

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY ALVAREZ Y SAN JUAN, ANTONIO BARCENAS Y BASTIDA, AND RENATO ABASOLO Y COLLANTES, ACCUSED-APPELLANTS.

G.R. No. 103464. September 23, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from the decision* in Criminal Case No. SC-4295, dated 23 October 1991, of the Regional Trial Court, Branch 28, Sta. Cruz, Laguna.

The information dated 11 February 1991 charged Henry Alvarez y San Juan, Antonio Barcenas y Bastida, Renato Abasola y Collantes and an unknown accused with the crime of Rape With Homicide committed as follows:

“That on or about October 31, 1990, in the municipality of Sta. Cruz, province of Laguna, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with the use of force and violence, did then and there wilfully, unlawfully and feloniously have carnal knowledge of CRISTINA G. CARILLO against her will and consent and that on the occasion of committing the said felony, and for the purpose to conceal the crime (sic) committed and under the same conspiracy while being armed with a bladed weapon taking advantage of superior strength with intent to kill did, then and there wilfully, unlawfully and feloniously attack, assault and stab said Cristina G. Carillo with the bladed instruments on the different part of the body thereby inflicting upon her serious and fatal wounds thereon which directly caused her death, to the damage and prejudice of her surviving heirs.

That the following aggravating circumstances are attendant in the commission thereof, (1) nighttime and (2) superior strength.

CONTRARY TO LAW.”[1]

The three (3) accused Alvarez, Barcenas and Abasola pleaded not guilty to the charge and after trial, all three (3) were held guilty beyond reasonable doubt of Rape With Homicide and each sentenced to suffer the penalty of life imprisonment and ordered to pay the heirs of the deceased Cristina G. Carillo, jointly and severally, the sum of P30,000.00 for her death, the sum of P50,000.00 for funeral expenses and P25,000.00 for damages.[2]

The accused-appellants interposed this appeal and assign the following errors to the trial court:

“X X X IN ADMITTING IN EVIDENCE AND GIVING FULL CREDENCE TO EXHIBIT ‘G’, THE EXTRAJUDICIAL CONFESSION ALLEGEDLY EXECUTED BY ACCUSED HENRY ALVAREZ, DESPITE ITS CONSTITUTIONAL AND LEGAL INFIRMITIES.

X X X IN APPRECIATING ALLEGEDLY MORE THAN ONE ‘CIRCUMSTANTIAL EVIDENCE’ WHICH DISCLOSED MISUSE OF PROCEDURAL RULES, RELIANCE ON SURMISES AND CONJECTURES TO JUSTIFY A FINDING OF GUILTY.

x x x IN NOT ACQUITTING THE ACCUSED-APPELLANTS WHEN THE EVIDENCE ADDUCED BY THE PROSECUTION FAILED TO OVERCOME, WITH MORAL CERTAINTY, THE PRESUMPTION OF INNOCENCE MANDATED BY THE CONSTITUTION BY CLEAR AND CONVINCING EVIDENCE ESTABLISHING THEIR GUILT BEYOND REASONABLE DOUBT.”[3]

The evidence for the prosecution consists of an extrajudicial confession of one of the accused, Henry Alvarez, admitting his participation in the commission of the offense and the testimony of Ludovico Alcantara who testified that at around midnight on 31 October 1990, he saw the three (3) accused following a woman, whom he positively identified as the victim, Cristina G. Carillo, at the area where the body of the victim would be later discovered. Rogelio Rocafort, another prosecution witness and a conductor of the Kapalaran Bus Lines, testified that on 31 October 1990 a woman he identified as Cristina G. Carillo rode on their bus going to Laguna. The woman who had a conversation with him, told him that she was going to visit a friend in Sambat, Sta. Cruz, Laguna. Rocafort testified that Cristina G. Carillo got down at Barrio Bubucal at around midnight.[4]

The appellants raise the issue of the admissibility of the extrajudicial confession executed by Henry Alvarez. It is contended that the extrajudicial confession was obtained in violation of Alvarez’ constitutional right under Section 12(1) of Article III of the 1987 Constitution which provides:

“Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.”

