

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO REYES Y GALAURAN, DEFENDANT-APPELLANT.

G.R. No. L-33767. October 30, 1980

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A prosecution for Rape with Homicide committed against a two-year-old child named Gloria Amador, with the accused, Rogelio Reyes y Galauran, having been convicted and sentenced to death.

On 20 May 1971, Luciana de Castro left the house of the accused in Laisan, Socorro, Oriental Mindoro where she and her daughter, the victim Gloria, were staying, to undergo medical treatment at the Health Center of Pinamalayan, Oriental Mindoro. She entrusted Gloria to the care of the accused during her absence. Upon her return to Laisan, on 23 May, she found the lifeless body of her child. Asked for the cause of Gloria's death, the accused did not reply and, instead, immediately disappeared. Thereupon, she requested her brother to take the cadaver to the Municipal Health Center for autopsy.

That autopsy, performed on 25 May 1971 by Dr. Guillermo Umbao, Municipal Health Officer of Socorro, Oriental Mindoro, indicated the following findings:

"A female child bloated, blood coming out from the nose, ears, and mouth. Both eyes are protruding. There are blisters all over the body. A hematoma almost 4 cm in diameter is located at the occipital area of the head. The left arm is fractured, proximal part.

INTERNAL EXAMINATION:

Laceration of the entire hymenal orifice covered by a fibrinous substance, blood clots are noted at the vaginal canal.

CAUSE OF DEATH:

Cerebral hemorrhage internal and external traumatic in nature.

CONCLUSION:

Physical injuries are noted at the body of Gloria Amador. That the hematoma and fracture were caused by blunt instrument.

Extra-genital injuries are noted at the body of Gloria Amador. That the victim was raped before death."^[1]

In the meantime, the accused had surrendered to a Barrio Councilman. On 25 May 1971, he swore to an extra-judicial confession before the Municipal Judge, the pertinent portions of which are reproduced hereinbelow:

"2.

Tanong -

Bakit ka naman naririto sa Tanggapan ng Hukom Pambayan ng Socorro, Silangang Mindoro?

Sagot -

Nais ko pong magbigay ng isang salaysay bilang pag-amin sa ginawa kong bagay noong humigit-kumulang sa ika-1:00 ng hapon, ika-23 ng Mayo, 1971 doon sa aming bahay sa sitio ng Laisan, Fortuna, Socorro, Silangang Mindoro.

3.

Tanong -

Ano namang bagay ang sinasabi mong iyong ginawa noon?

Sagot -

Na noon pong mga oras na iyon, sa aming bahay ay akin pong pinagsamantalahan at ginahasa si Gloria Amador na humigit-kumulang sa dalawang taong gulang.

x x x x

7.

Tanong -

Pagkatapos mo namang gahasain si Gloria Amador ano pa ang nangyari kung mayroon?

Sagot -

Ako po ay kumuha ng biyak na kawayan at akin pong pinaggarote si (kay) Gloria Amador hanggang sa siya po ay namatay.

8.

Tanong -

Ano namang dahilan at iyong ginarote hanggang sa mamatay si GLORIA AMADOR?

Sagot -

Akin pong pinatay si Gloria Amador sapagkat ako po ay galit sa kanyang ina sa dahilang hindi ipagsama nito si Gloria sa kanyang pag-alis.

x x x x"[2]

On 9 June 1971, an Information was filed before the Court of First Instance of Oriental Mindoro, charging the accused with Rape with Homicide. The accused entered a plea of guilty upon arraignment. Notwithstanding this plea and due to the gravity of the offense, the trial Court required the presentation of evidence by the prosecution to substantiate the charge, and by the defense to prove mitigating circumstances, if any.

The first witness presented by the prosecution was Gloria's mother, who testified substantially as narrated earlier.

