

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS.
EDUARDO PULUSAN Y ANICETA, ROLANDO RODRIGUEZ Y
MACALINO, ROLANDO TAYAG AND JOHN DOE ALIAS RAMON/EFREN,
ACCUSED. EDUARDO PUL...**

G.R. No. 110037. May 21, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Four men held a robbery of a passenger jeepney along Bulacan-Pampanga highway, divesting all passenger of their valuables. Four of the jeepney's passengers were killed by the robbers and the only female passenger raped repeatedly. Three victims, however, lived to tell the story - the jeepney driver, a fifty-year old and the ravaged girl

.

The Solicitor General summarized the prosecution evidence as follows:

On January 20, 1986 at about 9:00 o'clock in the evening, Constancio Gomez was then plying his route from Balagtas, Bulacan along the MacArthur Highway going towards Malolos, Bulacan on board a passenger jeepney with six (6) passenger (pp. 5-6, TSN, June 10, 1986). They included Marilyn Martinez a seventeen (17) year old student and Cresenciano Pagtalunan (p. 2, TSN, March 10, 1987; pp. 2-3, TSN, June 10, 1986). The four (4) other male passenger were later identified to be Rodolfo Cruz, Magno Surio, Constancio Dionisio and Armando Cundangan (pp. 2-3, TSN, Dec. 16, 1986; pp. 5-14, TSN, Aug. 5, 1987; pp. 3-5, TSN, April 8, 1987; Exhibits "Z", "AA", "BB", "CC").

Upon reaching Bry. Tikay, Malolos, Bulacan, a group of four (4) male passengers boarded the jeepney (pp. 5-6, TSN, June 10, 1986). Two of them sat at the rearmost portion of the jeepney fronting each other; the third sat behind the driver's seat while the fourth man sat in the middle of the other passengers (pp. 6-7, TSN, June 10, 1986; pp. 3-4, TSN, July 22, 1986; pp. 3-5, TSN, March 10, 1987). Suddenly, the man who was later identified to be appellant Eduardo Pulusan, who sat behind the driver, poked a knife at Constancio Gomez and announced: "Hold-up ito, huwag kayong kikilos (pp. 5-6, TSN, June 10, 1986; pp. 5-6, 9, TSN, March 10, 1987; pp. 4-6, TSN, June 10, 1986; pp. 5-6, 9, TSN, March 10, 1987; pp. 4-6, TSN, March 18, 1987). Thereafter, appellant Pulusan's three (3) companions followed suit, poked their knife and "sumpak" (homemade shotgun) at the passengers and divested them of their valuables (p. 6, TSN, June 10, 1986; pp. 3-5, TSN, July 22, 1986; pp. 5-9, March 10, 1997). Gomez was divested of his P100 cash money, a lighter valued at P50.00 and a fancy ring of unknown value (pp.7-8, TSN, June 10, 1986). Cresenciano Pagtalunan, one of the passengers was similarly divested of P110.00 in cash and a diver's watch worth P1,000.00 (TSN, pp.3-4, July 22, 1986). Marilyn Martinez, another passenger was divested of a wristwatch worth P350.00 together with her books, notebooks and handbag (pp. 5-7, TSN, March 10, 1987). Rodolfo Cruz was likewise divested of a watch valued at P700.00, a wedding ring worth P500.00 and P750.00 in cash (pp.3-8, TSN, Jan. 27, 1987). Magno Surio's watch worth P400.00, camera with flash bulb and batteries inside and cash of more than P2,000.00 were also taken during the incident (pp. 3-7, 9-10, TSN, Feb. 17, 1987; Exhs. "A", "B", "C" to "C-3"). Thereafter, appellant Pulusan took over the wheels from driver Gomez and drove towards Pampanga.

He later stopped at Quezon Road, Bgy. San Pablo, San Simon, Pampanga (pp. 7 - 8, TSN, June 10, 1987). He parked the jeepney in a "talahiban" where there were no people around except for the occupants of the passenger jeepney (pp. 7 - 8, TSN, June 10, 1986; pp. 7 - 8, TSN, March 10, 1987). Afterwards, appellant Rolando Rodriguez (Rodriguez) dragged Marilyn Martinez to the "talahiban" a few meters away from the parked jeepney where his three (3) companions, including appellant Pulusan, were left guarding Gomez and his other passengers (pp. 7-8, TSN, June 10, 1986; pp. 10-11, TSN March 10, 1987; pp. 1-13, TSN, March 18, 1987). Once at the "talahiban," appellant Rodriguez, then armed with a kitchen knife, through force and intimidation, succeeded in having carnal knowledge of Marilyn Martinez who was then still virgin (Exhibit "W"; pp. 10-13, TSN, March 10, 1987). Subsequently, appellant Pulusan followed appellant Rodriguez and Marilyn Martinez at the "talahiban and likewise sexually abused her (pp. 14-15, TSN, March 10, 1987; Exh. "W"). Later, appellants two other companions similarly took turns in having carnal knowledge of Marilyn Martinez at the "talahiban" (pp. 15-16, TSN, March 10, 1987). After the fourth man had succeeded in having carnal knowledge of her, he held Marilyn Martinez's wrist and they both proceeded towards the jeepney (pp. 16-17, TSN, March 10, 1987).