It should be noted that the prosecution presented Pfc. Percival Gabinete and Pfc. Reynaldo Martinez to show that the accused Henry Alvarez was assisted by Atty. Dionides A. Perez when the former executed the extrajudicial confession.

The relevant portions of the testimonies of these peace officers are as follows:

“Q: And what happened to that investigation being conducted by Pfc. Martinez on the person of Henry Alvarez?

A: [Pfc. Gabinete]: Henry Alvarez confessed but what the Team Leader did was to call a lawyer so that whatever confession he will make, he will be assisted by a lawyer, sir.”[5]

“Q: What did you do next after informing him of his rights?

A: [Pfc. Martinez]: I requested somebody to fetch Atty. Perez who is with the Villanueva law office.

Q: Were you able to fetch or (did) somebody fetch Atty. Perez in the law office of Atty. Villanueva?

A: Yes sir, he arrived that same day.

Q: More or less what time did Atty. Perez arrive at your station?

A: I requested him to be fetched at around 10:30 and after 15 minutes, he arrived at our office.

x x x x x

Q: Aside from that right to have a counsel of his own choice, what else did you tell him?

A: I also informed him (Henry Alvarez) that he had also the right not to sign the affidavit x x x.

Q: Tell us what was the response of Henry Alvarez?

A: After reminding him of all his rights, he said that he is willing to sign whatever affidavit or statement he

will be giving; that he is very willing to give whatever is connected with the said case that is being prepared by the department and that he is willing that he be represented by Atty. Dionides Perez.

x x x x x

Q: How did you conduct the investigation on the person of Henry Alvarez?

A: We started the investigation through question and answer and then on some parts of the said paper, he gave his own narration of the incident.

Q: Where did you conduct your investigation on the person of Alvarez?

A: In our office, sir.

Q: Who were around at the time that you were conducting your investigation on the said accused?

A: Atty. Perez and Pfc. Gabinete were present, and myself and the accused.

Q: And where was Atty. Perez at the time that you were asking questions on the person of the accused Henry Alvarez?

A: He was in front of my table?

x x x x x

Q: Up to what portion was Atty. Perez there?

A: Up to the last question sir.[6]

Atty. Dionides A. Perez corroborated the testimonies of the two (2) police officers as follows:

“Q: When the suspect arrived, what did you do if any?

A: [Atty. Perez]: I asked him if he had really confessed to a certain crime?

Q: And what was the answer of the suspect?

A: He answered in the affirmative.

Q: What is the name of the suspect?

A: Henry Alvarez, sir.

Q: What happened next when Henry Alvarez told you that he ... What did you do, if any, immediately after you were informed by Henry Alvarez that he is going to confess to a crime?

A: I asked the police officers to leave us alone so that I can talk with Henry Alvarez.

Q: Were you able to talk to Henry Alvarez?

A: Yes, sir.

Q: What did you ask or tell him in connection with his desire to make a confession?

A: I told him that he has the right to remain silent and he does not have to give any written statement to the police.

Q: What was the answer of Henry Alvarez when you informed him of such right?

A: He said that he is confessing.

Q: What else did you tell him with respect to his rights?

A: I asked him if he was maltreated by the policemen of Sta. Cruz, Laguna and he answered in the negative. Then I asked him if he was promised any reward and he said he was not promised.”[7] (emphasis supplied)

It is clear from the above-quoted transcripts that the accused-appellant, Henry Alvarez, was duly assisted by counsel when he executed the extrajudicial confession. It is settled that an extrajudicial confession made by an accused who is duly assisted by counsel is admissible until the accused successfully proves that it was given as a result of violence, intimidation, threat or promise of reward or leniency.[8]

The later self-serving testimony of Henry Alvarez that he was threatened by the police that he would never see his parents again or that he would be “salvaged” (summarily executed) and that he was not assisted by counsel are belied by the records. The testimonies of the two (2) policemen, Pfc. Gabinete and Pfc. Martinez, who are presumed to have regularly performed their official duties and a member of the Bar, Atty. Perez, are entitled to full faith and credit absent any showing that there was improper motive to testify against the accused, Henry Alvarez. Clearly therefore, no violation of Alvarez’ constitutional rights was committed and consequently the extrajudicial confession is admissible in evidence against him.

