

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE OMEGA, DEFENDANT-APPELLANT.*G.R. No. L-29091. April 14, 1977*

Ponente: CONCEPCION, JR., J.

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About 10:00 o'clock in the morning of February 20, 1957, the lifeless body of Juanita Lingad was discovered near a bamboo grove beside a creek in Sitio Maite, Tenejero, Balanga, Bataan.[1] Immediately thereafter, a combined group of policemen, PC soldiers, the municipal judge of Balanga, Bataan, Judge Vicente Estanislao, the municipal health officer of Pilar, Bataan, Dr. Abelardo Magat, and a photographer, Conrado Aguas, repaired to the scene of the crime to conduct an investigation.[2] Arriving thereat, the group found the dead woman with her skirt raised up exposing her private part, her torn panty, a loop of rope tied around her neck, and a gaping contused wound on her forehead exposing a portion of her skull.[3] Surrounding the corpse were foot prints, and shoe prints leading to and around the corpse of the deceased.[4] After examining the body of the deceased, Dr. Magat issued a medical certificate[5] to the effect that the victim died of asphyxiation by strangulation.

Around 4:00 o'clock in the afternoon of that same day, the police authorities of Balanga, Bataan noted the presence of Guillermo Ilaya and Jose Omega, particularly the fact that the former was wearing rubber shoes. Suspecting that they might have something to do with the crime, they were picked up for investigation. Guillermo Ilaya denied that he had been in Sitio Maite in the early morning of February 19, 1957. The police then asked him to remove his rubber shoes, which he did. Thereafter, Guillermo Ilaya and Jose Omega were taken to the scene of the crime. A comparison of the rubber soles of Guillermo Ilaya's rubber shoes with the shoe prints found[6] around the dead woman's body showed that they tallied.

Thereafter, Lt. (now Captain) Luis Sacramento of the PC took over the investigation of the case.[7] In the course of the investigation, Guillermo Ilaya pointed to Jose Omega as the author of the crime,[8] and executed an affidavit[9] wherein he narrated how Jose Omega allegedly raped and killed the deceased.

Hence, Jose Omega was charged in the Court of First Instance of Bataan with the complex crime of rape with murder, docketed therein as Criminal Case No. 5083.[10] Upon arraignment, the accused pleaded not guilty to the charge.[11] After due trial, the court a quo convicted the accused of two separate and distinct crimes of rape and murder, the dispositive portion of which reads as follows:

"WHEREFORE, the Court finds the accused JOSE OMEGA, guilty beyond peradventure of doubt of two separate and distinct crimes of rape, as defined and penalized under Art. 335 of the Revised Penal Code, and of murder, as defined and penalized under Art. 248 of the same Code, and accordingly renders judgment as follows:

"For the crime of rape, there being no mitigating nor aggravating circumstances, and applying the benefits of the Indeterminate Sentence Law, the Court hereby sentences said accused to suffer an imprisonment of eight (8) years and one (1) day of prison mayor as MINIMUM to fourteen (14) years, eight (8) months and one (1)

day of reclusion temporal as MAXIMUM:

"For the crime of murder, the Court hereby sentences the accused to suffer an imprisonment of reclusion perpetua; to indemnify the heirs of the deceased Juanita Lingad in the amount of P6,000.00; and to pay the costs in both instances.

"Considering that the accused has to serve more than one penalty imposed in these two cases of rape and murder, the rules prescribed in Art. 70 of the Revised Penal Code as amended by Commonwealth Act No. 217, on successive service of sentence must be observed, and pursuant thereto the order of their respective severity shall be followed. The accused should not serve a penalty of imprisonment for more than threefold of the length of time corresponding to the severest of the penalties imposed upon him in both of the two cases, and the maximum period of the penalty to be served by him shall in no case exceed forty years. The penalty of reclusion perpetua is computed for 30 years."[12]

