

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO OPERAÑA, JR., ACCUSED-APPELLANT.

G.R. No. 120546. October 13, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

An errant husband stands charged with the crime of parricide. He was convicted on the basis of circumstantial evidence and meted the supreme penalty of death.

After a careful study, the Court finds all the elements of circumstantial evidence necessary for conviction present here. Proof beyond reasonable doubt does not really mean the degree of proof excluding the possibility of error and producing absolute certainty. Only moral certainty or "that degree of proof which produces conviction in an unprejudiced mind" is required.[1]

Chronology of events:

Appellant Rodolfo Operaña, Jr. and the deceased Alicia Operaña were lawfully married. Their union was blessed with five (5) children. Complainant Rufina Maminta is the mother of the deceased.

Appellant was charged before Branch 41 of the Regional Trial Court of Dagupan City with the crime of parricide allegedly perpetrated as follows:[2]

"That on or about the 11th day of May, 1994, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, RODOLFO OPERAÑA, JR., with intent to kill his wife, ALICIA M. OPERAÑA, with whom he has united in lawful wedlock, with evident premeditation, did then and there, wilfully, unlawfully and criminally, attack, assault and use personal violence upon his said wife, ALICIA M. OPERAÑA, resulting in her eventual death due to 'Cardio Respiratory Arrest, Asphyxia, Hanging' as per Autopsy Report and Exhumation Report issued by the City Health Office and the National Bureau of Investigation, to the damage and prejudice of the legal heirs of said deceased, ALICIA M. OPERAÑA, in the amount of not less than FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency, and other consequential damages.

Contrary to Article 246 of the Revised Penal Code."

Arraigned thereunder on September 6, 1994, appellant entered a negative plea.

The Strangulation Theory of the Prosecution:[3]

The prosecution sought to show through circumstantial evidence that appellant Rodolfo Operaña, Jr. killed his wife Alicia by strangulation, on May 11, 1994.

Both the mother of the deceased, the herein complainant, and Joselito Paragas insisted that Alicia Operaña was still alive when they first saw her lying on the floor of the kitchen of their house. Rufina Maminta, an anguished mother and out of love for her daughter, begged the appellant, again and again, that her dying daughter be brought

to the hospital but seemingly without any concern, appellant staunchly refused to rush Alicia to the nearest hospital; reasoning that she could not reach the hospital alive.

An external examination of the body of the deceased was conducted on May 14, 1994 by Dr. Tomas Cornel, upon the request of Mrs. Maminta. On May 18, 1994, an exhumation followed by an autopsy of the remains of the deceased was conducted by Dr. Ronald Bandonill of the NBI, again upon the request of the herein complainant. According to Dr. Bandonill's report, the presence of multiple injuries all over the body and the suspicious presence of multiple abrasions on the area of the neck not related to the hanging gives the suicidal aspect a big question mark.[4] With respect to the said "suspicious" multiple abrasions on the neck, the same were clarified by the same doctor as "[a]brasions, multiple, with signs of strangulation, encircling the neck, at an area of 32.0 cms. x 4.5 cms., just below the thyroid cartilage." [5]

Aside from the said abrasions, there were twelve (12) abrasions and one (1) contusion found on the body of the deceased.[6]

Contrary to the claim of appellant that the deceased was found hanging from a wooden truss in their kitchen, SPO1 Daniel Coronel of the Dagupan City Police Station testified that per his investigation, he found no markings on the roof truss from where the victim was supposed to have hanged herself. He also measured the distance of the 2" x 3" by 1 yard wooden truss from the floor of the kitchen and found it to be six (6) feet. The deceased was 5'6" in height.

On the basis of the foregoing facts and circumstances, Rufina Maminta instituted the case of parricide at bar against the appellant.

The "Suicide by Hanging" Theory of the Defense:

Appellant asseverates that at about 6 o'clock in the morning of May 11, 1994, his wife Alicia Operaña was discovered hanging from a kitchen truss by their daughter Jonaliz, who then woke him up and informed him of what happened.[7] Thereafter, appellant told his brother Gary to inform Alicia's mother, the complainant herein, who was residing in Brgy. Canaalan, Binmaley, Pangasinan. Gary took a motorcycle to fetch the complainant. Meanwhile, several neighbors saw the deceased and some even touched her pulse and all of them concluded that she was already dead.[8]

A certain SPO1 Ginder Arzadon investigated the incident. According to appellant, the said police officer took with him the "suicide note" and the electric cord allegedly used by Alicia in hanging herself.[9]

Appellant recounted that shortly thereafter,[10] Mrs. Maminta, the herein complainant, arrived, approached Alicia and opined that the latter was still alive. According to her, Alicia was still breathing and tears were flowing from her eyes. She then went to her barangay and returned on a tricycle driven by Joselito Paragas. Like the complainant, the latter also claimed that he saw tears in Alicia's eyes and her Adam's apple was moving. Complainant then suggested that Alicia be brought to the hospital. However, the appellant said that "there's no more hope as she's already dead."

Appellant theorized that the deceased committed suicide by hanging and placed heavy reliance on medical evidence. According to him, both autopsy reports reveal a ligature mark above the thyroid cartilage, consistent with hanging.

As regards the multiple abrasions on the body of the deceased, appellant tried to explain their probable cause thus:[11]

1.) due to improper handling when embalmed;

- 2.) while being dressed;
- 3.) use of stone when bathing; or
- 4.) self-infliction, such as scratching.

