

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLAND DANAOS, ACCUSED-APPELLANT.

G.R. No. 116058. February 01, 1996

Ponente: REGALADO, J.

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REGALADO, J.:

Insisting that he was not positively identified as the perpetrator of the offense with which he was charged, accused-appellant Roland Danao appeals from the judgment in Criminal Case No. 7034 of the Regional Trial Court, Branch 44, of Masbate, Masbate finding him guilty of rape with homicide and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim in the amount of P50,000.00, and to pay the costs.[1]

The information which initiated this case on June 16, 1993 indicted appellant for rape with homicide, based upon the following allegations:

"That on or about October 14, 1992 in the evening thereof at Brgy. Batuhan, Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with MARIA APAREJADO, a 13 year old girl against the latter's will and with intent to kill, by means of treachery and abuse of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault, strangle and drown said Maria Aparejado causing the latter's instantaneous death."[2]

At his arraignment on July 19, 1993, appellant, duly assisted by counsel, registered a plea of not guilty.[3] Trial proper then followed. The prosecution presented five witnesses, namely, Bonifacio Manacho, Feliciano Gonzaga, Dr. Artemio Capellan, Marilou Cos, and the victim's own mother, Rita Aparejado. The defense, on the other hand, had as countervailing witnesses Roland Danao, the accused himself; Rogelio Danao, Sr., appellant's father; and, Nicolas Bolon and Benhur Lupango, both members of the Philippine National Police in Masbate, Masbate. On May 20, 1994, the trial court rendered its aforementioned judgment which is now the subject of this appeal.

The prosecution in this case principally relied upon circumstantial evidence in establishing the guilt of appellant. Witness Feliciano Gonzaga, a neighbor of appellant, testified that at around 5:30 in the late afternoon of October 14, 1992, the victim, Maria Aparejado, stopped by her residence in Barangay Batuhan in Masbate, Masbate in order to get her notebooks, and left shortly thereafter. Gonzaga, who was then nursing her two-month old baby, observed that as the victim was on her way back home, appellant followed her and appeared to stalk Maria. However, she did not give much thought to that act or behavior of appellant. The following day, Gonzaga learned that Maria, who was her niece, had been found dead in the mangrove, that is, a swampy area with mangrove trees and other marine plants growing in brackish water, which is located just several meters away from Gonzaga's house.[4]

Another prosecution witness, Bonifacio Manacho, a farmer and neighbor of both appellant and the victim, recounted that at past 6:00 o'clock in the evening of October 14, 1992, he was on his way home with his carabao

from farm work when he espied appellant hurriedly walking away from the mangrove where the victim's body was later found. Manacho then recalled that in the early morning of October 15, 1992, he saw appellant's mother, Asuncion Danao, running near the same mangrove and she appeared to be very distraught. When he inquired as to what was wrong, Asuncion Danao said that there was a dead person in the mangrove. The two then proceeded to the place at the request of Danao and there they saw the corpse of a young girl lying face down in the water. Danao then told Manacho to keep to himself what they saw and not to tell anyone about it. However, Manacho, who by then had apparently realized the identity of the victim, immediately informed Maria Aparejado's mother about what he saw. Together with the barangay captain, they went to the mangrove and ascertained that it was Maria Aparejado.[5]

Marilou Cos testified that on October 28, 1992, during the fiesta in Barangay Biong, Masbate, Masbate, she was in the house of appellant's sister, Haide Danao Leones. She overheard Asuncion Danao telling Haide while they were all having lunch that appellant was asking for help because he had raped and killed somebody.[6]

Appellant, on the other hand, denied any participation in the death of Maria Aparejado who, he says, was his cousin, appellant's father and the victim's mother being cousins likewise. He asserted that he played billiards with his brother and father at the house of their neighbor, one Zosima Orna, in Barangay Batuhan from 5:30 in the afternoon to 7:00 o'clock in the evening of October 14, 1992. Hence, he contends that he could not have killed Maria Aparejado.[7] His father, Rogelio Danao, Sr. testified in court and corroborated his son's claims about his whereabouts at the time.[8] The trial court, nevertheless, disbelieved appellant's defense and accordingly found him guilty as charged, hence the present appellate review.