Meanwhile, at the place where the jeepney was parked Gomez and one of his passengers who were then inside the vehicle were called outside by one of appellant's companions and asked Gomez "pare, gusto mo bang mamatay?" (p. 10, TSN, June 10, 1986). Gomez pleaded with them that he be spared because his wife recently gave birth and he was the only breadwinner for his family (ibid). Thereafter, he was boxed at the right jaw and told to board the jeepney while said man, together with appellants Pulusan and Rodriguez, clubbed and stabbed the passenger who was called with him (pp. 10-11, TSN, June 10, 1986). Subsequently, the four called three other passengers inside the jeepney one by one. When the three (3) passengers managed to run towards the "talahiban" but his captors pursued and eventually killed him (pp. 10-11, TSN, June 10, 1986). Subsequently, Cresenciono Pagtaluan was hit with pipe and clubbed by appellant and their companions but one of them uttered: Pare, huwag na yan, matanda na yan, hindi na papalag" (pp. 12-13, TSN, ibid' p. 7, TSN, July 22, 1986). Thereafter, Gomez was ordered to start the jeepney while a shotgun was aimed at his temple and threatened not to report the incident (ibid.) Eventually, their captors boarded Marilyn Martinez in the jeepney and threatened her not to report the incident and sent them home. Appellants and his companions then dispersed to different directions (pp. 12-13, TSN, June 10, 1986).

Accordingly, Gomez and his two surviving passengers Marilyn Martinez and Cresenciano Pagtalunan, left their four (4) co-passengers who had been killed by their captors and proceeded to the Municipal Building of Apalit, Pampanga to report the incident to the Apalit police (p. 14, TSN, June 20, 1986; pp. 8-9, TSN, July 22, 1986; p. 19, TSN, March 10, 1987). Accompanied by the Apalit police (p. 14, TSN, June 20, 1986; pp. 8-9, TSN, July 22, 1986; p. 19, TSN, March 10, 1987). Gomez and Cresenciano Pagtalunan, were immediately interviewed by Pat. Maniago, Investigator of the San Simon (pp. 2-3, TSN, Dec. 16, 1986). Later, Pagtalunan stayed at the municipal building of San Simon where he remained for more than a day (p. 10, TSN where he remained for more than a day (p. 10, TSN, July 22, 1986). Thereafter, the joint team of the San Simon and Apalit police, including Pat. Maniago, Pfc. Nicolas Yambao and Umali was accompanied by Gomez to the crime scene at Quezon Road, Bgy. San Pablo, San Simon where the bodies of his four (4) male passengers were found and which were later brought to the Funeraria Punzalan for autopsy (p. 14, June 10, 1996; pp. 3-5, TSN, Dec. 2, 1986). Pat. Emerito Maniago prepared a sketch of the crime scene (Exh. "S", p. 4, TSsN, Dec 2, 1986). Eventually, Pat. Maniago, Pfc. Nicolas Yambao and Lino Umali returned to the station and interviews Gomez and Pagtalunan about the description of the suspects and conducted follow-up investigation of the case (pp. 3-4, TSN, Dec. 2, 1986; Exh. "P", "P-1"; pp. 3-6, TSN, Dec. 16, 1986; pp. 2-9, TSN, Jan. 6, 1987). They also proceeded to Malolos, Bulacan to coordinate with the Malolos INP for the identification of the victims' cadavers (pp. 3-4, TSN, Dec. 2, 1986). Thereafter, Pat. Maniago prepared an "Initial Investigation Report" addressed to Corporal Santiago Rodriguez, Station Commander of the San Simon Police Station at San Simon, Pampanga concerning the "Robbery In Band, Rape, Multiple Homicide and Illegal Possession of Firearms/Deadly Weapons" committed on or about 9:30 to 10:30 P.M. of January 20, 1986 at Quezon Road, San Pablo Propio, San Simon, Pampanga (Exh. "P", "P-1"; pp. 2-5, TSN, Dec 16, 1986; pp. 2-16, TSN, Jan. 6,

1987; pp. 2-3, TSN, Nov. 18, 1986).

On January 21, 1986, Cpl. Santiago Rodriguez was informed of the aforesaid incident (pp. 2-3, TSN, Nov. 18, 1986). He then instructed his men to continue investigation on the case considering that preliminary investigation threon had been made by Pat. Maniago (pp. 3-4, TSN, *ibid.*; pp. 3-6, TSN, Nov. 25, 1986).

On the same day, Marilyn Martinez, one of the surviving victims, was brought by her relatives to the Cemtral Luzon General Hospital in San Fernando, Pampanga where she underwent physical examination by Dr. Evelyn Macabulos, resident of the Hospital's Obstetrics and Gynecology Department (pp. 19-20, TSN, March 10, 1987; pp. 6-15, TSN, May 27, 1987; Exh. "W", "W1"). Dr. Macabulos found that the patient was conscious, coherent, slightly incooperative, distraught, untidy with soiled clothes and underwear" and that her blood pressure was 130/80 while her pulse rate was 105 per minute (pp 7-9, TSN, May 27, 1987). She noted that "her eyes were swollen but without contusions; her heart was slightly tachycardic, regular rate rhythm with no murmur (pp. 9-10, TSN, *ibid.*) She also observed that she had clear breath sounds; her breast are conical, well-developed, symmetrical with light brown nipple and areola, no contusions noted" (*ibid.*). She also noted that he trunk has linear hematoma at the back which looked like finger marks while in her extremities, there were 2 x 1.5 cm. Round hematoma at posterior upper part of the left thigh (pp. 9-10, TSN, *ibid.*). Dr. Macabulos further osserved that in her external genitalia there was "scanty pubic hair, well coaptated but moderately swollen labia minora, labia mahora also confested (*sic*)". She noted that the hymen had fresh lacerations at 12 o'clock, 6 o'clock, 5 and 7 o'clock; scanty bleeding from the laceration; there was a .3 x .3 cm. Hematoma (*sic*) at 12 o'clock; the patient cried and was hysterical in the examination of her genitalia and complained of pain when application was inserted for smear; the patient's panty was stained with blood and when smear for spermatozoa was done, none was found (pp. 10-11, TSN, May 27, 1987; Exh. "w"). Later that day, Marilyn was confined at the Rosary Hospital in Bulacan for 2 1/2 days so that she can recover her strength (p. 11, TSN, March 25, 1987).