Ruling of the Lower Court:

As recited by the trial court:

"Evidence for the prosecution consisted of the testimonies of the following: SPO1 Daniel Coronel, NBI Dr. Ronald Bandonill, Dr. Tomas Cornel, Joselito Paragas, and Rufina Maminta.

SPO1 Daniel Coronel, PNP member of Dagupan City Police Station testified that since April, 1991, he has been an investigator and on May 11, 1994, his tour of duty was from 7:00 o'clock in the morning up to 7:00 o'clock of the following morning, May 12, 1994. At around 1:00 o'clock in the afternoon of May 11, 1994, Rufina Maminta came to the police station to report an alleged suicide case that transpired in Carael District, Dagupan City, wherein her daughter Alicia Operaña allegedly committed suicide. He proceeded to the scene of the incident, together with three (3) other members of the PNP, Dagupan City. At the scene of the incident at Carael District, Dagupan City, he found out that Alicia Operaña was already lying flat on the floor of the kitchen. Alicia was wearing a duster, barefooted, no traces of blood but there were markings appearing on her neck which must have been caused an (sic) an electric cord. Operaña's mother, Rufina Maminta, her husband Rodolfo Operaña, Orlan Maminta, Joselito Paragas and some residents of Canaoalan, Binmaley, Pang. were present. The accused was sitting beside the body of the deceased.

SPO1 Coronel authorized Mr. Lorie Abrejal to take pictures of the deceased (Exhs. `A', `A-1', `A-2' & `A-3'). Aside from authorizing the taking of pictures, as investigator, he measured the distance from the roof truss to the cemented floor where the alleged suicide was committed which is six (6) feet. In connection with his investigation, he executed an affidavit (Exh. `B') attesting to the fact that during the investigation, there were no signs of markings which appeared on the roof truss where the victim allegedly tied the electric cord. He also identified the electric cord (Exh. `C') as the one which the deceased allegedly used in hanging herself which was recovered on top of the dining table, about 3 to 4 meters away from the body of the deceased. Also found was an alleged suicide note. (Exh. `2').

Dr. Ronald Bandonill, a physician and presently NBI Medico-Legal Officer testified that he received a request from the Municipal Mayor of Binmaley, Pangasinan, Atty. Jose Fabia, for the exhumation of the cadaver of Alicia Operaña. On May 18, 1994 at around 10:00 o'clock in the morning he conducted the exhumation in the presence of the deceased's mother, Mrs. Rufina Maminta, Anselmo Doria, his assistant, Ernesto Labayog, an agent of the NBI Dagupan City Sub-Office, Mr. Tomas Aoanan, the Manager of the Eternal Gardens and other persons whom he believed are helpers of the Memorial Park. In connection with the exhumation, he made an Exhumation Report consisting of two pages (Exhs. `G' & `G-1').

He also stated in his findings that the cause of death is asphyxia by hanging and remarked that the presence of multiple injuries all over the body and the suspicious presence of multiple abrasions on the neck area not related to the hanging gives the suicidal aspect a big question mark.

Dr. Tomas Cornel, physician and Asst. City Health Officer of Dagupan City testified that on May 14, 1994, a member of the PNP Dagupan City requested him to perform a post-mortem examination on the body of deceased Alicia Operaña. He conducted the post-mortem examination at the deceased's house at Carael Dist., Dagupan City, three (3) days after her death. He ordered that the cadaver be removed from the coffin and placed on a flat wooden bed. The deceased's clothes were removed. When he conducted the examination, the mother of the deceased, Rufina Maminta and two members of the PNP, Dagupan City were present; while the husband, accused Rodolfo Operaña, Jr. was not around. The result of the examination was all reflected in his

report (Exh. `I'), with the following findings:

External Findings

- Ligature mark around the neck from the mastoid left and right and anterior portion of the neck above the thyroid cartilage.
- Abrasion, parietal and frontal area, left.
- Abrasion, shoulder, posterior aspect, left.
- Abrasion, midscapular line, level of the 3rd thoracic vertebra, left
- Abrasion, lumbar region, along the vertebral column.
- Contusion, hematoma, medial aspect, middle 3rd, thigh, left.
- Abrasion, anterior trunk, left.
- Abrasion, popliteal area, left.
- Abrasion buttock, medial aspect, right.
- Abrasion, posterior aspect, distal 3rd, leg left.
- Abrasion, lateral aspect, distal 3rd, leg, left.
- Abrasion, postero lateral aspect, middle 3rd leg, right.
- Abrasion, postero medial aspect, proximal 3rd, thigh, right.

In his finding no. 1, the injury might have been caused by hanging or by excessive force of strangulation. The abrasions are superficial injuries caused by rough instrument and it depends upon the one who inflicted the injury because the abrasions are(sic) only slight or it is also possible that they are (sic) deliberately inflicted. Contusions & hematoma are (sic) most probably caused by the impact with a blunt instrument or by fist blows or by striking with a piece of wood. All the injuries in his findings might have been inflicted most probably before the death of Alicia Operaña. The death might have been caused by asphyxia or the obstruction of air passage due to hanging because of the ligature mark from the mastoid left portion, just after the left cartilage. As he conducted the post-mortem 3 days after the body was embalmed, he could not determine anymore whether the tongue was protruding or not. The kind of injuries sustained by the deceased were (sic) not possibly self-inflicted especially so that she is a woman and the injuries were located on the different parts of the body, scattered especially on the back part of the medial aspect which might be possibly caused by pulling the victim within (sic) upward or downward. It is highly improbable that these 13 wounds were inflicted by the deceased if she hanged herself.

