PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. NESTOR O. JUACHON, ACCUSED-APPELLANT.

G.R. No. 111630. December 06, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is an appeal from the Decision[1] dated July 16, 1982, of Branch V of the Regional Trial Court of Nueva Ecija, in Criminal Case No. 1079, convicting appellant Nestor Juachon of the crime of "Rape with Murder", and sentencing him thus:

> "WHEREFORE, in view of all the foregoing, the Court, finding NESTOR JUACHON guilty beyond reasonable doubt of the crime of 'Rape with Murder' as charged in the 'Information' hereby sentences him to suffer the death penalty[2] to be executed in the manner prescribed by law.
>
> Nestor Juachon is further ordered to indemnify the heirs of Helen Mactal the sum of P30,000 as damages and to pay the costs.
>
> SO ORDERED."[3]

Filed on May 29, 1979 by Asst. Provincial Fiscal Ponciano V. Garcia, the Information indicting appellant, alleges:

> "That on or about the 21st day of August, 1978, in the Municipality of Gapan, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and violence, did then and there, willfully unlawfully and feloniosly (sic) have sexual intercourse with one Helen de Guzamn (sic) Mactal against her will and without her consent and that on the occasion of such rape, the above-named accused, with intent to kill immersed or submersed the said Helen de Guzman Mactal in muddy water in such manner as to cause the death of the said victim due to aspyxia (sic) by submersion in muddy water to the damage and prejudice of the heirs of said victim.
>
> CONTRARY TO LAW."[4]

With the appellant pleading not guilty upon arraignment thereunder, trial ensued.

The facts established by the prosecution are summarized by the trial court as follows:

> "x x x
>
> Helen Mactal, a 21 years (sic) old lass from Pambuan, Gapan, Nueva Ecija, was enrolled in the first semester of 1978 at the Divina Pastora College in Gapan, taking up the (sic) secretarial course. Evelyn Cabungcal, a 20 years (sic) old lass, was a classmate of Helen Mactal. Their classes started at 5:00 o'clock in the afternoon and ended at 8:00 o'clock in the evening.
>
> On August 21, 1978, after their dismissal from classes at 8:00 o'clock in the evening, Evelyn Cabungcal and her other classmates were conversing in front of the Nilo's Tailoring, which is located across the street from the new Municipal Building of Gapan. In the course of their conversation, Evelyn Cabungcal noticed that

Nestor Juachon, a tricycle driver, was waiting for passengers near their place of conversation and had parked his tricycle along the side-walk (sic). Another person, tall, slender and still young, sat on the motorcycle. Not long thereafter, Evelyn Cabungcal noticed that her classmate, Helen Mactal, boarded the tricycle of Nestor Juachon.

Jose Cabungcal, an employee of the NEECO assigned at the electric plant in Guinandosan, reported to his place of work at about 9:00 o'clock in the evening of August 21, 1978. In going to Guinandosan, he had to pass thru the road along which in the morning of August 22, 1978 the lifeless body of Helen Mactal was found. When he passed that road at around 9:00 o'clock in the evening of August 21, 1978, he saw a tricycle with a white side-car (sic) parked by the side of the road.

Amparo Jacinto, a 27 years (sic) old matron of Pambuan, Gapan, Nueva Ecija, was waiting for her husband in the evening of August 21, 1978 by the window of their house. At about 10:00 o'clock that evening, while still waiting for her husband, she noticed the arrival of Nestor juachon (sic) in his tricycle in front of their (Amparo Jacinto) house. She noticed that the motorcycle is painted red with white decorations while the side-car as well as its canvass covering are white. Nestor Juachon, also a resident of Pambuan, is the compadre of her husband.

At 7:00 o'clock in the morning of August 22, 1978, Rogelio Santiago, a teenager, reported to police corporal Efren Angeles, a resident of Mangino, Gapan (a barangay which adjoins Pambuan), that he saw the body of a dead female in the ricefield along the road leading to the electric plant in Guinandosan x x x

x x x x x x xxx

x x x x x x xxx
On August 20, 1978, Nestor Juachon helped Efren de Guzman of Guinandosan pull out palay seedlings in the latter's farm. It took them the whole day. Efren de Guzman noticed the slippers worn by Nestor Juachon that day which have a brown leaf covering the entire front portion of the feet. He identified the slippers found at the place where the cadaver of Helen Mactal was found as the same slippers worn by Nestor Juachon on August 20, 1978. Nestor Juachon helped him pull out the palay seedlings because they are relatives.

