PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENITO BRAVO, ACCUSED-APPELLANT.

G.R. No. 135562. November 22, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

On January 15, 1994 the decomposing body of a child was found in a vacant lot along the road leading to Patul, Rosario Santiago City.[1] Her body was found between two concrete fences half naked, shirtless and skirt pulled up, her panty stuffed in her mouth.[2] The body was identified to be that of a nine year old girl named Juanita Antolin, a resident of Rosario, Santiago City and known in her neighborhood as Len-len. Her body was found about 700 meters from her house putrid and in rigor mortis.[3] The scalp on the left side of her head was detached exposing a fracture on the left temporal lobe of her skull. Vaginal examination showed fresh laceration at 2:30 o'clock and old lacerations at 5:00 and 7:00 o'clock and easily accepts two fingers. The cause of death was cerebral hemorrhage.[4]

On May 25, 1994 an Information for rape with homicide[5] was filed against herein accused-appellant which states:

> "That on or about the 12th day of January 1994, in the municipality of Santiago, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and feloniously, with lewd design and by means of violence and intimidation, have carnal knowledge with one Juanita Antolin y Jandoc, a nine year old girl, against her will and consent; that on the occasion and by reason of the said rape, the said accused, did then and there, willfully, unlawfully and feloniously, assault, attack and hit with a blunt instrument the said Juanita Antolin y Jandoc, inflicting upon her, a fracture on the skull, which directly caused her death.
>
> CONTRARY TO LAW."

On September 26, 1994 the accused was arraigned and pleaded not guilty to the crime charged.[6]

Evelyn San Mateo an eight year old second grader from Rosario, Santiago City neighbor and cousin of the victim testified that she was with the deceased the night before she disappeared. She stated that while they stood on the roadside watching "Home Along Da Riles" from an open window of a neighbor's house the appellant approached them and asked Len-Len to come with him to a birthday party and then he will buy her Coke and balut. Len-Len asked her to go with them but she did not want to because she was watching television. Len-Len went alone with the accused. The following morning Len-Len's mother told Evelyn and her mother that Len-Len was missing. In court, Evelyn positively identified the appellant as the person last seen with Len-len before she was found dead.[7]

The owner of the house where Len-len and Evelyn watched television, Gracia Monahan, corroborated Evelyn's testimony that on the evening of January 12, 1994 she saw the appellant talking to Len-len while the two girls were watching television from her open window and that when she looked again towards the end of the program

to the direction where the girls were situated, only Evelyn was left watching television. Monahan testified that she is familiar with the appellant and the two children because they are neighbors.[8]

The Chief of the Intelligence Section of the Santiago Police Department, Alexander Mico, testified that on January 15, 1994 his office received a report that a dead body was found in a vacant lot. The body was later identified as Juanita Antolin. Mico stated that he interviewed San Mateo who pointed to the appellant as the man last seen with the deceased. Mico found the appellant at his place of work at the Spring Garden Resort at Sinsayon, Santiago City. Upon seeing Bravo, Mico informed him that he is a suspect in the killing of a girl in Rosario, Santiago City and asked him to come with him for questioning. The appellant agreed. Mico further narrated in court that at the police station the appellant admitted he was with the girl and he carried her on his shoulder but he was so drunk that night that he does not remember what he did to her.[9] On cross-examination Mico admitted that he did not inform the appellant of his constitutional rights to remain silent, to counsel and of his right against self-incrimination before the appellant made the said admission because according to Mico he was only informally interviewing the accused when he made the admission and that custodial interrogation proper was conducted by the assigned investigator.[10]

The appellant Benito Bravo testified in court that on his way home after work at around five o'clock in the afternoon of January 12, 1994 he was invited to go on a drinking spree at Purok 1, Rosario, Santiago City where he and four other men consumed five round bottles of gin until 7:30 that evening. He then headed for home. Appellant admitted in court that he passed by the house of Gracia Monahan but stated that he did not see the two girls watching television along the road. At home, he found his mother very sick and so he decided to stay home all night. He woke up the following morning at around 4:30 a.m. and prepared to go to work. On January 15, 1994 a policeman came to his place of work and apprehended him without a warrant of arrest and at the police station he was forced to admit commission of the crime of rape with homicide of Juanita Antolin. The appellant denied the accusation and stated that the deceased was his godchild and that he has known Fely Handoc, the mother of the child, for three years prior to this proceedings.[11]

Juanito Bravo, the brother of the appellant testified that the appellant stayed home on the night of January 12, 1994 to take care of their sick mother who died a few days thereafter.[12]

Ernesto Pastor, the foreman at the Spring Garden Resort where the appellant was employed, testified that he has known the appellant for a long time and that he knows him to be hardworking and of good moral character. Pastor corroborated the appellant's testimony that police investigator Mico came to the Spring Garden Resort and arrested Bravo without a warrant.[13]

The testimony of the Municipal Health Officer who conducted the autopsy was dispensed with by the prosecution as the handwritten Autopsy Report made by the Municipal Health Officer of Santiago, Isabela, marked as Exhibit B, was admitted by both parties.[14] The Report reads:

AUTOPSY REPORT

ABEL MEMORIAL HOMES
PUROK 2, ROSARIO,
SANTIAGO, ISABELA
JANUARY 15, 1994
2:30 P.M.