The next issue to be settled is whether or not the extrajudicial confession of Alvarez can be used as evidence against his co-accused. In *People vs. Alvarez*[9] this Court ruled that the doctrine that an extrajudicial confession is binding only on the confessant and is not admissible against his co-accused admits of exceptions, one of which is when the confession is to be used as circumstantial evidence to show the probability of participation of said co-accused in the crime committed.

The trial court, in the case before us, convicted the three (3) appellants on the basis of circumstantial evidence which was found to be sufficient to overcome the constitutional presumption of innocence. The three (3) accused, on the other hand, each relied on their individual alibis.

Henry Alvarez stated that he was at his mother’s house at Bgy. Gatid, Sta. Cruz, Laguna at the time the incident occurred. However, he failed to adduce evidence to corroborate this alibi and it is undisputed that it was not impossible for him to be at the scene of the crime at around midnight on 31 October 1990. The belated, self-serving and uncorroborated claim of Alvarez that he was mauled by the police and that he was unassisted by counsel when he made the extrajudicial confession deserves little consideration. There is nothing in the records to show that the police officers had any motive except to uphold the law and bring the offenders to justice. If, in fact, Alvarez was mistreated by the police, he had several opportunities to file the proper complaint against them or at least make it known that he was maltreated. The fact that he failed to do so earlier would indicate that his testimony is nothing but an attempt to exculpate himself since, in his extrajudicial confession, he admitted being with the other accused when the victim was being raped but he stated that when he left Barcenas and Abasola, the victim, Cristina G. Carillo was still alive.[10]

Accused-appellant Antonio Barcenas testified that he was in his house with his wife at the time of the incident. It is of note however that his wife failed to corroborate his alibi and Barcenas himself admitted that his house is only half a kilometer away from the place where the victim’s body was found.[11]

Accused-appellant Renato Abasola for his defense testified that he was at a dance party in Victoria, Laguna at the time of the incident.[12] Even assuming this to be true, Abasola also admitted that it takes less than an hour to travel from Victoria, Laguna to the scene of the crime.[13]

This Court is not unaware of the difficulties in the prosecution of offenses such as Rape With Homicide where the only evidence is usually circumstantial. The constitutional presumption of innocence makes it even more difficult

for the prosecution since the evidence must prove the guilt of the accused beyond reasonable doubt. The Court is also aware that the constitutional presumption of innocence is often used by guilty parties to establish a scintilla of doubt to achieve an acquittal. True that it is better that a hundred guilty men be acquitted than one innocent man be convicted; however, this Court cannot allow anyone to make a mockery of the judicial system by utilizing its very pillars and processes to frustrate the ends of justice. The peculiar circumstances of each case must be carefully scrutinized not only to ensure that no innocent man be made to suffer for an offense but also to guard against efforts to deceive the courts into ruling for an erroneous acquittal of the guilty.

In the case at bar the following circumstances were established by the prosecution:

- 1) Ludovico Alcantara testified that the accused-appellants were at the vicinity of the crime scene at around 8:00 p.m. on 31 October 1990, riding on a pedicab and going back and forth between the basketball court and the sports complex. Alcantara also stated that the accused-appellants were already drunk.[14]
- 2) Alcantara testified that he again saw the three accused-appellants at around midnight on 31 October 1990 in the same vicinity. The three were following a woman whom Alcantara identified as the victim, Cristina G. Carillo. No other people were around and Alcantara was able to make an identification because the headlights of the jeep he was riding on shown on their faces.[15]
- 3) The place where Alcantara saw the three accused-appellants following the victim is about fifty (50) meters from the area where the body of Cristina G. Carillo was found.[16]
- 4) Rogelio Rocafort, a conductor of Kapalaran Bus Lines testified that a woman whom he knew to be the victim, Cristina G. Carillo got down in Sta. Cruz, Laguna at around midnight on 31 October 1990.[17]
- 5) Rocafort testified that the Kapalaran Bus ticket found on the victim Cristina G. Carillo is the same ticket he himself issued to the victim on 31 October 1990.[18]
- 6) The naked and mutilated body of Cristina G. Carillo was found on 2 November 1990. Injuries indicating sexual assault were present.
- 7) Dr. Milo B. Pempengco, after conducting a post-mortem examination on the corpse of the victim estimated the time of death to be about two (2) to three (3) days before 3 November 1990.[19] This coincides with the date of the commission of the offense on 31 October 1990.
- 8) Pfc. Percival Gabinete testified that when they were trying to locate accused-appellant Henry Alvarez they found out that he left his house on 2 November 1990 to go to his mother's house. Henry Alvarez house is only about thirty (30) meters away from the place where the victim's body was found. Gabinete further stated that upon reaching the house of Alvarez' mother they were informed that Henry Alvarez never went there on 2 November 1990. The police officers finally located Henry Alvarez in Teresa, Rizal where he was hiding.
- 9) Henry Alvarez executed an extrajudicial statement admitting that he was with the two other accused on 31 October 1990 when they raped the victim but he tried to exculpate himself by saying that he only kissed and held the victim's breasts and that he left when the victim was still alive.

The above enumerated circumstances are more than sufficient to establish the culpability of the accused beyond reasonable doubt. The testimony of Ludovico Alcantara adequately established the presence of the three (3) accused-appellants Henry Alvarez, Antonio Barcenas and Renato Abasola, at the scene of the crime when it happened. There is no reason to doubt his credibility and no motive was shown for him to falsely implicate the three (3) accused in such a serious offense. The suspicious conduct of the three (3) accused on the night of 31 October 1990, as testified to by Ludovico Alcantara and Henry Alvarez' own confession establish the guilt of the accused with the moral certainty required to overcome the constitutional presumption of their innocence. Conspiracy to commit the offense can be inferred from the conduct of the three (3) accused on 31 October 1990.

We cannot believe the portion of Alvarez' extrajudicial confession stating that he did not participate in the killing of Cristina G. Carillo. The assertions are self-serving and uncorroborated by any other evidence.

The correct penalty to be imposed is reclusion perpetua and not life imprisonment. The two (2) penalties are of course not synonymous nor interchangeable.

The indemnity for the death of the victim should be increased from Thirty Thousand Pesos (P30,000.00) to Fifty Thousand Pesos (P50,000.00) following the present policy of this Court. The other damage awards stand.

WHEREFORE, with the modifications that the three (3) accused-appellants, Henry Alvarez, Antonio Barcenas and Renato Abasola, are sentenced to each suffer the penalty of reclusion perpetua and that the indemnity for the death of Cristina G. Carillo is increased to Fifty Thousand Pesos (P50,000.00), the decision appealed from is hereby AFFIRMED in all other respects.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Puno, JJ., concur.

* Penned by Honorable Judge Zenaida R. Dacuna

[1] Rollo, p. 21

[2] Ibid., p. 49

[3] Rollo, p. 61

[4] TSN, 3 June 1991, p. 6

[5] TSN, 13 May 1991, p. 15

[6] TSN, 15 May 1991, pp. 5, 6, 7 and 21

[7] TSN, 10 June 1991, p. 4

[8] People vs. Parojinog, G.R. No. 95850, 18 November 1991, 203 SCRA 673

[9] G.R. No. 88451, 5 September 1991, 201 SCRA 364

[10] Original Records, p. 10

[11] TSN, 21 August 1991, p. 14

[12] TSN, 9 September 1991, p. 10

[13] TSN, 9 September 1991, p. 5

[14] TSN, 25 April 1991, p. 16

[15] TSN, 25 April 1991, pp. 18-23

[16] TSN, 25 April 1991, p. 24

[17] TSN, 3 June 1991, p. 6

[18] TSN, 3 June 1991, p. 4

[19] TSN, 25 April 1991, p. 6

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