When he conducted the post-mortem examination, photographs were taken and he identified those photographs.

Joselito Paragas testified that he had known Rufina Maminta for a long time already. On May 11, 1994 at around 6:20 o'clock in the morning, he was asked by Rufina Maminta to go with her to Carael District, Dagupan City, to help her bring her daughter, Alicia, to a hospital for treatment. He and Rufina Maminta proceeded to the house of Alicia Maminta Operaña at Carael Dist., Dagupan City. Upon arriving at the house of Alicia Operaña, he saw the latter lying on the floor of the kitchen with (her) face upward. He noticed that there was a contusion `asireg' below the Adam's apple of Alicia and tears were flowing from her eyes and (he noticed) also the palpitation below her Adam's apple. The floor where whe(sic) was lying was covered by floor mat. Accused Rodolfo Operaña told them that Alicia committed suicide but he did not show them anything

used by Alicia in committing suicide. Rufina Maminta asked the accused to bring her daughter to the hospital but he answered her by saying 'Nanay do not bring her anymore to the hospital because she will die just the same'. Mrs. Maminta was very insistent to (sic) bring (sic) her daughter to the hospital, and she asked the accused many times to allow her to bring her daughter (to the hospital) but he refused. Even his brother, Max Operaña told him not to interfere because 'it is still the jurisdiction of Dagupan City'. After a while, Rodolfo and Max Operaña insisted that they will bring Alicia to a funeral parlor for the purpose of embalming her but (s)he told them not to do so because they would like the case to be investigated by the NBI. Max Operaña did not talk anymore. At that time, there were only four of them.

The kitchen where Alicia was lying measured around 5 to 6 meters in width and the height of the roof from the ground floor is 6 ft.

After staying at Alicia's house for about 20 to 30 minutes, he and Rufina Maminta proceeded to the NBI office in Dagupan City, which office advised them to prepare a written request. After that they went to the police station of Dagupan City and requested the PNP Dagupan City to investigate the case. SPO1 Daniel Coronel, together with other policeman (sic) went to the house of the deceased to investigate. In the course of the investigation, pictures were taken. (Exhs. 'A' and series).

Rufina Maminta, Alicia's mother testified that accused Rodolfo Operaña is her son-in-law, he being the husband of her daughter Alicia. At around 6:00 o'clock in the morning of May 11, 1994, she was at home when Gary Operaña, accused's brother told her to go with him as something happened to her daughter. When asked what was it all about, he said that he will tell it at home. So she boarded Gary's motorcycle and proceeded to the house of Alicia Operaña. Her son-in-law embraced her and told her 'Mother, I did nothing to your daughter'. She said, 'why worry if you have not done anything to my daughter?'. Her daughter was lying on the kitchen floor. She embraced her daughter and said 'What happened to you my daughter?'. At that time she was already crying. She tried to bring her to the hospital but the accused refused to let her bring her daughter to the hospital saying that she will not anymore reach the hospital. She asked the accused several times to allow her to take her daughter to the hospital but he refused. She returned to her house at Canaoalan, Binmaley, Pangasinan and asked Joselito Paragas, a resident also of Canaoalan to help her bring her daughter to the hospital. She returned to Carael, together with Joselito Paragas and again asked the accused to let her bring her daughter to a hospital but the accused refused saying 'no more mother because she will not survive anyway.' She asked him several times but he refused. Max Operaña, accused's brother also told them not to touch the body of Alicia because 'it is still the jurisdiction of Dagupan City' and that they should not interfere. Accused also told her, 'she is my wife and don't lift her up.' After that, they proceeded to the NBI and requested that the case be investigated and then proceeded to the police station in Dagupan City. SPO1 Coronel, together with other policeman (sic) went with them to Carael Dist., Dagupan City. SPO1 Coronel conducted the investigation, pictures of Alicia Operaña were taken. She also asked the City Health Officer, Dr. Coronel (sic) to conduct the post-mortem examination on her daughter. She did not see the electric cord (Exh. 'C') in the kitchen which her daughter allegedly used in committing suicide.

In connection with the death of her daughter, she executed an affidavit (Exhs. 'D' and 'D-1').

Servillano de Vera, a resident of Carael Dist., Dagupan City, around 100 meters away from the accused's house, testified that in the early morning of May 11, 1994, he was in front of the house of one Primitivo Operaña at Carael Dist., Dagupan City. He was there to buy cigarette in the store of Gary Operaña. He was not able to buy cigarette because the store of Gary was still closed. He saw Cesar Operaña seated at a bench in front of the house of Primitivo Operaña and they talked about the past barangay elections. Primitivo Operaña's house is around 30 to 40 meters away from the house of the accused. While talking with Cesar Operaña, he heard Leny Operaña shouting and crying while telling her cousin Cesar that Alicia Operaña committed suicide. Cesar Operaña went to the house of Alicia and he followed. He saw the latter lying dead already but accused was upstairs bottle-feeding his small baby. He felt the pulse beat at the left hand of Alicia but it already stopped beating. He stayed there for about 3 to 4 minutes after which he went home already.