JUANITA ANTOLIN
PUROK 1, BARANGAY ROSARIO

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AGE: 9
FATHER: ANTONIO
MOTHER: OFELIA JANDOC

Was investigated under the mango tree where the crime was committed and left side of the face is covered by sand (done by anay) with rigor mortis and with putrification, easy pulling of the skin and plenty of small worms coming out from the ears, nose, eyes and mouth (without panty), the whole body is edematous.

After complete washing, coming out of small worms on both eyes and ears and mouth, scalp on the left side was detached and skull exposed.

-Fracture of the skull with left temporal

-Edematous

-Abdomen, extremities has no pertinent findings except easy pulling of skin and all are edematous

Vaginal examination- shows fresh laceration at 2:30 o'clock, old lacerations at 5:00 and 7:00 o'clock-could easily accept two fingers.

Cause of death- cerebral hemorrhage (fracture of skull temporal region, left).[15]

On August 25, 1998 the trial court rendered judgment finding the accused guilty of the crime charged as follows:

Wherefore, finding the accused BENITO BRAVO "GUILTY" beyond reasonable doubt of the crime of RAPE WITH HOMICIDE punishable under Art. 335 of the Revised Penal Code, as amended by Republic Act 7659, the court sentences him the penalty of DEATH and ordering him to pay the heirs of Juanita Antolin y Jandoc the amount of one hundred thousand pesos (P100,000.00) as indemnity and three hundred thousand pesos (P300,000.00) as exemplary damages.

SO ORDERED.[16]

and held that abuse of confidence and treachery attended the commission of the crime.

This case is before us on automatic review in view of the penalty imposed by the trial court.

Both counsels for the accused-appellant and the appellee plead for the acquittal of the accused. Both the accused-appellant and the appellee invoke the constitutionally guarded presumption of innocence in favor of the accused and the latter's right to remain silent and to counsel. The testimony of the policeman that the accused admitted he was with the victim on the evening of January 12, 1994 but the latter was too drunk to remember what happened should have been held inadmissible by the trial court in view of the policeman's own admission in court that although he informed the accused that he is a suspect in the rape and killing of one Juanita Antolin he did not inform the accused of his constitutional rights before he asked him of his participation in the crime under investigation. Both the appellant and the appellee are in agreement that the trial court grievously erred in finding the accused guilty beyond reasonable doubt based on the sole circumstantial evidence that the victim was last seen by her cousin in the company of the accused whereas the Rules of Court clearly requires the presence of at least two proven circumstances the combination of which creates an unbroken link between the commission of the crime charged and the guilt of the accused beyond reasonable doubt. The single circumstance proven by the prosecution that the victim was last seen conversing with the accused two days before she was found dead cannot serve as basis for any conclusion leading to the guilt of the accused of the crime charged. The evidence for the prosecution falls short of the quantum of evidence required by the Rules to establish guilt of the accused beyond reasonable doubt. In sum, both the appellant and the appellee profess that the presumption of innocence of the accused was not successfully overturned by the prosecution.

We resolve to acquit Benito Bravo.

Section 12 of Article III of the 1987 Constitution embodies the mandatory protection afforded a person under investigation for the commission of a crime and the correlative duty of the State and its agencies to enforce such mandate. It states:

> Sec. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
>
> (1)
>
> No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.
>
> (2)
>
> Any confession or admission obtained in violation of this or section 17 hereof shall be inadmissible in evidence against him.
>
> (3)
>
> The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families.

The mantle of protection under this constitutional provision covers the period from the time a person is taken into custody for investigation of his possible participation in the commission of a crime or from the time he is singled out as a suspect in the commission of a crime although not yet in custody.[17] The exclusionary rule sprang from a recognition that police interrogatory procedures lay fertile grounds for coercion, physical and psychological, of the suspect to admit responsibility for the crime under investigation. It was not intended as a deterrent to the accused from confessing guilt, if he voluntarily and intelligently so desires but to protect the accused from admitting what he is coerced to admit although untrue.[18] Law enforcement agencies are required to effectively communicate the rights of a person under investigation and to insure that it is fully understood. Any measure short of this requirement is considered a denial of such right.[19] Courts are not allowed to distinguish between preliminary questioning and custodial investigation proper when applying the exclusionary rule. Any information or admission given by a person while in custody which may appear harmless or innocuous at the time without the competent assistance of an independent counsel should be struck down as inadmissible.[20] It has been held, however, that an admission made to news reporters or to a confidant of the accused is not covered by the exclusionary rule.[21]

The admission allegedly made by the appellant is not in the form of a written extra-judicial confession; the admission was allegedly made to the arresting officer during an "informal talk" at the police station after his arrest as a prime suspect in the rape and killing of Juanita Antolin. The arresting policeman testified that the appellant admitted that he was with the victim on the evening of January 12, 1994, the probable time of the commission of the crime and that he carried her on his shoulder but that he was too drunk to remember what subsequently happened. The arresting policeman admitted that he did not inform the appellant of his constitutional rights to remain silent and to counsel. We note that the alleged admission is incriminating because it places the accused in the company of the victim at the time the crime was probably committed.