Appellant imputes three supposedly glaring errors of the trial court which would justify a reversal of his conviction, namely, (1) in convicting him on the basis of the evidence adduced by the prosecution, (2) in applying the rule on circumstantial evidence, and (3) in not acquitting him.[9] In a nutshell, appellant banks his appeal upon the alleged insufficiency of the evidence adduced by the prosecution. According to him, no witness for the prosecution positively pointed to him as having raped and killed the victim on the day and time in question. The Court disagrees.

Direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[10] Indeed, there are crimes where there are no eyewitnesses at all. Under such situations, the courts are allowed to rule on the bases of circumstantial evidence. Such species of evidence is sufficient for conviction if (1) there is more than one circumstance, (2) the facts from which the inferences are derived are proven, and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[11] The corollary rule is that the circumstances established must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.[12]

In this case under review, several circumstances significantly stand out to incriminate appellant and forge the links of the chain of his guilt. Firstly, there is the uncontradicted testimony of the victim's mother, Rita Aparejado, that prior to her daughter's death, the latter repeatedly informed her that appellant had been following or stalking her in the school which she attended.[13] Appellant did not contradict this and in fact admitted that he used to see the victim in her school. Secondly, at the approximate time of the incident, appellant was positively seen by Feliciano Gonzaga following the victim shortly after the latter had taken her notebooks from Gonzaga's house. Gonzaga recalled that the victim had in fact given way to appellant by letting him walk ahead, as if she was suspicious of his presence, so she could keep an eye on him.[14]

Thirdly, there is the testimony of Bonifacio Manacho that as he was going home shortly after 6:00 o'clock in the

evening of October 14, 1992 and was passing by the mangrove where the victim's body was later discovered, he definitely saw appellant hastily leaving the immediate vicinity thereof. Then, in the early morning of the following day, Manacho met appellant's mother, Asuncion Danao, in a state of panic near the same mangrove. Danao led Manacho to the victim's body and bade him to keep secret what they had seen, apparently in a bid to cover up for her son's misdeed.[15]

Fourthly, the defense failed to successfully traverse the revelation of Marilou Cos on the colloquy between appellant's mother, Asuncion Danao, and his sister, Haide Danao Leones, about appellant's admission and appeal for help. It bears stressing that neither of said close relatives of appellant was presented to give the lie to the testimony of Marilou Cos or, for that matter, of Manacho.

Dr. Artemio Capellan, Municipal Health Officer of Masbate, Masbate who conducted the post-mortem examination on the remains of the victim, testified that she was raped and that the cause of her death was asphyxia secondary to drowning.[16]

The forthright testimonies of both Feliciana Gonzaga and Bonifacio Manacho indubitably point to appellant's suspicious presence near the mangrove swamp at around the time that the victim was raped and killed. Feliciana Gonzaga's testimony was clear and positive that she saw appellant inexplicably following the victim as the latter was on her way home and would have to pass by the mangrove where she was later found to have been sexually assaulted and drowned. Bonifacio Manacho was likewise unequivocal in his declaration that it was appellant whom he saw hastily leaving the vicinity of the mangrove which was the scene of the crime.

The testimonies of these two were categorical, consistent and complementary to the established fact about the joint presence of appellant and the victim at the mangrove on that day. No ill motives whatsoever have been attributed to them as to why they should testify against appellant and implicate him in such a heinous crime. While admittedly Feliciana Gonzaga is a relative of the victim, that fact alone should not be considered as corrosive of her testimony, especially in light of the fact that appellant himself is likewise related to the *Aparejados*. The concatenation of the testimonies of the prosecution witnesses unquestionably leads to the fair, reasonable and logical inference that it was appellant, and no other, who had raped and killed the victim, Maria *Aparejado*.

