

## **THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LAURENCIO LASPARDAS, ACCUSED WHOSE DEATH SENTENCE IS UNDER REVIEW.**

*G.R. No. L-46146. October 23, 1979*

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### **PER CURIAM:**

This is a review en consulta of the judgment of the Court of First Instance of Lanao del Sur, convicting Laurencio Laspardas of rape with homicide, sentencing him to death and ordering him to pay the heirs of the victims, the sisters Elizabeth Arriesgado and Josephine Arriesgado, the sum of twenty-four thousand pesos as indemnity (Criminal Case No. 451).

According to the record, a Constabulary sergeant filed on December 17, 1976 against Laurencio Laspardas in the municipal court of Wao, Lanao del Sur a complaint for double murder. It was alleged therein that on December 1, 1976 in Sitio San Roque, Barrio Pagalongan, Wao, Laspardas, with treachery and premeditation, inflicted twelve wounds upon Elizabeth Arriesgado and Josephine Arriesgado, thereby causing their death. The certificates of death show that the two victims were twelve and eight years old.

Listed as witnesses in the complaint were Bibiana Arriesgado, Vicente Magdaloyo, Armando Ortanillas and Solomon Manzano.

Attached to the record are (1) photographs of the bodies of the victims, (2) a sketch of the place where their bodies were found and (3) two death certificates.

Benjamin Catalan, the barrio captain, in his verified report dated December 3, 1976, stated that, according to his investigation, Laspardas, alias Laurel, was the last person who saw the two victims, that the crimes were committed in the evening of December 1, that one of the victims was raped, that the skirt of Elizabeth was raised above her waist, the zipper of her short pants was open and torn and her legs were spread apart, that there was blood on her genitals and that Laspardas fled from the barrio.

Bibiana Tarroza Arriesgado in her sworn statement of December 2, 1976 declared that Laspardas was a guest at her house and that on the day of the killing and rape she entrusted to him her children when she left her house.

Vicente Magdaloyo, a twenty-six-year-old farmer residing at Sitio San Roque, where the crimes were committed, declared in his sworn statement of December 3, 1976 that the killing and rape were perpetrated in the victims' house and that at two o'clock in the morning of December 2, 1976 (or less than twenty-four hours after the unusual incident) Laspardas appeared in his house and asked for payment of the amount which Magdaloyo owed him.

Armando Ortanillas, a twenty-two-year-old farmer and a neighbor of the victims, declared in his sworn statement of December 3, 1976 that Laspardas killed the Arriesgado sisters. He saw Laspardas with the victims in the afternoon of December 1, 1976.

The municipal court issued a warrant for the arrest of Laspardas. He was arrested at Cabadbaran, Agusan on December 10, 1976.

A Constabulary sergeant took the extrajudicial confession of Laspardas which was sworn to before the municipal judge of Wao. Laspardas was interrogated in the Cebuano dialect. The questions and answers as translated into English, read as follows:

"Preliminary: Mr. Laurencio Laspardas, you are being informed that you are under investigation for your involvement in the commission of an offense. You are reminded that under our New Constitution, you have the right to remain silent and be entitled to the assistance of a counsel of your own choice. Is this clearly understood by you? - Answer: Yes.

Q: Having been informed of your right under the New Constitution to remain silent, do you wish to proceed with this investigation? - A: Yes.

Q: Do you also wish to be assisted by a counsel of your own choice? - A: I do not need the assistance of a counsel.

Q: You are also reminded that whatever statement you will give might be used against you. Is this clearly understood by you? - A: Yes.

Q: Are you ready to give a free and voluntary statement? - A: Yes.

Q: Please state your name and other personal circumstances? - A: Mr. Laurencio Laspardas y Masbad, 41 years old, single, farmer by occupation, native of Tubigon, Bohol and presently residing at Sitio San Roque, Pagalongan, Wao, Lanao del Sur.

Q: Please state the name of the grade school other school you have attended? - A: None sir.

Q: Why are you here now at the office of the investigation section 447th PC Company? - A: Because I was arrested by the Cabadbaran Police Force last December 10, 1976 at Cabadbaran, Agusan Norte, and brought to this Camp.

Q: Why is it that you were arrested? - A: Because I killed the two daughters of Mr. Arriesgado and raped the elder daughter.

Q: Will you relate to the investigator the circumstances surrounding the circumstances? - A: I did it sir because, I was already mad and because the parents of the victims are not paying their accounts to me and at that time if the mother of the victim was around I might kill her also but because her children were only around I killed them. Another thing sir, was on that said day, December 1, 1976 at about four o'clock in the afternoon I planned already to rape the elder daughter (Elizabeth) and to kill (Josephine) the younger.

Q: What weapons did you use in killing the victims? - A: I used a (Tabas) locally known as (sundang) knife.

