

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO ADORNA Y QUINTO, DEFENDANT-APPELLANT.

G.R. No. L-38718. November 12, 1981

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PER CURIAM:

In the afternoon of October 29, 1971, seven-year old Marites Unday and her cousin, eight-year old Wilfredo Unday, both 1st grade students of the San Jose Elementary School, Quezon City, failed to return home after classes. Subsequently, their parents received demands for ransom. The two unfortunate youngsters were later found stabbed to death on November 5, 1971.

After an investigation conducted by the Quezon City Police, an information for Kidnapping For Ransom With Double Murder was filed in the Court of First Instance of Rizal, Branch XXXI, Quezon City, against Bonifacio Adorna y Quinto; Sotero Abaratique, alias "Pogi"; Rodrigo Gayo, alias "Badoy", as follows:

"That on or about the 29th day of October, 1971, and many days thereafter, the above-named accused, moved by common design and unity of purpose, perpe-trated the crime of Kidnapping for Ransom with Double Murder in the following unpardonable acts, to wit:

"One: That in the afternoon of October 29, 1971, while Marites Unday, 7 years old, Grade one pupil and daughter of NEDIS UNDAY, and Wilfredo Unday, 8 years old Grade one pupil and son of LIDDY UNDAY, while in front of their school at San Jose Elementary School, Quezon City, under the pretext of bringing them to their parents, the above-named accused seized and kidnapped them and once in their possession and custody, forcibly took them into hiding at the north bank of Tullahan River, Bo. Capri, Novaliches, this City, for the purpose of keeping them in hiding to extort ran-som money from their parents, as a condition for their safe return;

"Two: That when the parents of the said child-ren could not produce the amount demanded as ransom money, all the accused, conspiring together, wilfully and maliciously killed the said children, MARITES and WILFREDO by stabbing them several times on their bodies with the attendant circumstances of the use of superior strength, evident premeditation, and that the victims are of tender ages;

"Third: After killing the children, they were left in the river bank and the accused went into hiding, to the damage and prejudice of Marites and Wilfredo's heirs in such amount as may be awarded to them by law.

"Contrary to law and morals."[1]

Only Bonifacio Adorna was apprehended and the two other co-accused have remained at large.[2]

After arraignment, plea of not guilty on February 21, 1972, and trial, the trial court, in its Decision dated April 8, 1974, convicted the accused Adorna, with dispositive portion as follows:

"WHEREFORE, judgment is hereby rendered finding the accused, BONIFACIO ADORNA, guilty, beyond reason-able doubt, of the crime charged and, therefore, sen-tences him to suffer the supreme penalty of DEATH by electrocution, in the manner prescribed by law, for the death of Marites Unday, with the accessories of the law, and to pay the proportionate costs. He should indemnify the heirs of the said Marites

Unday in the amount of P12,000.00, plus the sum of P20,000.00 by way of moral damages. For the death of Wilfredo Unday, the said accused BONIFACIO ADORNA should like-wise suffer the supreme penalty of DEATH by electro-cution, in the manner prescribed by law, with the accessories of the law, and to pay the proportionate costs. He should indemnify the heirs of Wilfredo Unday in the sum of P12,000.00 and the sum of P20,000.00, by way of moral damages.

"Let the records be forwarded to the Honorable Supreme Court, for automatic review. The accused shall remain in confinement at the National Penitentiary pending review of the records by the Supreme Court, and should remain thereat until further order from this Court.

"SO ORDERED." [3]

The version of the prosecution is as follows:

The cousins Marites and Wilfredo, both surnamed Unday, grade one pupils, attended their classes at the San Jose Elementary School on October 29, 1971. The young cousins never returned home alive. [4]

On October 31, 1971, Diomedes Unday, father of Marites, and Emilio Unday, father of Wilfredo, found a ransom note (Exh. "A") near the Ong Chu Tokwa Factory, at No. 2 Malaya Street, Quezon City, where they work, demanding P10,000.00 for the release of the children. This was followed by a second ransom note, (Exh. "B") raising the amount demanded to P15,000.00, because the kidnappers believed that the parents reported the matter to the authorities. On November 5, 1971, a third ransom note, (Exh. "C") was received, reiterating the demand of P15,000.00 for the release of the children. [5]

The ransom notes were all written by appellant Adorna who used to live and work with the Unday brothers at the aforementioned "tokwa" (soy bean) factory. During that time the Unday brothers had ample opportunity to know the appellant and his handwriting. [6]

The Unday brothers followed the instructions in the ransom notes. In cooperation with Detective Marcos Viñas of the Quezon City Police Department, the Unday brothers placed faked money bills inside a pail and left it at the second bridge in Balintawak, Quezon City, to be picked up by the accused. Notwithstanding police vigilance, the person who picked up the pail escaped. That person, however, was identified by Detective Arceo as the appellant Bonifacio Adorna. [7]

In the afternoon of November 5, 1971, the Unday brothers heard a radio broadcast that the Unday children had been found dead on the bank of the Tullahan River in Barrio Capri, Novaliches, Quezon City. [8]

The autopsy report on Marites Unday (Exh. "Q") shows she suffered four stab wounds on her chest, which were all fatal. Wilfredo Unday suffered four stab wounds, all described as fatal, shown in Exhibit "U".

