PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESSIE ROBIA Y ALMOGERA @ JESSIE DELA CRUZ, ACCUSED-APPELLANT.

Ponente: INTING, S.B., J.

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INTING, S.B., J.:

Accused-appellant Jessie Robia y Almogera (Appellant) appeals from the Decision[1] dated November 17, 2011 of Branch 86 of the Regional Trial Court of Taal, Batangas, convicting him of the crime of rape with homicide.

The victim was AAA, a five-year old girl whose young and vibrant life was snatched away from her through strangulation.

THE FACTS

On June 6, 1998 at around 4:00 in the afternoon, appellant, together with Artemio Aquino (a.k.a. Buda) went to the victim's (AAA) house. Upon arrival, they asked the victim's mother (BBB), if they could “hiphip” shabu at their place to which BBB refused. Thus, the two opted to do their shabu session at the nearby sugarcane field instead. When the two left, BBB saw AAA following them inside the sugarcane field. BBB did not have to worry considering that appellant was a townmate and Artemio was AAA's godfather.

Meanwhile, Niño Marwin Galicia was playing basketball when he saw appellant enter and leave the poultry farm near the place where they were playing and went towards the direction of the sugarcane plantation. He saw AAA follow appellant, the latter handing over what seemed to be a candy to the former before carrying her inside the sugarcane plantation.

After a while, Artemio returned to BBB's house. After about thirty (30) minutes, appellant followed. BBB asked appellant where her daughter was but instead of answering the query, he hurriedly left. BBB noticed that appellant was “balisang-balisa”. This suspicious behavior got BBB worried so she headed off to search for AAA.

At about the same time, Jessica Arguelles was heading home when she heard a child's cry calling out “Mama, Mama!” from the sugarcane field. She stopped and saw smoke coming from the field. Again she heard another cry which she recognized to be the cries of AAA because AAA was a playmate of her child. Unsuspecting that something was wrong, she proceeded home. Soon after, she learned that AAA went missing. She then went to see BBB and as she was heading towards BBB's house, she met her husband, CCC. She relayed to him the cries she heard from the sugarcane field. After which, they both decided to go inside the sugarcane field where the lifeless body of AAA flashed before their eyes. They took AAA's body and brought her to their house.

Before the discovery of AAA's body, CCC was at a poultry farm when he was informed that AAA was missing. After a while, appellant arrived drunk and sought medical assistance for the wounds on both hands. When CCC asked how he sustained the injuries, appellant relayed that “mayroon daw siyang kalaban, binugbog, binalian ng buto, sinakal at namatay at tumakbo sa tubuhan.”

Appellant likewise sought medical treatment from Lolito Cabaquin (a.k.a. Nonoy), his co-worker. When Lolito

treated appellant's wounds, he noticed wounds on the latter's hands which were sustained from what appears to be human bite. There were also scratch marks on appellant. After the medical treatment, policemen, headed by SPO1 Franco Esguerra, arrived with AAA's father, handcuffed appellant and brought him to the police station. Thereat, appellant admitted to the commission of the crime when he was asked how he sustained the wounds found on his hands. SPO1 Esguerra stated though that before bringing appellant to the police station, appellant be apprised of his constitutional rights.

Dr. Antonio S. Vertido examined the body of AAA and found that the cause of death was asphyxia by manual strangulation and traumatic head injury. When asked if rape was possible, he stated that the genital examination reveals that AAA's labia majora and minora are both congested and that there is a shallow hymenal laceration at 6:00 o'clock position which strongly indicates that she was raped.

The crime of rape with homicide was however denied by appellant. He offered a different story. According to him, at about 4:00 o'clock in the afternoon of June 6,1998, he was just sitting alone at the hut in front of the poultry farm of his boss when AAA's father arrived and asked him if he saw AAA, to which he replied in the negative. Afterward, AAA's father left. A few moments later, two (2) policemen arrived and apprehended him for killing a child. When he asked them who the child was, he was slapped instead and when he was brought to the police station, he was beaten by a certain Pitong and forced to admit the commission of the crime. Thereafter, he was brought to the National Bureau of Investigation (NBI) where his fingerprints and sample of his urine was taken. He was brought back to the police station where he was incarcerated.