Meanwhile, the widows of the passengers who were killed during the January 20, 1986 incident at Bgy. San Pablo, San Simon, Pampanga, including Susana Bautista Vda. De Surio, Lucila Cruz and Corazon Dionisio, were informed that their respective husbands were among the four (4) passengers of jeepney who were killed in San Simon, Pampanga and were invited to go to the funeral parlor in Pampanga to make the necessary identification of the cadavers (pp. 305, TSN, April 8, 1987; pp. 3-4, TSN, January 27, 1987; pp. 3-5, TSN, Feb. 17, 1987). Lucila Cruz confirmed her husband's death when she went to San Simon, Pampanga on January 23, 1986 at 2:00 o'clock p.m. (pp. 3-4, TSN, January 23, 1987; Exh. "Z", pp. 8-9, TSN, Aug. 5, 1987). The death of her husband Constancio Dionisio was confirmed by his widow Corazon when she went to the funeral parlor in San Simon on January 25, 1986 (pp. 3-5, TSN, April 8, 1987). The death of Magno Surio was also confirmed by his widow Susana Bautista Surio when she went to the funeral parlor in San Simon accompanied by a policeman from malolos (pp.3-5, TSN, Feb. 17, 1987; Exh. "AA"; pp. 10-11, TSN, Aug. 5, 1987).

Dr. Maria Teresa F. Santos, Rural Health Physician of San Simon, Pampanga, who conducted autopsy of the four (4) cadavers recovered at Bgy. San Pablo, San Simon, Pampanga, issued Certificates of Death of Rodolfo C. Cruz, Magno Surio, Constancio Dionisio and Armando Cundangan (pp. 3-4, TSN, Aug. 5, 1987; Exhs. "Z", "AA", "BB" and "CC"). The cause of death of Rodolfo C. Cruz was "Cardio-respiratory arrest, shock hemorrhage, multiple stab wounds" (Exh. "ZZ", pp. 8-9, TSN, Aug. 5, 1987). The cause of death of Magno dela Cruz y Surio is the same as that of Rodolfo C. Cruz (Exh. "AA", pp. 10-11 TSN, Aug. 5, 1987). The stated cause of death of Constancio Dionisio and Armando Cundangan was also the same as those indicated in the certificates of death of the other victims (Exhs. "BB", "CC"; pp. 12-14, TSN, Aug. 5, 1987).

Meanwhile, in the early morning of January 23, 1986, Cpl. Rodriguez received a tip from a civilian informer that the description of one of the four (4) suspects given by Marilyn Martinez tallied with that of appellant Eduardo Pulusan who previously had a record in their file (pp. 6-8, TSN, Nov. 25, 1986; pp. 4-6, TSN, Sept. 7, 1987).

In the afternoon of January 23, 1986, Cpl. Rodriguez, Pat. Maniago and several policemen of San Simon,

Pampanga, together with the Pampanga P.C. Command, including Sgt. Mario Dulin, proceeded to the residence of appellant Pulusan at Bgy. San Pablo, San Simon, Pampanga (pp. 10-11, TSN, Nov. 25, 1986). When their group reached San Pablo, San Simon, Pampanga, they found Honwario Pulusan, appellant Eduardo Pulusan's brother there (pp. 10-11, Nov. 25, 1986; p. 6, TSN, Sept. 9, 1987). After interviewing him, the team learned from Honwario that appellant Pulusan was with Rolando Rodriguez, Rolando Tayag and one Efren alias Ramon at Bgy. Moras dela Paz, Sto Tomas, Pampanga, where Rolando Rodriguez resided (pp.2-5, TSN, Nov. 18, 1986; pp. 10-11, TSN, Jan. 6, 1987; pp. 5-7, TSN, Dec. 2, 1986). Immediately thereafter, the joint San Simon police and Pampanga PC Team coordinated with the Station Commander of Sto. Tomas and proceeded to Moras dela Paz together with Honwario Pulusan (pp. 3-5, TSN, Nov. 18, 1986). Upon reaching Bgy. Moras dela Paz, the team parked their vehicle a few meters away from the residence of appellant Rolando Rodriguez (pp. 5-6, TSN, Oct. 7, 1997). As the members of the joint PC and police team approached the residence of appellant Rodriguez about 20 or 30 meters therefrom, they noticed four (4) persons, including appellants Rodriguez and Pulusan, jumping and scampering away from the house (pp. 7-8, TSN, Dec. 2, 1986; pp. 7-8, TSN, Nov. 18, 1986). Honwario Pulusan pointed to the police team appellants Rodriguez and Pulusan and also and "Kuya, sumuko na kayo" (p. 8, TSN, Dec. 2, 1986). The joint police and PC team pursued them and eventually apprehended appellants Rodriguez and Pulusan (pp. 7-8, TSN, September 9, 1987; pp. 4-6, TSN, Nov. 11, 1986).

