

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE CORTES Y DUANO AND DOMINGO LAJOS Y DELA CRUZ, ACCUSED-APPELLANTS.

G.R. No. 105010. September 03, 1993

Ponente: NOCON, J.

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NOCON, J.:

Life ended abruptly for the victim in this case. Every wound inflicted on her is indicium of brutality. One cannot help but wonder what could have motivated the assailants in committing the gory deed; however, in the light of their positive identification by the prosecution's eyewitness, motive becomes irrelevant.

The accused-appellants, Ronnie Cortes y Duano and Domingo Lajos y de la Cruz, were charged with the crime of rape with homicide in Criminal Case No. 422 before the Regional Trial Court, Fifth Judicial Region, Branch 50, San Jacinto, Masbate. The information filed in said case reads, as follows:

“That on or about September 17, 1990 in the afternoon thereof at Sitio Cawayan, Barangay Macarthur (sic), Municipality of Monreal, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, said accused, conspiring together and mutually helping one another, by means of violence and intimidation did then and there willfully, unlawfully and feloniously have sexual intercourse with NONIETA LEPITIN, against the latter's will and with intent to kill, taking advantage of their superior strenght (sic), did then and there willfully, unlawfully and feloniously attack, assault, stab and hack with bladed weapons said NONIETA LEPITIN, inflicting upon her mortal wounds on different parts of the body which directly caused her death moments thereafter.

CONTRARY TO LAW.”[1]

Upon arraignment on January 22, 1991, both accused-appellants entered a plea of not guilty. Thereafter, trial on the merits ensued and on October 21, 1991, a decision was rendered by the lower court, the dispositive portion of which reads, as follows:

“WHEREFORE, the Court finds both accused, RONNIE CORTES and DOMINGO LAJOS guilty of the crime of Rape With Homicide established by proof beyond reasonable doubt and hereby sentences each of the accused, Ronnie Cortes and Domingo Lajos, the penalty of Reclusion Perpetua and to pay the heirs of the late Nonita (sic) Lepitin the amount of Fifty Thousand (P50,000.00) pesos without subsidiary imprisonment in case of insolvency and to pay the costs.

SO ORDERED.”[2]

Hence, the present appeal.

The facts of this case, as culled from the records are, as follows:

Fructoso Dignos, farmer, testified that on September 17, 1990, at about 5:00 o'clock in the afternoon while grazing his carabao, he saw behind some bushes accused-appellants holding the struggling victim. He was about

ten (10) meters away from them. With accused-appellant Domingo Lajos holding her hands, accused-appellant Ronnie Cortes tore off the victim's panty and forced sexual intercourse with her. Thereafter, Cortez momentarily released the victim to get up, and in that instant the victim was able to stand up only to be stabbed by accused-appellant Cortes with his ten (10) inch long machete, about seven (7) times on the breast, abdomen and other parts of her body. Accused-appellant Lajos likewise pulled out his bolo and hacked the victim three (3) times until she fell on the ground. He did not know whether or not the accused-appellants saw him because he was hiding in the bushes. Afterwards, he went home. He reported the incident to the father of the victim upon the latter's return from Cataingan, or after three (3) days, and to barangay councilor Ronnie Piket-piket. He knows both accused-appellants because they have been neighbors at Sitio Cogon, Barangay MacArthur, Monreal, Masbate since 1980.

Manuel Lepitin, father of the victim, testified that his daughter was a second year nursing student at Cebu Roosevelt Memorial College. She was the muse of the school. In the afternoon of September 17, 1990, he told the victim to fetch water from the well. From said errand, his daughter never returned. He was to be informed later by eyewitness Dignos that his daughter was raped and killed by the accused-appellants. Ironically, before the victim's death, accused-appellant Cortes was courting her and had visited her at their house at least five (5) times.

Dr. Florendo Granado in conducting a post mortem examination of the body of the victim found twelve (12) wounds thereon, to wit:

- "1. Hacking wound, Naso-frontal area exposing the frontal and nasal bones, devoid of skin and muscles tissues.
2. Stab Wound, 6 1/2 cm., Right hypochondriac region, penetrating abdominal cavity.
3. Stab wound, 4 cm., Left hypochondriac region, penetrating abdominal cavity.
4. Stab wound, 4 cm., Chest, Left, Level of the 9th anterior rib about 10 cm. below the nipple.
5. Hacking wound, 15 cm., Right Lumbar region with evisceration of the omentum and intestines.
6. Stab Wound, 4 cm., Chest, middle, about 3 cm., below the episternum penetrating thoracic cavity.
7. Stab wound, 4 cm., Back, Left Infrascapular region, penetrating thoracic cavity.
8. Stab wound, 4 cm., Back, Left Infrascapular region about 3 cm., below & lateral to wound No. 7, penetrating thoracic cavity.
9. Multiple Hematoma, thighs, Bilateral, medial.
10. Stab Wound, 3 1/2 cm., Forearm, Right, Proximal 3rd Volar area.
11. Incised Wound, 2 cm., Hand, Left, Base of the thumb, palmar surface.
12. Laceration 3 cm., 6:00 o'clock Vagina."[3]