Dissatisfied with the above judgment, the accused appealed to the Court of Appeals,[13] but the said appellate court certified the case to this Court in view of the penalty of reclusion perpetua imposed upon the accused.[14]

The case for the prosecution is built mainly on the testimony of Guillermo Ilaya, allegedly the only eyewitness to the crime. He testified that at about 6:00 o'clock in the morning of February 19, 1957, while he and his compadre Jose Omega were conversing on the street in front of his house at barrio Tenejero, Balanga, Bataan, they saw Juanita Lingad going down from her house with a rope in her hand, and thereafter, walking towards the corral. Thereupon, Jose Omega invited him to go to the field to gather whatever foodstuff they could get therein. When they saw Juanita Lingad in the field, Jose Omega told him, "She is Juaning, Birahan natin siya." He then inquired of Jose Omega what he meant by "birahan", and the latter replied, "Ako'ng bahala (I will be responsible)."[15]

When they caught up with Juanita Lingad, Jose Omega asked her where she was going. The latter answered that she was looking for her carabao. Jose Omega then pointed to the direction where the carabao could be found which Juanita Lingad followed. Shortly thereafter, Juanita Lingad returned and upon reaching the place where Jose Omega was standing, the latter held and embraced her, prompting her to shout and cry: "Tiyo Jose, Tiyo Jose, you are my uncle. Why are you doing this to me? I will report you to Tiya Auring." Thereupon, Jose Omega pinned her to the ground, tied a rope around her neck, tore her panty and raped her. As Juanita Lingad was complaining of pain, Jose Omega picked up a stone and struck her on the forehead.[16]

Believing that the girl was already dead, Jose Omega invited him to go home. On their way, they passed by Jose Minta picking up camote. He (Guillermo Ilaya) saw also Pedro Sedano cutting bamboos. Somewhere along the way, Jose Omega told him, "Padre, on this thing I have done nobody knows except you," and he replied, "Padre, as far as I am concerned, you have nothing to worry." Then Jose Omega warned him, "You be careful. If this thing that I have done leaks out, I will kill you." Then he assured his compadre, "Compadre, you do not have to worry about it. If it is on my part, you cannot be sold down the river."[17]

Upon their arrival at barrio Tenejero, they went directly to the store of Erlinda Tuason and took a glass each of "halo-halo". Thereafter they went to the next store, and after taking again a glass each of "halo-halo", they went home.[18] On the following day, February 20, 1957, he and Jose Omega were arrested by the police.[19]

On the other hand, the appellant interposed an alibi, corroborated by Mariano Manlapaz. He claims that at about 7:30 o'clock in the morning of February 19, 1957, he and his compadre Mariano Manlapaz went to the house of Abelardo Santos at Balanga, Bataan, to look for work. However, they were not able to talk to him because the latter was in Morong. After lingering for about an hour in the town plaza, they went to the market place where Mariano Manlapaz met his acquaintances. Thereafter, at about 10:00 o'clock they walked home towards Tenejero, arriving thereat at about 10:30 o'clock in the morning of that day.[20]

The appellant now mainly assails the trial court in giving weight and credence to the testimony of prosecution witness Guillermo Ilaya, and in disbelieving his alibi, thus, putting in issue the question of credibility.

Ordinarily, this Court will not interfere with the trial court's findings and conclusions on the credibility of witnesses, in deference to the rule that the latter tribunal, having had the opportunity to observe the demeanor and conduct of the witnesses while testifying, is in a better position to properly gauge their credibility. This rule, however, is inapplicable to the present case, because while it was the late Judge Ambrosio T. Dollete who heard the testimony of Guillermo Ilaya it was Judge Tito V. Tizon who subsequently penned the decision, when he took over the case and terminated the proceedings.[21] The reason for the rule does not exist in this case.

Guillermo Ilaya is supposedly the only eyewitness to the crime. For this reason, We examined the entire record, and after a careful and thoughtful review, We find Ourselves unprepared to give weight and credence to his testimony.