Gary Operaña, brother of the accused testified that on the night of May 10, 1994, he slept in his store located at about 1 1/2 meter away from the house of the accused. He woke up before 6:00 o'clock in the morning of May 11, 1994 because he was awakened by the shouts of his brother saying "father, mother, please come to me". Upon hearing the shouting, he opened the door and entered the kitchen of the house of his brother and there saw his sister-in-law, Alicia Operaña hanging; while his brother was untying the wire. His brother, Rodolfo told him to go to Canaoalan and tell Alicia's mother that Alicia committed suicide. While his brother was untying the wire; he got his motorcycle and went to Canaoalan, Binnely(sic), Pangasinan, which is 2 kilometers away from Carael District, Dagupan City. He saw Rufina Maminta seated at the terrace of their house. He told her to come with him because his brother needed her; but he did not immediately tell her that Alicia committed suicide because he didn't want her to be shocked. Rufina Maminta rode in his tricycle (sic). They arrived in Carael after 10 minutes although he travelled (sic) from Carael to Canaoalan for 8 minutes. Upon reaching Carael, Rufina Maminta immediately went to the house of Alicia, while he returned the motorcycle in their house. After that, he got the youngest daughter of his brother and took the child for a walk.

He further testified that on the night of May 10, 1994, he never heard any quarrel between the spouses Alicia and Rodolfo Operaña. He likewise did not hear any exchange of words between the spouses immediately before he woke up. When he went to the kitchen of the house of his brother, he saw his brother Rodolfo attending to his wife and before he proceeded to Canaoalan, people started coming to the house of the accused, among them, his brother Servino and Cesar and people whom he could no longer remember because of his shock. Now that he is no longer shocked (sic), he could recall that they are (sic) Rosie, his sister Leny and some of their neighbors. These people whom he met on the way did not ask him about anything. When he saw his brother untying the knot of the wire, his brother was not standing on anything to increase his height as he could easily reach the place where the wire was tied.

Rodolfo Operaña testified that on the night before May 11, 1994, he slept at around 11:00 o'clock in the evening in the room of their house together with his daughter (sic) namely: Mary Gracem Junaliza and Rudaliza; while his wife slept outside the room, with their daughters Mary Ann and Michelle. Before going to bed, he watched TV with his wife beside him. While watching T.V. he observed that his wife was thinking very deeply and sometimes she would glance at him. He was awakened when one of his daughters Junalice (sic) Operaña said to him "Mama, Mama tied herself". Upon hearing those words, he readily woke up, called his father and mother and at the same time came near the body of Alicia. His brother Gary came over; and (he) told him to fetch his mother-in-law (while) at the same time untying the electric wire with his right hand while his left hand held his wife's body and brought her down, to the cemented floor of their kitchen. The cord was tied to the truss in their kitchen. After he untied the cord, he laid Alicia's body on the floor of the kitchen. Aside from his brother Gary, Servillano de Vera, Cesar Operaña, Rostia Dalmacio, Creck de Vera, Rodolfo de Vera, and Ising de Vera also arrived. Servillano de Vera, Cesar Operaña and Rodolfo de Vera felt the pulse of Alicia and they all said 'she is already dead'. He was then crying while feeling the pulse which was already not beating. He observed that his wife is (sic) no longer breathing and already cold. Rosita Dalmacio also came to their house (and) found a suicide note (Exh. `2') which she first read before handing the same to accused. After he read it, he kept it in an aparador at(sic) their kitchen 1 1/2 meter (sic) away from Alicia's body. His mother-in-law arrived in their house and upon seeing her daughter dead, she cried and said 'what did you do to yourself, you made true what you said before that you wanted to rest already'. While Rufina Maminta was uttering those words, he was in front of his wife. Then Rufina Maminta went home. At around 6:30 in the morning of the same day, she came back together with Joselito Paragas; and scolded him and telling (sic) him many things. She wanted to bring her daughter to the hospital for treatment but he told his mother-in-law that Alicia is already dead as she is no longer breathing and was already cold.

He informed the Local Civil Registrar of Dagupan City about his wife's death and it was one of the clerks therein who placed cardio-respiratory arrest as one of the causes of death because he informed the clerk that his wife committed suicide. The incident was also reported to the police by Max Operaña, his brother.

On cross-examination, accused testified that he did not see any tear rolling on the cheek of his wife but he noticed the watery portion on the flooring just below her body and that her underwear was wet. He also noticed some bubbles in her mouth and her tongue slightly protruded. He also noticed that his wife's feet hanging was about 2 1/2 inches from the flooring and her head was touching the truss of their kitchen.

He further testified that his mother-in-law disliked him as son-in-law from the very beginning and now she accused him of killing his wife. During their marriage, there was no problem between them but there was one time that his wife complained of her ligation because she can't (sic) eat, sleep and she was thinking very deeply. One day she asked his permission to have a vacation at Canaoalan. He gave permission to take a vacation. She even took a vacation in Manila and c(o)me back to Carael only on May 1, 1994. He was not happy about his wife's stay in Manila but he did not make any quarrel with her. On the third week of her stay in Manila, she called him over the phone but they had no heated argument. The day following her arrival from Manila, they made love with each other as husband and wife and she was happy about it. After that, she was again back to thinking deeply. He told her to go out of the house and enjoy life, mingle with their neighbors but she did not do it. On May 5, 1994, he brought her to a quack doctor who told them that somebody was watching her and advised him to have the guava tree in front of their house cut and so he cut the guava tree. He also asked her (sic) wife to see a doctor of medicine but she refused. Since his wife arrived from Manila on May 1, 1994 up to the night of May 10, 1994, they have (sic) no misunderstanding and they never quarreled. Although there was one time when somebody complained to the police that he kissed a young woman. His wife did not get angry with him instead she helped him settle the case. On the night of May 10, 1994, he also saw eleven (11) capsules of Ativan drug. His wife told him what is her purpose in taking that kind of medicine but he told her not to take all the capsules at one time because they will cause drug poisoning. Of those 11 capsules, he saw only one (1) capsule left so he narrated before the Local Civil Registrar that one (sic) his wife died of drug poisoning but he did not tell the police about the drug, he told them only about the bubbles he saw on his wife's mouth. He was not able to mention about the Ativan capsule(s) and the bubbles in her mouth when Dr. Coronel (sic) arrived in their house because he was not around that time.