According to the confession (Exh. "H") of appellant Adorna, he and his co-accused, after school hours on October 29, 1971, picked up the two children Marites and Wilfredo on the pretext that their parents had asked the accused to pick them up from the school. The accused brought the two children to the north bank of the Tullahan River in Barrio Capri, Novaliches, Quezon City. They kept the two cousins for a few days. On November 1, 1971, the appellant and his co-accused stabbed the children and left them dead on the bank of the Tullahan river.

Diomedes Unday, father of Marites, as overseer of the Ong Chu Tokwa Factory, was responsible for the separation from employment of the three accused for complicity in the loss of bicycles, lamps, clothes and misappropriation of proceeds from the sale of "tokwa". After their dismissal from work, the three accused threatened the Unday brothers that someday, something will happen to them and their families. [9]

Prosecution's rebuttal evidence consists of the denial of Investigator Marcos Viñas that appellant was maltreated

during the investigation and that of the owner of the tokwa factory Ong Chu who stated that appellant was separated from employment because of his wrongdoings. Appellant knew very well the victims.[10]

The version of the defense is:

Appellant Adorna interposes an uncorroborated alibi that on October 29, 1971, when the two children were kidnapped, he was in Calawaan, Pasig, working with a certain "Mang Pitong", catching shrimps and other kinds of fish. That he worked with "Mang Pitong", since July 26, 1971 up to December 24, 1971.[11] He denied participation in the crime and claimed he did not know the victims Marites Unday and Wilfredo Unday.[12] He claimed that he had no knowledge nor participation in the preparation of ransom notes, Exhs. "A", "B", and "C".[13]

Appellant alleged that he signed the confession Exhibit "H" because he was maltreated by the police during the investigation of the case.[14]

As correctly stated by the trial court, the vital issue to the determination of the innocence or guilt of the appellant is the voluntariness in the execution of the confession Exhibit "H", in the absence of direct evidence proving appellant's participation in the crime.[15]

Appellant claims that he was a victim of third degree before he was compelled to sign the extrajudicial confession Exhibit "H". His claim stands uncorroborated.

Detective Marcos Viñas, said to be the officer who inflicted the maltreatment, testified on rebuttal that no such maltreatment occurred and it was not Viñas who investigated the appellant. Exhibit "H" was signed and sworn to before Fiscal Juanson of Quezon City. These officials merely performed their duties and no evidence was presented by the defense why Detective Viñas and the other police investigators would falsely testify against the appellant.

The extrajudicial confession Exhibit "H", containing six pages of questions and answers, is replete with many minor details that could not have been known, much less supplied by the police investigators. The minor intimate details must have come only from the appellant. Appellant knew that the parents of the victims were trusted employees of the Ong Chu Tokwa Factory. The accused were apparently motivated to kidnap the victims by their desire to inflict vengeance on the persons responsible for their separation from employment and in the belief that the owner of the factory would supply the ransom money. That can be discerned from the fact that the ransom notes were always left near the factory and said notes demanded the telephone number of the factory. The desperation of the accused when the ransom money was not given could be seen on the face of the confession Exhibit "H".

What appears very significant, however, to discredit appellant's claim of maltreatment to extract his confession, is appellant's own admission that during the time he was investigated and when he signed Exhibit "H" "there were many persons coming in and going out of the room." [16] It is very difficult to believe that the investigators of the Quezon City Police would maltreat a suspect in public.

It is further very clear that appellant never told anybody of the alleged maltreatment. He never sought medical aid. He could not show any physical signs of the maltreatment and he claimed for the first time said maltreatment during the trial of the case. Thus, overwhelming evidence points to the voluntariness of execution of the extrajudicial confession Exhibit "H", and no indications otherwise appear to discredit the trial court's conclusion on this issue.