The exclusionary rule applies.

The accused was under arrest for the rape and killing of Juanita Antolin and any statement allegedly made by him pertaining to his possible complicity in the crime without prior notification of his constitutional rights is inadmissible in evidence. The policeman's apparent attempt to circumvent the rule by insisting that the admission was made during an "informal talk" prior to custodial investigation proper is not tenable. The appellant was not invited to the police station as part of a general inquiry for any possible lead to the perpetrators of the crime under investigation. At the time the alleged admission was made the appellant was in custody and had been arrested as the prime suspect in the rape and killing of Juanita Antolin. The exclusionary rule presumes that the alleged admission was coerced, the very evil the rule stands to avoid. Supportive of such presumption is the absence of a written extra-judicial confession to that effect and the appellant's denial in court of the alleged oral admission. The alleged admission should be struck down as inadmissible.

We also agree with both the appellant and the appellee that the trial court erred in rendering judgment convicting the appellant based on a single circumstance. Only one circumstantial evidence was proven i.e., that the victim went with the accused to buy soda and balut on the evening of January 12, 1994. Section 4 Rule 133 of the Rules of Court states:

> Section 4. Circumstantial evidence, when sufficient.- Circumstantial evidence is sufficient for conviction if:
>
> 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.

In the case of People vs. Adorfina[22] this court held that:

> "xxx a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the guilty person, that is, 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 any other hypothesis except that of guilty."

The rule is clear that there must be at least two proven circumstances which in complete sequence leads to no other logical conclusion than that of the guilt of the accused. The two witnesses for the prosecution testified to a single circumstance, namely, that the victim was seen in the company of the appellant on the night of January 12, 1994. This circumstance alone cannot be the basis of a judgment of conviction. There is no other proven circumstance linking the appellant to the crime as the perpetrator thereof to the exclusion of any other possible culprit e.g. that the appellant was at or near the scene of the crime at the time it was probably committed or any other evidence to establish the appellant's participation in the commission thereof. The prosecution's theory that the appellant is guilty of the crime charged because he was seen with the victim a few days before she was found dead is not tenable. The approximate time the crime was committed was not established at all because the physician who made the autopsy report was discharged as a witness when both parties admitted the report. The two day interval between the evening of January 12[th] when the victim was seen with the appellant and the day when her dead body was found on January 15[th] presents a wide range of possibilities as to the perpetrator of the crime. The Rules and jurisprudence demand no less than an unbroken chain of proven facts pointing to the appellant as the guilty person to the exclusion of all others. This the evidence for the prosecution failed to do. Both counsels for the appellant and the appellee are correct in their submission that the single circumstance that the victim was seen with the appellant two days before she was found dead is clearly insufficient to overcome the presumption of innocence in favor of the accused.

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The rape and killing of nine year old Juanita Antolin is supported by concrete evidence undisputed by both parties. The unpardonable assault on the child is tragic and the trial court may have been swayed by the tide of human indignation. We must however uphold the primacy of the presumption of innocence in favor of the accused when the evidence at hand falls short of the quantum required to support conviction.

WHEREFORE, the judgment appealed from is hereby reversed. The appellant Benito Bravo is acquitted of the crime charged herein. The Director of the Bureau of Corrections is ordered to immediately release him from custody unless he is detained for another legal cause.

SO ORDERED.

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

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[1] Mico, tsn., June 26, 1997, pp. 4-6.

[2] San Mateo, tsn., April 26, 1995, pp. 12-13.

[3] Tsn., June 7, 1995, p. 4.

[4] Autopsy Report, Exh. B, p. 8, OR.

[5] Rollo, p. 1.

[6] OR, p. 49.

[7] San Mateo, tsn., April 26, 1995, pp. 5-11; June 7, 1995, pp. 18-19.

[8] Monahan, tsn., April 11, 1996, pp. 7-12, 29.

[9] Mico, tsn., June 26, 1997, pp. 10-14.

[10] Mico, tsn., June 26, 1997, pp. 16-20.

[11] Benito Bravo, tsn., November 10, 1997, pp. 3-11;14-18.

[12] Juanito Bravo, tsn., October 20, 1997, pp. 4-6,14.

[13] Pastor, tsn., September 30, 1997, pp. 5-9.

[14] RTC Order dated October 7, 1996, p. 181 OR.

[15] Autopsy Report, Exh. B, p. 8, OR.

[16] Rollo, p. 20.

[17] People vs. Andan, 269 SCRA 95; Bernas, The Constitution of the Republic of the Philippines: A Commentary, 1996 ed., p. 412., citing, People vs. Marra 236 SCRA 565.

[18] People vs. Deniega, 251 SCRA 626.

[19] People vs. Santos, 283 SCRA 443; People vs. Januario, 267 SCRA 608.

[20] Gamboa vs. Cruz, 162 SCRA 642; People vs. Isla, 278 SCRA 47; People vs. Binamira, 277 SCRA 232.

[21] People vs. Andan, supra.

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[22] 239 SCRA 67.

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