

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PO3 ARMANDO DALAG Y CUSTODIO, APPELLANT.

G.R. No. 129895. April 30, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an appeal from the 10 January 1997 Decision[1] of the Regional Trial Court of Bacolod City, Branch 42, in Criminal Case No. 17838, finding appellant PO3 Armando Dalag guilty beyond reasonable doubt of parricide for killing his wife, Leah Nolido Dalag. The trial court imposed upon him the penalty of reclusion perpetua and ordered him to pay their children P50,000 as civil indemnity.

The amended Information against the appellant reads:

The undersigned Assistant City Prosecutor accuses PO3 Armando C. Dalag of the crime of PARRICIDE (Under Art. 246 of the RPC, as amended by RA 7659, committed as follows:

That on or about the 15[th] day of August, 1996, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, said accused Armando C. Dalag, willfully, unlawfully, and feloniously and with evident premeditation, that is having conceived and deliberated to kill his wife, Leah Nolido Dalag, with whom he was united in lawful wedlock, did, then and there, attack, assault, dragged (sic) and inflict serious multiple injuries upon his wife, Leah Nolido Dalag, in the different parts of her body, to wit:

Cranio-Cerebral Trauma with probale (sic) severe diffuse Axonal injury r/o Intracranial hematoma; r/o Multifocal Cerebral Contusions; Multiple Abrasions-Contusions; face, neck anterior chest extremities and such other injuries contained in the post exhumation autopsy/examination report employing means, manner and form in the execution of the crime which tended directly and specially to insure its commission without danger to the person of the accused, as a result of which attack and injuries caused the death of said Leah N. Dalag.[2]

On his arraignment, Armando, with the assistance of counsel, pleaded not guilty to the charge.[3] Trial ensued.

The Antecedents

Armando Dalag, a member of the Philippine National Police assigned to the Bacolod City police station, was lawfully married to Leah Nolido Dalag[4]. They had three children: Francis, Princess Joy and Ezra John. The family resided in Barangay Handumanan, Bacolod City.

The marriage of Armando and Leah was far from idyllic. Their coverture was marred by violent quarrels, with Leah always at the losing end. Each time the couple had a quarrel, she sustained contusions, bruises and lumps on different parts of her body. The situation came to a point when on one occasion, Leah's father, Marcos Nolido, had to advise Armando to stop beating his wife. Armando replied that he planned to sell the house and leave Leah. Marcos was taken aback. He went to the kitchen and after a few minutes, heard Armando ordering his wife to get out of the house. He saw Armando poke his firearm at Leah. Marcos tried to pacify Armando to no avail. Marcos lost his temper and shouted at Armando: "What kind of a policeman are you? You are committing police brutality against your wife." Instead of being chastened, Armando poked his gun on his father-in-law instead.

On August 15, 1996, at around 8:00 p.m., Francis, then eleven years old, and his sister Princess Joy, then nine years old, were watching television in their house. Armando, who was drinking hard liquor, and Leah were in the yard sitting under the datiles tree. Momentarily, the children heard their parents quarreling. Leah was admonishing Armando not to drink liquor. The kids sensed that some object was being banged on the wall. Thereafter, they heard their mother cry. Francis and Princess Joy rushed outside the house to see what was happening. They were horrified when from a distance of three meters, they saw Armando pushing and kicking Leah on the left side of her body. She fell to the ground. Even as Leah was already lying posthaste on the ground, Armando continued to beat her up, punching her on the different parts of the body. Francis and Princess Joy pleaded to their father to stop maltreating their mother. Armando angrily told them not to interfere and that he will later beat them up as well. He grabbed Leah's hair and banged her head on the wall. Leah's forehead directly hit the wall. In the process, Armando stepped on a nail. Even as she was being assaulted by her husband, she told him "Toy, Toy, I will find some medicine for your wound." Leah then fled to the house of their neighbor, Felisa Horilla or "Tia Feli." Armando ran after Leah and pushed her to the house of Felisa. Francis went back to the house. Princess Joy looked for her parents but could not find them. She decided to go back to their house to sleep. In the meantime, Armando herded Leah back to the house. Princess Joy was awakened when she heard her mother crying. When Princess Joy went outside of the house, she saw her mother being pushed by her father. Leah fell to the ground and lost consciousness. Armando placed the head of Leah on a stone and ordered Princess Joy to get some water. She did. She poured water on the face of her mother but the latter did not move. Armando then tried to revive Leah by applying mouth-to-mouth resuscitation to no avail.

Princess Joy went back to the house to rouse Francis. When Francis came out to the yard, he saw his mother lying on the ground still unconscious. Armando was sitting near Leah, while nonchalantly smoking cigarette. Francis got a piece of carton from their store and placed it underneath his mother's body. Francis then suggested to his father that they bring Leah inside the house. Armando nonchalantly remarked, "You really love your mother."