Q: Did (were) you able to penetrate your penis to the vagina of the victim (Elizabeth)? - A: I (was) able to enter my penis just to the lips of the vagina and I had felt also satisfaction.

Q: Did (was) Elizabeth able to resist while you were entering your penis to her vagina? - A: She did not able, sir, because she was already dying due to her wounds in the breast. She was able to move her hips while (I was) inserting my penis.

Q: When and where did you do it? - A: At the house of Mr. Arriesgado in Sitio San Roque, Pagalongan, Wao, Lanao del Sur at about 2:00 o'clock in the evening or dawn of December 2, 1976 or 12:00 o'clock in the evening of December 1, 1976.

Q: Showing to you the (Tabas) Bolo and (sundang) knife, are these the weapons you used in killing those

children? - A. Yes.

Q: The investigator has nothing more to ask x x x. Do you have anything to ask do you have anything more to say? - A: No more.

Are you willing to sign this statement of yours without being coerced on and promise of any rewards in the future and affirm under oath to the truthfulness of same? - A: Yes, sir.

Affiant further sayeth none.

(Thumbmark)

LAURENCIO LASPARDAS y MASBAD

- Affiant – “

In view of Laspardas' admission in his confession that he raped Elizabeth, the complaint was amended so as to add rape to the charge of double murder. Upon arraignment in the municipal court, Laspardas pleaded guilty. The case was elevated to the Court of First Instance where a fiscal filed an information for those offenses aggravated by treachery, evident premeditation and dwelling.

Upon arraignment in the Court of First Instance, Laspardas, with the assistance of counsel de oficio, again pleaded guilty after the information was translated to him in the Cebuano dialect which he speaks. He answered in the affirmative when the trial judge asked him if he understood the charge. His counsel manifested that he explained to the accused the law involved. The accused admitted to his counsel that he had executed an extra-judicial confession.

After the arraignment, Laspardas was placed on the witness stand. He testified that the contents of his confession were explained to him in the Cebuano dialect; that he affixed his thumbmark thereto and that it was true, as stated in his confession, that he killed the two girls because he was mad at their parents; that his organ touched the lips (labia) of the vagina of Elizabeth Arriesgado who was still alive, when he tried to have sexual intercourse with her, and that he used his bolo in wounding the two victims.

The testimony of Laspardas, a judicial confession elicited without cajolery or duress, is conclusive evidence as to his guilt. The thirty-eight-year-old accused declared that he worked for two years as a farmhand of the Arriesgado spouses, plowing their farm and harvesting their corn. Because he had not been paid his accumulated wages amounting to more than four hundred sixty pesos, he was very angry with the said spouses.

When on December 1, 1976 the said spouses left the house and he found himself alone with their two daughters, he conceived the idea of killing them. He perpetrated the killing in the evening of that day. He could not state the exact time because he had no watch.

As the elder daughter, Elizabeth, was dying, he was sexually aroused and he had carnal intercourse with her. About half an inch of his penis penetrated her vagina.

Counsel de oficio, assigned to defend the accused in this Court, contends that the accused made an improvident plea of guilty. He invokes the ruling that in a capital offense, specially where the accused has little or no education, the proper and prudent course to follow is to take such evidence as is available and necessary in support of the material allegations of the information, including the aggravating circumstances therein enu-merated, not only for the satisfaction of the trial judge himself but also to aid this Court in determining whether the accused really and truly understood the consequences of his plea (People vs. Bulalake, 106 Phil. 767).

Counsel de oficio adverts to the trial court's failure to require the prosecution to present evidence. The record

itself shows why the trial court did not do so. It discloses that there is not a scintilla of doubt as to the guilt of the accused. In such a situation, the trial court does not abuse its discretion in not requiring the prosecution to present its evidence (*People vs. Duaban*, L-31912, August 24, 1979).

"Cuando un acusado admite libre y voluntariamente su delito con plena conocimiento de la indole exacta del mismo, su admision, o mejor dicho, su confesion, hecha en dichas circunstancias, es suficiente para justificar la imposicion de la pena que para dicho delito hay prescrita por la ley.

"Es discrecional en los juzgados permitir la presentacion de pruebas adicionales despues que el acusado haya confesado formalmente su delito.

"Tan solo es prudente y necesario tal vez, requerir la presentacion de otras pruebas ademas de las que el mismo acusado suministra mediante su confesion libre y voluntaria, cuando hay un asomo de duda de que al hacerla, no la hace estando bien impuesto de los verdaderos hechos, y de las consecuencias de su acto" (*People vs. Palupe*, 69 Phil. 703, 705).