Thereafter, Pat. Maniago, Sgt. Dulin and the Barangay Captain, returned to the house of appellant Rodriguez, conducted a search thereon in the presence of one Gloria Bautista, siste-in-law of Rolando and eventually confiscated several items, to wit: "one (1) camera, nikon type with cover (Exh. "A"); one (1) pair of men's shoes, colored brown (Exh. "E"); one pair Grosby men's shoes (while) (Exh. "G"); one (1) pair ladies shoes colored black (Melvin Trade Mark (Exh. "H"); one (1) KNIFE 12 inches long (Exh. "J"); one (1) knife 10 inches long (Exh. "K"); one (1) sunglass (Unisex) (Exh. "I"); one (1) ladies wrist watch (Urika) (Exh. "M"); four (4) pcs. of batteries (Exh. "C" to "C-3"); two (2) pieces of steel pipes which turned out to be an improvised 12 gauge shotgun "paltik-sumpak" (Exh. "L", "L-1"); one (1) pants Haruta (Exh. "F"); one (1) jacket colored green (Exh "D"); one (1) camera flasher (Exh. "B"); two (2) pieces (live) 12 gauge shotgun ammos (Exh. "N"); and one (1) piece empty shell for 12 gauge shotgun" (Exh. "N") (pp. 8-10, TSN, Dec. 2, 1986; pp. 8-9, TSN, Sept 9, 1987; pp. 3-9, TSN, Dec. 9, 1986; pp. 6-10, TSN, Nov. 18, 1986). Afterwards, Sgt. Dulin prepared an inventory of the recovered items (Exh. "R", "R-1", "R-2"; pp. 8-11, Sept. 9, 1987). Subsequently, appellants Pulusan and Rodriguez, together with recovered items, were brought to the Station of the Pampanga P.C. Command at St. Nino, San Fernando, Pampanga, for further investigation (p.15, TSN, Sept. 9, 1987). A "Progress Report" relative to the arrest of appellants Pulusan and Rodriguez and the recovery of the items from their possession was also made by Cpl. Rodriguez (Exh. "Q", "A-1").

In the afternoon of January 23, 1986, the joint police and PC team informed the three (3) surviving victims Gomez, Pagtalunan and Martinez that the suspects had been arrested and invited them and the wives of the victims who were killed, including Lucila Cruz, Susanaa Surio and Mrs. Cundangan, to go to the PC Headquarters in the morning of January 24, 1986 (pp. 15-16, TSN, Sept. 9, 1987; pp. 10-11 TSN, Nov. 11, 1986; pp. 23-24, TSN, Nov. 25, 1986; pp. 4-11, TSN, Nov. 11, 1986).

In the early morning of January 24, 1986, Gomez, Marilyn Martinez and Pagtalunan, together with the wives of those who were killed, proceeded to the PC Headquarters in San Fernando Pampanga (pp. 15-16, TSN, June 10, 1986; pp. 5-6, TSN, July 29, 1986). Three persons, including appellants Pulusan and Rodriguez, were presented to Gomez, Martinez and Pagtalunan and they were asked if they knew them (pp. 2-3, TSN, Oct. 14, 1986) Pagtalunan pinpointed only two of them, appellants Pulusan and Rodriguez as the persons who held them up in Malolos on January 20, 1986 (ibid.; pp. 15-17, TSN, July 22, 1986). Gomez and Martinez also positively identified appellants to be among the four (4) persons who committed the robbery, killing and rape in the evening of January 20, 1986 (pp. 10-11, kTSN, Dec. 2, 1986; pp. 20-21, TSN, March 19, 1987; Exh. "O", "O-1" to "O-3"). Pictures of the identification of appellants Pulusan and Rodriguez by the three (3) surviving victims were taken by a commercial photographer under the supervision of the police authorities (pp.

16-17, TSN, June 10, 1986; pp. 5-6, TSN, July 29, 1986; pp. 10-11, TSN, July 22, 1986; Exhs. "O", "O-1", "O-2" and "O-3").

Susana Bautista Surio, widow of the victim Magno Surio, in her "Sworn Statement: identified the camera, flash and batteries, among the items confiscated by the police at the house of appellant Rodriguez, to be the property of her husband who used them in his work as commercial photographer (pp. 4-11, TSN, Feb. 17, 1987; Exh. "U", "U-1"; Exhs. "A", "B", "C" to "C-3").

An information charging Pulusan and Rodriguez with the crime of highway robbery attended with multiple homicide and multiple rape was filed in the Regional Trial Court of Bulacan in Malolos.[1] The information was later amended to include Rolando Tayag and one John Doe alias Ramon or Efren. The amended information reads:

That on or about the 20[th] day of January, 1986, along the Mac Arthur highway in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Eduardo Pulusan y Anicete and Rolando Rodriguez y Macalino, Rolando Tayag and one John doe alias Ramon/Efren, conspiring and confederating together and helping one another, armed with an improvised firearm and bladed instruments, with intent of gain and by means of violence against and intimidation persons (sic), did then and there wilfully, unlawfully and feloniously take, rob and carry away with them the following articles from the driver and the passengers of a passenger jeepney bound for the said municipality, to wit:

From Constancio Gomez, driver:

Cash -----

P100.00

Lighter (Zippo brand) -----

100.00

2 fancy rings -----

60.00

From Cresenciano Pagtalumam, passenger:

Cash -----

P 110.00

Wrist watch -----

1,500.00

From Magno Surio, passenger:

Wrist watch, Seiko brand -----

P 800.00

Camera, Nikon brand -----

8,000.00

From Armando Cundangan, passenger:

