

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANOLITO MONSAYAC Y LABRADOR, ACCUSED-APPELLANT.

G.R. No. 126787. May 24, 1999

Ponente: MELO, J.

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MELO, J.:

Before us on automatic review is the decision of the Regional Trial Court of the National Capital Region (Branch 95, Quezon City), the Honorable Diosdado N. Peralta presiding, in its Criminal Case No. Q-95-64327, convicting herein accused-appellant of Attempted Rape With Homicide, with one aggravating circumstance, and sentencing him to suffer the supreme penalty of death.

The undisputed facts show that at around 4 o'clock in the morning of December 19, 1995, the victim, MARY JANE IBIAS y UBALDE was found dead inside her room with several stab wounds on her neck, and although she was fully clothed, her shirt was pulled up revealing her breasts.

Mary Jane, or Baby as she was commonly called, was living inside the motorshop of her brother, Roger Ibias, at No. 375 Quirino Highway, Sangandaan, Barangay Talipapa, Quezon City at the time of the incident. She was 20 years old and was working as a computer programmer. Also living inside the shop premises were two men, Teodorico Villarico and accused-appellant Manolito Monsayac, both helpers-mechanics of her brother. They stayed in separate living quarters, each adjacent to the other, with Baby's room in the middle. Inside accused-appellant's room is a door leading to Baby's, although said door always remained locked from Baby's side.

Two days after Baby's death, or on December 21, 1995, an Information was filed against accused-appellant Manolito Monsayac charging him with the crime of Attempted Rape with Homicide allegedly committed as follows:

That on or about the 19th day of December, 1995, in Quezon City, Philippines, the above-named accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously commence the commission of the crime of Rape directly by overt acts, by attempting to have carnal knowledge to one MARY JANE IBIAS y UBALDE who was then asleep at the time, by laying on top of her while pointing a kitchen knife on her neck, however, the said accused did not perform all the acts of execution which would produce the crime of rape by reason of some causes other than his spontaneous desistance; that on the occasion thereof, the said accused, with intent to kill, attack, assault and employ personal violence upon the person of said victim, by then and there stabbing her on the neck with the said kitchen knife, thereby inflicting upon her serious and mortal wound which was the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of the said victim.

(p. 5, Rollo.)

Upon arraignment, accused-appellant pleaded not guilty and after the case was re-raffled to the court a quo, trial ensued.

The evidence for the prosecution consists of the testimony of PO3 Crisanto Lamsin, Senior Inspector Ma. Cristina Freyra, Romeo Lascano, Atty. Engracio Icasiano, and Teodorico Villarico, which tend to establish the following sequence of events, thusly:

At half an hour past midnight, on December 19, 1995, Roger Ibias and accused-appellant arrived in the Sangandaan motorshop from Bulacan where they had repaired a customer's car. At around 4 o'clock that same morning, witness Teodorico Villarico, who was sleeping in his room, was awakened by moaning sounds coming from Baby's room, crying for help - "Kuya Teddy, tulungan mo ako." Teodorico went out of his room and tried to open Baby's door by kicking it but it would not open. He then ran to the police headquarters of Sangandaan which was near the motorshop but found the policemen sleeping. So he decided to go to the house of a certain Ambet, Roger's kumpadre, who lived a few meters away from the motorshop. He woke up Ambet and the two of them proceeded towards the motorshop calling out, "Pulis! Pulis!" Their cries awakened PO3 Crisanto Lamsin and another policeman and they all proceeded towards the motorshop. When they were already in front of the motorshop, PO3 Lamsin asked why it was dark and accused-appellant suddenly emerged from the shell of a wrecked vehicle, naked from the waist up, wearing only denim short pants. PO3 Lamsin ordered accused-appellant to switch on the light which he did. With the place illuminated, Lamsin noticed that accused-appellant was sweating profusely, although it was a chilly December morning.

