

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. RAYMUNDO BASUEL, DEFENDANT AND APPELLANT.

G.R. No. L-28215. October 13, 1972

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Defendant-appellant Raymundo Basuel appealed (p. 426, Vol. I, rec.) from a judgment of the Court of First Instance of Ilocos Sur on September 15, 1967 (in Crim. Case No. 3959) sentencing him for murder to life imprisonment and to indemnify the heirs of the victim Leona Mendoza in the amount of P6,000.00 (pp. 405-422, Vol. I, rec.).

The information for murder, filed on June 3, 1960 (p. 16, Vol. I, rec.), alleges:

"That on or about the 27th day of July, 1958, in the municipality of Sinait, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Raymundo Basuel, with treachery and evident premeditation and with intent to kill, did then and there wilfully, unlawfully and feloniously assault, attack and strike with a sharp pointed bolo, one, Leona Mendoza, thereby inflicting upon the latter, several wounds directed to the different parts of her body, which wounds necessarily produced the death of said Leona Mendoza, moments later.

"Contrary to law and with the aggravating circumstance that the crime was committed in an uninhabited place."

Trial began on September 11, 1962 (p. 3, Vol. IV, rec.), and ended on February 28, 1964 (p. 8, Vol. IV, rec.).

The decision of the trial court dated August 15, 1967 (pp. 405-422, Vol. I, rec.) was promulgated on September 15, 1967 (p. 426, Vol. I, rec.).

Raymundo Basuel interposed his appeal on September 26, 1967 (p. 426, Vol. I, rec.).

The record of the case was received by the Clerk of the Supreme Court from the Clerk of the Court of Appeals (p. 1, Vol. IV, rec.), to which court said record was erroneously transmitted (p. 2, Vol. IV, rec.).

It appears from the evidence that between 8 and 9 o'clock in the morning of Sunday, July 27, 1958, upon receiving the report that 17-year old Leona Mendoza, single, was found unconscious in a farm southwest of the poblacion of Sinait, Ilocos Sur, Bienvenido Yaba, then chief of police of Sinait, together with the justice of the peace, municipal health officer Jose Avelino, and some policemen, repaired to the place. Finding Leona Mendoza still breathing, Dr. Avelino directed that she be immediately brought to the clinic of Dr. Corpuz in the poblacion. She, however, failed to regain consciousness and died a few hours later (t.s.n., Vol. II, pp. 2-3, 5, 52; Vol. III, pp. 6-7, 37-38). Her body exhibited multiple wounds, all of which were inflicted on the head (t.s.n., Vol. II, pp. 5-6). The medical report (Exh. "B", p. 5, Vol. I, rec.; see also Exhs. "A" and "A-1", pp. 58-59, Vol. I, rec.; t.s.n., Vol. II, pp. 3-4) of Dr. Jose Avelino, who examined and autopsied the body of the deceased, contained the following findings:

"Por el presente certifico que este dia he reconocido a un tal Leona Mendoza de 17 anos de edad, soltera, residente actual dentro de la Poblacion de Sinait, Ilocos Sur y he encontrado las siguientes;

"1. Encontre tal Leona inconsciente con las siguientes heridas causada por un bolo o arma cortante;

"(a) Una herida incisa situada en la region occipital de 5 pulgadas de longitud, de direccion horizontal.

"(b) Una herida lacerada en la region temporo--orbital izquierda de 4 pulgadas de direccion oblicua.

"(c) Una herida incisa situada en la region frontal al nivel de la articulacion biparietal de 2-1/2 pulgadas de longitud de direccion diagonal.

"(d) Una herida incisa al nivel de la region occipito-parietal de direccion oblicua, de arriba hacia abajo de 3 pulgadas de longitud.

"(e) Dos heridas incisas sobrepuestas de una pulgada longitudes situadas en el parpado izquierdo.

"(f) Fractura del hueso occipital produciendo -una hemorragia interna.

"(g) Fractura del hueso temporo-orbital izquierdo."

On May 27, 1960, a year and ten months after the incident, a criminal complaint (p. 4, Vol. I, rec.) was filed against defendant in the municipal court of Sinait, Ilocos Sur by one Sergeant Luis P. Ronquillo of the Philippine Constabulary detachment then stationed at Sinait on the basis of sworn statements executed on May 26, 1960 by prosecution witnesses Rogelio Mendoza, Alejandro Dayoan, and Melchora Fariñas (pp. 6-6A, 8-8-A, 10, Vol. I, rec.). Accused waived his right to preliminary investigation (p. 13, Vol. I, rec.) and the case was immediately transferred to the Court of First Instance (p. 14, Vol. I, rec.). On June 3, 1960, the Provincial Fiscal filed the corresponding criminal information against the accused (p. 16, Vol. I, rec.). Accused entered trial under a plea of not guilty.