Armando and Francis carried Leah to the house. Francis noticed that there were lumps on his mother's face as well as bruises on both her arms, between her breasts and on her thighs. There was likewise blood on Leah's right ear. After laying down her head on the bed, Armando told Francis to get some hot water. Armando then washed his wife's face with lukewarm water. When Francis finally went to sleep, his mother was still unconscious.

When they woke up the following day, or on August 16, 1996, Francis and Princess Joy noticed that their mother remained unconscious. Despite their mother's condition, they decided to go to school. During lunchtime, Francis went home and saw that Leah's condition had not improved. When the children came home in the afternoon after their classes, Armando told them that their mother was brought to the hospital. Armando instructed Francis to inform his colleagues at the police headquarters that he would be unable to report for duty because his wife accidentally slipped and had to be brought to the hospital.

When Francis visited his mother in the hospital, he saw her lying on the bed, her face badly swollen. He saw the lumps and bruises on the different parts of her body. Leah never regained her consciousness. She died on August 22, 1996.

When SPO3 Herman S. Garcia, the station commander, was apprised of the death of Leah, he ordered Armando not to leave the police station. However, on August 23, 1996, Armando left the police station without the knowledge and permission of Garcia and could not be located.[5] However, on August 28, 1996, Armando surrendered to SPO3 Garcia and to PO3s Joel Stephen B. Casador and Filemon Roderos.[6]

Dr. Jesse Rey T. Cruel, the medico-legal officer of the Commission on Human Rights, conducted a post exhumation autopsy on the cadaver of Leah. The autopsy report revealed as follows:

FINDINGS

ABRASIONS:

- 2.0 cms. x 3.0 cms., xiphi-sternal area, chest;
- 6.0 cms. x 8.0 cms., multiple, in various sizes and shapes, knee region, left;
- 5.0 cms. x 7.0 cms., multiple, in various sizes and shapes, elbow region, left;
- 6.0 cms. x 10.0 cms. multiple, in various sizes and shapes, elbow region, right;
- 4.0 cms. x 11.0 cms., multiple, in various sizes and shapes, dorsal aspect, hand, right;
- 1.5 cms. x 3.0 cms., shoulder, left.

CONTUSED ABRASIONS, brownish:

- 4.0 cms. x 7.5 cms., lateral aspect, malleolar area, left;
- 6.0 cms. x 6.5 cms., lateral aspect, malleolar area, right;
- 1.0 cm. X 2.5 cms., temporal area, head, left side.

CONTUSIONS, purplish-brown:

- 1.0 cm x 3.0 cms., antero-lateral aspect, arm, middle third, right;
- 2.0 cms. x 4.0 cm., anterior aspect, middle third, thigh, right;
- 5.0 cms. x 6.5 cms., anterior aspect, middle third, thigh right;
- 2.5 cms. x 4.0 cms., antero-lateral aspect, proximal third, leg, right;
- 1.5 cms. in diameter, infra-mammary region, chest, right side;
- 1.5 cms. in diameter, medial aspect, chest, right side;
- 3.5 cms. x 6.5 cms., axillary region, right.

Scalp hematoma, parietal region, head, right side, with shallow depression of the right, temporal bone along the pterion.

Blood, clotted, approximately 100 milliliters in volume, anterior fossa, right.

Brain and other visceral organs, pale.

Pleural and peritoneal cavity, non-bloody.

Stomach, empty.

CAUSE OF DEATH: Intracranial hemorrhage secondary to blunt injury of the head.[7]

Dr. Cruel testified that Leah suffered severe beatings and traumatic physical violence resulting in intracranial hemorrhage which caused her death.

The Defense of Armando

Armando vigorously denied killing his wife. He testified that he was a member of the PNP. However, before joining the police, he was unemployed. Thus, during the early part of his marriage to Leah, Marcos, his father-in-law, disapproved of him. He admitted that his relationship with his father-in-law did not improve because every time he and his wife had a spat, Marcos would interfere. Moreover, Marcos resented him because he (Armando) was a Catholic while Marcos and his family, including Leah, and their children belonged to the

Mormon faith.

Armando narrated that on August 15, 1996, at around 6:00 p.m., he was watching TV Patrol on television with Leah and their children. When the program was over, he went out to their yard and sat under the datiles tree. Leah followed him. They then decided to drink liquor. He stood up to get a cigarette when he stepped on a four-inch nail. The nail punctured his foot, causing it to bleed. Marcos ordered Leah to get medicine. However, she could not find any. She then proceeded to the house of Tia Feli to ask for medicine. When Leah failed to return after an hour, he followed her to Tia Feli's house and found her conversing with friends. She told Armando that she was not able to find any medicine for him. He then asked her why she was still there, and ordered her to go home with him because it was already late.