During the custodial investigation of Nestor Juachon at the police station, Pat. Carlos in the presence of the Station Commander, fitted the slippers on the feet of Nestor Juachon. The slippers fitted perfectly on the feet of Nestor Juachon.

On August 24, 1978, Nestor Juachon talked with Rogelio Santiago, a teenager and his cousin. He asked Rogelio Santiago to tell the persons at the waterfall at Guinandosan to tell that he (Nestor Juachon) was at the site of the waterfalls on the night of the incident. By 'persons at the waterfall', Rogelio Santiago understood that Nestor Juachon was referring to Danny Rivera and Mrs. Leni Peña.

On August 26, 1978, the funeral of Helen Mactal took place. Efren de Guzman attended the same where he saw Nestor Juachon. Nestor told Efren: 'Pakisabi mo kay Ben Nicolas at Danny Rivera na nandoon ako noong gabing yon.' Danny Rivera works at the electric plant of the NEECO I in Guinandosan where there is a waterfall while Ben Nicolas works at the NAI and is also assigned in Guinandosan.

x x x xxx xxx
Dr. Felicidad B. Atacador, the Rural Health Physician of Gapan, performed the medico-legal examination on the cadaver of Helen Mactal at the morgue of the St. Paul Funeral Homes in Gapan. She issued a medico-legal certificate containing her findings, to wit:

'II. EXTERNAL EXAMINATION:

Cadaver is wet and soak with mud all over, complete dressing, minus panty.

External findings:

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1- Hematoma, swelling of the supra and infra orbital portion of the right eye;
2- Lacerated lower portion of sclera, right eye;
3- Lacerated wound 1 cm. at inner upper lip and 1 inch lacerated wound at inner lower lip left side (sic)
4- Cervical fracture just below medulla superior portion of the neck;
5- Whole of anterior portion and lateral portion of the neck right side, and half of posterior portion left side of the neck, visibly marked by reddish brownish black, suggestive of possible strangulation;
6- Reddish brownish black discoloration of anterio (sic) portion of the arm left side;
7- Reddish brownish black discoloration of the epiglastic right down to the hypogastric, envolving (sic) up to mid-portion of the abdomen right side;
8- Reddish brownish balck (sic) discoloration of both right and left anterior portion of the thigh superiorly down inferiorly to the knee.

'III. INTERNAL EXAMINATION

1- Perineal lacerated wound ½ an inch at 4 o' clock and 6 o'clock.
Note:

Family requested not to open cadaver.

'IV. CAUSE OF DEATH

1. Asphyxia strangulation and suffocation.
2. Cervical fracture just below medulla superior portion of the neck.

x x x xxx xxx"[5]

Teofila Mactal, mother of the deceased Helen Mactal, testified that on August 16, 1978, during the barrio fiesta, appellant, a suitor of Helen, kept on peeping in their house;[6] and on one occasion, Helen informed her that the appellant told her "Masarap kang halikan".[7]

Appellant placed reliance on his defense of denial and alibi. Denying that Helen Mactal rode on his tricycle at around 8:00 o'clock in the evening of August 21, 1978, he theorized that he was in his house at the time of the commission of the crime and stressed that he reached home between 6:00 o'clock to 7:00 o'clock of that evening.[8]

The defense also presented Daniel Cabungcal, who testified that a certain tricycle driver, named Renato Elemencio, confessed to him as the culprit.[9] Renato Elemencio, however, was never brought to court to substantiate his alleged confession.

On July 16, 1982, after evaluating the records on hand, the trial court handed down the judgment of conviction appealed from, on the basis of the following circumstantial evidence:

1. That the accused, Nestor Juachon, used to drive a tricycle with a white side car and white canvass roofing;

2. That Helen Mactal rode on the tricycle driven by Nestor Juachon at past 8:00 o'clock in the evening of August 21, 1978;

3. That Jose Cabungcal, an employee of Nueva Ecija Electric Cooperative (NEECO I), assigned to the electric plant at Guinandosan, Gapan, Nueva Ecija, while on his way to his place of work, at about 9:00 in the evening, of August 21, 1978, saw a tricycle with a white side-car along the road to Guinandosan;

4. That at about 10:00 o'clock in the evening of August 21, 1978, Amparo Jacinto, a neighbor of appellant, while waiting by the window for the arrival of her husband, saw appellant arrive and stop his tricycle in front of their house in Pambuan, Gapan, Nueva Ecija;

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5. That in the early morning of August 22, 1978, the lifeless body of Helen Mactal was discovered in the ricefield along the road going to Guinandosan;