Rufina Maminta testified on rebuttal that it is not true that she dislikes her son-in-law. After their wedding, Rodolfo and Alicia lived in their house until she became pregnant with their first child. During those times, she never had any misunderstanding with her son-in-(l)aw. Sometimes (sic) in March 1994, her daughter came to her and told her about their quarrel but she told her to return to their house because that is their life as husband and wife. She was able to persuade her daughter to return to their house. Sometime in April, 1994, Alicia asked permission from the accused to let her go to Manila to attend a wedding party. She also asked her son-in-law to let Alicia go with them but she received no reaction from him. During their stay in Manila, her daughter had a talk with her husband over the telephone and she saw Alicia crying although she can not hear their conversation. She asked Alicia why she was crying and Alicia told her that her husband will kill her if she returns to Dagupan City. She told her daughter that it's just normal between husband and wife. When they returned from Manila, one of her daughters, Marjorie accompanied Alicia to their house. On May 8, 1994, Alicia came to her again telling her about their quarrel because her husband kissed a woman at the Interbank where accused was a security guard. To settle the case, she and Alicia accompanied by the Brgy. Captain of Carael talked to the girl kissed by the accused. They paid the girl P10,000.00 in settling the case.

It is not likewise true that it was on her second return to the accused's house that she asked the accused to let her bring her daughter to a hospital because after she was fetched by Gary Operaña. She asked her son-in-law to bring her daughter to a hospital but accused refused.

She testified further that there was no instance during the lifetime of Alicia that the latter told her that she was going to put an end to her life.

From the evidence, the Court finds that on May 11, 1994, at about 6:00 o'clock in the morning, Mrs. Rufina Maminta, mother of Alicia Operaña (victim), was called by Gary Operaña, brother of the accused, to go with him to Carael, Dagupan City, saying that 'something happened to your daughter', and that 'he will tell it at

home'. When she arrived in (sic) the house of Rodolfo and Alicia Operaña, she found her daughter (Alicia) lying on the cemented floor. When asked what happened, the accused said, 'I did nothing to your daughter.' She told him 'why worry when you have not done anything to my daughter.' She embraced her daughter and asked her, 'what happened to you my daughter', (t)ears rolled from her eyes but was speechless. She wanted to take Alicia, to the hospital, but the accused refused saying, 'anyway, she will not reach the hospital anymore.'

She returned to Canaoalan, Binmaley, and asked Joselito Paragas to help her take Alicia to the hospital but again the accused refused saying 'no more mother because she will not survive anyway'. Then Max Operaña, brother of the accused told them, 'not to touch the body because this is still the jurisdiction of Dagupan City and you should not interfere.' Again, the accused intervened, saying 'she is my wife and don't lift her up.'

Rufina Maminta asked the NBI to conduct an autopsy on the cadaver of Alicia. She reported the fact of death to the Police station and the report was entered in the police blotter (Exhibit 'F') and requested that the case be investigated.

SPO1 Coronel conducted an on the spot investigation and caused the taking of pictures of the deceased and the place where she was lying. She also requested Dr. Tomas Coronel (sic) of the City Health Office in Dagupan City, to conduct a Post-Mortem Examination of the deceased (Exhibit 'I').

Joselito Paragas corroborated the testimony of Rufina Maminta that she asked him to help her bring Alicia to a hospital. He noticed contusion (asireg) below her Adam's apple. He, likewise, testified that he saw tears flowing from Alicia's eyes, and he observed the palpitation below her Adam's apple.

The claim of the accused that when Rufina Maminta arrived, her daughter Alicia, was already dead is negated by the remarks of the accused, when he said, 'No more mother because she will not survive anyway' and 'Nanay, do not bring her anymore to the hospital because she will die just the same.'

The suicide theory of the defense is negated by the remarks of Dr. Ronald Bandonill, Medico-Legal Officer III of the NBI, Baguio City, who conducted the exhumation of the cadaver of Alicia Operaña and his autopsy at the Eternal Garden Memorial Park, in Dagupan City on May 18, 1994 (Exhibit 'G-1-C') which reads: 'the presence of multiple injuries all over the body of (sic) the suspicious presence of multiple abrasions on the neck area not related to hanging gives the suicidal aspect a big question mark'.

It is hard to believe that the victim maltreated herself before consummating her desire.

Dr. Bandonill, Jr. further found: 'abrasions, multiple, with signs of strangulations encircling the neck, at an area of 32.0 cms. x 4.5 cms. just below the thyroid cartilage.'

This finding strangely indicate that the victim was strangled; thus, negated the contention of the defense, that the victim committed suicide by hanging herself.