Wrist watch, Seiko brand -----

P 700.00

Cash

80.00

From Rodolfo Cruz, passenger:

Cash

P 700.00

Wrist watch, Seiko brand

700.00

From Constancion Dionisio, passenger:

Cash

P 200.00

From Constancio Dionisio, passenger:

Cash

P 200.00

From Marilyn Martinez, passenger:

Wrist watch Urika brand

P 350.00

To the damage and prejudice of the above-enumerated persons in the amounts above-mentioned; and that by reason or on the occasion of the said highway robbery and in pursuance of their conspiracy, the said Eduardo

Pulusan y Aniceta, Rolando Rodriguez y Macalinao and Rolando Tayag and one John Doe alias Ramon/Efren, did then and there wilfully, unlawfully and feloniously, with lewd designs and by means of force, violence and intimidation, have carnal knowledge of said Marilyn Martinez one after the other, and with intent to kill, abuse of superior strength, cruelty, treachery and evidence premeditation, further assault, attack strike and hack/stab with the weapons they were then provided the said Magno Surio, Armando Cundagan, Rodolfo Cruz and Constancio Dionisio, inflicting on the said persons serious physical injuries which directly caused their instantaneous death.

Contrary to law.[2]

Rolando Tayag and John Does alias Ramon or Efren remain at large. Pulusan and Rodriguez pleaded not guilty to the crime charged.

In his defense, Rodriguez testified that he was a nephew of co-accused Eduardo Pulusan. He denied knowledge of the crime charged against him. He asserts that he had not committed any crime, and that in fact, he was able to get an NBI clearance as a requirement for his work as a driver in Iraq.[3]

As a kabo ng jueteng, he would collect bets three times a day, the last jueteng draw being at 9:30 in the evening. He would thus be home only between 11:30 and twelve midnight, as on the night of January 20, 1986. Rodriguez presented in court to corroborate his alibi fellow kabo Oscar Nocum, a jueteng collector named Sara Lee, and a jueteng bettor Marilou Garcia.

Oscar Nocum testified that Rodriguez was with him from about 9:30 in the evening of January 20, 1986, which was the time of the last jueteng draw, until midnight:[4]

Sara lee, who lived nine houses from Rodriguez, testified that on the night of January 20, 1986 she saw Rodriguez at around eight o'clock to remit her collection. Rodriguez then came back to her house between 10:30 and eleven o'clock because she had invited him to her daughter's birthday celebration and because they expected to hear from him the results of the jueteng draw.[5]

Marilou Garcia, also a neighbor of Rodriguez who lived six houses away, testified that she placed a bet with Rodriguez at his house at around eight o'clock to 8:45 in the evening of January 20, 1986, afterwhich Rodriguez left. She next saw him later that evening at around 10:30 to eleven o'clock when he passed by Garcia's house where a bingo game was in progress.[6]

When arrested at his house in Moras, Sto. Tomas, Pampanga, Rodriguez was with his two children, his uncle Eduardo Pulusan and jueteng collectors, one of which was Rolando Tayag, one of those charged with Pulusan and Rodriguez in the amended information. Pulusan was in Rodriguez's house to invite the latter to their town fiesta.[7]

Eduardo Pulusan testifying in his defense asserted that on January 20, 1986, he was repairing his house in preparation for the coming fiesta. His helper then was a certain Tony. The following day, he also stayed at home because he helped his father in their fishpond. He did not leave his house until around 1:30 p.m. on January 23, 1986 when he went to the house of his nephew, Rolando Rodriguez, to invite him to the fiesta. Pulusan presented in court his mother, Agapita, and Antonio Libid, the carpenter who allegedly repaired his house, to corroborate his alibi. Both testified that Pulusan did not leave the house on the night of January 20, 1986.[8]

He professed innocence because he had never been implicated in a crime, not even vagrancy. He denied the testimony of prosecution witness Sgt. Dulin that he once had a rape case against him.[9]

On June 5, 1990, the Regional Trial Court of Bulacan, Branch 12 at Malolos, rendered a Decision in Criminal Case No. 9217-M as follows:

WHEREFORE, the prosecution having established the guilt of the accused EDUARDO PULUSAN y ANICETA and ROLANDO RODRIGUEZ y MACALINO beyond reasonable doubt, this Court finds them guilty of the offense of Robbery with Homicide penalized under Article 294, paragraph 1, Revised Penal Code, and hereby sentences each of them to suffer and undergo imprisonment for life or RECLUSION PERPETUA, with cost against said accused.

Both accused Pulusan and Roriguez are hereby ordered, jointly and severally, to indemnify the heirs of the late Rodolfo Cruz, Magno Surio, Constancio Dinisio and Armando Cundangan the amount of THIRTY THOUSAND PESOS (P30,000.00) for each dead victim as civil indemnification for their death.

Both accused Pulusan and Rodriguez are also hereby ordered to pay, jointly and severally, as indemnification to the rape victim Marilyn Martinez, the amount of SIXTY THOUSAND PESOS (P60,000.00).

Both accused Pulusan and Rodriguez are hereby further ordered, jointly and severally, to pay moral damages to the respective heirs of the deceased Magno Surio, Rodolfo Cruz, Constancio Dionisio and Armando Cundangan, the amount of TWENTY THOUSAND PESOS (P20,000.00).

Both accused Pulusan and Rodriguez are hereby further ordered, jointly and severally, to pay moral damages to the respective heirs of the deceased Magno Surio, Rodolfo Cruz, Constancio Dionisio and Armando Cundangan, the amount of TWENTY THOUSAND PESOS (P20,000.00) to each victim and to rape victim Marilyn Martinez the amount of FORTY THOUSAND PESOS (P40,000.00).