Both accused-appellants proffered the usual defense of alibi. According to accused-appellant Cortes, on September 17, 1990, he was in their house located at Sitio Cawayan, Barangay McArthur, Monreal, Masbate, sick, suffering from headache and fever which started the day before, September 16, 1990 and lasted up to September 18, 1990. Accused-appellant Lajos was also in their house on September 18, 1990 making copra, but does not know where he was on the day of the incident. He denied courting the victim as he did not know her. Sitio Cawayan and sitio Cogon are adjoining sitios of Barangay MacArthur.

Accused-appellant Lajos testified that he was in the house of accused-appellant Cortes who was lying in bed sick

on September 17, 1990 at around 5:00 o'clock in the afternoon since he was smoking copra and did not leave the place.

Bernita Espinosa, on the other hand, the adoptive mother of accused-appellant Lajos, testified that on September 17, 1990, Lajos was in their house located at Togoron, Monreal, Masbate. She requested him to go fishing and Lajos stayed in their house up to September 20, 1990 when he left to make copra with the Cortes family.

In their appeal, the accused-appellants assign as errors committed by the trial court the following: (1) in upholding the prosecution's evidence notwithstanding the insufficiency thereof; and (2) in finding them guilty beyond reasonable doubt of the crime of rape with homicide. They anchored their acquittal on the following grounds:

- 1) Dignos was the only eyewitness to the crime. The Holy Scripture, particularly Deuteronomy 19:15, states that one witness is not enough to convict a man of a crime; at least two witnesses are necessary to prove that a man is guilty. Dignos is an unreliable eyewitness because he reported the incident to the father of the victim and the barangay councilor only after three (3) days;
- 2) Their defense of alibi was never rebutted by the prosecution;
- 3) Dr. Granado himself was not sure whether or not rape was committed on the victim (citing pages 40 and 41 of the TSN dated May 23, 1991);
- 4) Their decision not to flee despite an opportunity to do so is not characteristic of guilty persons; and
- 5) Considering that the incident happened in the month of September, which was already rainy season and the afternoon of the incident being gloomy, it would be difficult to identify clearly any person committing a wrongdoing.

We are not persuaded.

Based on the testimony of Dignos, there were no houses at the scene of the incident.[4] The distance of the nearest house is more or less one-fourth (1/4) of a kilometer.[5] Consequently, the discovery of the victim's body and the identity of the culprits might have remained unknown were it not for the eyewitness account of Dignos who chanced upon the accused-appellants with Cortez raping the victim and subsequently, with Lajos, took turn stabbing and hacking the victim.[6]

Dignos was then lying on the cogon[7] while grazing his carabao when he saw the struggling victim who was supposed to fetch water. He has known her for a long time because she grew up in their place.[8] He likewise knew the accused-appellants who were his neighbors since 1980.[9] He was more or less ten (10) meters away from them[10] when the entire incident took place. He did not know whether or not the victim and the accused-appellants saw him because he hid in the bushes.[11] And from his position, he was able to see the assault on the victim by the accused--appellants.[12] His testimony on this point is as follows:

"q While you were tending your carabao, do you remember of (sic) any unusual incident?

a Yes sir.

q Please tell us.

a I saw Domingo Lajos and Ronnie Cortes holding a woman.

q What did these two accused do when they were holding the woman?

A Ronnie Cortes took-off the panties (sic) and engaged in sexual intercourse with the woman while Domingo Lajos was holding the right hand of the woman.

q In the act of sexual intercourse of Ronnie Cortes with the woman, what happened if any?

a The woman was able to stand-up but he stabbed the woman.

q What kind of instrument was used by Ronnie Cortes in stabbing the woman?

a Machete.

q How long is the machete?

