

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENANTE ROBLES Y BURGOS, JR., ALIAS “TITING”. ACCUSED-APPELLANT.

G.R. No. 124300. March 25, 1999

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PER CURIAM:

Renante Robles Jr. alias "Titing" was charged with rape with homicide under the following information:

"That at or about 10:00 o'clock in the morning of August 29, 1995 at 4[th] Street, Guingona Subdivision, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Gerafil Cabatingan who is a minor, against her will and by reason or on the occasion of the rape still not satisfied kill Gerafil Cabatingan

CONTRARY TO LAW:"

Upon arraignment, the accused pleaded guilty to the crime charged, but the plea was disregarded as he was not assisted by a lawyer. The court appointed PAO Head Attorney Rogelio P. Dagani, as counsel de oficio and the accused pleaded not guilty upon re-arraignment. At the initial hearing, the lawyer of the accused manifested that the latter will withdraw his previous plea and change it to a plea of guilty. The court was informed by his lawyer that the accused was properly apprised of the legal consequences of his change of plea from not guilty to guilty, that his plea of guilty will not change the imposable penalty of death. The case was set for re-arraignment and after reading to him the information in the Cebuano dialect which the accused knows and understands, the court propounded questions to satisfy itself that the plea of guilty is voluntary and that he fully understood the consequences of his plea of guilty. He thereupon entered his plea of guilty to the offense charged.

The prosecution presented five witnesses: Randy Cabatingan, twelve years old, half-brother of the victim; Sheila Vernie L. Yañez, a neighbor of the victim; Dr. Julie D. Lagare, Medical Officer III, City General Hospital; Luzviminda E. Villaro, an eight-year old, playmate and neighbor of the victim; and Edgar Cabatingan, father of the victim together with the following documentary evidence.:

1. Exh. "A" - Sworn statement of Luzviminda E. Villaro;
2. Exh. "B" - Sworn statement of Randy L. Cabatingan;
3. Exh. "C" - Sworn statement of Edgar Cabatingan;
4. Exh. "D" - Medical Certificate dated August 29, 1995 issued by Dr. Julie D. Lagare;
5. Exh. "E" - Medical Certificate subsequently issued by Dr. Julie D. Lagare indicating substantially the injuries sustained by the victim and the physician's findings for medico-legal purposes;
6. Exh. "F" - Sworn statement of Sheila L. Yañez; and
7. Exh. "G" - Certificate of Live Birth of the victim (Gigi).

The prosecution's evidence consisted of the following:

Randy Cabatingan, twelve years old, half-brother of the victim, testified that at about 7:00 o'clock in the morning of August 29, 1995, he and his two sisters, Gerafil or Gigi and Jeline, were in their house at 4[th] Street, Guingona Subdivision, Butuan City. Their parents had already gone to work.[1] The accused Renante B. Robles, a.k.a. Titing, was then lying outside the house of the Cabatingan family. Gigi, five years old[2] was crying. Titing approached her and gave her P2.00, and brought her to the store where he bought some foodstuff for her. They went back to the house. Titing put Gigi on his lap and caressed her thighs. Titing gave Randy P5.00 to buy ice candy and cigarettes; when he returned, Titing asked him to buy "Kulafu" at Montilla Boulevard which was quite a distance away. On his way home Randy saw his father Edgar, who had returned from work and was looking for Gigi. Randy told his father that he left Gigi and Jeline in the house but his father countered that only Jeline is in the house. In their search for Gigi, Randy met Gigi's playmate, "Badoy" (Luzviminda Villaro), and asked her if she had seen Gigi. Badoy pointed to the direction of the Barangay Health Center where she last saw Gigi with Titing Robles. Randy saw Titing coming out from the back door of the Health Center wiping something on the walls and appeared to be sweating and bloodied. He hid behind the fence so that Titing would not see him, and when the latter had already gone, he went to the Center and tried to open the door. He heard what seemed to him the voice of his sister moaning in pain. With the help of his cousin Irwin, Randy opened the door of the Center, and together with his father Edgar and Titing, now wearing a pair of white shorts, went inside. There they saw Gigi with blood in the mouth, lying on the sink and she was soiled all over apparently unconscious, without her panty and with her legs full of blood.[3]