Dr. Tomas Cornel, Assistant City Health Officer of Dagupan City testified that the cause of death 'may be excessive force of strangulation/(sic)'

Dr. Cornel further declared that he did not find any ligature of a knot which would show that the victim hanged herself with the use of the electric cord (Exhibit 'C'). It is highly improbable for the victim to sustain all the thirteen (13) wounds all over the body if she hanged herself.

The accused declared that the victim who is 5'6" in height hanged herself in (sic) a roof wooden truss at the kitchen which is six (6) feet from the floor. It is very hard to believe how she could hang herself in such a situation.

According to SPO1 Daniel Coronel (sic), the wooden truss measured 2" x 3" by one yard. If indeed, the victim hanged herself from the wooden truss, said wooden truss would have been broken, considering the size and weight of the victim as shown in (Exhibits 'A', 'A-1', 'A-2' and 'A-3').

Likewise, the accused contradicted himself when he reported the fact of death of his wife to the Local Civil Registrar of Dagupan City. The death certificate (Exhibit 'L') shows that the accused is the reportee; and that the causes of death are: 'Cardio respiratory arrest, Drug overdose (poisoning)', 'Mental Depression' ('Exhibit 'L-1'). If it were true that his wife committed suicide and hanged herself, why did he omit the same when he reported the fact of death of his wife?

It is significant to note that the defense failed to present proof of drug overdose and mental depression.

It is possible that cardio-respiratory arrest as the cause of death, could have been produced by strangulation or choking.

The motive of the killing could be the frequent quarrels between the accused and his wife, aggravated by the laying of hands on his wife.

This is clear in his counter-affidavit to the complaint that the usual cause of quarrels was the inability of the accused to provide some needs of the wife, and so the accused, got angry at her, and at times laid hands on her.

In April, 1994, the accused and his wife quarreled when the latter went to Manila with her mother to attend a wedding. When she failed to return home immediately, they talked over the telephone by long distance and the accused told his wife that he will kill her if she returns to Dagupan City.

On May 8, 1994, the victim reported to her mother that she and her husband quarreled, when she learned that her husband kissed a girl inside the Interbank in Dagupan City where he is working as a security guard. This incident was settled, through the intercession of complainant Rufina Maminta and her daughter, Alicia, where the complainant paid the girl the sum of P10,000.00.

The trip of the wife to Manila and the kissing incident involving the accused brought about violent quarrels between them that prompted the accused to kill his wife.

In the case at bar, the following elements of the crime of Parricide (Art. 246, Revised Penal Code) are present;

- That a person is killed;
- That the deceased is killed; (sic) and
- The deceased is the legitimate spouse of the accused.

The outright rejection of the accused that his wife be brought to the hospital for treatment is a clear case of cover up which will not be complete if Alicia is alive.

To the mind of the accused, this scenario to prevent the survival of his wife is his life-saving device. But he is wrong. He cannot get away with it; because as the saying goes, 'crime does not pay'.

When the accused told his mother, 'I did nothing to your daughter';

'She is my wife and don't lift her up'; 'Anyway she will not reach the hospital anymore';

'No more mother because she will not survive anyway';

'Nanay, do not bring her anymore to the hospital because she will die just the same';

When the accused sent his brother Gary to Canaoalan to call for his mother-in-law, without first asking Gary to help him revive his wife; or take her to the hospital for treatment; and

When Max Operaña, brother of the accused, intervened and told Rufina Maminta and Joselito Paragas, 'not to touch the body because this is still the jurisdiction of Dagupan City and that you should not interfere'; all these constitute circumstantial evidence to convict.

While the evidence adduced by the prosecution is indeed circumstantial, it appears that the witnesses who testified for the prosecution are credible witnesses and the circumstances testified to by them are consistent with truth and human nature and the natural course of things which, taken together, point unerringly to the accused as the guilty party.

A witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent on cross-examination is a credible witness. (Peo. vs. Clores, 184 SCRA 638).

The web of circumstantial evidence points to no other conclusion than that the accused was guilty of strangulating and choking his wife.

This court is convinced that the circumstantial evidence presented are sufficient to establish beyond reasonable doubt the guilt of the accused of the crime of parricide.

Circumstantial evidence is sufficient for CONVICTION if:

(1).

There is more than one circumstance;

(2).

The facts from which the inference(s) are derived are proven; and

(3).

The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. (Peo. v. Bicog, 187 SCRA 556).

Circumstantial evidence may be characterized as that evidence which proves a fact or series of facts from which the facts in issue may be established by inference (Peo. v. Songcuan, 176 SCRA 354).

In view of the foregoing, the presumption of innocence of the accused has been successfully overwhelmed by evidence of guilt beyond moral certainty."[12]

On March 28, 1995, the lower court rendered judgment finding appellant Rodolfo Operaña, Jr. guilty beyond reasonable doubt of the crime of parricide and sentencing him thus:[13]

"WHEREFORE, the accused Rodolfo Operaña, Jr. is found guilty beyond reasonable doubt of the crime of PARRICIDE defined and punished under Article 246 of the Revised Penal Code; and hereby impose upon him the maximum penalty of DEATH; to indemnify the offended party the amount of FIFTY THOUSAND (P50,000.00) and to pay the costs.

SO ORDERED."

The Errors Assigned:

Assailing his conviction, appellant assigns as errors, that:

I

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF CIRCUMSTANCES THAT HAVE NOT BEEN PROVED BEYOND REASONABLE DOUBT.