When they were near their gate, Leah pushed Armando and ran towards their house. As she was running, Leah stumbled upon a pile of cut bamboos, causing her to fall to the ground. She then hit her head "in-between the two stones" found in their yard. Leah's left temple and nape ("back portion of her neck") hit the stones. She then rolled over. Armando immediately rushed to Leah's aid and when she saw that she had lost consciousness, applied mouth-to-mouth resuscitation on her. Leah regained consciousness. Armando called Francis and Princess Joy and told them that their mother had an accident.

Armando and Francis carried Leah and brought her inside the house. Upon his father's instructions, Francis wiped his mother's face with towel soaked in lukewarm water. Armando asked her if she wanted to be brought to the hospital, but Leah refused. The following morning, Armando noticed that Leah had two lumps at the back of her neck and on her left temple. Realizing that his wife's condition was getting worse, he had his mother fetched and together, they brought Leah to the hospital.

During Leah's confinement in the hospital, Armando stayed away to avoid confrontation with his father-in-law. After his wife's death, the children lived with Leah's parents. Armando averred that the testimonies of his children were untrue. In fact, he insisted, when they visited him at the headquarters they told him that they did not want him to go to jail.

Armando's mother, Agueda Dalag, testified that on August 16, 1996, Ada, her daughter, fetched her from the house upon the instruction of Armando. She and Ada went to the house of Armando and saw Leah on bed unconscious. When she asked Armando what happened to Leah, Armando replied that his wife slipped and fell, hitting her head on two stones. Armando, Agueda and Ada brought Leah to the hospital. Agueda testified that her son loved his wife and that she was not aware of any occasion where he maltreated or manhandled Leah.

PO3 Joel Stephen B. Casador testified that as far as he knew, Armando and Leah had a good marital relationship. Nenita Garcia, a neighbor of Armando and Leah, testified that early in the evening of August 15, 1996, she saw husband and wife drinking under the "datiles" tree in their yard. At around 8:00 in the evening, Leah passed by her house on the way to Tia Feli's house. Thereafter, Armando followed Leah to Tia Feli's house. Nenita observed that Armando was limping. He and Leah went back to their house together. Nenita said that she did not see the couple quarrel, nor was there anything unusual in the behavior of the couple that night.

The Verdict of the Trial Court

After due proceedings, the trial court rendered judgment finding Armando guilty beyond reasonable doubt of parricide for killing his wife and sentenced him to the penalty of reclusion perpetua. The trial court appreciated the mitigating circumstances of voluntary surrender and "one analogous to passion and obfuscation" in favor of Armando. The dispositive portion of the trial court's decision reads:

WHEREFORE, PREMISES CONSIDERED, the Court finds the accused, ARMANDO CUSTODIO DALAG,

guilty beyond reasonable doubt of the crime of Parricide, appreciating in his favor the mitigating circumstances of voluntary surrender and one analogous to “passion and obfuscation” and there being no aggravating circumstance in attendance in [the] commission of the crime, hereby sentences the accused to serve the penalty of RECLUSION PERPETUA, with all its accessory penalties and to indemnify the children of the deceased, Leah Nolido-Dalag, the sum of FIFTY THOUSAND (P 50,000.00) PESOS. No costs.

SO ORDERED.[8]

In his appeal brief, Armando, now the appellant, contends that:

I

THE LOWER COURT ERRED IN HOLDING THAT ACCUSED INFLICTED INJURIES TO THE DECEASED THAT CAUSED HER DEATH.

II

THAT THE LOWER [COURT] ERRED IN CONSIDERING THE TESTIMONIES OF FRANCIS AND PRINCESS JOY DALAG WHICH WERE FABRICATED AND COACHED.

III

THAT THE LOWER COURT ERRED IN GIVING CRE[C]ENCE (SIC) TO THE UNFOUNDED ALLEGATIONS OF MARCOS NOLIDO, JR. WHO HAS AN AXED (SIC) TO GRIND AGAINST THE ACCUSED.[9]

The issues raised by appellant involve the credibility of witnesses and their testimony and the probative weight thereof. He, in effect, assails the credibility of the prosecution witnesses and the probative weight accorded by the trial court to their respective testimonies.

The Verdict of this Court

It is axiomatic in criminal jurisprudence that when the issue is one of credibility of witnesses, an appellate court will normally not disturb the factual findings of the trial unless the lower court has reached conclusions that are clearly unsupported by evidence, or unless it has overlooked some facts or circumstances of weight and influence which, if considered, would affect the result of the case.[10] The rationale for this rule is that trial courts have superior advantages in ascertaining the truth and in detecting falsehood as they have the opportunity to observe at close range the manner and demeanor of witnesses while testifying.[11]

In this case, the trial court declared that the children, Francis and Princess Joy, the principal prosecution witnesses, testified “in a logical, candid, and straight-forward manner, describing in detail what they saw and heard in a manner characteristic of witnesses who are telling the truth.”[12] The Court finds no reason to deviate from these findings as the records fully support the same. The children recalled the sordid events that happened in the evening of August 15, 1996 involving their parents without any trace of bias, impelled by no other motive than to bring justice to their mother’s senseless death. Francis for one graphically testified in this manner:

FISCAL CHUA:

Q

How about your mother and father at that time? Do you know where they were?