On October 26, 1998, an Information[2] was filed charging appellant with rape with homicide perpetrated as follows:

> "That on or about the 6th day of June, 1998, at about 4:30 o'clock in the afternoon, at Barangay Pinagkrusan, Municipality of Alitagtag, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with five (5) year-old girl "AAA" against her will and consent and by reason or on the occasion of the said rape accused with intent to kill, willfully, unlawfully and feloniously mauled and strangled the said "AAA" with the use of the latter's hand resulting in multiple bodily injuries which caused her instantaneous death.
>
> Contrary to law ."

Arraigned on June 30, 1999, appellant pleaded "Not Guilty" to the charge. Trial thereafter ensued.

The Ruling of the Regional Trial Court

After trial, the RTC rendered its judgment on November 17, 2011, viz:

> "WHEREFORE, the Court finds the accused Jessie Robia y Almogera guilty beyond reasonable doubt of committing the crime of Rape with Homicide and the Court hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility of parole and the said accused is ordered to pay the heirs of the victim the amount of Php 100,000.00 as civil indemnity; Php 75,000.00 moral damages; Php 50,000.00 exemplary damages and Php 25,000.00 temperate damages.
>
> SO ORDERED."

The RTC declared that while there is no eyewitness to the crime committed against AAA, appellant however was positively identified by the prosecution witnesses as the person responsible for the crime. It added that appellant's identification although circumstantial is positive and overcame the constitutional presumption of innocence of an accused.

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Aggrieved by the RTC's ruling, appellant filed before this Court the present appeal.

ASSIGNMENT OF ERRORS

In his Brief,[3] appellant raises the following errors for this Court's consideration:

> THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT; and
>
> THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED- APPELLANT'S TESTIMONY.

In contrast, the Office of the Solicitor General counters that the guilt of appellant for rape with homicide was established beyond reasonable doubt through circumstantial evidence.[4]

THIS COURT’S RULING

The appeal is denied. The conviction of accused-appellant is sustained.

Conviction of Appellant

Appellant claims that his conviction was wrongful because his identity was not proven beyond reasonable doubt. He argues that the RTC failed to consider that he was with Artemio Aquino and Buda when AAA was seen with him thus leading to the presence of other possible perpetrators. Appellant therefore maintains that the chain of circumstances which the RTC considered to have pointed to him as the perpetrator was broken, rendering his conviction wrongful.

This Court is not persuaded.

As it happened, the RTC disbelieved the exculpating testimony of appellant. It justifiably did so. Against the prosecution's evidence, all that appellant could offer is a mere denial and alibi. Jurisprudence abound that [d]enial and alibi are intrinsically weak defenses and must be supported by strong evidence of non-culpability in order to be credible.[5] In fact, [c]ourts likewise view the defense of alibi with suspicion and caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.[6] Here, appellant's defense of denial and alibi were barely unsupported or corroborated by any evidence, thus, undeserving of any probative weight.

In a special complex crime of rape with homicide, the following elements must concur: (1) the accused had carnal knowledge of a woman; (2) carnal knowledge of a woman was achieved by means of force, threat or intimidation; and (3) by reason or on occasion of such carnal knowledge by means of force, threat or intimidation, the accused killed a woman.[7] When the victim is a minor, however, it is sufficient that the evidence proves that the appellant had sexual intercourse or sexual bodily connections with the victim.[8] Of course, both rape and homicide must be established beyond reasonable doubt.

Here, the crime of rape with homicide has been duly established. As to the rape, Dr. Antonio Vertido found AAA's labia majora and minora to be both congested with a shallow hymenal laceration at 6:00 o' clock position strongly indicating that she was raped. As to the homicide, Dr. Antonio Vertido found that AAA's death was shown to be caused by asphyxia by manual strangulation.

The crime of rape with homicide having been duly established, the next question that comes to fore is the identity and criminal liability of the perpetrator.

As earlier mentioned, appellant claims that his conviction is wrongful because his identity was not proven and that the chain of circumstantial evidence that led to his conviction was broken. In page 9 of appellant's brief, he stated

that he was accompanied by two (2) other male persons namely, Artemio and Buda in the sugarcane plantation where AAA's body was found, thus it cannot be fairly concluded that he was the guilty person in view of the presence of other possible perpetrators.

To repeat, this Court is not persuaded.

