Quezon.

5 *Id.* at 165–168. The September 9, 2019 Resolution in Criminal Case No. 14151-G was penned by Presiding Judge Edilwasif T. Baddiri of Branch 96, Regional Trial Court, Catanauan, Quezon.

The accusatory portion of the Information filed against Jade reads:

> That prior to January 2016 or subsequent thereto, in the Municipality of Catanauan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with malicious intent of impeaching the integrity, virtue, character and reputation of RAMON A. ORFANEL, the incumbent Mayor of said municipality, and with the evident purpose of injuring and exposing him to public ridicule, hatred and contempt, did then and there willfully, unlawfully and maliciously cause to be published in her Facebook account under the name "Jade Karla Cabangon Tan", the following, to wit:
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> > WTF! People isn't it obvious that the award is better given to other political person other than a Mayor who's only job is to buy lots and renamed them after to his family members and build a big storage for his toys. Come on people, are you guys just blind or literally stupid? For some reason, I just don't want him because he really is corrupt like the others and he just really pissed me off whenever I see his face and the orange color of our town. [. . .]
> >
> > Our family was [the] talk of ou[r] town. Because our house was [torn] down due to an investor for our town. Yes it hasn't started yet? Ask me why? "WHY! because the person who was sitting on the highest position wants some "PADULAS" for us to get a building, business and other bullshit permits! I don't want to drop his name anymore because y all know the origin of where the hell I came from. [Filthy] Dirtyyyyy Mofo! Your wife should not win her fight because you[] treat her like a puppet for your benefit. [. . .]
>
> with said posts, the said accused meant and intended to convey, as in fact they did mean and convey false and malicious imputations of a defect, vice and crime, which insinuations and imputations as the accused well knew are entirely false and untrue and without the foundation in fact whatsoever, and tend to impeach, besmirch and the destroy [t]he good name, character and reputation of said RAMON A. ORFANEL as in fact, he was exposed to dishonor, discredit, public hatred, contempt and ridicule, to his damage and prejudice.
>
> Contrary to Law.[6]

At the arraignment, Jade pleaded not guilty.[7] After termination of the pre-trial, trial on the merits ensued.[8]

The prosecution presented three witnesses: Mary Grace G. Dela Torre (Dela Torre), Blesilda H. Ramirez (Ramirez), and Orfanel.

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6 *Id.* at 79–80.
7 *Id.* at 137.
8 *Id.*

Dela Torre, an employee of the local government of Catanauan, Quezon, testified that one day, she read both of Jade's posts on Facebook after receiving a text message about it. She identified the person being alluded to in the posts as Orfanel, as it was referring to a mayor and someone with the highest position in Catanauan, and referenced the color orange, which was always used by Orfanel. She was also present in Orfanel's office when Jade, along with her mother and aunt, went there to apologize for the posts.[9]

Ramirez, also an employee of the local government of Catanauan, Quezon, testified that while she was working at the municipal hall she was also able to see Jade's posts. She identified the person being intimated to in the post as Orfanel because he was the person with the highest position in the Municipality of Catanauan and used the color orange in his campaigns.[10]

Orfanel, who is a lawyer by profession, affirmed that he was the mayor of Catanauan, Quezon from 2007 up to 2016 and testified that sometime in 2015 during his incumbency, he was approached by Petrona Cabangon Tan (Petrona), who was his cousin and Jade's mother, and a representative from Jollibee telling him that they intended to open a Jollibee branch in their municipality. He was informed that construction will commence sometime in September 2015 and will finish in time for its opening on the day of the town fiesta on December 8, 2015. He said that he was excited about that development and he told them "to coordinate with [his] office regarding any development for the construction of said Jollibee Branch."[11] However, months passed and no Jollibee branch was opened in Catanauan and he no longer talked to Petrona or any representative from Jollibee.[12]

Sometime in January 2016, Orfanel learned of the rumors that he was the reason the Jollibee branch was not built. He found out from Dela Torre, who was one of his staff members, that it was Jade who posted the defamatory posts on Facebook. He and his wife then opened Facebook and saw Jade's posts and took screenshots of it.[13]