Lamsin saw Mary Jane's lifeless body and noticed that her T-shirt was raised up to her breasts. Without any instructions from anyone, accused-appellant suddenly ran towards Baby's room, entering through the broken door that connects his room to Baby's, and lifted Baby's lifeless body. Suspicious of accused-appellant's erratic behavior, Lamsin ordered him to put down Baby's body. He then looked around for pieces of evidence of the crime and found a knife with bloodstains wrapped with a glove, also with bloodstains, inside the kitchen of the motorshop. Lamsin likewise found a blue T-shirt beside a trash can. Lamsin also noticed several scratches on the chest of accused-appellant and blood on his right index finger. He then apprehended accused-appellant and brought him to the police station for investigation.

Meanwhile, Roger Ibias had arrived and he took pictures of the room and of Baby's lifeless body, after which, he brought Baby's body to a funeral parlor and made the necessary arrangements for her internment.

In the police station, accused-appellant was ordered to take off his short pants which were found to be stained with blood. Inside the pocket of his pants was a handkerchief with three holes. These were brought to the Philippine National Police (PNP) Crime Laboratory for examination and the results showed that the stains were human blood identical to that of the victim.

Accused-appellant denied killing Baby. He pointed instead at Teodorico as the perpetrator of the crime. The following is his story.

Accused-appellant was a helper-mechanic in the motorshop of Roger Ibias, Baby's elder brother. Roger's mother-in-law is accused-appellant's sister and, as a relative by affinity, he was tasked to look after Baby.

The day before Baby's death, or on December 18, 1995, accused-appellant was working in the motorshop and he carried materials made of asbestos and an engine of a motor vehicle which caused scratches on his chest and a cut in his right index finger. At 12 o'clock midnight, he and Roger arrived from Meycauayan, Bulacan where they had repaired a customer's car. They proceeded to Ambet's house which was near the motorshop and had a drinking spree until 3:30 o'clock in the morning of the following day, December 19. Roger then brought him back to the motorshop; he took off his shirt and slept in a wrecked vehicle inside the motorshop. At around 4 A.M., he was awakened by a commotion near the shop and some people shouting, "Pulis! Pulis!" He came out from the wrecked vehicle where he was sleeping and was surprised to see inside the motorshop Teodorico Villarico and

Ambet with PO3 Crisanto Lamsin and another policeman. Ambet pleaded with him to enter Baby's room saying, "Amang, look at Baby if you could bring her to the hospital." Teodorico likewise told him, "Amang, tingnan natin si Baby." Without wasting time, he ran towards Baby's room and tried to open the door but it was locked. He then decided to enter through the adjoining door between his and Baby's room by kicking the same and destroying it. After successfully breaking open the door, he carried Baby so he could bring her to the hospital for possible treatment. PO3 Lamsin felt Baby's pulse and declared that she was already dead and should be brought to a funeral parlor instead. So he put Baby back on the floor. He was then arrested by Lamsin and detained at the police station.

Accused-appellant admitted that the short pants and the T-shirt that were found at the scene of the crime were his. They were stained with blood because he carried the bloodied body of Baby, he argued. He, however, denied ownership of the bloodstained kitchen knife and glove, claiming that these were Teodorico's. He also denied that the handkerchief with three holes was his.

Accused-appellant was made to sign an extrajudicial confession admitting authorship of the crime. This confession was, however, correctly discarded by the trial court because it was executed without the assistance of an independent and competent counsel as strictly required by the Constitution. The same was a ready-made confession prepared by one Atty. Engracio Icasiano whom accused-appellant did not even know. The contents thereof were supplied by said Atty. Icasiano and all accused-appellant did was to sign the same.