Both accused Pulusan and Rodriguez are hereby furthermore ordered, jointly and severally, to reimburse the heirs of the dead victims for the funeral expenses by them as follows:

TWENTY ONE THOUSAND EIGHT HUNDRED THIRTY PESOS (P21,830.00) for deceased Rodolfo Cruz;

TEN THOUSAND ONE HUNDRED SEVENTY PESOS (P10,170.00) for deceased Magno Surio;

ELEVEN THOUSAND PESOS (P11,000.00) for deceased Constancio Dionisio.

Finally, both accused Pulusan and Rodriguez are hereby ordered, jointly and severally, to return to the victims or their heirs the items they have taken during the robbery or to reimburse the value thereof as follows:

Constancio Gomez - a lighter worth
P50.00 and cash of P100.00;

Cresenciano Pagtalunan - a driver's watch
Worth P1,100.00 and cash of P110.00.

Marilyn Martinez - a wrist watch worth
P350.00;

Rodolfo Cruz - a watch worth P700.00,
a wedding ring worth P500 and cash of
P750.00.

As regards accused ROLANDO TAYAG and a John Doe alias 'Ramon/Efren', let the record of this case be committed to the Archives to await their arrest and for this purpose, let an alias warrant of arrest be issued against accused Rolando Tayag.

SO ORDERED.[10]

Pulusan contends before this Court that the trial court erred in giving credence to his identification by prosecution witnesses as one of the perpetrators of the crime; in giving evidentiary weight to the "incredible, unreliable and

inconsistent if not conflicting testimonies of the prosecution witnesses;" in failing to give "exculpatory weight" to his alibi which was supported by witnesses, and in convicting him even if his guilt was not proven beyond reasonable doubt.[11]

Rodriguez asserts that the trial court erred in convicting him and imposing on him the penalty of reclusion perpetua and in giving credence to the evidence presented by the prosecution.[12]

The arguments of Pulusan and Rodriguez are anchored mainly on the issue of credibility. The matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is hereby placed in a more competent position to discriminate between the true and the false.[13] Thus, the trial court's findings on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal absent any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could have affected the result of the case.[14] There is no showing in the instant case of an oversight, misunderstanding or misapplication of facts on the part of the trial court that may warrant reversal of that court's findings and conclusions.

Pulusan avers that the prosecution witnesses' identification of him as one of the robbers was not enough to hurdle the test of certainty.[15] Pulusan quotes the following portions of the testimony of Constancio Gomez:[16]

Q

Mr. Witness before the wheel of your jeep was taken from you and (you were) told to sit at the back, you did not recognize the faces of those persons?

A

No, sir.

Q

Because you did not give a glance at their faces, correct?

A

When something was poked at me, I have not yet recognized them. But when I was sitted (sic) at the back, once in awhile I glanced at them, sir.

Q

Mr. Witness when one of the persons you mentioned who boarded your jeep at Tikay, Malolos, Bulacan poked a knife at your back and announced a hold-up, you became greatly afraid Mr. Witness, correct?

A Of course, sir.

Q

You were even terrified of being killed harmed by such happening, Mr. Witness?

A Yes, sir.

Q

And you were very much afraid of these four men who announced the hold-up, correct?

A Yes, sir, of course, I am afraid

. x x x x x x x x

Q

In fact Mr. Witness when these persons announced the hold-up, specifically when one of them was poking a knife at your back and you were terribly afraid of these four persons, you were afraid much more to look at their faces, correct?

A

Yes, sir, I am not looking at their faces because something was poked at me

Q

Now even if you were ordered to go inside the jeepney, together with the passengers and even after one of the four men took the wheels of the jeep, you were still very afraid to look at them, correct?

A

Even if I am so afraid, sir, once in a while I glanced at them and tried to recognize them.

Q

Is it not a fact Mr. Witness that when you were ordered to go inside the jeep to sit with your passengers, they ordered the light of the jeep to be put off?

A

When that was said, we were already far and all the valuables were already taken from us, sir.

Q

The light were (sic) ordered to go inside the jeep to sit with your passengers, they ordered the light of the jeep to be put off?

A

They were the ones who put off the light, sir.

Q

When you said that you take a look at their faces, it means to say that you take only a passing glance at their faces, correct?

A

Yes, sir.

Q

When you were just taking a passing glance of the faces of those four men, you did not actually describe (sic) their faces, is that correct?

A

Some of them I can describe but the others I cannot, sir.

Q

When you arrived at the place where the jeep stopped, is it not a fact that the place was dark?

A

Darked (sic), sir.

Q

While you were there, you were not able to recognize the faces of the four men, correct?

A

No more because it was dark, sir.[17] (Underlining supplied)

The quoted portion, rather than support Pulusan's contention, show that Gomez, although gripped by fear, was able to look at and see the malefactors. While it may be true that Gomez had only occasional glances at the men, this does not mean that he could not have been able to recognize them. The most natural reaction of victims of violence is to strive to see the appearance of the perpetrators of the crime and observe the manner in which the crime was being committed.[18]

We also consider the following testimony of Cresenciano Pagtalunan, thus:

Q

When these four passengers boarded the jeepney, was the jeepney inside lighted or not?

A

The jeepney was lighted, sir.

Q

Did you look at the faces of these four persons who boarded the jeepney?

A I came to know their faces when they passed by me and announced that it was a hold-up, I happened to look at them, sir.