Orfanel concluded that it was him who was being referred to in the first post for the following reasons: (1) the post made mention of an award, and he was the only political figure in Catanauan who recently won an award; (2) he was the only mayor in Catanauan; and (3) the color orange mentioned was the color he used for his campaigns ever since he started in local politics. For the second post, he concluded that he was the person being referred to for the following reasons: (1) it mentioned the "person who was sitting on the highest position" in their town, which was him, as the mayor back then; and (2) it

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9 TSN, Mary Grace G. Dela Torre, September 6, 2017, pp. 3–10.
10 TSN, Blesilda H. Ramirez, September 19, 2017, pp. 3–5.
11 TSN, Ramon A. Orfanel, November 22, 2017, p. 5.
12 *Id.* at 4–5.
13 *Id.* at 6.

mentioned that the wife of the person referred to "should not win her fight" which referred to his wife, who then had already filed her certificate of candidacy as mayor of Catanauan, Quezon.[14]

Afterwards, Orfanel stated that he received a call from Vicenta Aguilar (Aguilar), Jade's aunt who was then the mayor of Agdangan, Quezon, and she apologized for what Jade had done and asked for a personal meeting with him. He turned down the request for a meeting and filed the complaint for libel. During the pendency of the complaint, his brother convinced him to talk to Jade, Petrona, and Aguilar. When they met in his office one Saturday morning, Jade admitted to having posted the said posts and asked for forgiveness. Jade also undertook to post a public apology on Facebook and to the site where the Jollibee branch was supposed to open. Orfanel and his spouse told her that they would decide after the election period. During the election period, he and his spouse initially decided to no longer pursue the case, but changed their mind after an incident during the election period which resulted to Orfanel and his spouse being detained inside the municipal building. Jade's brother, Patrick Tan, supposedly actively participated in that incident. Hence, Orfanel proceeded with the case.[15]

Orfanel confirmed that Jade posted an apology on Facebook, which states:

> Nais ko pong ipaalam sa mamamayan ng Catanauan na walang katotohanan ang aligasyon ko kay Mayor Ramon A. Orfanel tungkol sa pagkuha namin ng permits. Humihingi po ako ng paumanhin at patawad sa [kanya] at sa kanyang pamilya. Maraming Salamat po, Jade Karla Tan.[16]

Orfanel also confirmed that Jade posted an apology in a big billboard in front of the lot where the Jollibee branch was supposed to be constructed.[17]

On cross-examination, Orfanel testified that neither Jade nor Petrona had a pending application for a building or business permit at the time the statements were made. He also confirmed that his wife won in the elections.[18]

The defense presented Jade as witness. She testified that during the meeting with Orfanel, she did not admit to any wrongdoing. She narrated that they went to Orfanel's office because they were told by Orfanel's brother, who was at that time a municipal councilor, to go there. She confirmed that Aguilar was the sibling of her mother and that Orfanel is her mother's cousin. She claimed that after their discussion, they verbally agreed to terminate the case. On cross-examination, Jade confirmed that she was the one who posted the

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14 *Id.* at 7–9.
15 *Id.* at 10–12.
16 *Id.* at 13.
17 *Id.* at 13–14.
18 *Id.* at 16–17.

apology on Facebook. She also admitted that she was not involved in the discussions regarding the proposed building of the Jollibee branch, and that she did not know whether there were any delays or complications with this transaction including obtaining the necessary permits.[19]

In its Decision,[20] the RTC found Jade guilty beyond reasonable doubt of cyber libel:

> WHEREFORE, premises considered, this Court finds the accused JADE KARLA CABANGON TAN GUILTY of the crime of LIBEL as defined and penalized under Section 4(c)(4), Chapter II of Republic Act No. 10175 and is sentenced to suffer the indeterminate penalty of 4 years and 2 months of *prision correccional*[,] as minimum[,] to 8 years and one day of *prision mayor*[,] as maximum. She is likewise ordered to pay a fine in the amount of Forty Thousand Pesos ([PHP] 40,000.00).
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> SO ORDERED.[21]