WITNESS:

A

Yes, ma'am.

Q

Where?

A

They were outside of our house near the datiles tree.

Q

Do you know what were they doing there?

A

My father was drinking.

Q

How about your mother?

A

My mother was admonishing my father to stop drinking.

Q

Why do you know that?

A

Because I went out of our house.

Q

Why did you go out from you[r] house?

WITNESS:

A

Because I heard my mother crying.

FISCAL CHUA:

Q

Aside from hearing your mother crying, did you hear anything else?

A

Yes, ma'am.

Q

What was that?

A

I heard something banged against our wall.

Q

So, when you went out from your house, did you see your father and mother there?

A

Yes, ma'am.

Q

And what did you see?

A

My father and mother were quarreling.

Q

Was your mother fighting with your father or you[r] father fighting with your mother?

A

I saw my father fighting with my mother.

Q

What was your father doing to your mother?

A

He was castigating or maltreating my mother.

Q

Can you specifically tell the court how was your father maltreated (sic) or “castigo” your mother?

WITNESS:

A

He punched and at the same time kicked my mother.

FISCAL CHUA:

Q

How about your mother? What was she doing?

A

She was crying.

Q

Was she fighting back?

A

No, she was not fighting back.

Q

Now, when your mother was kicked and punched by your father, what happened to her?

A

While my father was physically abusing my mother, my mother was crying while she was sitting on the ground.

Q

When your father kicked your mother, where was she hit?

A

She was hit on her stomach.

Q

How about the boxing?

WITNESS:

A

The punches of my father landed all over the body of my mother.

FISCAL CHUA:

Q

How many times did your father punch and kick your mother that night?

A

Many times.

...

FISCAL CHUA:

Q

During this physical abuse inflicted by your father to your mother, what happened to your mother that evening while you were still there?

ATTY. GRIJALDO:

Objection, your honor. It was already answered by the child. He said his mother was crying, your honor, while she was physically abused by the accused.

COURT:

Overruled, may answer.

WITNESS:

A

She was sitting on the ground.

FISCAL CHUA:

Q

While she was sitting on the ground, did your father continue maltreating her?

A

Yes, ma'am.

...

FISCAL CHUA:

Q

And when you went out, what did you see again?

WITNESS:

A

When I went out again while my parents were still quarreling, me and my younger sister told my father, “Tatay, that’s enough.” And my Tatay told her, “Do not interfere or else, I will beat you by and by.”

Q

And when you heard this, what did you do?

A

When our father told us not to interfere, and ordered us to go back inside our house, we complied with his order while he was still continuing beating our mother. So, I went out again.

Q

When you went out again, did you see anything?

A

They were no longer there.

Q

Later, did you see them? I withdraw that question.
So, when you saw that they were not there, what did you do?

WITNESS:

A

I went out of the road in front of our house to look for my parents but they were not there.

Q

So, what did you do?

A

I went back inside.

Q

When you went back inside, what did you do?

A

After I went back inside of our house, I was so terrified and I sat down for awhile and went to sleep.

Q

Later, did you wake up?

A

Yes, ma'am.

Q

And when you woke up, what did you do?

A

When I woke up, I saw my mother already unconscious.

Q

Where was your mother then while she was unconscious?

A

She was lying on the ground near the datiles tree.

...

Q

And did you see the physical condition of your mother when you brought her inside the house?

WITNESS:

A

Yes, ma'am.

FISCAL CHUA:

Q

Will you please tell the court how did you see or observed the physical condition of your mother that night?

A

After we brought our mother inside our house I observed that on her face, there were several lumps and at the same time, she also had bruises on both of her arms, and also somewhere in the middle of her breast.

Q

How about the legs? Did you see your mother's legs or thighs?

A

Yes, ma'am.

Q

What did you see?

A

My mother's legs had also bruises.

Q

Did you see any blood on your mother's body or face?

A

I saw my mother was bleeding on her right ear.

FISCAL CHUA:

Q

After that, what did you do after your mother was brought in to your house?

WITNESS:

A

My father ordered me to get some hot water.

Q

Where you the one who got the hot water?

A

Yes, ma'am.

Q

And what happened then when you brought that hot water?

A

After I brought some hot water, my father used it to wipe of (sic) wash my mother.

Q

After that, what happened? What did you do?

A

While my father was washing my mother with lukewarm water, I noticed that my mother never regained consciousness and she had several cuts and bruises on her body.