Sheila Vernie Yañez who lives ten meters away from the health center and who saw the accused and Gigi walking towards the back portion of the said building, heard a "terrible cry," as if a small child was being beaten or mauled.[4]

"Badoy" (Luzviminda Villaro) was playing with Gigi at about 9:00 o'clock in the morning of August 29, 1995 at the house of Gigi. She testified that Titing asked Gigi to buy posetos and ordered Randy to buy Kulafu and cigarettes and when Randy was out to buy Kulafu, Badoy saw Titing and Gigi towards the Barangay Center.[5]

Edgar Cabatingan, Gigi's father, returned home at 9:00 o'clock a.m. and looked for Gigi and Randy who were not home. He saw the accused in Yellow T-shirt and maong pants come out of the side of the Barangay Hall. Titing was surprised to see him. Edgar asked the accused whether he had seen his two children and Titing replied that he brought Gigi to the store to buy something. Edgar finally found his daughter in the barangay center lying on the sink, with blood on her mouth, on both ears and chest, and dying. He picked her up, embraced her and shook her to see if she is still alive. He brought Gigi to the City Hospital, where she expired at 3:00 o'clock in the afternoon of the same day.[6]

Dr. Julie Lagare, who treated Gigi, and issued the medico-legal certificate, affirmed in court the findings therein:

"Patient examined semi conscious, restless, less responsive to verbal command and in respiratory distress with the following vital signs;

BP80/40 mm hg; - HR - 150 beats/min. - PR - 38 cycle/min.

Skin - Multiple contusions at the face, body and arm.

HEENT = (+) contusion at the right temporo-zygomatic area of the face, 4 x 3 cm. In size.

(+) two contusions at the chin, 1 x 1 cm. In size each.

(+) contusion at the right parietal area, 4 x 3 cm. In size with 0.7 cm. Length lacerated wound on top of it.

(+) small lacerated wound at the right pinna of the ear.

(+) blood at the mouth with laceration and contusion at the right upper inner lip and contusion at right lower inner lip.

Cardio-vascular; - Regular Rhythm, tachycardia.

Chest & Lungs; -- (+) contusion at the right anterior chest below the nipple; 4 x 3 cm. in size.

(+) contusion at the left anterior chest below the subcostal area, 4 x 4 cm. in size.

Extremities; -(+) contusion at the right arm 2 x 3 cm-in size.

Condition of the Patients; Cuddled by father, restless, semi-conscious and in respiratory distress

Back - (+) contusion at mid lumbar area, 4 x 4 cm. In size.

GIT - Anal orifice with 1 cm. Diameter and with mucosa slightly protruding

Internal Examination of the female genital organ.

(+) for blood at the perinium.

(+) laceration at the hymen at 3, 6, 9, o'clock position.

(+) laceration at the vaginal floor mucosa, 1[st] degree. Cervix essentially normal.

Vaginal Smear taken for presence of spermatozoa; Positive for sperm.

(Admitted) August 29, 1995 at 11:40 A.M.

Remarks : Patient died at 3:00 P.M. August 29, 1995 with diagnosis of Cardio Pulmonary Arrest. Consumated rape with multiple head and body injuries."[7]

She testified that the victim suffered from multiple head and body injuries, and the genital organ was positive for spermatozoa. Cardio pulmonary arrest was the cause of death which occurred about four hours after Gigi's admission to the hospital. She stated that there was force applied that caused multiple head and body injuries.[8]

The accused opted not to present evidence in his behalf.

The court a quo found the accused guilty of the crime of rape with homicide. The dispositive portion of the judgment reads:

"WHEREFORE, in the light of the foregoing findings of facts and law, and also on account of the plea of guilty knowingly and voluntarily made by the accused, the court finds accused Renante B. Robles guilty beyond reasonable doubt of the crime of rape with homicide under Art. 335, Revised Penal Code as amended by Sec. 11, R.A. No. 7659, thereby sentencing him to suffer the indivisible penalty of death. Further, accused Renante B. Robles is ordered to pay the heirs of Gerafil L. Cabatingan:

- Actual damages in the amount of P60,000.00
- Moral damages in the amount of P50,000.00 and
- Death indemnity in the amount of P50,000.00.