In convicting Jade, the RTC found that all the elements of the crime were present, as Jade's posts alleging that Orfanel was a corrupt public official was made through Facebook and were seen by several other persons. Orfanel was likewise identifiable based on the words used by Jade, as she referred to him as the person sitting in the highest position from where she lived, which was Catanauan, Quezon. As to the presence of actual malice, the RTC found that Jade made the posts without verifying the veracity of her statements. It also found that the act of Jade in approaching Orfanel to settle the issue and her posting of an apology are implied admissions of guilt.[22]

Jade filed a Motion for Reconsideration[23] raising that the elements of the crime charged were not proven. However, this was denied by the RTC in its Resolution.[24]

Jade then appealed to the CA[25] and raised the following errors: (1) the evidence was insufficient to prove guilt beyond reasonable doubt; (2) actual malice was not proven; (3) the RTC failed to consider the public apology of Jade; (4) her conviction produces a chilling effect and curtails freedom of expression; and (5) the RTC failed to consider Supreme Court Administrative Circular No. 08-2008 regarding the preference for imposition of fine in libel cases.[26]

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19 TSN, Jade Karla Cabangon Tan, September 18, 2018, pp. 5–16.
20 *Rollo*, pp. 136–147.
21 *Id.* at 147.
22 *Id.* at 144–147.
23 *Id.* at 149–163.
24 *Id.* at 165–168.
25 *Id.* at 169.
26 *Id.* at 173.

In its Decision,[27] the CA affirmed *in toto* the RTC's Decision. The dispositive portion of the CA Decision reads:

> WHEREFORE, premises considered, the present appeal is DENIED. The Decision dated May 14, 2019 and Resolution dated September 9, 2019 of the Regional Trial Court of Catanauan, Quezon, Branch 96, in Criminal Case No. 14151-G, are hereby AFFIRMED *in toto*.[28]

The CA found that all elements of the crime were proven beyond reasonable doubt. It held that the imputation that Orfanel was corrupt and that he asked for *padulas* or grease money exposed him to public ridicule, humiliation, and contempt. The presence of actual malice is shown by the grudge that Jade bears against Orfanel as shown by the words used and factual circumstances of the publication of the posts. Publication was shown as there were several witnesses who testified that they have read her posts. Further, while Orfanel was not directly named, he was undeniably identified as the person being referred to in the posts.[29]

On the apologies that Jade posted, the CA also found that rectification or clarification does not negate the responsibility for the publication of a defamatory statement, but could mitigate it.[30]

While the CA acknowledged the preference for the imposition of fine instead of imprisonment in libel cases, it found that the penalty of imprisonment may still be imposed when a fine may be "insufficient to meet the demands of substantial justice or would depreciate the seriousness of the offense."[31]

Jade filed a Motion for Reconsideration,[32] reiterating that actual malice was not proven and that the public apology should mitigate her liability, and at any rate, only a fine should be imposed.

Subsequently, Jade filed a Motion to Admit Supplemental Pleading[33] where it informed the CA that she and Orfanel had entered into a Compromise Agreement[34] to resolve the civil aspect of the case.[35] The pertinent portions of the Compromise Agreement provide:

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27 *Id.* at 216–230.
28 *Id.* at 229.
29 *Id.* at 224–225.
30 *Id.* at 226.
31 *Id.* at 228.
32 *Id.* at 231–235.
33 *Id.* at 236–237.
34 *Id.* at 238–239.
35 *Id.* at 236.