Q

Later that evening, what happened?

A

I went back to sleep.

...

Q

Now, this incident on August 15, 1996, was this the first time that you saw your father beat your mother?

A

No, ma'am. That was not the first time. Actually, there were several occasions where my father beat my mother.

FISCAL CHUA:

Q

Later, you said your mother was brought to the hospital. Were you able to visit your mother at the hospital the following day?

WITNESS:

A

Yes, ma'am.

Q

Did you see your mother?

A

Yes, ma'am.

Q

Can you tell us how your mother looked at the hospital?

A

When I visited my mother at the hospital, I noticed that her face was swollen and [s]he had several lumps on her face and I also noticed that she still had so many bruises in both arms and body.

Q

At the hospital, was your mother able to regain consciousness or talked to you?

A

No, ma'am. My mother never regained consciousness.

Q

Ultimately, do you know what happened to your mother at the hospital?

A

Yes, ma'am.

FISCAL CHUA:

Q

What happened to her?

WITNESS:

A

She died.

Q

Do you know when your mother died?

A

My mother died on August 22, 1996.[13]

Princess Joy substantially corroborated her brother's testimony on its material points. She narrated how the appellant assaulted Leah:

PROSECUTOR PELAYO:

And what did you see that evening? What happened between your father and your mother?

WITNESS:

They had a quarrel.

PROSECUTOR PELAYO:

And what was your father doing then while he was quarreling with your mother?

WITNESS:

My father physically abused my mother.

PROSECUTOR PELAYO:

Can you tell the Court how did your father physically abused or beat or "castigo" your mother that evening of October 15, 1996?

WITNESS:

My father first choked my mother's neck, he banged her head against something and lastly, he kicked her under her left armpit.

ATTY. GRIJALDO:

My we suggest that the phrase "banged her head on something" be changed to "banged her head on a wall."

COURT:

On something. Let that interpretation stay and we will clarify from the witness as we go along.

PROSECUTOR CHUA:

You said your father banged your mother on something. Can you tell us how did your father banged her head on something?

WITNESS:

My father held my mother on the head and banged my mother's head against the wall.

PROSECUTOR CHUA:

And what part of your mother's head that hit the wall?

WITNESS:

My mother's forehead hit the wall.

PROSECUTOR CHUA:

When your mother's head hit the wall, what happened to her?

WITNESS:

About the same time, my mother's head was against the wall, my father stepped on a nail.

PROSECUTOR CHUA:

You said your father kicked your mother. What was the position of your mother when your father kicked her?

WITNESS:

My mother was lying prone on the ground.

PROSECUTOR CHUA:

How did your father kicked your mother this time? Please describe.

WITNESS:

He just kept on kicking my mother while she was lying prone on the ground.

PROSECUTOR CHUA:

Did you see where your mother was hit?

WITNESS:

She was hit on the left side portion of her stomach.

PROSECUTOR CHUA:

Did you see how your father was able to hit your mother here at her side, under her left side.

WITNESS:

My father kicked my mother and he hit the left portion of her body under her left side which caused my mother to roll on the ground.

PROSECUTOR CHUA:

About your mother, what was she doing, was she fighting back?

WITNESS:

No, ma'am.

PROSECUTOR CHUA:

What was she doing?

WITNESS:

She was just merely crying.

PROSECUTOR CHUA:

You said later your father stepped on a nail. So, what happened when he stepped on a nail.

WITNESS:

After my father stepped on a nail my mother told him "Toy, Toy, I will find some medicine for your wound" and my mother went out and went to the house of Tia Feli.

PROSECUTOR CHUA:

After your mother ran away from your father, what happened after that?

ATTY. GRIJALDO:

We object, Your Honor, the witness did not say that her mother ran away.

COURT:

Reform.

PROSECUTOR CHUA:

After your mother ran away, as you said ...

ATTY. GRIJALDO:

Same objection, Your Honor.

COURT:

Same ruling.

PROSECUTOR CHUA:

When your mother told your father that she was going to get medicine to apply on the wound of your father, did she ran (sic) or did she walk (sic) from your father?

WITNESS:

She ran.

PROSECUTOR CHUA:

So, when your mother left, running away, what did you do?

WITNESS:

I went out to look for my mother and my father but in doing so I no longer found them on our yard.

PROSECUTOR CHUA:

When your mother ran away, what did your father do?

ATTY. GRIJALDO:

Objection, Your Honor, her mother did not run away to get medicine.

COURT:

Sustained.

PROSECUTOR CHUA:

When your mother ran, what did your father do?

WITNESS:

When my mother get (sic) out and ran, my father chased my mother.

PROSECUTOR CHUA:

You said you went out of the house and looked for your father and your mother and you found out that they were not there anymore. Since you found out that your father and mother were not there anymore in your yard, what did you do?

WITNESS:

I went back to our house.