Dr. Umbao also took the witness stand and, after confirming his Necropsy Report, further declared that he found Gloria's entire hymenal orifice lacerated up to the anus which was probably caused by rape due to the introduction of a hard, upright object, the penis of a male,[3] and ruling out the possibility raised by the defense that the laceration could have been caused by the child's falling on a round corner of a native bamboo stairway. Because of that entire laceration, the doctor positively concluded that the rape preceded the death.

"x x x x

Why do you say, doctor, that the hitting on the head came last, or the raping came first before she was hit on the head?

Because of the injuries sustained at the hymenal orifice which is entire laceration. That happened when the child was still alive because of the contractions of the muscles. Now, if the child was raped after death, the opening is not as big as that because the opening is relaxed.

x x x x x"[4]

When asked about the blisters all over the body, Dr. Umbao explained that they could have been caused by cigarettes,[5] presumably a lighted one.

Municipal Judge Godofredo L. Carmona, before whom the accused's confession was subscribed, positively testified in open Court, that the accused, a Visayan, understood Tagalog, that the questions and answers were read to him one by one, that he understood them and admitted their contents, and that he signed the confession voluntarily.[6]

Testifying in his own behalf, and only to prove mitigating circumstances, the accused, 23 years old, married, related that on the day of the incident, he tried to overtake Gloria's mother to give the child back as she refused to stop crying having wanted to go with her mother. To stop her from crying, he slapped her, but due to the force of his blow, she fell down hitting a "lusong" (wooden mortar) and its surrounding bamboo spikes. Consequently, she sustained injuries on her left arm, the back of her head, and her private parts, fatally causing her death. Upon discovering that the child was dead, he carried her in his arms and asked a neighbor to report the incident to the police authorities, but the neighbor failed to do so. It was at this point that Gloria's mother came upon him.

On cross-examination, the accused admitted that the stairs of his house consisted of two to three steps only. And, as to his written confession, he admitted that the contents were read to him, were understood by him and, in addition, he affirmed the truth of the statements contained therein (t.s.n., *ibid.*, p. 15).

On 30 June 1971, the trial Court meted out conviction as follows:

"WHEREFORE, the accused Rogelio Reyes y Galauran is found guilty beyond reasonable doubt of the crime of Rape with Homicide charged in the information filed against him, with the mitigating circumstances of voluntary plea of guilty and voluntary surrender which, however, cannot offset the four (4) aggravating circumstances which are as follows: (a) the accused had taken advantage of his superior strength; (b) acted with cruelty by deliberately and inhumanly augmenting the suffering of the victim; (c) that the act was consummated with insult and utter disregard for the respect and pity due the victim on account of her age; and (d) that the act was committed with insult or in utter disregard for the respect due the victim on account of her sex, and is hereby sentenced to suffer the capital punishment of DEATH and to pay an indemnity in the amount of P12,000.00 in favor of the heirs of the victim, and to pay the costs.

IT IS SO ORDERED."

The case is before this Court on automatic review.

In his Brief, counsel de officio Atty. Alfonso Felix, Jr., presses upon us the view that the sentence should be reduced to reclusion perpetua since the trial Court erred in not crediting the accused with the additional mitigating circumstances of passion and obfuscation and lack of intent to commit so grave a wrong as that committed. This is untenable. The penalty for Rape with Homicide is death, an indivisible penalty which is applied regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.[7] Besides, passion and obfuscation as affecting the mind and resulting in lack of reason and self-control must originate from lawful

sentiments.[8] The possibly "antagonistic" feeling harbored by the accused against the victim's mother for having left the child with him can hardly be said to be a lawful sentiment. Moreover, it should be noted that the incident occurred, not on 20 May 1971 when the mother left, but on 23 May 1971, the date that she returned from the Health Center. Neither can the mitigating circumstance of lack of intention to commit so grave a wrong be appreciated for the acts of the accused in raping the child victim, in applying a lighted cigarette over her body as to cause blisters, and in hitting her with a piece of bamboo on the head, were reasonably sufficient to produce the result that they actually produced, which is, the death of the victim.[9]

The defense counsel's attempt to impeach the credibility of Dr. Umbao's testimony is of no avail either. The latter's explanation to support his opinion that the victim was raped before her death is more in consonance with common sense and reason than the accused's version that the child victim fell on rounded ends of bamboo poles in the stairway of the accused's house thereby causing injuries on her body and her private parts.