> WHEREAS, the FIRST PARTY is the private complainant and the SECOND PARTY is the accused in Criminal Case No. [CA]-G.R. [CR] No. 44396 entitled "People of the Philippines vs. Jade Karla Tan *y* Cabangon" for Cyberlibel pending before the Ninth (9th) Division of the Court of Appeals, Manila (hereafter the "Case");
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> WHEREAS, the case stemmed from Facebook posts of the [SECOND] PARTY against the [FIRST] PARTY who are relatives;
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> WHEREAS, the SECOND PARTY has apologized to the FIRST PARTY personally and through public posts and the FIRST PARTY has forgiven the SECOND PARTY in consideration of being relatives;
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> . . . .
>
> WHEREAS, after such negotiation and discussion, the herein parties mutually realized and deem it best and convenient to resolve the civil aspect of the case in an amicable order to avoid further animosity between the parties;
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> . . . .
>
> NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein established, the parties hereto agree as follows:
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> AMOUNT OF DAMAGE
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> FIRST PARTY, by his own independent and voluntary assessment categorically expresses that the only remaining balance of the damage, loss or suffering he incurred as a result of the incident, amounts to FIFTY THOUSAND PESOS ([PHP] 50,000.00), which the SECOND PARTY is willing to pay[.][36]

In its Resolution,[37] the CA denied Jade's Motion for Reconsideration.

Hence, Jade filed the instant Petition raising the issue of whether the CA erred in affirming her conviction for cyber libel.

To begin, petitioner argues that at the time of the filing of the Complaint against her, she was only 23 years old, not politically involved, and without any prior criminal record.[38]

Petitioner notes that the penalty imposed by the RTC and the CA exceeded the maximum allowed by law in cyber libel. She likewise brings up the public apology that she posted on Facebook after conferring with Orfanel. Further, petitioner posted another public apology in the form of a big billboard in front of a lot. Petitioner claims that the RTC and the CA ignored these

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36 *Id.* at 238–239.
37 *Id.* at 257–260.
38 *Id.* at 26.

favorable circumstances and instead could have mitigated the penalty of imprisonment or instead imposed a fine.[39]

More, Orfanel admitted that in view of the apology of petitioner, he initially decided not to pursue the case, but that he changed his mind because of the supposed participation of a certain Patrick Tan, supposedly the brother of petitioner, in an election related incident involving Orfanel's alleged detention in the municipal building. However, petitioner asserts that she has no brother named Patrick Tan, and Orfanel has not presented any evidence that petitioner was involved in the said alleged detention.[40]

Petitioner invokes Supreme Court Administrative Circular No. 08-2008 and cites jurisprudence applying the said Circular and modifying the penalties to that of a fine instead of imprisonment. She argues that the peculiar circumstances in this case would show that reducing the penalty to a fine would best serve the interest of justice and would not depreciate the seriousness of the offense.[41]

On the elements of the crime charged, petitioner contends that the allegedly libelous posts on Facebook were not duly authenticated pursuant to the Rules on Electronic Evidence. More, petitioner argues that the element of actual malice was not proven. Contrary to the CA's finding that petitioner's actions rooted from a personal grudge against Orfanel, her statements were in relation to Orfanel's official functions as mayor such as issuance of licenses and permits for building and business. Thus, she claims that it was not proven that she made those statements with knowledge of their falsity or with reckless disregard of whether or not they were true.[42]

In its Comment,[43] the Office of the Solicitor General (OSG) argues that all the elements for the crime of cyber libel were proven. As to the defamatory imputation, it contends that the imputation of bribery and being corrupt are sufficient. As to publication, it counters that the petitioner's objections to the admissibility of the evidence were belatedly made and thus, improper. Likewise, petitioner admitted during her testimony that she was the only person who had access to the account that posted the defamatory message. As to the identity of the person defamed, it was likewise established that the person being referred to was Orfanel.[44]

The OSG claims that actual malice was proven, as the words used in petitioner's post were uncalled for and indicated that her objective was merely to malign Orfanel and injure his reputation. Orfanel added that petitioner's

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39 *Id.* at 26–38.
40 *Id.* at 38.
41 *Id.* at 39–45.
42 *Id.* at 46–53.
43 *Id.* at 276–300.
44 *Id.* at 283–289.