On August 28, 1996, the trial court rendered judgment, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused Manolito Monsayac y Labrador GUILTY beyond reasonable doubt of the crime of Attempted Rape with Homicide as defined in and penalized by Article 335 of the Revised Penal Code, as amended. There being one (1) aggravating circumstance, the said accused is hereby sentenced to suffer the penalty of DEATH and ordered to indemnify the heirs of the victim Mary Jane Ibias the amounts of P50,000.00, for the death of Mary Jane Ibias; P50,000.00, as moral damages; P40,000.00, as actual damages; and P20,000.00, as exemplary damages (Article 2230, New Civil Code). The Court cannot award loss of earnings as the prosecution failed to offer sufficient evidence in the recovery of the same.

The said accused is further ordered to pay the costs.

IT IS SO ORDERED.

(p. 84, Rollo.)

A single assigned error, the catch-all, shot-gun type of argument that the evidence of the prosecution is insufficient to prove accused-appellant's guilt is put forward by accused-appellant.

It is a well-entrenched rule that even in the absence of direct evidence, conviction can be had if the established circumstances constitute an unbroken chain, consistent with each other and with the hypothesis that the accused is guilty, to the exclusion of all other hypotheses that he is not (*People vs. Maliput*, 252 SCRA 519 [1996]). The following requisites must be met before circumstantial evidence can sustain conviction, to wit: (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 (*People vs. Danao*, 253 SCRA 146 [1996]; *People vs. Prado*, 254 SCRA 531 [1996]). In the case at hand, the circumstantial evidence leads to no other conclusion than that accused-appellant is responsible for Baby's death. Telling are the bloodstains in his short pants and T-shirt that were found to be identical with Baby's. Accused-appellant tried to explain that his T-shirt was stained with Baby's blood because he carried her purportedly to bring her to the hospital. This is not only highly improbable but also impossible, considering the fact that when he held Baby's lifeless body, he was naked from the waist up. In other words, he did not have his T-shirt on as he had earlier thrown said bloodstained

shirt near a trash can plainly in an effort to conceal the same.

Another piece of circumstantial evidence pointing to accused-appellant's guilt is that he had access to Baby's room as there was an adjoining door between his room and that of Baby's. While it is true that said door was locked from Baby's side, it was discovered at the time of the incident, that the hinges of the connecting door were removed from accused-appellant's side, thus allowing him easy access into Baby's room.

We also take note of the fact that when first seen by PO3 Lamsin immediately after Baby was killed, the scratches on accused-appellant's chest and the cut on his right index finger, were fresh. The same could not have been inflicted the day before when he was working in the shop as he alleged. The most plausible explanation is that they were caused by Baby's struggle as reflected in the postmortem report.

Accused-appellant's profuse sweating on a chilly December morning is a further sign of his guilt.

Accused-appellant would have us believe that it was Teodorico who killed Baby. He claimed that Teodorico had lustful designs on Baby and that the kitchen knife that was used to kill Baby belonged to Teodorico. Aside from these self-serving assertions, he had no other proof that Teodorico indeed killed Baby. Denial, if unsubstantiated by clear and convincing evidence, is negative and self serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testified on affirmative matters (*People vs. Amaguin*, 229 SCRA 166 [1994]).

In a further attempt to exculpate himself, accused-appellant interposed the defense of alibi. Alibi is one of the weakest defenses that can be resorted to by an accused, not only because it is inherently weak and unreliable but also because of easy fabrication (*People vs. Mañozca*, 269 SCRA 513 [1997]). Here, accused-appellant's claim that he was drinking with Roger and Ambet during the crucial hours between 12:30 to 3:30 in the morning of December 19, 1995 when Baby was killed, was not corroborated by his alleged drinking buddies. His defense of alibi necessarily falls flat on its face.

Even if we were to assume for the sake of argument that accused-appellant was out drinking in Ambet's house in the wee hours of December 19, 1995, the latter's house is only a few meters away from the motorshop, hence, it was not physically impossible for accused-appellant to have been at the motorshop when Baby was killed. In fact, he was the only one found within the vicinity of the crime when Teodorico arrived with Ambet and the policemen in answer to Baby's cries for help. Well-settled is the rule that for the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time the crime was committed but that it was likewise physically impossible for him to be at the locus criminis at the time of the alleged crime (*People vs. Umali*, 242 SCRA 17 [1995]; *People vs. Rivera*, 242 SCRA 26 [1995]).