The evidence for the prosecution was principally the testimony of witnesses Rogelio Mendoza and Alejandro Dayoan.

Rogelio Mendoza, 21 years old, farmer, and resident of Poblacion, Sinait, Ilocos Sur, testified on September 11, 1962 that he knew the victim Leona Mendoza who was his first cousin. He likewise knows accused Raymundo Basuel, a resident of barrio Paratong, Sinait since his younger days. At about 7:30 in the morning of July 27, 1958, he was looking for mushrooms in the farm of the accused at barrio Paratong, which is at the western part of the poblacion of Sinait, about two kilometers from his (Rogelio's) house and over one (1) kilometer from defendant's own house (p. 27, t.s.n.). He went there alone. While he was at the edge of the farm which was covered with trees and bushes serving as the boundary and fence of the farm, he heard the periodic screams of a girl coming from inside the farm. He saw from a distance of about 22 meters Raymundo Basuel brandishing his bolo at the victim, who was only two meters away from the accused. The victim, who was in a bending position with her hands at the side of her head and her back towards the accused. He became frightened, rushed northward and homeward. Finding nobody home, he proceeded to plow their field. He was then only seventeen (17) years of age (t.s.n., Vol. II, pp. 12-14, 18-21, 23).

Said witness further declared that at the time of the incident, he was afraid to come forward with information regarding what he saw because his father had previously been murdered and the case had remained unsolved. On May 25, 1960 when he gave his statement to Sgt. Ronquillo, who came to investigate him, he was more mature and no longer afraid (t.s.n., Vol. II, pp. 14-17).

Alejandro Dayoan, 21 years old, farmer, and resident of Poblacion, Sinait, Ilocos Sur, testified on October 18,

1962 that he knows both accused Raymundo Basuel and the deceased Leona Mendoza, the latter being his first cousin, while the former is his townmate. Between 7 and 8 o'clock in the morning of July 27, 1958, he went west of the poblacion of Sinait to look for mushrooms. While he was in the place of one Manuel Ipalari, he heard a woman screaming, and when he looked at the direction from where the cries were coming, he saw about 50 yards away Raymundo Basuel dragging with both hands Leona Mendoza, who at the time was on the west side of the fence of the accused's farm. He saw a bolo measuring about 1 1/2 feet long tucked in the waist of the accused. He wanted to go to the victim's aid but when he was about to come out of the fence, he saw the accused turning towards the west; so he stopped, hid himself, and merely observed the incident. He saw the victim lying prostrate on the ground at the southern portion of the farm approximately 40 to 45 meters away from the place where he was hiding. He then saw the accused go to the river and wash his bloodstained bolo. The river is about 10 meters from where he was hiding. Thereafter, Raymundo Basuel proceeded southward. He then left the place and went home. Arriving home, he later went out to take a walk within the poblacion and later sat down with his friends (t.s.n., Vol. II, pp. 31-37, 40-42). He further stated that he did not report the matter to the authorities immediately because he was afraid and it was hard to be a witness. It was only in 1960, when he was older and more mature, that he went to see Sgt. Ronquillo of the P.C. detachment then stationed at Sinait and related the incident. Furthermore, when he saw the accused released from detention, he was emboldened to do so (t.s.n., Vol. II, pp. 38-40, 43-44). It should be noted that when he testified, Alejandro was a provincial prisoner, having been convicted of serious physical injuries (p. 41, t.s.n.).

Melchora Fariñas, mother of the victim, testified that at about 6 o'clock in the morning of July 27, 1958, her daughter Leona Mendoza left their house to look for mushrooms somewhere west of the poblacion near some ricefields in the municipality of Sinait. Later, she followed her daughter but was not able to locate her. She was later informed by someone that Leona was wounded (p. 60, t.s.n.). She went to the municipal authorities, who did not pay her any attention (t.s.n., Vol. II, pp. 45, 51-52, 54). She added that Alejandro remained silent about the incident until her husband was released from the national penitentiary about two years after the victim's death (p. 59, t.s.n.).