family had no pending application for a business permit with the municipality. In her apology, petitioner likewise admitted that her statements were untrue. Bad motive and ill will on her part were likewise shown in the surrounding circumstance that the imputation were made during election season as there was motive to talk ill against Orfanel and his spouse. Finally, petitioner posted the imputations on Facebook, complying with the element that the act was committed through a computer system.[45]

However, the OSG opines that the penalty of imprisonment imposed by the RTC and the CA exceeded the allowable maximum penalty by one day.[46]

The OSG argues that although Supreme Court Administrative Circular No. 08-2008 is also applicable to cyber libel cases, no circumstances are present to justify the imposition of the penalty of a fine only. As to the public apology, it maintains that petitioner testified that she only posted the apology on Facebook because she was told to do so by her mother and aunt, while it was her mother who initiated the putting up of the billboard. As to the Compromise Agreement, it claims that the agreement pertained to the civil aspect of the case and thus, could not extinguish the criminal liability in this case.[47]

This Court's Ruling

This Court grants the instant Petition and acquits petitioner of the crime of cyber libel.

To begin, We address petitioner's argument that the screenshots from the Facebook posts were not duly authenticated pursuant to the Rules on Electronic Evidence. In *Cadajas v. People*,[48] this Court, in an issue involving screenshots from Facebook Messenger, ruled that objections to admissibility must be made at the time they are formally offered, and a party that fails to interpose a timely objection is deemed to have waived its objection.[49] We ruled that petitioner was deemed to have waived the objection to the admissibility of the screenshots for failure to object during the proceedings with the RTC.[50] In the present case, petitioner also failed to timely object to the admissibility of the screenshots at the time they were offered in evidence, and thus, has waived her right to object to its admissibility.

At any rate, under Section 2(c) of the Rules on Electronic Evidence, electronic documents may be authenticated "by other evidence showing its

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45 *Id.* at 290–291.
46 *Id.* at 292–293.
47 *Id.* at 293–296.
48 915 Phil. 220 (2021) [Per J. J. Lopez, *En Banc*].
49 *Id.* at 233.
50 *Id.*

integrity and reliability to the satisfaction of the judge." In this case, several prosecution witnesses have testified to having seen the posts and petitioner herself admits to the existence of the apologies that refer to these posts. Hence, the existence of the Facebook posts is well established.

Libel is defined in Article 353 of the Revised Penal Code as follows:

> ARTICLE 353. Definition of Libel. — A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

Cyber libel, as defined under Section 4(c)(4) of Republic Act No. 10175, is not a new crime as it has the same elements as libel defined under Article 353 of the Revised Penal Code, with Republic Act No. 10175 merely implementing the provisions on libel in Articles 353 and 355 of the Revised Penal Code and recognizing the use of a computer system as a similar means of publication.[51] Its elements are: (1) the allegation of a discreditable act or condition concerning another; (2) publication of the charge; (3) identity of the person defamed; and (4) existence of malice.[52]

The RTC and the CA ruled that all the elements are present in this case. This Court, on the other hand, finds that the first three elements are present, but the element of malice was not proven beyond reasonable doubt, necessitating petitioner's acquittal.

For the element of allegation of discreditable act or condition, it is settled that a statement is defamatory when "it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt."[53] We have previously held that in determining whether a statement is defamatory, the words used should be construed in their ordinary meaning as would naturally be understood by persons reading them and in its entirety, without regard for any explanation offered by the publisher.[54] Also, insulting words are not actionable per se, and courts must still determine that the statement is defamatory in its entirety.[55]

In this case, the defamatory nature of the statements is seen in petitioner's statements that the person she was referring to was asking for *padulas* or grease money before the necessary permits are issued to them,[56]

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51 *Causing v. People*, 948 Phil. 400, 413–417 (2023) [Per J. Inting, Third Division].
52 *Tulfo v. People*, 893 Phil. 6 (2021) [Per J. Leonen, Third Division].
53 *Id.* at 47, *citing Vasquez v. Court of Appeals*, 373 Phil. 238, 249 (1999) [Per J. Mendoza, *En Banc*].
54 *Id.* (Citations omitted)
55 *Id.* at 48. (Citation omitted)
56 *See rollo*, pp. 64–65.

which is an act or circumstance that tends to dishonor or discredit the person being referred to. To be clear, the making of such an allegation does not necessarily mean an accused will be found guilty of libel, because there is still a need to prove the other elements of libel, particularly in this case, the element of actual malice which will be discussed later.