Moreover, the straightforward declarations of Feliciana Gonzaga and Bonifacio Manacho contradict appellant's insipid and discredited defense of denial and alibi that he was at the house of Zosima Orma at the time. As between a negative assertion and a positive one, the latter is understandably and justifiedly given more weight under the rules of evidence. Additionally, the defenses of denial and alibi are inherently weak and have always been viewed with disfavor by the courts due to the facility with which they can be concocted.[17]

In the case of alibi, we once again stress the two requirements which should be strictly met in order that the same may be of value to the defense, that is, the accused must prove that he was not present at the scene of the crime at the time of its commission, and that it was physically impossible for him to have been there at the time.[18] Without said evidential requisites having been established, reliance on alibi becomes all the more a liability. Further, it becomes less plausible as a defense when it is invoked and sought to be crafted mainly by the accused himself and his immediate relative or relatives.[19]

In the case of appellant, the place where he claimed to be at the time involved is only about two hundred meters away from the mangrove where the victim was waylaid.[20] In fact, the houses of Zosima Orna, Feliciana Gonzaga, Bonifacio Manacho and herein appellant are only meters apart from each another. The victim's house, on the other hand, is only one hundred meters away from the mangrove where she was found dead. Hence, appellant's asseverations on his alibi are entirely unacceptable. Oddly but significantly, appellant himself testified

that at the time that he, his father and his brother were playing billiards in the house of Zosima Orna, one of those who watched them play was the victim, Maria Aparejado, and this was at around 5:30 in the afternoon of that day. He in fact stated that he saw the victim leave briefly afterwards in the direction going to her house[21]

Appellant's desperate argument that the initial investigations conducted by the police authorities in Masbate, Masbate showed that the physical description of the suspect did not match his physical features is pitifully unavailing. As far as the same were concerned, those were merely the tentative assumptions during the initial stages of the general investigation. Further sleuthing thereafter veered toward and eventually exposed appellant as the perpetrator of the dastardly deed. We accordingly hold that the court below did not commit any reversible error in ruling that the requisite quantum of evidence for a finding of guilt has been sufficiently met by the prosecution as to call for our unqualified affirmance of the judgment of said court a quo.

WHEREFORE the appealed condemnatory judgment of the Regional Trial Court, Branch 44 of Masbate, Masbate is hereby **AFFIRMED** in toto, with costs against accused-appellant Roland Danao.

SO ORDERED.

Romero, Puno and Mendoza, JJ., concur.

[1] Penned by Judge-Designate Florante A. Cipres; Original Record, 73-74.

[2] Original Record, 1.

[3] Ibid., 13-14.

[4] TSN, August 26, 1993, 2-6.

[5] Ibid., August 12, 1993, 1-4.

[6] Ibid., August 26, 1993, 20-21.

[7] Ibid., November 11, 1993, 2-4.

[8] Ibid., November 9, 1993, 2-4.

[9] Appellant's Brief, 1-2; Rollo, 45-46.

[10] People vs. Desalisa, G.R. No. 95262, January 4, 1994, 229 SCRA 35; People vs. Merza, G.R. No. 1 12238, November 22, 1994, 238 SCRA 283.

[11] People vs. Sunga, et al., G.R. No. 106096, November 22, 1994, 238 SCRA 274; People vs. Villaruel, G.R. Nos. 110803-04, November 25, 1994, 238 SCRA 408.

[12] People vs. Genobia, et al., G.R. No. 110058, August 3, 1994, 234 SCRA 699; People vs. Estrellanes, Jr., et al., G.R. No. 111003, December 15, 1994, 239 SCRA 235.

[13] TSN, August 26, 1993, 31-32.

[14] Ibid., Id., 3-4.

[15] Ibid., August 12, 1993, 1-2.

[16] Ibid., id., 18-23.

[17] People vs. Pelones, G.R. Nos. 86159-60, February 28, 1994, 230 SCRA 379; People vs. Frago, G.R. Nos. 104492-93, May 31, 1994, 232 SCRA 653.

[18] People vs. Tañote, et al., G.R. No. 109769, November 28, 1994, 238 SCRA 443.

[19] People vs. Retuta. et al., G.R. No. 95758, August 2, 1994, 234 SCRA 645

[20] TSN. November 9. 1993, 14; November 11. 1993, 39.

[21] TSN, November 11, 1993, 23-25.

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