PROSECUTOR CHUA:

What did you do inside your house?

WITNESS:

I slept for a while.

PROSECUTOR CHUA:

Later, were you able to wake up that same evening?

WITNESS:

Yes, sir.

PROSECUTOR CHUA:

What made you wake up again?

WITNESS:

I overheard my mother crying.

PROSECUTOR CHUA:

Meaning, you heard your mother crying ... I withdraw. So, when you heard your mother crying, what did you do because you have already woke up?

WITNESS:

I went out.

PROSECUTOR CHUA:

When you went out from your house after waking up and hearing the cry of your mother, did you see your father and mother outside your house?

WITNESS:

Yes, ma'am.

PROSECUTOR CHUA:

What did you see?

WITNESS:

I saw my father pushed my mother.

PROSECUTOR CHUA:

When your father pushed your mother, what happened to your mother?

WITNESS:

My mother, after being pushed by my father, fell to the ground and lost her consciousness.

PROSECUTOR CHUA:

When your mother lost consciousness, what did your father do?

WITNESS:

When my mother lost consciousness, my father laid her on some stone on the ground.

PROSECUTOR CHUA:

What else did your father do aside from lying your mother on the stone?

WITNESS:

After my mother was laid down on some stone (sic), my father on a sitting position, ordered me to get some water and when I came back I poured the water on my mother.

PROSECUTOR CHUA:

After you poured water on your mother, did your mother came to consciousness?

WITNESS:

No, ma'am.

PROSECUTOR CHUA:

What else did your father do?

WITNESS:

My father tried to resuscitate her by supplying air into her mouth.

PROSECUTOR CHUA:

Did your mother recover?

WITNESS:

No, ma'am.[14]

The testimonies of Francis and Princess Joy, who are of tender age, innocent and guileless, pointing to their father as the person responsible for the death of their mother deserve full faith and credence considering that they would not impute a heinous crime against him for which he could be meted reclusion perpetua or even the death penalty if such were not the truth. A witness' testimony against a blood relative is given great weight, if it is not found to have been motivated by ill will.[15]

Moreover, the version of Francis and Princess Joy as to what actually transpired on that night of August 15, 1996 is more credible than that proffered by the appellant. The children's testimonies are buttressed by the findings of

Dr. Canto, the neurological surgeon who attended to Leah when she was confined in the hospital, and Dr. Cruel of the Commission on Human Rights, who conducted the post-mortem examination on Leah's body. Indeed, the appellant's claim that the death resulted from accident, i.e., she slipped and hit her head on two stones, flies in the face of incriminating medical findings. As opined by Dr. Canto, he found it difficult to believe that the injuries sustained by Leah resulted from a bad fall. The testimony of the doctor is as follows:

Q

Doctor, you saw the patient Leah N. Dalag, of course?

WITNESS:

A

Yes, ma'am.

Q

You examined her personally?

A

Yes, ma'am.

Q

You examined the extent of her injuries when she was brought in to the hospital and you saw her for the first time?

WITNESS:

A

Yes, and in fact, I have to add. In this particular case, I was interested specifically because I was suspecting some foul play because the history, it was told by the Resident Physician that she fell but I saw a lot of discrepancies – injuries.

FISCAL CHUA:

Q

So, will you please describe the injuries that you have observed when you examined this particular patient and such injuries that are now reflected in this diagram which have been made under your direction which you have testified earlier?

A

She had peri-orbital hematomas.

Q

Can you explain that in the layman's language?

A

Okey. She had a blackeye. She had also evidence of contusion, hematoma also on the right mastoid area.

Q

Where is that, Doctor?

A

Behind the ear. Those two (2) signs indicate usually basal fracture and hemorrhage on the base of the brain.

FISCAL CHUA:

Q

What else have you noticed on the face of the patient, Doctor?

WITNESS:

A

The one which really struck me and I was suspicious then, were the apparent fingermarks.

COURT:

Q

Where?

WITNESS:

In the neck.

FISCAL CHUA:

Q

And what does that indicate – these clawmarks on the neck which arose your suspicion?

A

They were located on the anterior part of the neck.

Q

And what does this indicate? How does this mark came into the neck of the patient?

A

Well, to be honest, it was my own opinion then because there was a discrepancy from the injuries I have seen and the alleged accident which was told by the informer that time.

FISCAL CHUA:

Q

And Doctor, in your opinion, what could have caused this injury on the neck?

WITNESS:

A

I was suspecting that she was strangled.

Q

Now, Doctor, there is also a mark on this diagram here. Can you tell us what is this on the chest?

A

That is another contusion abrasion which I noted.

Q

Where?

A

On the anterior part of the chest at the level of the syphoid process. This is the most interior part of the sternum.

Q

In layman's language Doctor, what part of the body is that?

A

Well, it is just midline just below the level of her breast.