Another contention of counsel de oficio is that the trial court erred in convicting the accused of rape with homicide although in the information three distinct offenses, namely, rape and two murders, were charged. The fiscal characterized them as "double murder with rape". He alleged in the indictment that the rape was committed on the occasion of the murders.

Article 335 of the Revised Penal Code, as amended, imposes the death penalty "when by reason or on the occasion of the rape, a homicide is committed". The instant case presents a novel, reverse situation (analogous to rape accompanying a robbery) where the rape was committed on the occasion of the murder, that is to say, when the female victim of a murderous assault was at death's door, she was raped.

Rape with homicide was committed (1) where the rapist, who was suffering from gonorrhea, infected the victim and, as a result of the infection, she died of peritonitis (*People vs. Acosta*, 60 Phil. 158); (2) where the accused dragged a woman to a cane-field, struck her, rendered her unconscious, had sexual intercourse with her and then killed her thereafter (*People vs. Lopez*, 107 Phil. 1039; *People vs. Ramos*, L-34355, July 30, 1979) and (3) where the accused had sexual intercourse with a girl below twelve years of age and then strangled her (*People vs. Yu*, 110 Phil. 793; *People vs. Francisco*, L-37418, September 28, 1979; *People vs. Garcia*, L-44364, April 27, 1979).

Those decided cases are different from the instant case. Since the victim herein was already at the threshold of death when she was ravished, that bestiality may be regarded either as a form of ignominy causing disgrace or as a form of cruelty which aggravated the murder because it was unnecessary to the commission thereof and was a manifest outrage on the victim's person (Arts. 14[17 and 21] and 248 [6], Revised Penal Code. See *People vs. Ganal*, 85 Phil. 743, *People vs. Bacsá*, 104 Phil. 136 and *People vs. Cayeta*, 101 Phil. 1258, where the rape was treated as an aggravating circumstance in robbery with homicide).

We agree with counsel de oficio that the special complex crime of rape with homicide was not committed in this case and that two separate murders were perpetrated. The murders were qualified by treachery and aggravated by evident premeditation and abuse of confidence, two circumstances which are deducible from the testimony of the accused.

Premeditation was evident because there was a sufficient interval of time between the planning of the murders and the execution thereof to allow the conscience of the accused to overcome the resolution of his will had he desired to hearken to its warnings.

There was abuse of confidence because, according to the accused, he had stayed for two years with the family of his two young and trusting victims who in their immaturity and innocence never had an inkling that he had

homicidal intentions towards them. Presumably, they looked upon him as their protector and guardian in their parents' absence and not as their aggressor and assassin.

Dwelling is not aggravating because the house of the victims was also the residence of the accused (U. S. vs. Rodriguez, 9 Phil. 136, 139-140; U. S. vs. Destrito and De Ocampo, 23 Phil. 28, 33).

The contention of counsel de oficio that passion and obfuscation and lack of instruction should be taken into account cannot be sustained. The accused acted in a spirit of lawlessness. His supposed passion and obfuscation were not generated by lawful sentiments.

Lack of instruction is not mitigating because the illiterate accused, as a Christian, cannot possibly be ignorant of the fifth commandment (you shall not kill) or that it is contrary to natural law to commit murder (People vs. Mutya, 106 Phil. 1161, per Paras, C. J.; U. S. vs. Balaba, 37 Phil. 260, 270).

It results that the mitigating circumstance of plea of guilty, the only extenuating circumstance that can be appreciated in his favor, can offset only one of the two aggravating circumstances. As to the killing of Elizabeth, there is the additional aggravating circumstance of ignominy or cruelty. Hence, two death penalties should be imposed on the accused (Arts. 64[1 and 4] and 248, Revised Penal Code).

The two murders were specifically alleged in the information. The accused cannot complain that he was not duly informed of the nature and cause of the accusation against him.

Although his extrajudicial confession was used as a basis by the trial court in interrogating him, nevertheless, it was not formally presented in evidence. Hence, there is no issue as to its admissibility or as to its sufficiency under section 20, Article IV of the Constitution or in the light of the procedural safeguards spelled out in *Miranda vs. Arizona*, 384 U. S. 436, 478, 16 L. ed. 2nd 694.

Even without his extrajudicial confession, his plea of guilty and testimony establish his guilt beyond reasonable doubt (Sec. 5, Rule 118, and sec. 29, Rule 130, Rules of Court). The corpus delicti, or the fact of the commission of the two murders, is indubitably shown in the record. By his plea of guilty, he himself supplied the necessary proof as to his culpability.

WHEREFORE, the trial court's judgment is affirmed with the modification that the accused is found guilty of two separate murders and is sentenced to two death penalties. Costs de oficio.

### **SO ORDERED.**

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

Makasiar, Fernandez, and Abad Santos, JJ., in the result.

Fernando, C.J., took no part.

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