For the element of publication, it is only necessary that a third person has read or heard the statement.[57] Here, in addition to Orfanel and his wife, at least two other persons, namely, Dela Torre and Ramirez, testified to have seen the posts.[58]

On the other hand, for identifiability, "it must be shown that at least a third person or a stranger was able to identify [them] as the object of the defamatory statement."[59] In this case, Orfanel was sufficiently identified by Dela Torre and Ramirez as the person being defamed, pointing out to the content of the posts that refer to a certain person of the highest position and mayor in petitioner's town, who they knew to be Orfanel, and that made reference to the color orange, which is the color used by Orfanel in his campaign materials.[60]

However, this Court finds that the element of malice was not proven beyond reasonable doubt.

In *Tulfo v. People*,[61] this Court, through Senior Associate Justice Marvic M.V.F. Leonen (SAJ Leonen), stated that criminal prosecutions for libel must ensure that the right to free expression and the press are not violated, and added that "libel laws must not be broadly construed as to deter comments on public affairs and the conduct of public officials."[62]

Further, in *Daquer v. People*,[63] this Court, again through SAJ Leonen, acknowledged that the fundamental right of freedom of expression tempers the law on libel, and that in cases for criminal libel where the complainant is a public officer, the burden to prove actual malice rests on the prosecution and, consequently, there is no burden on the accused to disprove actual malice:

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57 *Tulfo v. People*, 893 Phil. 6, 48 (2021) [Per J, Leonen, Third Division], *citing Vasquez v. Court of Appeals*, 373 Phil. 238, 249 (1999) [Per J. Mendoza, *En Banc*].

58 TSN, Mary Grace G. Dela Torre, September 6, 2017, p. 6; TSN, Blesilda H. Ramirez, September 19, 2017, p. 5; TSN, Ramon A. Orfanel, November 22, 2017, p. 9.

59 *Tulfo v. People*, 893 Phil. 6, 48 (2021) [Per J, Leonen, Third Division], *citing Vasquez v. Court of Appeals*, 373 Phil. 238, 249 (1999) [Per J. Mendoza, *En Banc*].

60 TSN, Mary Grace G. Dela Torre, September 6, 2017, p. 6; TSN, Blesilda H. Ramirez, September 19, 2017, p. 5.

61 893 Phil. 6 (2021) [Per J. Leonen, Third Division].

62 *Id.* at 33.

63 906 Phil. 279 (2021) [Per J. Leonen, Third Division].

> As early as *United States v. Bustos*, this Court has recognized that the law on libel is tempered by the fundamental right of freedom of expression. Philippine history itself has been shaped by this right:
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> . . . .
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> This is especially true under our Constitution, which not only protects comments on the acts of public officials as exercises of the right to free speech, but equally as manifestations of the fundamental principles of popular sovereignty and the trust reposed in public office. Accountability to the people is demanded by the Constitution itself. The checks on governmental power are not confined to the three branches of government. The people—as citizens, electors, taxpayers—have an equal stake in participative democracy, which includes holding public officials rigorously answerable to their oaths of service[.]
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> . . . .
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> On behalf of the people, the press serves as a constant watchdog, relieving the "abscesses of officialdom" with its biting scrutiny. At times, in the face of the outrages perpetrated by public officers, people may resort to intemperance and impertinence, but a milquetoast sentiment is not a prerequisite for constitutional protection. "Rising superior to any official, or set of officials, to the Chief Executive, to the Legislature, to the Judiciary—to any or all the agencies of Government—public opinion should be the constant source of liberty and democracy."
>
> *Based on these principles, this Court has imposed a higher standard for criminal libel where the complainant is a public figure, particularly a public officer. Actual malice—knowledge that the defamatory statement was false, or with reckless disregard as to its falsity—must be proved. It is the burden of the prosecution to prove actual malice, not the defense's to disprove*[.][64] (Emphasis supplied; citations omitted)