Q

Now, Doctor, there are also here some marks on the ear of the patient as drawn here. Can you tell or explain this to us?

WITNESS:

A

This was explained earlier. These are hematomas, contusions. Hematomas at the mastoid area. It is usually a sign of basal skull fracture.

FISCAL CHUA:

Q

Now, Doctor, was this contusion and hematoma found on both ears of the patient Leah Dalag?

A

I cannot recall but based on this drawing, it is bilateral – on both sides of the ears.

Q

Doctor, have you noticed upon examination of the patient whether or not blood was coming out from any part of her body?

A

I cannot recall.

Q

What else have you noticed, Doctor, aside from hematomas and contusions?

A

I cannot recall everything but I note some abrasions on the extremities (sic) – in the elbows.

Q

How about on the temple? On the head? Aside from those that you have described on the two (2) ears, how about the portion on the head?

WITNESS:

A

None.

FISCAL CHUA:

Q

Now, Doctor, is it possible that a human brain can sustain internal injuries without outward manifestation which may be visible to the naked eyes?

A

Yes, ma'am.

Q

Can you give specific instance, Doctor? Can you explain further?

A

The brain floats inside the skull. Imagine the brain contained in a glass jar with fluid. The brain floats there and any movement of the jar will cause also an acceleration-deceleration movement. If you translate it into a force applied to the skull, for example a vehicular accident – the brain can bust to and fro or even rotated around the skull and cause the internal injuries.

COURT:

Q

Just like the effect of boxing?

WITNESS:

A

Yes, Your Honor.

COURT:

Q

Whether professional or amateur boxing?

A

Yes, your honor.

FISCAL CHUA:

Q

How about Doctor, when you choke a person? Shake him or her – can it sustain brain damage?

ATTY. GRIJALDO:

We object to the question, your honor. That already assumes that this witness, your honor, is being presented as an expert witness, your honor. The purpose of presenting this witness is to testify on his findings on the injuries sustained by the deceased, your honor. He was not presented as an expert witness, your honor.

FISCAL CHUA:

He was.

COURT:

Pañero, I have been keeping track of the qualification of the physician. He is not an ordinary physician. But he has specialized in Neurology. That is why he is considered as a specialist.

ATTY. GRIJALDO:

But he was offered to testify on his findings on the deceased, your honor.

COURT:

That is why the findings here are contusions. He is explaining now why he arrived at this conclusion. He is going into the details. That is how I understand. Overruled. May answer. The court would like also to know about that.

WITNESS:

A

Choking with a finger or even whatever means, an assailant can inflict causing several injuries; not only the shaking of the head. At the same time, he also decrease oxygenation of the brain. Because there are several factors involved here. First, the patient can't breath, therefore, she will have asphyxia. Choking can also compress the carotid arteries which supply the main supply of blood to the brain. This also causes hypoxemia which decrease oxygenation of the blood. So, aside from the injuries being sustained by the brain by the force acted upon by the shaking, it causes swelling of the brain because of the other factors that I mentioned –hypoxemia and asphyxia.

FISCAL CHUA:

Q

Now, Doctor, assuming the facts as already established by the testimonies of the prosecution witnesses as well as what you have testified, can you state with reasonable certainty whether in your opinion, the injuries suffered by the deceased was the direct result of the violence and batterings from the hands of the accused Armando Dalag on August 15, 1996?

ATTY. GRJALDO:

Objection, your honor.

COURT:

Sustained. Do not point to the accused. Reform

FISCAL CHUA:

I reform, your honor.

Q

Assuming the facts as already established by the testimonies of the prosecution witnesses and the injuries that you have described just right now, can you state in your own opinion with reasonable certainty that the injuries suffered by the deceased was the direct result of the violence and the batterings she received on August 15, 1996 or before she was brought to the hospital?

A

Yes, ma'am.

Q

Now, further assuming the facts established by other witnesses in this case, can you state with reasonable certainty whether in your opinion, the injuries sustained by the deceased Leah N. Dalag could have caused her death on August 22, 1996?

A

Yes, ma'am.[16]

The foregoing testimony of Dr. Canto as to the nature and extent of the injuries sustained by Leah not only confirms the testimonies of the children but likewise exposes as utterly preposterous the appellant's claim that she suffered from a bad fall. Notably, Dr. Canto's findings were corroborated by the findings of Dr. Cruel, who conducted the post-mortem examination on Leah's corpse. As the trial court aptly observed:

The denials of the accused that he authored the injuries sustained by his wife and his claim that she was injured because she hit her head on two big stones when she accidentally fell, appear illogical and a poor concoction of facts, so hard to believe in the light of undisputed findings and conclusions by medical experts declaring otherwise, and the recollection of facts by the eye-witnesses.[17]

The trial court thus correctly concluded that the injuries sustained by Leah that caused her death were the consequence of the appellant's deliberate and intentional acts. The appellant is criminally liable for the death of Leah pursuant to the first paragraph of Article 4 of the Revised Penal Code.