Also to pay the cost.

Furthermore, the records of this case should be forwarded to the Supreme Court for review.

SO ORDERED."

The case is now under automatic review by this Court.

The accused appellant submits the lone error that:

"THE COURT A QUO ERRED IN FINDING THROUGH CIRCUMSTANTIAL EVIDENCE THAT THE ACCUSED HAD CARNAL KNOWLEDGE OF THE VICTIM BY USING FORCE OR INTIMIDATION AND BY REASON OR ON THE OCCASION OF THE RAPE, THE VICTIM WAS KILLED."

The accused-appellant challenges the decision of the trial court and claims that the identity of the perpetrator of the crime was not conclusively established, as no one witnessed the events that transpired from the time the accused and the victim were seen going to the health center up to the time when the accused was seen coming out of it. Thus, it is contended that a reasonable doubt exists as to the identity of the perpetrator of this heinous crime and this doubt must be resolved in favor of the accused.

We resolve to affirm the judgment of conviction.

The accused was found guilty of rape with homicide on the basis of his plea of guilty and of the circumstantial evidence which is correctly summed up by the appellee on pages 12 to 14 of its brief as follows:

"1. While the victim Gigi was crying in the morning of August 29, 1995, appellant, who was then lying outside the Cabatingan residence, went inside the said house and approached Gigi and gave her P2.00. Then, Gigi went along with him to the store where he bought some foodstuffs for her;

2. After they went back to the house, appellant put Gigi on his lap and caressed her thighs;

3. Appellant and Gigi were seen walking towards the back of the barangay health center;

4. Appellant and Gigi were seen at the barangay health center;

5. Gigi's brother saw appellant come out of the back door of the health center, wiping something on the walls, and appearing to be sweating and bloodied on his right thigh;

6. Sheila Yañez, who saw appellant and Gigi walking towards the barangay health Center, heard a voice of a minor as if being beaten, coming from the direction of the barangay health center;

7. A voice moaning in pain which sounded to be that of his younger sister Gigi was heard by Randy Cabatingan coming from the health center.

8. When the health center was opened, Gigi was found inside with a bloodied mouth, lying on the sink, soiled all over, appearing to be unconscious, without her panty and with her legs full of blood;

9. Gigi was diagnosed to have suffered multiple head and body injuries resulting from a consummated rape, and the cause of her death was cardio-pulmonary arrest. Her genital organ was positive for spermatozoa;

10. Gigi died at 3:00 o'clock in the afternoon of the same date August 29, 1995."

The evidence is more than sufficient to convincingly establish appellant's culpability beyond reasonable doubt. Circumstantial evidence may justify a conviction 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 the conviction beyond reasonable doubt.[9]

For circumstantial evidence to be sufficient to support a conviction, all the circumstances must be 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 guilt.[10] Here, the proven circumstance constitute an

unbroken chain which leads to a fair and reasonable conclusion which points to the accused to the exclusion of all others as the guilty party.[11]

More important, the plea of guilty which the accused knowingly and voluntarily made under the careful inquiry of the court constituted very strong evidence of his guilt. There is no higher evidence of guilt than the accused's own confession and unless it is vitiated by evidence of duress, a voluntary plea of guilty is admissible as evidence of guilt of a high quality.[12]

Rape is a crime which as a rule is not committed in the presence of witnesses.[13] And the prosecution for the complex crime of rape with homicide is particularly difficult since the victim can no longer testify against the perpetrator of the crime. In such cases, the evidence against the accused is usually circumstantial.[14] We have examined the testimonies of Randy Cabatingan, Sheila Yañez and Luzviminda Villaro and we find that they sufficiently establish that the accused and the victim were together immediately preceding the incident and that the accused was at the scene of the crime when it happened. No reason or motive has been alleged nor proven to provide doubt as to the credibility of the said witnesses as would induce them to falsely implicate the accused in the commission of such a heinous crime.

The offense is punishable under Article 335 of the Revised Penal Code as amended by Section 11 of RA NO. 7659,[15] which reads, insofar as pertinent, as follows:

"Art. 335 When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death."