More, in *Guingguing v. Court of Appeals*,[65] once it is established that the complainant is a public figure, the prosecution must prove beyond reasonable doubt that there is actual malice on the part of the accused.[66]

Jurisprudence provides that actual malice is present when statements are made "with knowledge that it was false or with reckless disregard of whether it was false or not."[67]

As to what constitutes reckless disregard of whether a statement is false or not, *Daquer* confirmed that it is determined on a case-by-case basis:

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64 *Id.* at 292–294. *See also Labargan v. People*, 949 Phil. 1008, 1021–1022 (2023) [Per J. Leonen, Second Division].

65 508 Phil. 193 (2005) [Per J. Tinga, Second Division].

66 *Id.* at 216–217. *See also Daquer v. People*, 906 Phil. 279, 294–295 (2021) [Per J. Leonen, Third Division], *citing Guingguing v. Court of Appeals*, 508 Phil. 193, 216 (2005) [Per J. Tinga, Second Division].

67 *Tulfo v. People*, 893 Phil. 6, 33 (2021) [Per J. Leonen, Third Division]. (Citation omitted)

> "Reckless disregard" is determined on a case-by-case basis. There is reckless disregard if the accused was found to have entertained serious doubts of the truth of the published statements, or if the statements were of a matter not determined to be a legitimate topic in the area. Errors or misstatements by themselves are insufficient to be considered reckless disregard, unless shown that the accused possessed a high degree of awareness of the falsity. Mere negligence is not enough:
>
> > To be considered to have reckless disregard for the truth, the false statements must have been made with a definite awareness that they are untrue. That the accused was negligent of the facts is not enough. The accused must have doubted the veracity of the statements that he or she was making. Thus, errors and inaccuracies may be excused so long as they were made with the belief that what was being stated is true.
>
> To burden the accused with proving that allegations of official misconduct are true, or that the allegations were made with good motives and justifiable ends, is repugnant to the Constitution.[68] (Citations omitted)

Further, *Disini v. Secretary of Justice*[69] provides that gross or even extreme negligence does not amount to actual malice:

> There is "actual malice" or malice in fact when the offender makes the defamatory statement with the knowledge that it is false or with reckless disregard of whether it was false or not. The reckless disregard standard used here requires a high degree of awareness of probable falsity. There must be sufficient evidence to permit the conclusion that the accused in fact entertained serious doubts as to the truth of the statement he published. Gross or even extreme negligence is not sufficient to establish actual malice.[70] (Citations omitted.)

The CA found that malice was present because petitioner had a grudge against Orfanel and, thus, she had the motive to make the defamatory statements against him, as it found she was fueled by vengeance for their family's business deal that failed to materialize.[71] The RTC observed that it was evident that petitioner maligned the reputation of Orfanel without verifying the veracity of her allegations prior to making them.[72]

These circumstances do not show beyond reasonable doubt that actual malice was present in this case, as they do not prove that petitioner knew that her statements were false or that she acted with reckless disregard of whether they were false.

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68 *Daquer v. People*, 906 Phil. 279, 295 (2021) [Per J. Leonen, Third Division].
69 727 Phil. 28 (2014) [Per J. Abad, *En Banc*].
70 *Id.* at 112.
71 *Rollo*, p. 223.
72 *Id.* at 145.