II

THE LOWER COURT ERRED IN NOT ALLOWING JONALIZ M. OPERAÑA AND ROSITA DALMACIO TO TESTIFY FOR THE DEFENSE.

III

THE LOWER COURT ERRED IN NOT PROPERLY APPRECIATING THE AUTOPSY AND EXHUMATION REPORTS THAT TEND TO SUPPORT THE SUICIDE THEORY.

The Brief for Appellant was received by the Clerk of Court (En Banc) on October 11, 1996. In the Brief for Appellee filed on March 17, 1997, the Solicitor General recommended the imposition of reclusion perpetua in lieu of the death penalty.

As far back as *People vs. Modesto*,^[14] the doctrine on circumstantial evidence has been recognized as part of the legal tradition when it was declared that "[a] rule of ancient respectability now molded into tradition is that circumstantial evidence suffices to convict only if the following requisites concur: (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." For the guidance of bar and bench, the standard postulated in appreciating circumstantial evidence is well set out in the following passage from *People vs. Ludday*:^[15] "No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilty."

In short, it is the quality of the circumstances, rather than the quantity, that will draw the line on whether the circumstances presented, consist of an unbroken chain that will inevitably lead to the conclusion that the appellant is guilty without an iota of doubt. In assessing the circumstances with the end in view of a conviction, it is, however, important to note that to preclude the possibility of any error is unattainable. Moral certainty is sufficient or that certainty which produces conviction in an unprejudiced mind.

Anent the first assigned error, the Court is not convinced that the trial court erred in convicting appellant on the basis of the circumstantial evidence on record. The fifteen-page decision below is not only exhaustive. It is both factually and legally sound and sustainable.

It is well settled that the factual findings by the lower court will not be generally disturbed on appeal, such court having had the singular opportunity to hear the witnesses testify and to observe their demeanor.

The suicide theory of appellant is full of holes and could not successfully account for the following: the six feet distance of the wooden truss from the kitchen floor vis-à-vis the 5'6" height of Alicia Operaña; weight of the deceased vis-à-vis the 2' x 3' x 1 yard measurement of the wooden truss; absence of any marking on the wooden truss (Exh. "B-4"); absence of any marking on the electric cord; absence of the original of the alleged unsigned suicide note; the multiple abrasions and contusions sustained by the deceased; absence of any manifestation (except the ligature mark) of hanging e.g. protruding tongue, elongation of neck, clenched hands, injury of the hyoid bone, ligature of a knot located at the apex of the inverted V-shape mark, vertebral injury.

Anent the second error assigned, suffice it to rule that after reviewing all the fine distinctions between asphyxia by hanging and asphyxia by strangulation, the court is of the irresistible conclusion, and so finds, that the medical literature, upon which the pivot of inquiry as to the cause of death hinges, has only established the fact that the deceased died (whether by hanging or by strangulation) involuntarily. The Court fully agrees with the trial court that the deceased could not have inflicted all the wounds on herself if she committed suicide.

Appellant claims that the lower court erred in not allowing the testimonies of his daughter, Jonaliz, and that of Juana Misola. The Court disagrees. The question as to the competence of a child to testify is addressed to the sound discretion of the trial court. This is so because the trial judge "xxx sees the proposed witness, notices [her]

manner, [her] apparent possession or lack of intelligence, as well as [her] understanding of the obligation of an oath." [16] The Court respects this finding below on this matter. Besides, since the appellant's brother, Gary, also testified that he allegedly saw the appellant removing the deceased from being hanged from their kitchen, the testimony of Jonaliz, a child of tender years, to the effect that she saw her mother hanging, is not indispensable to the appellant's defense.

As regards Juana Misola, whose testimony will revolve around the alleged suicide note which was unsigned, the records reveal that the original of said note could not be produced in open court. The alleged suicide note presented was questioned in open court for being a mere carbon copy of the original, and could not thus be admitted in evidence. Hence, there was no more need for Juana Misola's testimony.

Having disposed of that, the Court will now move on to other relevant matters.

It has always been said that criminal cases are primarily about human nature. Here is a case of a husband refusing to rush his dying wife to the hospital for possible resuscitation, in the face of anguished pleas of her mother. Such cold and heartless inaction, as against the pitiful supplications of his aging mother-in-law, is contrary to human nature. Even strangers are expected to give immediate aid to the dying. How the appellant could not feel pity for his weeping mother-in-law who was well-advanced in her years and who earnestly begged for his help, and less so for his dying wife, is beyond comprehension.

Another instance which indicated the weakness of the suicide theory is the stance that the deceased suffered mental depression which eventually led to her suicide. This is belied by the fact that on May 8, 1994, or just three days before her death, she even went to their barangay hall - accompanied by her mother, the complainant herein - in order to amicably settle a case against the appellant. The said case arose from a kissing incident which took place in the bank where the appellant worked as a security guard. The Court believes that such was not an act of a mentally depressed person, who had given up all hopes on her married life.

The Court also agrees with the lower court that the claim of appellant that "he was extremely overcome by shock so that he forgot to rush her to the hospital" [17] is contradicted by the gamut of collated material evidence. It is undisputed, nay, admitted by the appellant himself, that he called his mother and father when he saw his wife hanging, that he was bottle-feeding their baby when the neighbors entered the house to look at his wife, and he asked his brother Gary to fetch his mother-in-law. The aforementioned acts and circumstances were those of a calm and organized mind, not at all reflective of a husband who was under great strain due to the unexpected loss of a loved one. What is more significant against appellant's assertion is that from the time he called his parents up to the time he called for his mother-in-law - he never exerted earnest efforts to revive his dying wife.