Dr. Jose Avelino testified that Leona Mendoza died of the wounds she suffered secondary to the fatal wounds on the head, which were the ones on the occipital and parietal region referred to in Exhibit "B" as wounds "f" and "g", which produced the internal hemorrhage causing the victim's death. Said witness further declared that wound "a" could have been inflicted while the victim was standing with the assailant behind her, and the other wounds were inflicted when the victim was already down. The wounds could have been caused by a bolo or a sharp instrument (t.s.n., Vol. II, pp. 3-10).

Appellant Raymundo Basuel denied having killed the deceased and interposed the defense of alibi. He testified that on July 24, 25, 26, and 27, 1958, he was in Tayum, Abra with his wife selling goods like clothing, and other wares. They stayed in the house of defense witness Benito Alagao. He and his wife left Tayum, Abra between 6 to 7 o'clock in the morning of July 27, 1958 on board a private jeep bound for Bangued, Abra, and then at Bangued, re-boarded a passenger bus bound for Laoag City via Sinait, Ilocos Sur. They arrived at barrio Paratong, Sinait, Ilocos Sur at around 4 o'clock in the afternoon that same day. Later that afternoon, he was taken by a policeman from their house to the poblacion of Sinait for questioning before the police authorities. He was told he was being investigated because he owns the land where the incident occurred. Asked about his whereabouts that morning of the same day, he stated that he was out of town on a trip to Tayum, Abra, from where he just returned (t.s.n., Vol. III, pp. 78-81, 86-88, 91-92).

Two witnesses corroborated appellant's alibi. Defense witness Benito Alagao, a former councilor and vice-mayor of the municipality of Tayum, Abra, testified that he saw the accused during the last days of July, 1958 at a street

crossing near his house. He asked appellant what he was selling and later invited him and his wife to stay with him in his house. Appellant and his wife stayed with his family for around four days and left at 6 o'clock in the morning of the last Sunday of July (t.s.n., Vol. I, rec., pp. 385-388). This testimony was corroborated by Felix Escalante, a nephew and neighbor of Benito Alagao (t.s.n., Vol. I, pp. 391-392, rec.). Alagao and Escalante have no reason to perjure themselves or to be biased in favor of appellant.

Witness Benito Alagao was not certain as to whether it was in 1957 or in 1958 when he saw the appellant and his wife. He stated that they stayed in his house on two occasions (t.s.n., Vol. I, pp. 386-389, rec.).

Bienvenido Yaba, chief of police of Sinait, Ilocos Sur at the time of the incident, also testified for the defense. He declared that on the day of the incident, he ordered policeman Alejandro Ines to bring Rogelio Mendoza in for questioning either as a suspect or witness. He released Rogelio Mendoza that same day because the latter denied having committed the crime and could not shed light as to who the perpetrator or perpetrators of the same could be. He also had Alejandro Dayoan brought in for questioning that day. Asked about the incident, Alejandro stated that he did not know anything about it nor anybody who could have done it. He then released Alejandro Dayoan (t.s.n., Vol. III, pp. 37-39, 41-44, 73).

This witness further stated that he also questioned Raymundo Basuel that same day, and the latter declared that he had no knowledge of the incident. Convinced that Raymundo did not go to the scene of the crime that morning, he also released him (t.s.n., Vol. III, pp. 59-61).

Defense witness Alejandro Ines, a policeman of Sinait, (Ilocos Sur, testified that on July 27, 1958, after receiving a report that somebody was killed in a farm, he with the municipal judge and health officer proceeded to the place where the victim lay; that thereafter, he was ordered by then chief of police Bienvenido Yaba to bring Rogelio Mendoza in for questioning; and that the latter then could not give any information regarding the circumstances surrounding Leona Mendoza's death (t.s.n., Vol. III, pp. 4-5, 7-10).

The trial judge disregarded the defense of alibi as insufficient to overcome the positive identification of the accused by state witnesses Rogelio Mendoza and Alejandro Dayoan.

I

The credibility of prosecution witnesses Rogelio Mendoza and Alejandro Dayoan is seriously impaired by the following circumstances:

(1) In his statement on May 25, 1960 to PC sergeant Luis P. Ronquillo, to which he swore on May 26, 1960 before the municipal judge, prosecution witness Rogelio Mendoza categorically stated that he saw the accused bolo the victim twice, thus:

"Q. As you declared before the Justice of the Peace of Sinait, Ilocos Sur that you saw Raymundo Basuel bolo Leona Mendoza, is it true that you saw him bolo her?