To begin with, his testimony is highly incredible and improbable. As correctly observed by the trial court, Guillermo Ilaya is the uncle of Herminio Mata,[22] husband of the deceased, yet he merely stood like a mannequin watching the appellant rape and kill the wife of his nephew. He never attempted to prevent nor convince the appellant from committing the crime.[23] Besides, it is highly unbelievable that the appellant would rape and kill the deceased in the presence of Guillermo Ilaya, uncle of the deceased by affinity.

Moreover, the natural reaction of one who witnesses a crime is to reveal it to the authorities, unless, of course, he is the author thereof.[24] If Guillermo Ilaya had really seen the appellant commit the crimes in question, he could have informed the authorities immediately thereafter. But he did not. His claim that he was afraid[25] is too flimsy to be believed. When he was picked up by the police for investigation together with the appellant,[26] it would have been very easy for him to inform, or at least, whisper to the police that the culprit was the appellant so that the latter could safely be held in prison and thus prevented from taking vengeance. The second alleged threat of the appellant to kill Guillermo Ilaya was made on October 29, 1957,[27] that is, eight (8) months after the commission of the crime. On these two occasions, the threats were allegedly uttered, but aside from the spoken words, there was no act or circumstance whatsoever to believe that Ilaya could be intimidated.

Again, when Guillermo Ilaya was investigated by Lt. Luis Sacramento of the PC, he disclaimed any knowledge of the identity of the perpetrator of the crime. It was only when Lt. Sacramento had bluffed Guillermo Ilaya by telling him that the appellant had already squealed against him that he denounced the appellant as the culprit.[28] This circumstance engenders doubt and suspicion as to the motive of Guillermo Ilaya in implicating the appellant, considering that he was arrested by the police and the PC as the principal suspect. Apparently, his denunciation of the appellant came as a mere afterthought, and sprang from his desire to save his own skin rather than from a sincere desire to tell the truth.

On top of that, why would the deceased say to the appellant, "Tiyo Jose, Tiyo Jose, you are my uncle. Why are you doing this to me? I will report you to Tiya Auring", when the appellant is not her uncle but rather Guillermo Ilaya?

Aside from the foregoing, there are facts and circumstances extant in the record which tend to show that the crimes at bar could have been committed by someone else other than the appellant. Thus, as correctly observed by the Solicitor General,[29] the presence of Guillermo Ilaya at the scene of the crime cannot be doubted. The shoe prints found around the dead woman's body tallied with the rubber shoes worn by Guillermo Ilaya.[30] Remedios Mendoza saw Guillermo Ilaya going to Sitio Maite at about 6:00 o'clock in the morning of February 19, 1957 passing the trail taken earlier by the deceased Juanita Lingad in going thereto.[31] Perfecto Sedaño, likewise, saw his nephew Guillermo Ilaya at Sitio Maite at about 6:00 o'clock in the morning of the same day, holding the

deceased by the hand and pulling her.[32] Thereafter, Remedios Mendoza and Perfecto Sedaño again saw Guillermo Ilaya at about 8:00 o'clock that morning soaked in perspiration, his khaki pants were wet up to the knee, and his rubber shoes were also wet.[33] These facts which are not disputed cast a reasonable doubt on the question as to whether or not the herein appellant committed the crimes in question. It should be recalled that Guillermo Ilaya testified that he and the appellant Jose Omega went together to Sitio Maite at about 6:00 o'clock in the morning of February 19, 1957. It is rather strange, however, that Remedios Mendoza and Perfecto Sedaño did not see the appellant Jose Omega but only Guillermo Ilaya.

In the light of the foregoing, it is clearly discernible that the evidence for the prosecution is weak, unsatisfactory and inconclusive to justify a finding of guilt as against the appellant.