We do not, however, believe, as did the trial court, that the crime of attempted rape was proved beyond the shadow of a doubt. The only evidence that the prosecution presented to show that accused-appellant attempted to rape Baby is the fact that her shirt was pulled up, revealing her breasts. In attempted rape, the offender commences the commission of the felony directly by overt acts, but does not perform all the acts of execution by reason of some cause or accident other than his own spontaneous desistance (*People vs. Gavarra*, 155 SCRA 327 [1987]). As the evidence discloses, when Baby's body was found, she still had her panties and her jogging pants on. The postmortem report also revealed that Baby was "in (a) virgin state physically." There is no evidence to show that accused-appellant attempted to have carnal knowledge with the victim.

Hence, accused-appellant can only be held guilty of the crime of homicide aggravated not by nighttime, as erroneously found by the trial court, but by dwelling.

By and of itself, nighttime is not an aggravating circumstance. It becomes so only when (1) it is especially sought

by the offender; or (2) it is taken advantage of by him; or (3) it facilitates the commission of the crime by ensuring the offender's immunity from capture. It is not especially sought when the notion to commit the crime was conceived only shortly before its commission or when the crime was committed at night upon a mere casual encounter (*People vs. Cayabyab*, 274 SCRA 387 [1997]). Here, other than the time of the crime, there is nothing else to suggest that accused-appellant deliberately availed himself of, or took advantage of the circumstance of nighttime.

The aggravating circumstance of dwelling should, however, be taken into account. Accused-appellant killed Baby inside her room. Although the same was a makeshift room inside her brother's motorshop, said room constituted for all intents and purposes a dwelling as the term is used in Article 14(3) of the Revised Penal Code. It is not necessary, under the law, that the victim own the place. Be she a lessee, a boarder, or a bedspacer, the place is her home, the sanctity of which the law seeks to protect and uphold (*People vs. Daniel*, 86 SCRA 511 [1978]). Dwelling is considered an aggravating circumstance primarily because of the sanctity of privacy the law accords to human abode. According to one commentator, one's dwelling place is a sanctuary worthy of respect and that one who slanders another in the latter's house is more guilty than he who offends him elsewhere. Cuello Calon says that the commission of the crime in another's dwelling shows greater perversity in the accused and produces greater alarm (*Aquino*, Revised Penal Code, Vol. I, p. 315 [1987 Ed]; *People vs. Parazo*, 272 SCRA 512 [1997]<).

WHEREFORE, the decision under review is hereby MODIFIED. Accused-appellant MANOLITO MONSAYAC y LABRADOR is hereby found guilty beyond reasonable doubt only of the crime of HOMICIDE as defined and penalized under Article 249 of the Revised Penal Code and there being one aggravating circumstance, the imposable penalty is reclusion temporal in its maximum period. Accused-appellant is, however, entitled to the benefits of the Indeterminate Sentence Law. Accordingly, accused-appellant is hereby sentenced to an indeterminate penalty ranging from Eight (8) Years and One (1) Day of prision mayor, as minimum, to Seventeen (17) Years, Four (4) Months and One (1) Day of reclusion temporal, as maximum.

The awards in the amounts of P50,000.00 for death indemnity, P40,000.00 for actual damages, and P50,000.00 for moral damages are hereby AFFIRMED. We likewise uphold the award of exemplary damages in the amount of P20,000.00, the rule being that where the crime was committed with the aggravating circumstance of dwelling, exemplary damages should be awarded (*People vs. Sol*, 272 SCRA 392 [1997]; *People vs. Esguerra*, 256 SCRA 657 [1996]); *People vs. Patrolla, Jr.*, 254 SCRA 467 [1996]; see also *People vs. Maguikay*, 237 SCRA 587 [1994]).

SO ORDERED.

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

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