As to the uncorroborated alibi of the appellant, suffice it to say that the alleged "Mang Pitong" of Calawaan,

Pasig, with whom appellant was supposed to have worked in catching shrimps and fish on October 29, 1971, was not even produced as a witness and no reason was given why he was not produced as such. His supposed friend Arturo Agno, said to be living with appellant at Calawaan, Pasig, did not corroborate appellant's alibi. Appellant was not able to explain why if it were true that he was living and working in Calawaan, Pasig, he was arrested, at No. 1314 Camarines St., Sta. Cruz, Manila. Besides, even if credit is given to his alibi, Calawaan, Pasig, is easily accessible by many forms of transportation to the scene of the crime at Quezon City.

Supporting the voluntary extrajudicial confession Exhibit "H" executed by appellant are the interlocking circumstantial evidence presented by the prosecution. The Unday brothers, parents of the victims, presented uncontroverted proof that appellant lived and worked with them for a period of time at the Ong Chu Tokwa Factory at No. 2 Malaya Street, Quezon City. Both brothers came to know the intimate aspects of appellant's life, including the latter's handwriting. The motivation for the crime has been established as Diomedes Unday was responsible for the separation from employment of the trio, for which reason the accused threatened the Unday brothers. The Unday brothers positively identified the handwriting of the appellants in Exhibits "A", "B", and "C", the ransom notes. Appellant admitted that he lived and worked with the Unday brothers from 1969 to 1971 in the "tokwa" factory.[17] He admitted that his co-accused were his co-employees in that factory.[18] His co-accused were from the province of Samar and they shared common quarters.[19] Appellant saw the members of the Unday families, including the victims, daily during that time.[20] Accused Sotero Abaratique and Rodrigo Gayo were called "Pogi" and "Badoy", respectively.[21] Emilio Unday was known as "Eloy" and Diomedes Unday, as "Medes".[22] Appellant was acquainted with the vicinity of Mila's Theater on A. Bonifacio Avenue, Quezon City.[23] All the foregoing proven facts and admissions harmoniously coincide with appellant's statements in Exhibit "H".

The corpus delicti in this case has been established by incontrovertible proof. It is clear that the crime was committed and appellant's participation in the crime has been established beyond reasonable doubt by the totality of the prosecution evidence presented, the voluntary confession Exhibit "H" and the supporting interlocking circumstantial evidence. Guilt of the appellant has been established not by the weakness of the evidence for the defense, but the overwhelming strength and credibility of the evidence for the prosecution. Appellant cannot claim that he was not given due process by reason of his poverty as the record clearly shows he was defended by competent counsel during the trial of this case.

WHEREFORE, as recommended by the Solicitor General, the decision dated April 8, 1974, in Criminal Case No. Q-1805, is AFFIRMED in toto, with costs de oficio.

SO ORDERED.

Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, C.J., no part.

[1] p. 1, Original Record.

[2] p. 2, Decision, Criminal Case No. Q-1805.

[3] pp. 21-22, Original Record.

[4] pp. 3-4, t.s.n., July 14, 1972; pp. 12-14, t.s.n., August 21, 1972.

[5] pp. 4-6, t.s.n., July 14, 1972; pp. 16-17, t.s.n., Aug. 21, 1972; pp. 6-7, t.s.n., July 14, 1972; pp. 22-23, t.s.n.,

Aug. 21, 1972; p. 8, t.s.n., July 14, 1972.

[6] pp. 4-5, t.s.n., July 14, 1972; p. 17, t.s.n., August 21, 1972.

[7] pp. 4-5; 17-19, t.s.n., August 21, 1972.

[9] pp. 9-11, t.s.n., July 14, 1972.

[10] pp. 3-12, t.s.n., Nov. 12, 1973; pp. 14-15, t.s.n., Nov. 12, 1973.

[11] pp. 3-4, t.s.n., Oct. 1, 1973.

[12] p. 4, t.s.n., Oct. 1, 1973.

[13] pp. 9-10, t.s.n., Oct. 1, 1973.

[14] pp. 11-21, t.s.n., Oct. 1, 1973; pp. 2-5, t.s.n., Oct. 3, 1973.

[15] pp. 9-10, Decision in Criminal Case No. Q-1805, pp. 12-13, Original Record.

[16] pp. 2-3, t.s.n., October 3, 1973.

[17] pp. 5-6, t.s.n., October 3, 1973.

[18] pp. 6-7, t.s.n., October 3, 1973.

[19] pp. 12-13, t.s.n., October 3, 1973.

[20] p. 16, t.s.n., October 3, 1973.

[21] p. 2, t.s.n., October 3, 1973.

[22] pp. 2-3, t.s.n., October 17, 1973.

[23] pp. 8-9, t.s.n., October 17, 1973.

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