Appellant's allegation is a pure sham considering that Artemio and Buda are actually just one and the same person.

Moving on, it was held by the RTC that while there was no eyewitness to the crime, appellant was however positively identified by prosecution witnesses as the person responsible for the gruesome crime, and that although his identification is circumstantial, the same is positive and overcame the constitutional presumption of innocence of appellant.

This Court agrees.

Circumstantial evidence has been defined as that which indirectly proves a fact in issue.[9] To be sufficient for conviction, Sec. 4 of Rule 133 of the Rules of Court provides that the following requisites must concur:

> (a) there is more than one circumstance;
> (b) the facts from which the inferences are derived are proven; and
> (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In the case at bar, the records reveal that the prosecution convincingly established the criminal liability of appellant through circumstantial evidence. The testimonies of the prosecution witnesses, although characterized as circumstantial evidence, were credible and sufficient, and undoubtedly lead to the inescapable conclusion that appellant committed the complex crime of rape with homicide.

To be specific, the testimony of BBB attesting to appellant as the person she had seen with AAA going towards the sugarcane fields before she went missing, the testimony of Niño Marwin likewise attesting to appellant as the person he had seen who handed to AAA what seemed to be a candy and who carried her inside the sugarcane fields before she went missing, the hearing by Jessica Arguelles of moaning and crying of a child from the sugarcane fields, and the human bite wounds and scratches found on appellant's hand sufficiently link appellant to the crime. Clearly, when taken together, all the above-mentioned circumstances rightfully point to appellant as the perpetrator of the despicable deed to the exclusion of others. This being so, the RTC's judgment of conviction was proper.

As regards appellant's claim that his extrajudicial admission should not be taken against him as the same was taken during custodial investigation and without the policemen informing him of his constitutional rights, the same is of no moment as it neither alters nor exculpates him from his criminal liability. This is so because said issue was not even taken into account by the RTC in ruling for his conviction and it is only in this appeal that appellant raised the same.

At any rate, it is worth noting that even without his extrajudicial admission, appellant could still be convicted of rape with homicide. As discussed earlier, the prosecution established appellant's complicity in the crime through circumstantial evidence which were credible and sufficient and led to the inescapable conclusion that he committed the crime.

Penalty and Damages

Article 335 of the Revised Penal Code in relation to RA 7659[10] provides that when by reason or on the occasion of the rape a homicide is committed, the penalty shall be death. However, in view of the passage of RA 9346,[11]

entitled “An Act Prohibiting the Imposition of the Death Penalty in the Philippines”, the penalty of reclusion perpetua without eligibility for parole is imposed. Guided by the foregoing, the RTC therefore committed no grave error in imposing upon appellant the penalty of reclusion perpetua without eligibility of parole.

As regards the award of damages, the same shall be sustained for having been correctly awarded.

WHEREFORE, the appeal is DENIED. Accordingly the assailed decision of the Regional Trial Court of Taal, Batangas, Branch 86, in CRIM. CASE NO. 59-98 is hereby AFFIRMED WITH MODIFICATION that the total amount of damages shall be with interest at the rate of 6% per annum from March 3, 2004 which is the date of the killing, up to the finality of this Decision, and interest at 12% per annum from date of finality of this Decision until fully paid.[12] No costs.

SO ORDERED.

Reyes, Jr., Chairperson and Lopez, JJ., concur.

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[1] Rollo, pp. 47-59

[2] Records, pp. 1-2.

[3] Rollo, Brief for the Accused-Appellant, pp. 33-45, filed January 29, 2013.

[4] Rollo, Brief for the Plaintiff-Appellee, pp. 68-78, filed June 11, 2013.

[5] People v. Mabute, G. R. No. 185012, March 5, 2010.

[6] People v. Pascual, G.R. No. 172326, January 19, 2009.

[7]People v. Narzabal, G. R. No. 174066, October 12, 2010.

[8] People v. Villarino, G. R. No. 185012, March 5, 2010.

[9] People vs. Fabon, G.R. No. 133226, March 16, 2000.

[10] "An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as amended, Other Special Penal Laws, and For Other Purposes, approved on December 13, 1993.

[11] Signed into law on June 24, 2006.

[12] See People vs. Torres, G.R. No. 190317, August 22, 2011

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