"A. Yes, Sir.

"Q. How many times did he bolo Leona Mendoza?

"A. Two times, Sir." (p. 7-a, Vol. I, rec.).

He identified said affidavit and his signature thereon at the trial (p. 25, t.s.n., Vol. II).

In his testimony during the trial, however, Rogelio Mendoza declared that he only saw the accused brandishing his bolo at the victim, which scared him into running away (t.s.n., Vol. II, pp. 14, 20, 23-24).

(2) In his sworn statement, Rogelio – who can read and write a little for he studied up to the fourth grade (pp. 16, 21, 25, t.s.n., Vol. II) – stated that he was questioned about the incident before May 25, 1960 but he did not relate that he allegedly saw the defendant commit the offense (p. 7, Vol. I, rec.). However, at the trial, he affirmed that he was not investigated about the incident nor did he talk to anybody else about it before May 25, 1960 (p. 15, t.s.n., Vol. II).

In answer to the question of the trial judge as to what prompted him to relate what he saw in 1958, Alejandro Dayoan said – "Because Raymundo Basuel was released, your Honor. He did not admit that that was his guilt and for that reason I went to relate the incident to Sgt. Ronquillo." (p. 39, t.s.n., Vol. II). But in his affidavit which he also identified at the trial (p. 40, t.s.n., Vol. II), Alejandro stated that he did not report the incident to the authorities because they said that defendant had no fault (p. 9, Vol. I, rec.).

The natural reaction of one who witnesses a crime is to reveal it to the authorities. Here, no effort whatsoever was made by Rogelio and Alejandro to expose Raymundo Basuel as the culprit that same day or soon thereafter.[1] Moreover, the victim was a first cousin of said state witnesses. Such close kinship would move them to divulge the identity of the culprit. They did not even mention the name of the malefactor to the victim's mother or to the other close relatives of the victim, who are also their kinsmen, whom they met at the hospital, at the wake, and during the novena for the victim (pp. 15, 19, 22, t.s.n., Vol. II). This, certainly, is strange. Such unfeeling and revolting silence for about two years detracts from their trustworthiness.[2]

Their pretension that from July 27, 1958 to May 24, 1960 they were then afraid, does not invite belief; because there is no showing that the terror that allegedly gripped them then had disappeared or abated on May 25, 1960 when they gave their statements to PC sergeant Ronquillo or in September and October, 1962, when they testified in court. Their becoming more mature, as they claimed, after the lapse of about one year and a half or about four years from the incident on July 27, 1958 (when they were 17 years old), would not suffice to infuse into their system the courage to testify. On the contrary, the passing of the years usually counsels caution as the better part of valor. As the trial court itself stated, "the prevailing attitude was to keep silent and let things go as they occurred," which explains the "many unsolved killings" because no one stood up to denounce the culprits (p. 16, Decision; p. 420, Vol. I, rec.).

If they were then afraid to reveal the culprit, they could have at least told that same morning the victim's mother, who is also their aunt, that the victim lay seriously wounded in the farm of the accused, if only to relieve her anxiety – without revealing that they were eye-witnesses to the brutal crime or the identity of the perpetrator.

As a matter of fact, while each of them might have been afraid, they could have run to the houses about 100 or 200 meters from the scene of the crime and sought the help of the occupants of said houses to apprehend and subdue the criminal, or one of them could have run to the authorities to report. Alejandro stated that his house and the victim's house are respectively about 200 and 100 meters from the place of the incident (pp. 36-37, t.s.n., Vol. II).

All these, they did not do, despite the fact that the victim was not only a young maiden but also their first cousin. Were Rogelio and Alejandro the culprits themselves? The finger of suspicion could point to them. As a matter of fact then chief of police Bienvenido Yaba at first suspected Rogelio because of the bloodstains on Rogelio's shirt when he sent for Rogelio that Sunday morning of July 27, 1958. It is regrettable that, due to lack of initiative or to ignorance of police techniques, after Rogelio told him the bloodstains on his shirt came from a large cattle which he helped butcher early that Sunday morning, then police chief Yaba did not pursue his suspicions as hereinafter indicated. No explanation had been offered by the PC authorities for the delay of about two years in the institution of the criminal prosecution.