After all the evidence is considered and taken together with the plea of guilt, the Court is constrained to affirm the death penalty imposed by the trial court. Four justices of the Court, however, have continued to maintain the unconstitutionality of Republic Act 7659 insofar as it prescribes the death penalty; nevertheless they submit to the ruling of the majority to the effect that this law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

With regard to the civil indemnity, the court hereby rules that the victim of rape with homicide should be awarded the amount of P100,000.00. Prevailing judicial policy has authorized the mandatory award of P50,000.00 in case of death, and P50,000.00 upon the finding of the fact of rape. Also, under recent case law the indemnity for the victim shall be in the increased amount of P75,000.00 if the crime of rape committed is effectively qualified by any of the circumstances under which the death penalty is authorized by the applicable amendatory laws:[16] Thus, if homicide is committed by reason or on the occasion of the rape, indemnity in the amount of P100,000.00

is fully justified and properly commensurate with the seriousness of the said special complex crime.

The award of P50,000.00 as moral damages is maintained. Moral damages may be additionally awarded to the heirs of the victim in a criminal proceeding without the need or proof of the basis thereof; the fact that they suffered the trauma of mental, physical and psychological sufferings which constitutes the bases for moral damage under the Civil Code[17] are too obvious to still require the recital thereof at the trial.[18] Moreover, the father of the victim testified as to the mental anguish suffered from the lost of his child.[19]

Anent the award of actual damages, the Court must disallow the amount of P60,000.00 awarded by the trial court. Aside from the assertion of the father Edgar Cabatingan, no evidence to prove the same was presented. The Court can only give credit for expenses supported by receipts. Here, the claim of transportation, hospital and burial expenses was not substantiated, hence, no award for the same can be granted.[20]

WHEREFORE, the conviction of Renante Robles y Burgos Jr., is hereby AFFIRMED. Accused-Appellant is directed to indemnify the heirs of the victim of P100,000.00 as civil indemnity and P50,000.00 as moral damages. The award of actual damages of P60,000.00 is deleted.

In accordance with Section 25 of Republic Act No. 7659 amending Article 83 of the Revised Penal Code, upon finality of this decision. Let the record of this case be forthwith forwarded to the Office of the President for possible exercise of the pardoning power.

SO ORDERED.

Davide Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza Panganiban, Quisumbing, Purisima, Pardo, Buena, and Gonzaga-Reyes, JJ., concur.

[1] Tsn., October 26, 1995, pp. 13-18; Tsn., November 7, 1995, pp. 4-5.

[2] Exh., "G".

[3] Tsn., October 26, 1995, pp. 1-19; October 30, 1995, pp. 5-8.

[4] Tsn., October 30, 1995, pp. 6-7.

[5] Tsn., October 31, 1995, pp. 28-30.

[6] Tsn., November 7, 1995, pp. 5-18.

[7] Exh. "E", p. 53, Folder and Exhibits.

[8] Tsn, October 31, 1995, pp. 8-9.

[9] People vs. Abrera, 283 SCRA 1; People vs. Binamira, 277 SCRA 232; People vs. Balderas, 276 SCRA 470.

[10] People vs. De Guia, 280 SCRA 141.

[11] People vs. Bionat, 278 SCRA 454; People vs. Grefaldia, 272 SCRA 591; People vs. Salvame, 270 SCRA 766.

[12] People vs. Zea, 130 SCRA 77; People vs. Lungbos, 162 SCRA 383.

[13] People vs. Adlawan, 217 SCRA 489.

[14] People vs. Cristobal, 245 SCRA 620.

[15] Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997, was not yet in effect.

[16] People vs. Victor, G.R. No. 127903, July 9, 1998.

[17] Art. 2217.

[18] People vs. Prades, G.R. No. 127569, July 30, 1998; People vs. Dianos G.R. No. 119311, October 7, 1998.

[19] Tsn., November 7, 1995, p. 12.

[20] People vs. SPOI Romulo Gutierrez, Jr., G.R. No. 116281 prom. February 8, 1999; David vs. Court of Appeals, G.R. No. 111168-69, June 17, 1998; Fuentes, Jr. vs. Court of Appeals, 253 SCRA 430; People vs. Rosario, 246 SCRA 658.

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