6. That near the place where the cadaver was found was a pair of slippers which was positively identified by Efren de Guzman (relative of appellant) as those worn by Nestor Juachon on August 20, 1978, when the latter helped him pull out the palay seedlings in his farm;

7. That after the incident involved in this case, Nestor Juachon told his relatives, Rogelio Santiago and Efren de Guzman, on two different occasions to tell the persons at the waterfall, that he was there on the night of August 21, 1978;

8. That previous to August 21, 1978, Helen Mactal informed her mother that on one occasion, accused told her "masarap kang halikan.[10]

Appellant contends, that:

I.
THE TRIAL COURT GRAVELY ERRED IN NOT TAKING INTO ACCOUNT THE FACT THAT EVEN AT THE FIRST INSTANCE, IT HAD NO JURISDICTION OVER THE OFFENSE CHARGED BECAUSE THE INFORMATION FILED IN THE CASE WAS ITSELF VOID AB INITIO, IN THAT IT CHARGED THE ACCUSED WITH "RAPE WITH MURDER" WHICH IS A LEGALLY NON-EXISTENT CRIME IN THE STATUTE BOOKS.

II.
THE TRIAL COURT GRAVELY ERRED IN FURTHER DISREGARDING THE FACT THAT THE MOTION TO QUASH FILED BY THE ACCUSED, DURING THE PRELIMINARY INVESTIGATION, WAS WRONGLY DENIED BY THE TRIAL COURT DESPITE THE FACT THAT THE INFORMATION WAS ALSO CLEARLY DEFECTIVE IN FORM IN THAT IT CHARGED MORE THAT ONE OFFENSE WHICH THUS DENIED THE ACCUSED' (sic) HIS CONSTITUTIONAL RIGHT TO BE INFORMED OF THE NATURE OF THE ACCUSATION AGAINST HIM.

III.
THE TRIAL COURT GRAVELY ERRED IN FINDING GUILT ON THE PART OF THE ACCUSED-APPELLANT ON MERE CIRCUMSTANTIAL EVIDENCE WHICH DID NOT AT ALL WARRANT HIS CONVICTION OF THE CRIME CHARGED BEYOND A REASONABLE DOUBT.

IV.
THE TRIAL COURT GRAVELY ERRED IN NOT GIVING CREDENCE TO THE DEFENSE OF DENIAL AND ALIBI RAISED BY THE ACCUSED NESTOR JUACHON.[11]<

The issues posed for resolution: 1) Whether or not the alleged defect in the designation of the offense in the Information violated the constitutional right of appellant to be informed of the nature of the charges against him; and 2) Whether or not appellant's guilt was established beyond reasonable doubt by the aforesaid circumstantial evidence presented by the prosecution.

Settled is the rule that the real nature of the crime charged is determined not from the caption or preamble of the Information nor from the specification of the provision of law alleged to have been violated, such being conclusions of law, but by the actual recitation of facts alleged in the Complaint or Information.[12] Elucidating further, the late former Chief Justice Manuel Moran, in the case of People vs. Labado, ratiocinated: 'It has been held, however, that if the above requirement [Rule 110, Sec. 7, Rules of Court] is not complied with and no name has been given to the offense alleged to have been committed, the defect is merely of form which does not prejudice the substantial rights of the defendant. This is especially so where the facts pleaded are clearly constitutive of a specific offense. In such cases, the real nature of the crime charged is determined not by the title of the complaint, nor by the specification of the provision of law alleged to have been violated,

> but by the facts recited in the complaint or information. This is so because 'from the legal point of view, and in the very real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in his defense on the merits x x x. The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth. If he did, it is of no consequence to him, either as a matter of procedure or substantive right, how the law denominates the crime which those acts constitute x x x'[13]

In the present case, although the offense charged against appellant was designated as “Rape with Murder” in the Information, the facts therein recited constitute the crime of rape with homicide under Article 335 of the Revised Penal Code. The elements of said crime are clearly spelled out in the Information, particularly the sexual intercourse against the will of the victim, perpetrated with violence and force, and the killing of the same victim on occasion of the rape, by immersing her in muddy water.

It is decisively evident therefore, that the appellant was duly apprised of the accusations against him. Whatever defect in the Information was merely one of form and did not violate appellant’s constitutional right to be informed of the nature of the accusation against him.

Section 4, Rule 133, of the Revised Rules on Evidence, provides:

> “Sec. 4. Circumstantial evidence, when sufficient.- Circumstantial evidence is sufficient for conviction if:
> 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."