Although alibi is known to be the weakest of all defenses for it is easy to concoct and difficult to disprove, nevertheless, where the evidence for the prosecution is weak and betrays lack of concreteness on the question of whether or not the accused committed the crime charged, the defense of alibi assumes importance.[34] Thus, in the case of *People vs. Fraga, et al.*,[35] this Court held that:

"x x x an accused cannot be convicted on the basis of evidence which, independently of his alibi, is weak, uncorroborated, and in-conclusive. The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, we will see the absurdity of an accused being put in a more difficult position where the prosecution's evidence is vague and weak than where it is strong."

In other words, the prosecution has the burden of proof in establishing the guilt of the accused beyond reasonable doubt and the weakness of the defense does not relieve it of this responsibility. The accused does not have to prove his innocence because that is presumed. In the case at bar, the prosecution's evidence falls short of that quantum of evidence which will justify conviction of the appellant. His guilt has not been proven beyond reasonable doubt, and, therefore, he is entitled to an acquittal.

Apparently, this case - as correctly observed by the court a quo - was filed by the prosecution and the PC investigators without conducting a thorough and discreet investigation to determine the real culprit or culprits. The case should, therefore, be brought to the attention of the National Bureau of Investigation for it to conduct a new investigation and to bring to trial those responsible for the heinous crimes at bar. In this connection, it may not be inappropriate to restate what this Court has said in the case of *People vs. Roa, et al.*[36]

"x x x. It is the duty of both police and prosecution agencies to ascertain what did in fact transpire and to bring to trial the person or persons against whom evidence exists. Necessarily, the discretion vested in a provincial fiscal is ample. On him rests in the first instance the determination of who should be indicted. Where the crime is rather serious, as in this case, haste is to be deplored. Should the finger of suspicion point to one or more possible culprits, the most meticulous efforts should be exerted to assure that a miscarriage of justice does not thereafter occur. x x x Nor is the burden solely on the prosecuting arm. The trial court must be equally alert to the possibility that the fiscal could be in error. It is imperative then that the utmost caution be exercised lest a guilty party may escape his just deserts. In the event that another individual would thereafter be accused, the same degree of care in the analysis of the proof submitted is of the essence. The primordial consideration is that the mandate of the Constitution be obeyed. The person at the dock is presumed to be innocent. His guilt must be shown by competent and credible evidence that removes every vestige of reasonable doubt. Moral certainty is of the essence. It is not enough that there be diligence on the part of the trial court as well as acquaintance with applicable decisions from this Tribunal. What is indispensable is a painstaking analysis of the proof submitted. A ready acceptance of the testimony for the prosecution is far from advisable. Always, the thought uppermost should be the ascertainment of truth in ways allowed by the Constitution. A desirable end cannot be achieved by less than full compliance with the requisites of the law. So should it be."

WHEREFORE, the judgment of the trial court is reversed, and the herein appellant JOSE OMEGA is hereby

acquitted, with costs de oficio.

Let a copy of this decision be furnished the Director of the National Bureau of Investigation in order that the case be investigated anew, and the guilty party or parties be brought to the bar of justice.

Fernando, (Chairman), J., concurs in both opinions.

Aquino, J., concurs.

Barredo, J., concurs also in the separate opinion of Justice Antonio.

Antonio, J., concurs in a separate opinion.

[1] pp. 25, 27, Vol. III, t.s.n.

[2] p. 25, Vol. III, t.s.n.; p. 81, Vol I, t.s.n.

[3] pp. 5, 6, Vol. I, t.s.n.; p. 26, Vol. III, t.s.n.

[4] p. 26, Vol. III, t.s.n.

[5] Exhibit "A", p. 2, Vol. I, Record.

[6] pp. 27, 28, 29, 30, Vol. III, t.s.n.

[7] p. 32, Vol. III, t.s.n.

[8] pp. 97-99, Vol. I, t.s.n.

[9] Exhibit 1, p. 3, Vol. I, Record.