Interpreter:

Witness demonstrating the length of the weapon used in the stabbing which measures more or less ten (10) inches.

q How about Domingo Lajos, what did he do when Ronnie Cortes stabbed the woman?

a He pulled out his bolo and hacked the woman.

q How many times did Domingo Lajos hack the woman?

a I can no longer recall, but I think it was more or less three (3) times that he stabbed (sic) the woman.

q What part of the body was hit by the hacking of Domingo Lajos?

a He kept on hacking while (sic) the woman fell down to the ground.

q Before the hacking made by Domingo Lajos when Ronnie Cortes was in the act of sexual intercourse with the woman, what did that woman do, if any?

a She was struggling.

xxx xxx xxx.

"q You said Ronnie Cortes after raping the victim stabbed the latter, of your own knowledge how many times did Ronnie Cortes stab the victim?

a More or less seven (7) times.

q What part of the body was directed (sic) by the stab of Ronnie Cortes?

a In the breast, abdomen and other parts of the body."[13]

The efforts of defense counsel to discredit the testimony of prosecution witness Fructoso Dignos on cross-examination was a dismal failure. Instead of discrediting the witness, it gave the latter an opportunity to elucidate on his testimony given on direct examination, videlicet:

"q How about the accused Ronnie Cortes, how was he able to rape the girl?

a He tore the panty of the girl and he was not wearing pants and went on top of the victim and have (sic) sexual intercourse.

q You said that Ronnie Cortes was not wearing pants, what was he wearing then?

a He took-off his pants and have (sic) sexual intercourse with the girl.

q And the pants that Ronnie Cortes removed was a short pants or a long pants?

a He was wearing a long pants and a short pants and took-off both.

q While Ronnie Cortes was removing his pants, why was the girl not able to run away?

a Because somebody was holding her.

q Who was holding her?

a Domingo Lajos. (At the same time witness was pointing to accused Domingo Lajos)

q While Ronnie Cortes was removing his pants, where was Domingo Lajos holding the girl?

a At the hands of the victim.

q Why was the girl not able to run while she was only held by the hands by Domingo Lajos?

a He removed her panty immediately and have (sic) sexual intercourse with the girl. I believe his pants had no zipper at all."[14]

On the basis of Dignos' testimony, we find defense counsel's arguments not only untenable but puerile.

As regards defense counsel's first argument, the testimony of a single witness, if positive and credible, is sufficient to support a conviction even in the absence of corroboration.[15] The trial court gave full faith and credit to the testimony of Dignos. We can do no less. Appellate courts have accorded the highest respect to the evaluation of the testimony of eye-witnesses by the trial court because of its opportunity of observing on the stand their demeanor and manner of testifying and detecting if they were telling the truth or lying on their teeth.[16] Accused-appellant Cortes could not think of any reason why Fructoso Dignos would testify against him.[17] The reason is simply because he was telling the truth. Absence of improper motive enhanced his credibility.[18]

The delay of three (3) days in reporting the incident, does not in any way detract from the veracity of Dignos' testimony,[19] because it was satisfactorily explained.[20] It was his fear, that if reported the accused-appellants might go to his place.[21] Moreover, the father of the victim was then not in their house but in Cataingan, Masbate.[22] At any rate, it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case. Indeed, the natural reticence of most people to get involved in a criminal case is of judicial notice.[23]

With respect to the second argument, it was not necessary for the prosecution to rebut the accused-appellants' defense of alibi. The burden of proving the same lies with appellants. Justifiably, courts have always looked upon the defense of alibi with suspicion and have received the same with caution, not only because it is inherently weak and unreliable but also because of its easy fabrication.[24] It cannot prevail over the clear, direct and positive testimony of prosecution witness Dignos identifying appellants as the perpetrators of the crime.[25] Domingo Lajos alibi is even contradicted by the testimony of his adoptive mother. Moreover, it is not enough to prove that they were somewhere else when the crime was committed, but that it was physically impossible for them to have been at the scene of the crime, which is not so in the case at bar.[26] The place where the accused-appellants stayed at the time of the incident, Sitio Cogon, is just adjacent to Sitio Cawayan, the locus criminis.[27]

Regarding the third argument that Dr. Granado was not sure whether or not rape was committed, we quote his testimony on direct examination:

"q: With these findings of yours, could we say that before the (sic) Nonieta Lipitin (sic) was killed, she was sexually abused?

a: I could not say because during the examination, there was a falling of hair and sloughing of skin and I could not be so sure that the laceration in the vagina maybe (sic) sexually caused because slight friction or movement of the lower extremities may cause laceration in the other parts of the body."[28]

Clarifying this point, the prosecution's counsel asked:

"q: But I am asking you doctor about the possibility, is it possible that the laceration in the vagina, 6:00 o'clock, could have been caused by sexually abused? (sic)

Atty. Tresvalles:

Already answered.