Appellant contends that his wife committed suicide, and the suicide note and electric cord, or the suicide paraphernalia, as it were, were all taken by SPO1 Ginder Arzadon. Based on the records of the case, it would have been before the arrival of the complainant at around six o'clock in the morning. However, from the same records, it can be gleaned that the appellant's brother reported the incident to the police only at around seven o'clock in the morning. [18] How then could SPO1 Arzadon have investigated the incident? This reinforces the allegation that the suicide theory and concomitant suicide materials were mere fabrications of appellant to cover up the malicious and felonious acts sued upon.

Appellant imputes malice and bad motive against the complainant. This Court has consistently ruled that the trial court's findings on the credibility of witnesses deserve utmost respect and generally are not to be disturbed on appeal unless the lower court overlooked certain facts of substance and value which if considered would affect the result of the case. [19] Absent here is the exception to the rule on the conclusiveness of findings by the trial court that "the inference made is manifestly mistaken, absurd or impossible and that the judgment is based on a

misapprehension of facts." [20]

The lower court observed that the testimonies of the prosecution witnesses particularly of the complainant were full of sincerity and consistent with truth. The Court notes that one of the most important aspects of the testimonies of Rufina Maminta and Joselito Paragas is not only that they have proved that Alicia Operaña was still alive when they arrived at the scene of the unfortunate happening, but that the said testimonies recounted with clarity the reluctance of appellant and his kin to rush the dying Alicia to the hospital for treatment, however remote her chances of survival were. It cannot be said that the reluctance of appellant was due to lack of money. The evidence has shown that he was not suffering from shock at the time of the complainant's arrival. Indeed, he had no cogent reason to refuse aid to his dying wife. The following excerpt of the testimony of Rufina Maminta is in point:

"q

How many times did you tell him (accused) that you and Joselito Paragas will bring your daughter to the hospital?

a

I pleaded to (sic) him several times even I have to shoulder the expenses but he refused sir.

q

(At this juncture, witness started to cry.)" [21]

All things studiously considered and viewed in correct perspective, the lower court did not err in concluding that the presumption of innocence of appellant has been overwhelmingly overcome by the totality of the physical and testimonial evidence against him. The aforesaid circumstances, as presented, constitute an unbroken chain leading to no other conclusion than that the appellant is guilty of the crime charged. The blood of his lamented wife Alicia is on his hands.

With respect to the imposable penalty, after a careful study the Court finds merit in and adopts the following submission of the Solicitor General:

"Section 5 of R.A. No. 7659 (An Act to Impose the Death Penalty on Certain Heinous Crimes) provides:

`SEC. 5. The penalty of death for parricide under Article 246 of the same Code is hereby restored, so that it shall read as follows:

Article 246. Parricide. - Any person who shall kill his father, mother, or child, whether legitimate, or any of his ascendants, descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.'

Thus, depending on the existence of circumstances modifying the offense committed, the trial court may impose the penalty of either reclusion perpetua or death for the crime of parricide.

In this case, the trial court imposed the maximum penalty of death on appellant without reference to any proven aggravating circumstance which would justify such imposition. Accordingly, it is respectfully submitted that appellant should be made to serve the penalty of reclusion perpetua."

WHEREFORE, the judgment of conviction under review is AFFIRMED with the MODIFICATION that, as recommended by the Solicitor General, appellant is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of the deceased in the amount of FIFTY THOUSAND (P50,000.00) PESOS, and to pay the costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

[1] Preclaro vs. Sandiganbayan, 247 SCRA 454, 464 citing Section 2, Rule 133 of the Revised Rules on Evidence; People vs. Ganguso, 250 SCRA 268, 275; People vs. Reoveros, 247 SCRA 628, 634.

[2] Rollo, p. 28, as contained in the Information dated August 25, 1994, Rollo, p. 10.

[3] Based on the sworn statements and testimonies of SPO1 Daniel Coronel, Rufina Maminta, and Joselito Paragas, and the testimonies of the medical experts.

[4] Exhibit "G-1-C".

[5] Report of Dr. Bandonill.

[6] Rollo, p. 30.

[7] Rollo, p. 70.

[8] Rollo, p. 71.

[9] Id., Brief for the Accused-Appellant.

[10] Id.

[11] Memorandum for the Prosecution, dated March 21, 1995.

[12] Rollo, pp. 29-41.

[13] Rollo, p. 42.

[14] 25 SCRA 36; People vs. Bicog, 187 SCRA 556, 563 and People vs. Songcuan, 176 SCRA 354, 368.

[15] 61 Phil. 216, pp. 221-222.

[16] People vs. Dela Cruz, 276 SCRA 352, 357.

[17] Records, pp. 3-4, Entry No. 45, Volume 62, Series of 1994, of the Dagupan City Police Blotter.

[18] Records, pp. 3-4, Entry No. 39, Volume 62, Series of 1994, of the Dagupan City Police Blotter.

[19] People vs. Salangoste, 188 SCRA 422, 433 citing: People vs. Royeras, 130 SCRA 259 [1984]; People vs. Martinez, 144 SCRA 303 [1986].

[20] People vs. Salangoste, citing People vs. Ale, 145 SCRA 50 [1986]; People vs. Canada, 144 SCRA 121 [1986].

[21] TSN, November 22, 1994, p. 8 (Underscoring supplied).

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