[10] The original information was filed on February 21, 1957 but the same was amended several times, until the fifth amended information under which the accused was tried, was filed on November 7, 1957. (pp. 1, 16, 33, 52, 53, Vol. I. Record.)

[11] p. 109, Vol. I, Record.

[12] pp. 373-374, Vol. II, Record.

[13] p. 379, Vol. II, Record.

[14] p. 1, Rollo.

[15] pp. 1-2, Vol. III, t.s.n.

[16] pp. 2-3, Vol. III, t.s.n.

[17] pp. 3-4, Vol. III, t.s.n.

[18] pp. 4-5, Vol. III, t.s.n.

[19] p. 14, Vol. III, t.s.n.

[20] pp. 72-74, Vol. III, t.s.n.

[21] People vs. Salas, L-35946, Aug. 7, 1975, 66, SCRA 126, 132.

[22] p. 9, Vol. III, t.s.n.

[23] p. 366, Vol. II, Record.

[24] *People vs. Cunanan*, L-17559, April 24, 1967, 19 SCRA 769, 783; See also *People vs. Baquiran*, L-20153, June 29, 1967, 20 SCRA 769; *People vs. Gallora*, L-21740, Oct. 30, 1969, 29 SCRA 780.

[25] p. 23, Vol. III, t.s.n.

[26] p. 14, Vol. III, t.s.n.

[27] p. 5, Vol. III, t.s.n.

[28] pp. 97-99, Vol. I, t.s.n.

[29] p. 6, Appellee's Brief.

[30] pp. 27, 31, Vol. III, t.s.n.

[31] p. 56, Vol. III, t.s.n.

[32] pp. 117, 120-130, Vol. I, t.s.n.

[33] p. 57, Vol. III, t.s.n.; pp. 129, 130, Vol. I, t.s.n.

[34] *People vs. Bulawin*, L-30069, Sept. 30, 1969 29 SCRA 710; See also *People vs. Cunanan*, *supra*; and *People vs. Baquiran*, *supra*.

[35] 109 Phil. 241, 250.

[36] L-35284, Jan. 17, 1975, 62 SCRA 51, 66-67.

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CONCURRING OPINION

ANTONIO, J.:

I concur. There are significant circumstances which place in serious doubt the credibility of Guillermo Ilaya. Thus, the trial court found that: (1) Guillermo Ilaya has been estranged from his wife for a period of two (2) years prior to the date of the incident; (2) in the early morning of the date of the incident, Ilaya was seen by Remedios Mendoza going towards the field, following the same route taken earlier by Juanita Lingad; (3) not long thereafter, at about 7:00 a.m., Ilaya was seen by his uncle, Perfecto Sedaño, at the camote plantation of Jaime Ilaya at Maite, holding and pulling the hands of Juanita Lingad; (4) later that morning, Sedaño saw Ilaya wearing wet rubber shoes and khaki pants which were wet up to the knee; (5) that same morning, Ilaya was seen by Remedios Mendoza, the former still wearing his wet shoes and pants, apparently soaked with perspiration; (6) the body of the deceased was found at about 10:00 o'clock that same morning near a creek and near the body were prints of rubber shoes which tallied with the prints of the rubber shoes worn by Guillermo Ilaya; and (7) there was undue delay or vacillation in implicating appellant Jose Omega. Ilaya had the motive, intent and opportunity to commit the crime. These circumstances sufficiently indicate that Ilaya had strong motives to falsely implicate appellant Jose Omega in the commission of the crime, which renders the truthfulness of his testimony doubtful.

There can be no question that the value of testimony is estimated by the degree of persuasion that it produces in

the mind of the court who is called upon to determine its effect, and to render a verdict accordingly. The rule in all criminal cases is that the court must be persuaded of the truth of the charge made against the accused beyond reasonable doubt.

On the basis of the foregoing facts, I am not satisfied that the guilt of the accused has been established beyond reasonable doubt.

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