Q In fact you looked at their faces and you have only a glimpse of their faces, correct?

A Yes, sir.

Q Did you have glimpses of these four persons who boarded at Malolos or only one of them?

A

I saw their faces because there was still light inside the jeep, sir.[19]

This testimony was corroborated by Marilyn Martinez who affirmed that when the four men boarded the jeep, the light inside the jeep was still on. She was able to recognize the men because they entered the jeep one by one. Moreover, Marilyn testified that even though the light inside the jeep was off, because they travelled quite a long distance, lights from the vehicles following them provided enough illumination.[20] When they arrived at the isolated talahiban in Sto. Tomas, one of the robbers switched on the headlights of the jeep. After the repeated rape of Marilyn, the light inside the jeep was already on.[21] Furthermore, appellant Rodriguez, who was the first to rape Marilyn, dragged her to the talahiban by passing in from to the jeep with its headlights on. She was looking at him, pleading for mercy.[22]

This Court has time and again held that the relative weight and significance of evidence on visibility depend largely on the attending circumstances and the discretion of the trial court. The Court has considered as sufficient for identification illumination from a kerosene lamp[23] from a flashlight,[24] in the same way that the Court considered as enough lighting for identification purposes the “medium” light inside a jeepney which was passing through a dark place.[25] In the instant case, the factor of visibility was in favor of the eyewitnesses. Such identification by all of the three prosecution eyewitnesses, not only by one, could not have been coincidental or contrived.

In an attempt to discredit the eyewitnesses and their testimonies, Pulusan points out these “conflicting testimonies:” (1) Gomez and Marilyn testified he poked a knife at Gomez while Pagtalunan said that he was holding a sumpak; (2) Gomez testified that it was Pulusan who brought Marilyn to the talahiban while according to Marilyn, it was Rodriguez who brought her first to that place; (3) Gomez testified that they went to the PC headquarters the day following January 20, 1986 while Pagtalunan testified that they did so four days later; and (4) Gomez contradicted his testimony on direct examination that the crime transpired on January 20, 1986 by his testimony on cross-examination that the incident happened on February 20, 1986.

We find these alleged contradictions too trivial to affect the prosecution’s case. Far from eroding the effectiveness of the testimonies of these eyewitnesses, such trivial differences are in fact indicative of veracity.[26] Witnesses testifying on the same event do not have to be consistent in every detail considering the inevitability of differences in their recollection, viewpoint or impression. Total recall or perfect symmetry is not required as long as the witnesses concur on material points.[27]

The prosecution, contrary to appellant’s contention has also proven beyond reasonable doubt that the four men, Pulusan and Rodriguez included, conspired in the commission of the crime. In conspiracy, direct proof of a previous agreement to commit a crime is not necessary. It may be deducted from the mode and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such points to a joint purpose and design, concerted action and community of interest.[28]

Pulusan and Rodriguez boarded the jeep together with two companions at the same time in Barangay Tikay. When Pulusan announced the hold-up, Rodriguez and their companions simultaneously brandished knives and the sumpak and divested the passengers of their money and valuables. When the jeepney reached an isolated place,

the men took turns in raping Marilyn, inflicting physical harm on four male passengers who all succumbed to repeated clubbing and stabbing. After the carnage, the four malefactors walked towards the same northerly direction. Apparent then is the unity of purpose and design in the execution of the unlawful act.[29] And where the conspiracy is shown, the precise extent of participation of each accused in the crime is secondary and the act of one may be imputed to all the conspirators.[30]

Pulusan and Rodriguez's respective alibis cannot prosper. Apart from the fact that they situated themselves in places not too far from the crime scene, there was no proof that it was physically impossible for them to have been at the locus criminis during its commission.[31] Most of all, their respective alibis collapse in the face of the positive identification of them as the perpetrators of the crime.[32]

The crime of charged in the information was "highway robbery attended with multiple homicide with multiple rape." Highway robbery or brigandage is defined in Sec. (2) of Presidential Decree No. 532, otherwise known as the "Anti-Piracy and Anti-Highway Robbery Law of 1974," as:

(t)he seizure of any person of ransom, extortion or other unlawful purposes, or the taking away of property of another by means of violence against or intimidation of person or force upon things or other unlawful means, committed by any person on any Philippine Highway.

As manifest in its preamble, the object of the decree is to deter and punish lawless elements who commit acts of depredation upon persons and properties of innocent and defenseless inhabitants who travel from one place to another thereby disturbing the peace and tranquility of the nation and stunting the economic and social progress of the people. A conviction for highway robbery requires proof that the accused were organized for the purpose of committing robbery indiscriminately. There is no such proof in this case. Neither is there proof that the four men previously attempted to commit similar robberies indiscriminately.[33]

The trial court thus correctly found Pulusan and Rodriguez guilty of the crime of robbery with homicide aggravated by rape under Article 294(1) of Revised Penal Code. In the interpretation of an information, controlling is not the designation but the description of the offense charged. Under the allegations in the information, Pulusan and Rodriguez are liable under the aforesaid article of the penal code.[34]

We must state that regardless of the number of homicides committed on the occasion of a robbery, the crime of still robbery with homicide. In this special complex crime, the number of persons killed is immaterial and does not increase the penalty prescribed in Art. 294 of the Revised Penal Code.[35] There is no crime of robbery with multiple homicide under the said Code.[36] The same crime is committed even if rape and physical injuries are also committed on the occasion of said crime. Moreover, whenever the special complex crime of robbery with homicide is proven to have been committed, all those who took part in the robbery are liable as principals therein although they did not actually take part in the homicide.[37]