Like a tapestry made up of strands which create a pattern when interwoven,[14] the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion, that the appellant is guilty beyond reasonable doubt. In other words, the circumstances or a combination thereof, should point to overt acts of the appellant that would logically usher in the conclusion and no other, that he is guilty of the crime charged.[15]

In the case under consideration, the trial court found a total of eight (8) pieces of circumstantial evidence the most vital of which are: 1) That Evelyn Cabungcal saw Helen Mactal ride on the tricycle of Nestor Juachon at around 8:00 o’clock in the evening of August 21, 1978, which supports the theory that the victim was last seen alive in the company of appellant; and 2) That a pair of slippers positively identified by Efren de Guzman, to be those of appellant, were found near the body of the victim, which circumstance bolsters the claim that appellant was at the scene of the crime at the time of its commission.

As opposed to the denial by appellant, his positive identification by Evelyn Cabungcal, who testified in a candid and straightforward manner, must prevail.[16] Convinced that Evelyn Cabungcal was telling the truth, the trial court thus made the following observations:

> “x x x The Court was greatly impressed with the testimony of this witness, having testified in a candid and straight-forward (sic) manner. In the personal observation of the Court, she is a witness who is not capable of indulging in fabrication. Despite the fact that she was no longer staying and studying in Gapan at the time she gave testimony, still she took pains to come to court and testified accordingly. The Court does not see any reason to disregard her testimony. The Court has nothing but commendation of her civic-spiritedness.”[17]

So also, the court a quo erred not in giving credence to the testimony of Efren de Guzman, a relative of appellant, who identified the pair of slippers found near the cadaver of the victim to be those worn by appellant on August 21, 1978, when the latter helped him pull out the palay seedlings from his farm. Indeed, the distinct appearance of said slippers: “with a brown leaf covering the entire front portion of the feet”[18] could have easily caught the attention of Efren de Guzman, considering that it took them the whole day to work in the said farm.

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The contention of appellant that Efren de Guzman testified against him because they were not in good terms with each other and that Efren de Guzman was opposed to his procurement of passengers from Guinandosan where Efren resides,[19] is too flimsy to be worthy of belief. It is quite obvious that appellant and Efren de Guzman were getting along well, considering that appellant even devoted his one whole day to help Efren in his farm. As correctly stressed upon the trial court, it is simply unbelievable that Efren would fabricate evidence against the appellant to implicate the latter in this case involving a very serious charge. Indeed, absent any improper motive, Efren’s testimony is entitled to full faith and credit.[20]

Then too, it is worth mentioning that the prosecution was able to establish the motive of appellant through the uncontradicted testimony of the victim's mother. Teofila Mactal declared that Nestor Juachon, a suitor of her daughter, kept on passing by and peeping in their house before the incident; and on one occasion, appellant even told her daughter: "masarap kang halikan". As aptly argued by the Solicitor General, these circumstances clearly manifested appellant's carnal interest in the victim and taken with all other circumstantial evidence, convincingly point to appellant as the author of the crime.

After a thorough review and examination of the evidence on record, the Court discerns no ground or basis for disregarding the aforestated conclusions arrived at by the trial court, whose findings are accorded great weight because of its singular opportunity to observe the demeanor of the witnesses when they testified during the trial.[21]

Verily, a combination of the circumstantial evidence established by the prosecution constitutes an unbroken chain which points to appellant as the culprit. From the established fact that the deceased was last seen alive with appellant at around 8:00 o’clock in the evening of August 21, 1978, with his carnal interest in the victim as background motive, let alone the presence of his slippers at the scene of the crime, and the other circumstantial evidence aformentioned, no other conclusion can be drawn other than the guilt of appellant, Nestor Juachon.

As regards the alibi theorized upon by appellant, the Court believes, and so holds, that the same cannot overcome appellant's positive identification by Evelyn Cabungcal as the driver of the tricycle on which Helen Mactal rode at about 8:00 o'clock on that fatal night of August 21, 1978, and the corroborative testimony of appellant’s neighbor, Amparo Jacinto, that it was at around 10:00 o’clock in the evening when appellant reached home on August 12, 1978.[22] What is more, appellant utterly failed to prove that it was physically impossible for him to be at the scene of the crime at the approximate time of its commission.[23] Consequently, his alibi cannot prosper.