(3) Rogelio Mendoza, allegedly scared at the incident he allegedly saw, ran homeward. Upon reaching home, he went to plow their field (pp. 14, 21, t.s.n., Vol. II). Alejandro Dayoan, on the other hand, upon arriving home after having allegedly witnessed the brutal killing of his first cousin, went out to take a walk in the poblacion, and then sat down with his friends (pp. 37, 41, t.s.n., Vol. II). Their swift recovery of their composure, after having allegedly seen the terrifying fate befall their first cousin and their subsequent callous apathy, are unnatural upon the standard of common experience and therefore incredible.

(4) Rogelio Mendoza and Alejandro Dayoan were allegedly unaware of each other's presence at the time each allegedly witnessed the incident, and each one decided to keep mum thereafter.

It was not explained when and how these two were later able to confide in each other, considering that both were allegedly afraid to relate to anybody what they had allegedly seen, and yet they made their declarations on the same day – May 25, 1960 – and before the same person, Sgt. Ronquillo, freely and seemingly without fear. It must be noted that Alejandro Dayoan, as part of his testimony, stated that he went to see Sgt. Ronquillo of his own accord (p. 39, t.s.n., Vol. II).

(5) Melchora Fariñas, mother of the victim Leona Mendoza, testified that when she went out that early morning of July 27, 1958 to follow her daughter, she met her nephew Rogelio Mendoza, both of them going west of the poblacion. She asked Rogelio whether he had seen Leona, and he answered "not yet". As she then proceeded westward, Rogelio went southward (p. 56, t.s.n., Vol. II). If they met before the crime was committed, why did not Rogelio report to her after allegedly seeing the incident from the northeastern corner of the farm? And if their meeting was after the commission of the crime, then Rogelio lied to his aunt, who was the mother of the victim, to whom he owed the duty as a nephew more than just a civic-minded citizen, to report the heinous crime.

II

Letter-carrier Bienvenido Yaba, then chief of police of Sinait, Ilocos Sur, testified that on the day of the incident, he investigated Rogelio Mendoza and Alejandro Dayoan separately, and both stated in explicit terms that they do not know anything about the wounding or death of Leona Mendoza. His testimony was corroborated by then policeman Alejandro Ines as regards the investigation of Rogelio Mendoza.

That Rogelio Mendoza was in fact investigated by then chief of police Yaba likewise appears to be corroborated by Rogelio himself when he affirmed in his sworn statement that he has been "interviewed" before regarding the incident, as heretofore indicated (p. 7, Vol. I, rec.).

The former chief of police also testified that Rogelio Mendoza, when asked to explain the presence of bloodstains on the shirt he wore that morning (July 27, 1958), declared that he helped slaughter large cattle in the market early that morning, Sunday being the market day (pp. 40, 57, t.s.n., Vol. III). This circumstance all the more subverts the candor of Rogelio Mendoza and renders plausible the suspicion of then chief of police Yaba that Rogelio could be the culprit who might have ravished or attempted to ravish the victim, who was as young as he was then. It is to be regretted that the police chief failed to cause a chemical analysis of the bloodstains on Rogelio's shirt, and the blood types of Rogelio and the victim as well as a medical examination of the victim to determine whether she was also raped as her panties and the lower portion of her clothing were partly torn when she was found (pp. 39-40, 49-51, 57, t.s.n., Vol. III). (The stenographer erroneously used "her" instead of "his" in referring to Rogelio's shirt, obviously due to the error of the witness or the one who propounded the question. It could not only refer to the shirt of Rogelio who could not be wearing the shirt of the victim as the record does not mention any shirt of the victim). Neither did the chief of police request Rogelio to submit all the boloes in his house for laboratory examination nor seek the assistance of the PC and NBI stationed in Ilocos Sur.

III

It is not denied by prosecution witnesses Rogelio Mendoza and Alejandro Dayoan that the farm land of appellant where the victim was found is an estate fenced with a thick foliage of trees (ipil-ipil), shrubs, and bushes (pp. 7, 9, Vol. I, rec.; p. 33, t.s.n., Vol. II). The defense further points out that during the rainy month of July, the ipil-ipil, shrubs and bushes are in bloom, producing a thick foliage around the farm, which fact, as defense witness police chief Yaba affirmed (p. 46, t.s.n., Vol. III), prevents one from seeing another person 20 or 50 meters inside the farm (pp. 45-46, 82-83, t.s.n., Vol. III). While this circumstance may not entirely negate the possibility of one seeing or peeping through said fence of thick shrubs, bushes and foliage, it casts doubt as to the ability of Rogelio and Alejandro to identify the accused. Moreover, as Rogelio Mendoza testified, he was already seized with fear upon hearing the screams of the victim (pp. 14, 19, t.s.n., Vol. II), which could be true also of Alejandro, assuming that they themselves were not the culprits. Such frightening sight might have further impaired their capacity to clearly witness the incident.