In a Motion dated 24 April 1972,[10] during the pendency of this appeal, and after he had received a letter from the accused to the effect that he was tortured into signing his confession, counsel de officio raised for the first time the question of involuntariness of the accused's extrajudicial confession and moved that the accused be subjected to a lie detector test for the purpose of determining the truth of that contention. That Motion was reiterated on 20 August 1974, 17 September 1974, and on 29 June 1977, with defense counsel additionally contending that he had even subjected himself to a polygraph test for purposes of experiment (p. 149, Rollo), and that this Court has indubitable power under the Constitution to admit evidence from such a test. Required to comment, the Solicitor General opposed the Motions on the ground that a polygraph test is not an infallible device to ferret out the truth besides the fact that the defense Motion is tantamount to one for new trial predicated not on newly discovered evidence, which is the only ground, but on evidence yet to be discovered based on the results of the test. Besides, he argued, that independently of the confession and plea of guilty, there is sufficient evidence to sustain the guilt of the accused. This Court denied the several Motions of the defense in its Resolutions of 28 August 1974, 20 September 1974 and 9 September 1977, respectively.

We are also in receipt of a typewritten letter in Tagalog from the accused on 26 April 1977[11] stating, in essence, that he is a Mangyan from Oriental Mindoro belonging to the cultural minority; that because it was he who had discovered the body of the child, the police suspected him of being the culprit; and that the police had tortured him into confessing his guilt and threatened to maltreat him further should he retract, hence, his admission of guilt even in open Court.

The facts and circumstances before us do not support the foregoing contention of the accused. He had all the opportunity to disown the confession and expose the alleged torture he suffered at the hands of the police. He could have done so when he appeared before the Municipal Judge to swear to his statement, when he was arraigned in open Court, and when he testified to prove mitigating circumstances in his favor, but he did not. As declared by the Municipal Judge, the accused freely and with full knowledge admitted the contents and the truth of that confession.

All told, there is no reasonable doubt as to the guilt of the accused. The trial Court acted correctly in convicting him of Rape with Homicide. For the cruelty, the bestiality, the perversity, and the inhumanity with which the crime was committed, the full wrath of the law must be brought to bear upon him. The innocent and helpless child victim cries out, not so much for vengeance, but for justice, which is within human hands to give.

The crime committed is Rape with Homicide punishable by death pursuant to Article 335 of the Revised Penal Code, as amended. The penalty imposable, being single and indivisible, should be applied regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.[12] However, for

lack of the necessary number of votes for the imposition of the capital punishment, the penalty to be imposed is the next lower in degree or reclusion perpetua.

WHEREFORE, the accused-appellant, Rogelio Reyes y Galauran, is hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify the heirs of the deceased, Gloria Amador, in the sum of P12,000.00; and to pay the costs.

SO ORDERED.

Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, and De Castro, JJ., concur.
Fernando, C.J., on official leave.
Teehankee, J., took no part.

[1] Exhibit "B"

[2] Exhibit "D"

[3] t.s.n., June 24, 1971, pp. 4, 5.

[4] t.s.n., June 24, 1971, p. 7.

[5] t.s.n., Ibid., p. 3.

[6] t.s.n., Ibid., pp. 9-10.

[7] Arts. 63 and 335, Revised Penal Code, as amended by Rep. Acts Nos. 2632 and 4111.

[8] People vs. Silang Cruz, 53 Phil. 637, 638 (1929), citing U.S. vs. Flores, 28 Phil. 29 (1914); U.S. vs. Hicks, 14 Phil. 217 (1909).

[9] People vs. Amit, 32 SCRA 95 (1970).

[10] pp. 68-70, Rollo.

[11] pp. 110-112, Rollo.

[12] Article 63, Revised Penal Code.

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