So also, the trial court correctly disregarded the version of Daniel Cabungcal, pointing to one Renato Elemencio as the self-confessed perpetrator of the crime. Despite the manifestation of the prosecution that the attendance of Renato Elemencio may be had, the defense did not bother to present him in court. It is simply incredible that the appellant would prefer to languish in jail for a crime he did not commit than to compel subject witness to testify unless, of course, the appellant is apprehensive that such witness' testimony would not be favorable to him.[24]

In convicting appellant, the trial court made express reference to Article 335 of the Revised Penal Code. However, it erroneously designated the crime committed by appellant to be “rape with murder”.[25] Be that as it may, such a flaw in the appealed decision does not dissuade this Court from convicting the appellant of the special complex crime of rape with homicide. In criminal cases, an appeal opens the entire case for review,[26] giving the appellate court an opportunity to weigh and evaluate, once more, the totality of the evidence, including the proper designation of the offense. In the case under consideration, the elements of the special complex crime of rape with homicide were clearly and specifically stated in the Information and, proven beyond reasonable doubt by the prosecution. Thus, the mind of the court can rest easy on a finding of appellant's guilt of the special complex crime of Rape with Homicide.

The decision of the lower court imposing the penalty of death on appellant was rendered on July 16, 1982. In light of Section 19 (1), Article 3 of the 1987 Constitution, automatically reducing the penalty of death to reclusion perpetua, the appellant is hereby sentenced to suffer the penalty of reclusion perpetua. Republic Act No. 7659, which took effect on December 31, 1993, reimposing the death penalty for rape with homicide, is not applicable to the present case; otherwise, said Act would become an ex post facto law.

Consistent with prevailing jurisprudence, the award of P30,000 for the civil indemnity has to be increased to P50,000.[27]

WHEREFORE, the appealed Decision in Criminal Case No. 1079, convicting appellant Nestor Juachon of the crime of rape with homicide and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED, with the MODIFICATION that the civil indemnity awarded to the heirs of the deceased, Helen Mactal, is hereby increased to Fifty thousand (P50,000.00) Pesos. Costs against the appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

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[1] Penned by Judge Teofilo Guadiz, Jr.

[2] Commuted to reclusion perpetua by virtue of the suspension of the imposition of death penalty under the 1987 Constitution.

[3] Rollo, p. 31.

[4] Original Records (O.R.), p. 83.

[5] Decision, Rollo, pp. 21-25.

[6] O.R., Direct examination of Teofila Mactal, TSN, p. 19.

[7] Decision, Rollo, p. 30.

[8] Decision, Rollo, p. 26.

[9] Decision, Rollo, pp. 29-30.

[10] Decision, Rollo, pp. 30-31.

[11] Appellant's Brief, Rollo, pp. 92-93.

[12] People vs. Torres, 165 SCRA 702, p.705.

[13] People vs. Labado, 98 SCRA 730, 747 citing Moran, Rules of Court, pp. 22-23, 1970 ed.

[14] People vs. Cabrera, 241 SCRA 28, 32.

[15] People vs. Flores 186 SCRA 303, 314 citing VI, Moran, Comments on the Rules of Court 65 (1980 ed.).

[16] People vs. Fortich, 281 SCRA 600, 616, citing People vs. Guamos, 241 SCRA 528 [1995].

[17] Decision, Rollo p.29.

[18] Decision, Rollo, p. 23.

[19] Id., p. 26.

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[20] People vs. Culala, G.R. No. 83466, October 13, 1999.

[21] People vs. Lachica, G.R. No. 94432, October 12, 1999, citing People vs. Camat, 256 SCRA 52, 64; People vs. San Gabriel, 235 SCRA 80; People vs. Bongadillo, 234 SCRA 233; and People vs. Ornoza, 151 SCRA 495.

[22] People vs. Culala, supra, citing People vs. Lacatan, 295 SCRA 203.

[23] People vs. Lachica, supra; citing: People vs. Batulan, 253 SCRA 52, 64; People vs. Kipte, 42 SCRA 198; People vs. Macayan, et al., 126 SCRA 322; People vs. Saguban, 231 SCRA 744; and People vs. Cabresos, 244 SCRA 362.

[24] People vs. Magsombol, 252 SCRA 189, 199.

[25] Decision, Rollo, p. 31.

[26] Obosa vs. Court of Appeals, 266 SCRA 281, 301, citing Quemel vs. Court of Appeals, et al., 130 Phil. 33, 35 [1968].

[27]People vs. Lachica, supra, citing People vs. Balisoro, G.R. No. 124980, May 12, 1999 and Del Rosariovs. Court of Appeals, 243 SCRA 600.

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