IV

Motive is not essential for conviction where the perpetrator of the offense is known or has been identified; but it assumes pertinence when there is doubt as to the identity of the culprit or where evidence of identification is not convincing.[3] Here, for all the reasons already adverted to, proof of identification is far from convincing.

The records do not intimate such a motive on the part of Raymundo Basuel to kill Leona Mendoza. They are townmates in Sinit, Ilocos Sur, and, according to appellant, he knows the family of the deceased very well (p. 86, t.s.n., Vol. III).

The trial court opined that " * * in this case the motive of the accused could have been the presence of the victim who intruded into the farm for the purpose of gathering mushrooms. This could not be a strong motive to take the life of another man but such motivation is relative to individuals. To the accused the disturbance of his property, though involving intrusion and gathering mushrooms only, could have been a strong motive. * * * " But this is pure conjecture on the part of the trial court. No proof was presented that the accused resented such trespassing in his land.

The fact of the matter is that the field of the accused was not a mushroom farm, according to the uncontradicted testimony of the accused. At most, it is possible that mushrooms grow wild in his farm land, as in other fields during rainy season. Greed or selfishness of this sort is not the nature of rural folk, whose hospitality or kindness remains a by-word. The record is bereft of proof remotely hinting that the accused is that selfish.

If the deceased were a stranger to appellant, We might lend some credence to the lower court's speculation. In relation to the factual situation, however, such contention treads way beyond the realm of what can reasonably be believed.

And in *People vs. Cunanan*, supra, citing *People vs. Hajan*, supra, this Court said that "though proof of motive is not indispensable to conviction, yet a void in the evidence in this respect discloses a weakness in the case for the prosecution."

V

Then chief of police Yaba testified that upon examination of the victim at the scene of the incident, he found out that some parts of her clothing, especially the lower portion, and her panties were torn. Said witness further declared that he did not ask the examining physician to give him the clothing and the panties, and he could not remember whether he asked the physician to determine whether or not the victim had been the subject of a sexual

assault (pp. 50-53, t.s.n., Vol. III). This failure of chief of police Yaba is most rueful, as earlier intimated.

Former policeman Alejandro Ines, as defense witness, testified that the house of accused Raymundo Basuel is around one kilometer (200 meters according to Alejandro Dayoan – p. 36, t.s.n., Vol. II), from the farm, scene of the incident, while the house of Rogelio Mendoza is about one hundred (100) meters or more from the scene of the crime (p. 27, t.s.n., Vol. III). Said witness further declared that the house of the victim is about 100 meters from the situs of the crime, but nearer the latter than Rogelio's house, and there are three other houses, one of them owned by one Marianito Ipalari, also located about one hundred (100) meters from the scene of the crime (pp. 27-28, t.s.n., Vol. III).

The occupants of the houses, which are much nearer the locale of the crime than defendant's house, should have been thoroughly examined and investigated by the police authorities, as they had better opportunity to commit or to witness the assault on the victim that early Sunday morning, July 27, 1958. The proximity of Rogelio's house to the venue of the crime renders reasonable the suspicion of then chief of police Yaba that Rogelio Mendoza possibly could have attempted the sexual aggression or could have killed the victim (pp. 47-49, t.s.n., Vol. III).

VI

The defense is alibi, known to be the weakest of all defenses, as it is easy to concoct and difficult to disprove.[4] But, as in the instant case, where the accused's identification is weakened and rendered unreliable, the defense of alibi assumes importance and may be given credence.[5] And while the alibi may not have been proven so satisfactorily as to leave no room for doubt, such an infirmity cannot invigorate at all the weakness of the prosecution's evidence, the reason being that in a criminal prosecution, the State must rely on the strength of its own evidence, not on the weakness of the defense. In the words of Mr. Justice J.B.L. Reyes, in *People vs. Fraga, et. al.*,[6] We held that:

"* * * an accused cannot be convicted on the basis of evidence which, independent of his alibi, is weak, uncorroborated, and inconclusive. 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."