Rape had not been proven to be original intention of the appellants, the crime having been committed simply because there was a female passenger in the jeep. Hence, rape can only be considered as an aggravating circumstance and not a principal offense.[38]

Under Art. 294(1) of the Revised Penal Code, robbery with homicide is punishable by reclusion perpetua to death. Considering the attendance of rape as a generic aggravating circumstance, the maximum penalty of death should be imposed. However, by reason of Section 19(1), Art. III of the 1987 Philippine Constitution which proscribes the imposition of the death penalty and considering further that at the time the crime was committed, Republic Act No. 7659 entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes" reimposing the death penalty had not yet been enacted, the imposable penalty is reclusion perpetua. Because reclusion perpetua is a single indivisible penalty for the special complex crime of robbery with homicide, the same shall be imposed

regardless of the attending aggravating or mitigating circumstances.[39]

The Court gives credence to the findings of the trial court as to the items to be returned or equivalent amount to be reimbursed to the victims of robbery, as well as the actual damages claimed and proven by the windows of the slain, victims. However, the civil indemnity for the heirs of the deceased victims should be increased to P50,000.00 in conformity with jurisprudence.[40]

As to the moral damages awarded to Marilyn Martinez, the same should be increased pursuant to this Court's ruling that the offended party in the crime of rape is entitled to moral damages in the amount of at least P50,000.00; but in cases where multiple rapes are committed against one victim, as in this case where the victim suffered four rapes by four men, the victim should be awarded no less than the amount of P200,000.00 as moral damages.[41]

WHEREFORE, the Decision dated June 5, 1990 of the Regional Trial Court, Malolos, Bulacan, Branch 12 convicting appellants Eduardo Pulusan and Rolando Rodriguez of the crime of robbery with homicide is hereby AFFIRMED subject to the modifications that the heirs of the four (4) slain victims shall each be entitled to an indemnity of P50,000.00 and the rape victim, Marilyn Martinez, shall be awarded moral damages in the amount of P200,000.00. Appellants shall be liable jointly and severally for the monetary awards.

SO ORDERED.

Narvasa, (Chairman), and Romero, JJ., concur Purisima, J., on leave.

[1] Record, p. 1.

[2] Rollo, pp. 3-4.

[3] Id., at 17-20.

[4] TSN. November 25, 1987. pp. 8-9.

[5] TSN, March 2, 1988, p.4.

[6] TSN, February 12, 1988, pp. 6-7.

[7] TSN, November 4, 1987. p. 8.

[8] TSN, December 2, 1987, p. 4; TSN, April 29, 1988, p. 4.

[9] TSN, November 20, 1987. pp. 2-15.

[10] Record, p. 645-646.

[11] Rollo, pp. 107-108.

[12] Id. At 68.

[13] People v. Torres, 247 SCRA 212 (1995).

[14] People v. Rosario, G.R. No. 108789, July 18, 1995, 246 SCRA.

[15] Brief for Pulusan, pp. 12-13.

- [16] Id., at 13-14.
- [17] TSN, June 10, 1986, pp. 23-25.
- [18] *People v. Apawan*, 235 SCRA 355 (1994); *People v. Dolor*, 231 SCRA 414 (1994).
- [19] TSN, July 22, 1986, pp. 13-14.
- [20] TSN, March 18, 1977, pp. 6-9
- [21] Id., at 11-12.
- [22] Id., 12-14.
- [23] *People v. Penillos*, 205 SCRA 546 (1992).
- [24] *People v. Loste*, 210 SCRA 614 (1992).
- [25] *People v. Mendoza*, 254 SCRA 61 (1996).
- [26] *People v. Mendoza*, 236 SCRA 666 (1994).
- [27] *People v. Cruza*, 237 SCRA 410 (1994).
- [28] *People v. Parica*, 243 SCRA 557 (1995); *People v. Canillo*, 236 SCRA 22 (1994); *People v. Cordova*, 224 SCRA 319 (1993); *People v. Pama*, 216 SCRA 385 (1992).
- [29] *People v. Ortaleza*, 258 SCRA 201 (1996).
- [30] *People v. Parica*, see note 28, supra; *People v. Canillo*, see note 28, supra; *People v. Liquiran*, 228 SCRA 62 (1993).
- [31] *People v. De Leon*, 248 SCRA 609 (1995).
- [32] *People v. Mesias*, 199 SCRA 20 (1991).
- [33] *People v. Mendoza*, see note 25, supra.
- [34] *People v. Mendoza*, see note 25, supra. *Avecilla v. People*, 209 SCRA 446 (1992); citing *People v. Aczon*, 225 SCRA 237 (1993) and *Avecilla v. People*, 209 SCRA 446 (1992).
- [35] *People v. Maranion*, 199 SCRA 421 (1991).
- [36] *People v. Quiñones*, 183 SCRA 747 (1990).
- [37] *People v. Lascuna*, 225 SCRA 386 (1993).
- [38] *People v. Aspili*, 191 SCRA 520 (1990).
- [39] *People v. Desalisa*, 229 SCRA 35 (1994), citing Art. 294 (1) in relation to Art. 63(1) of The Revised Penal Code.
- [40] *People v. Adonis*, 240 SCRA 773 (1995); *People v. Logronio*, 214 SCRA 519 (1994); *People v. Serdan*, 213 SCRA 329 (1992).
- [41] See *People v. Espinoza*, 247 SCRA 66 (1995).

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