Court:

Witness may answer.

Witness:

a: Maybe, it is possible, Sir."[29]

On cross-examination, the same testimony was reiterated by Dr. Granado:

"q Could it be possible that the victim had a (sic) sexual intercourse before the incident?

a I could not tell, sir.

q But it could be possible.

a It could be possible that there was a sexual intercourse before the incident."[30]

The testimony of Dr. Granado coupled with that of eye-witness Dignos proved the crime of rape with homicide.

As to the fourth argument, the accused-appellants' simulated innocence is clearly non sequitur to their decision not to flee. There is no case law holding that non-flight is conclusive proof of innocence.[31]

The last argument of the accused-appellants as to the gloominess of the afternoon when the incident took place, poscribing clear identification of the accused-appellants, suffice it to say, that the same is simply conjectural. There was no testimony from either side regarding the weather condition at the time of the incident. What is vital is the testimony of Dignos that he saw the victim being raped[32] and killed.

While it is true that accused-appellant Cortes was the only one who raped the victim, this fact did not exculpate accused-appellant Lajos. He is as much guilty as Cortes for the crime of rape. As distinctly found by the trial court:

"Although Domingo Lajos has not committed rape on the victim; nevertheless he is liable as co-conspirator by indispensable cooperation - having cooperated in the rape of the victim by holding her hands to prevent her escape while Ronnie Cortes was removing his long pants and short pants. Moreover, when the victim was lying on the ground and being raped by Ronnie Cortes, Domingo Lajos held the hands of the victim without which rape would not have been accomplished. The fact that Ronnie Cortes tore the panty of the victim and the victim sustained multiple hematoma, thighs, Bilateral, medial and worst the victim had laceration (of) 3 cm., 6:00 o'clock (in the) Vagina were unmistakable proof (sic) of the struggle and resistance offered by the victim."[33]

A person may be convicted for the criminal act of another, where between them, there has been conspiracy or unity of intention in the commission of the offense charged.[34] Of course, with respect to the death of the victim, both accused-appellants are likewise equally liable therefor. By their concerted action, they showed that they acted in unison and cooperated with each other towards the accomplishment of a common felonious purpose.[35]

WHEREFORE, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

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

- [1] Rollo, p. 6.
- [2] Rollo, p. 22.
- [3] Rollo, p. 14.
- [4] TSN, April 19, 1991, p. 29.
- [5] Ibid, p. 38.
- [6] Ibid, p. 39.
- [7] Ibid, p. 40.
- [8] Ibid, p. 10.
- [9] Ibid, p. 7.
- [10] Ibid p. 10.
- [11] Ibid, p. 17.
- [12] Ibid, p. 39.
- [13] TSN, April 19, 1991, pp. 8-10.
- [14] TSN, April 19, 1991, pp. 30-31.
- [15] People v. Carino, et al., G.R. Nos. 92144-49, December 18, 1992; People v. Mision, G.R. No. 63480, 194 SCRA 432 (1991); People v. Catubig, et al., G.R. No. 71626, 195 SCRA 505 (1991); People v. Lazo, et al., G.R. No. 75367, 198 SCRA 274 (1991); People v. Sampaga, G.R. No. 91539, 202 SCRA 157 (1991); and other cases.
- [16] People v. Santito, Jr., et al., G.R. No. 91628, 201 SCRA 87 (1991).
- [17] TSN, June 19, 1991, p. 15.
- [18] People v. Castor, G.R. No. 93664, December 11, 1992.
- [19] People v. Sampaga, supra.
- [20] People v. Martinada, et al., G.R. No. 66401-03, 194 SCRA 36 (1991).
- [21] TSN, April 19, 1991, p. 19.
- [22] Ibid, p. 13.
- [23] People v. Martinada, supra.
- [24] People v. Dabon, G.R. No. 102004, December 16, 1992.
- [25] People v. Cabactulan, et al., G.R. No. 84398, December 2, 1992.
- [26] People v. Evardo, et al., G.R. No. 100724, December 1, 1992.
- [27] TSN, April 19, 1991, pp. 13-14.

[28] TSN, May 23, 1991, p. 40.

[29] Ibid, pp. 40-41.

[30] Ibid, p. 44.

[31] People v. Magtuloy, G.R. No. 105671, June 30, 1993.

[32] TSN, April 19, 1991, p. 39.

[33] Rollo, p. 20.

[34] People v. Maranian, G.R. Nos. 90672-73, 199 SCRA 421 (1991).

[35] People v. Catubig, et al., G.R. No. 71626, 195 SCRA 505 (1991).

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