VII

The following contradictions in the testimony of the prosecution witnesses all the more militate against their credibility:

(1) Rogelio Mendoza stated that at the time of the incident on July 27, 1958, a detachment of the Philippine Constabulary was stationed in Sinait (p. 23, t.s.n., Vol. II); while Alejandro Dayoan testified that it was only in 1960 that a PC detachment was assigned in Sinait (p. 43, t.s.n., Vol. II).

(2) Rogelio Mendoza testified that his house is about two kilometers from the scene of the crime (p. 13, t.s.n., Vol. II), the victim's house is around one kilometer from the scene of the crime (p. 28, t.s.n., Vol. II), and defendant Basuel's house is more than one kilometer from the scene of the crime (pp. 27-28, t.s.n., Vol. II). On the other hand, Alejandro Dayoan stated that his house and defendant's house are about 200 meters from the scene of the crime, while the victim's house is around 100 meters from the scene of the crime (pp. 36-37, t.s.n., Vol. II).

(3) Alejandro Dayoan testified that he did not report the incident to anyone before May 25, 1960 (pp. 37-40, t.s.n., Vol. II; p. 8 Vol. I, rec.). Melchora Fariñas, mother of the victim, however, stated that after she failed to locate her daughter that morning of July 27, 1958, and after she went to the authorities, Alejandro, later that day, told her that her daughter was killed by Raymundo Basuel (pp. 52-54, t.s.n., Vol. II).

Only by proof beyond reasonable doubt, which requires moral certainty, "a certainty that convinces and satisfies the reason and conscience of those who are to act upon it," may the presumption of innocence be overcome.[7] For the reasons aforesaid, the culpability of appellant Raymundo Basuel has not been demonstrated to meet the requisite legal and moral certainty for a judgment of conviction.

WHEREFORE, THE JUDGMENT OF THE TRIAL COURT UNDER REVIEW IS HEREBY REVERSED, AND DEFENDANT-APPELLANT RAYMUNDO BASUEL IS HEREBY ACQUITTED, WITH COSTS DE OFICIO. HIS IMMEDIATE RELEASE FROM CONFINEMENT IS LIKEWISE HEREBY DIRECTED.

SO ORDERED.

Concepcion, C.J., Zaldivar, Castro, Fernando, Antonio, and Esguerra, JJ., concur.

Teehankee, J., concurs in the result.

Makalintal, J., is on official leave.

Barredo, J., took no part.

[1] People vs. Cunanan, L-17599, Apr. 24, 1967, 19 SCRA 769.

[2] People vs. Madarang, L-22295, Jan. 30, 1970, 31 SCRA 148; People vs. Cunanan, supra; People vs. Aito, L-18660 & L-18661, Nov. 29, 1968, 26 SCRA 342.

[3] People vs. Sales, L-29340, April 27, 1972; People vs. Diva, L-22946, April 29, 1968, 23 SCRA 332; People vs. Cunanan, supra; People vs. Villalba, L-17243, Aug. 23, 1966, 17 SCRA 948, citing People vs. Raquel, L-17401, Nov. 28, 1964, 12 SCRA 441; People vs. Tagaro, L-18518, Jan. 31, 1963, 7 SCRA 187; People vs. Dalmani, 63 Phil. 188; People vs. Zamora, 59 Phil. 568; People vs. Taneo, 58 Phil. 255; People vs. Hajan, 50 Phil. 545.

[4] People vs. Cunanan, supra; People vs. Dayday, L-20806 & L-20807, Aug. 14, 1965; People vs. Bagsican, L-13486, Oct. 31, 1962, 6 SCRA 400; People vs. Bautista, L-17772, Oct. 31, 1962; People vs. Dizon, 76 Phil. 265; People vs. Pill, 51 Phil. 965; U.S. vs. Olais, 36 Phil. 828.

[5] People vs. Cunanan, supra; People vs. Rafallo, 86 Phil. 22.

[6] L-12005, Aug. 31, 1960, 109 Phil. 241; see also People vs. Cruz, L-24424, March 30, 1970, 32 SCRA 181; People vs. Bulawin, L-30069, Sept. 30, 1969, 29 SCRA 710; People vs. Baquiran, L-20153, June 29, 1967, 20 SCRA 451; People vs. Cunanan, supra.

[7] People vs. Lavarias, L-24339, June 29, 1968, 23 SCRA 1301.

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