In *Labargan v. People*,[73] a case which involved imputations regarding the discharge of a public officer's duties, this Court found that the offensive declarations in question are not actionable by themselves, and warned against the potential of a chilling effect on the public.[74] In that case, taking into account the constitutional presumption of innocence, this Court ruled for the acquittal of the accused in a case for defamation of a public officer where actual malice was not established:

> Recalling the antecedents, the object of the complaint were statements against Aileen Macabangon, who was then a kagawad of Barangay Muntay, Kolambugan, Lanao del Norte. The imputations were criticisms of her competence as a barangay kagawad, originating from her supposed partiality against petitioner in the barangay conciliation proceedings. Clearly, these relate to Macabangon's discharge of her official duties as a public officer. While petitioner's declarations may be offensive, they are not actionable by themselves. "Being 'sensitive' has no place in this line of service, more so when allowing otherwise has the potential to create a chilling effect on the public."
>
> The prosecution did not show that actual malice attended petitioner's declarations. It was not established whether the defamatory statements were made with knowledge that these were false, or with reckless disregard as to its falsity. Considering the constitutional presumption of innocence, acquittal ensues.[75] (Citations omitted)

In the present case, while the statements may be offensive, petitioner should be acquitted of the charge of cyber libel for failure to prove the element of actual malice beyond reasonable doubt.

This Court is also mindful of the other circumstances of this case including the following: first, petitioner and Orfanel are relatives, as they admitted in their Compromise Agreement;[76] second, Orfanel testified that two public apologies were made, with one posted on Facebook and another posted on a big billboard;[77] third, the Compromise Agreement also stated that Orfanel had forgiven petitioner and that the amount in the Compromise Agreement, in Orfanel's own assessment, "categorically expresses that the only remaining balance of the damage, loss, or suffering he incurred as a result of the incident, amounts to [PHP 50,000.00];"[78] and lastly, petitioner had no criminal record prior to the incident.[79]

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73 949 Phil. 1008 (2023) [Per J. Leonen, Second Division].
74 *Id.* at 1023–1024.
75 *Id.*
76 *Rollo*, p. 238.
77 TSN, Ramon A. Orfanel, November 22, 2017, pp. 12–14.
78 *Rollo*, p. 238.
79 *Id.* at 26.

Consequent to Our finding for petitioner's acquittal, there is no need to determine as to whether instead of imprisonment, a fine should be imposed on petitioner pursuant to Supreme Court Administrative Circular No. 08-2008.

To close, this Court reiterates its observation on the continuing recognition of criminal libel in *Causing v. People*:[80]

> Ultimately, the continuing recognition of criminal libel is a prerogative of the Legislature. Just like with the prescriptive period of Libel and Cyber Libel, only Congress can lift the continuing recognition of criminal libel, and as long as it operates within the bounds of the Constitution, the Court's duty is to apply it.[81] (Citations omitted)

Pursuant to the principle of separation of powers, the power to make and enact laws lies with the legislative branch of the government, while the power to interpret and apply these laws is vested upon the judicial branch.[82] While the judicial branch has no power to amend or repeal laws made and enacted on libel, it has the power and duty to interpret and apply these to determine whether the necessary standards are met for conviction. For this particular case, We find that the element of actual malice was not proven beyond reasonable doubt. As such, acquittal is in order.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The March 14, 2022 Decision and the February 10, 2023 Resolution of the Court of Appeals in CA-G.R. CR No. 44396 are **REVERSED** and **SET ASIDE**. Petitioner Jade Karla Tan *y* Cabangon is **ACQUITTED** of the crime of cyber libel.

Let entry of judgment be issued immediately.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR: I concur. See separate opinion

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

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80 948 Phil. 400 (2023) [Per J. Inting, Third Division].

81 *Id.* at 434.

82 *Abrenica v. Commission on Audit*, 910 Phil. 112, 126–128 (2021) [Per J. M. Lopez, *En Banc*]; *Araullo v. Aquino III*, 752 Phil. 716, 761 (2015) [Per J. Bersamin, *En Banc*], citing *Endencia v. David*, 93 Phil. 696, 700–702 (1953) [Per J. Montemayor].

AMY C. LAZARO-JAVIER
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

RAUL B. VILLANUEVA
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 Article VIII, Section 13 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