The Crime Committed by the Appellant

The crime of parricide is defined by Article 246 of the Revised Penal Code thus:

ART. 246. Parricide. – Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death. (Restored by Sec. 5, RA No. 7659.)

The prosecution is mandated to prove the following essential elements: (1) a person is killed; (2) the deceased is killed by the accused; and (3) the deceased is the father, mother or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of the accused.[18] The prescribed penalty for the crime is reclusion perpetua to death.[19] The key element in parricide is the relationship of the offender with the victim. In the case of parricide of a spouse, the best proof of the relationship between the accused and the deceased would be the marriage certificate.[20] In this case, the prosecution proved all the essential elements of parricide.

The trial court correctly appreciated the mitigating circumstance of voluntary surrender in favor of the appellant. He surrendered to SPO3 Herman S. Garcia, PO3 Joel Stephen Casador and Felimon Roderos on August 28, 1996 at 12:45 p.m.[21]

The trial court erred in applying in favor of the appellant Article 13, paragraph 6 in relation to Article 13, paragraph 10 of the Revised Penal Code which read:

- That of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation.
- ...
- And, finally, any other circumstance of a similar nature and analogous to those above mentioned.

The trial court declared that the appellant was "agitated and angered" when Leah failed to return immediately

from Tia Feli's house where she was supposed to get medicine for his wounded foot. The attitude of Leah was, as found by the trial court, "obviously unjust and improper to a husband who was suffering and bleeding." [22] This conclusion of the trial court is without factual basis. This Court agrees with the finding of the trial court that Leah did not bother getting medicine for the injury on the foot of the appellant when he stepped on a nail as he martyred Leah. However, this Court believes that Leah told the appellant that she was going to the house of Felisa to get medicine for his injured foot merely as a ploy to enable her to escape from him and avoid further physical abuse. Leah cannot be faulted for preferring to escape from the clutches of the appellant rather than get medicine for the injured foot of the latter. She was being assaulted by the appellant relentlessly and without mercy. Unless she escaped from the clutches of the appellant, she would be killed by him. Leah could not be expected to first get medicine, return to the house and treat the injured foot of the appellant only to be assaulted again by her husband. For the trial court to blame Leah for preferring to escape and survive rather than treat the injured foot of the appellant, and reward the appellant by mitigating his criminal liability is a travesty.

There being one mitigating circumstance in favor of the appellant and no aggravating circumstance against him, the lower penalty of reclusion perpetua shall be imposed on him in consonance with Article 63 of the Revised Penal Code. The civil indemnity of P50,000.00 awarded by the trial court to the heirs of the victim is in order. [23] The children of Leah Nolido are entitled to moral damages in the amount of P50,000.

WHEREFORE, the Decision, dated January 10, 1997, of the Regional Trial Court of Bacolod City, Branch 42, in Criminal Case No. 17838 is AFFIRMED WITH MODIFICATION. The appellant is found guilty beyond reasonable doubt of parricide defined in and penalized by Article 246 of the Revised Penal Code. He is sentenced to reclusion perpetua conformably with Article 63 of the Revised Penal Code, there being a mitigating circumstance without any aggravating circumstance in the commission of the crime. The appellant is ordered to pay to the children of the victim Leah Nolido the amount of P50,000 as civil indemnity and the amount of P50,000 as moral damages.

SO ORDERED.

Bellosillo, (Chairman), and Austria-Martinez, JJ., concur.
Quisumbing, J., on official leave.

[1] Penned by Judge Bernardo T. Ponferrada.

[2] Records, p. 41 (underscoring in the original).

[3] Id. at 45.

[4] Exhibit "C."

[5] Exhibit "A."

[6] Exhibit "B."

[7] Exhibit "E-3."

[8] Records, pp. 131-132.

[9] Rollo, pp. 82-83.

[10] *People v. Agliday*, 367 SCRA 273 (2001).

[11] *People v. Nasayao*, G.R. No. 141237, September 17, 2002.

- [12] RTC Decision, p. 15; Records, p. 123.
- [13] Id. at 32-34.
- [14] TSN, October 24, 1996, pp. 10-18.
- [15] *People v. Garchitorena*, 330 SCRA 613 (2000).
- [16] TSN, October 31, 1996, pp. 12-21.
- [17] RTC Decision, p. 20, Records, p. 128.
- [18] *People v. Velasco*, 351 SCRA 539 (2001).
- [19] Article 246, Revised Penal Code, as amended by Republic Act No. 7659.
- [20] Exhibit “C.”
- [21] Exhibit “B.”
- [22] RTC Decision, p. 22, Records, p. 130.
- [23] *People v. Velasco*, *supra*, p. 548.

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