

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEMENTE JOHN LUGOD, ACCUSED-APPELLANT.

G.R. No. 136253. February 21, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This is an automatic review of the Judgment[1] dated October 8, 1998 of the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 28 in Criminal Case No. SC-6670 finding the accused, Clemente John Lugod alias "HONASAN", guilty beyond reasonable doubt of the crime of rape with homicide.

On October 10, 1997, an Information[2] for rape with homicide was filed against the accused as follows:

"That on or about September 16, 1997 in the municipality of Cavinti, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused by means force and intimidation and with lewd designs, did then and there willfully, unlawfully and feloniously have carnal knowledge with one NAIRUBE J. RAMOS, an eight-year old girl, against her will and by reason or on the same occasion and in order to hide the crime he just committed, dump the victim in the grassy coconut plantation area, which resulted in her death due to shock secondary to vulvar laceration committed on her by the herein accused, to the damage and prejudice of the surviving heirs of the victim."

Upon arraignment, the accused with the assistance of counsel entered a plea of not guilty.[3] Thereafter, trial ensued.

The prosecution presented the following witnesses in support of its charge against the accused:

EDILBERTO CASTILLO, the medico-legal officer who examined the cadaver of Nairube on September 19, 1997, testified that during the course of his examination of the cadaver, he discovered an 8 cm. wound penetration in her vagina which was probably caused by the insertion of a penis; that the cadaver was in an advanced state of decomposition; that more or less, the approximate time of death of the victim was three (3) days prior to his examination; and that the cause of death of the victim was hypovolemic shock secondary to the laceration.[4]

RICARDO VIDA, the Task Force Chief of Cavinti, testified that on September 18, 1997, at around 4:35 p.m., the accused pointed out where the body of the victim was; that the accused pointed to a place inside Villa Anastacia which was two hundred (250) meters from the road; that at the time the accused pointed to the place, he was handcuffed to the accused; that the accused used his left hand in pointing towards the direction; and that the father of the victim cried upon identifying the victim."[5]

VIOLETA CABUHAT testified that on September 15, 1997, at around 10:00 p.m., she was weaving hats at her house. At that time, she was together with her three children, Joey, Jessica and Jovelin and Loreto Voloria. The accused suddenly entered her house and asked her if he could sleep there but she declined. After she declined, he suddenly forced her to move to one side of the place where she was seated by forcing his body against hers and held her chin. She noticed that he was drunk at that time because she smelt liquor on his breath. After he held her

chin, she went upstairs and slept. She claims that the accused left her house at 10:20 p.m. since she looked at her watch when she went upstairs. She does not remember what happened next. In court, she identified that accused as the person who entered her house that night.[6]

LORETO VELORIA testified that on September 15, 1997, at around 10:10 p.m., he was at the house of Violeta Cabuhat. While he was there, the accused, whom he identified in court, suddenly arrived. He noticed that the accused was wearing a pair of muddy rubber slippers the bottom of which was color red while the top was color yellow. Since the slippers of the accused were muddy, he asked him to remove them but the accused did not comply with his request. Veloria also noticed that the accused was wearing a black collared T-shirt. In court, he identified a pair of slippers (Exhibit "D") as the one he saw the accused wearing that night and on several other occasions. He also identified a black collared T-shirt in court (Exhibit "E") as the one he saw the accused wearing that night and on two other occasions. Veloria stated that the accused sat beside Violeta and tried to catch her chin; that he conversed with Violeta but did not hear the accused's request if he could stay overnight. After the accused left, he also left the house of Violeta.[7]

PEDRO DELA TORRE testified that on September 15, 1997, at 10:30 p.m., the accused arrived at his house and joined the drinking session of his son. He noticed that the accused was wearing a black T-shirt and appeared to be drunk. Dela Torre claims that the accused left at around 11:45 p.m.[8]

ROMUALDO RAMOS testified that at around 8:30 on the morning of September 16, 1997, he was driving his tricycle towards the poblacion of Cavinti. While driving towards the poblacion, he noticed the accused coming out of the gate of Villa Anastacia. Upon seeing the accused, he stopped his tricycle thinking that the accused would board the same but the accused did not mind him. He noticed that the accused was wearing only a pair of white short pants with a red waistline and was not wearing a T-shirt or any slippers. The accused also appeared to be drunk. Thereafter, he proceeded to the poblacion terminal where he discovered that Nairube was missing. He also learned that the accused was the suspect behind her disappearance. Upon learning this, he told Ricardo Vida, the Chief of the barangay tanod who was searching for the victim, to look for her at Villa Anastacia because it was the place where he saw the accused come out from. Ramos further testified that the house of the victim is about five hundred (500) meters away from the place where he saw the accused but if one passes through the coconut plantation, it is only two hundred (200) meters away.[9]

ALMA DIAZ testified that around 2:00 to 3:00 p.m. of September 16, 1997, she went with the search party to look for Nairube. The search party was composed of around ten (10) persons including Violeta and Helen Ramos, the mother of the victim. They first searched the back portion of the victim's house. During the course of their search, she found a panty around three hundred (300) meters away from the house of the victim. Helen identified the panty as belonging to her daughter and cried upon seeing the same. The panty was laid behind a barb wire fence (the boundary of Villa Anastacia) and had a spot of blood and some mud on it. In court, she identified Exhibit "F" as the panty she saw but stated that it was already clean. Thereafter, they continued the search and found a black collared T-shirt with buttons in front and piping at the end of the sleeve hanging on a guava twig. The T-shirt appeared clean at the time. She picked up the T-shirt and brought it along with her to the house of the victim. Upon reaching the house, the T-shirt fell in mud and got dirty. Diaz further stated that the panty was found less than a hundred (100) meters away while the black T-shirt was fifty (50) meters away from the place where the body of the victim was found inside Villa Anastacia and that the panty and T-shirt were around thirty (30) meters away from each other. Diaz also claims that eight days after the death of the child, the mother of the accused, Irene Lugod, came to her house to ask her for help in seeking an amicable settlement of the case with the Ramos spouses. On cross-examination Diaz stated that she found the panty closer than the black T-shirt to the body of the victim.[10]

HELEN RAMOS, the mother of the victim, testified that on September 15, 1997 at around 7:00 p.m., she was asleep in her house together with her husband and children, Nimrod, Neres and Nairube, the victim. Nairube slept close to her "on the upper part " of her body. At around 12:30 a.m., her husband woke her up because he sensed someone going down the stairs of their house. She noticed that Nairube was no longer in the place where she was sleeping but she assumed that Nairube merely answered the call of nature. After three minutes of waiting for Nairube's return, she stood up and began calling out for Nairube but there was no answer. Thereafter, she went downstairs and saw that the backdoor of their house was open. She went outside through the backdoor to see if Nairube was there but she was not. Helen also testified that Nairube's blanket was also no longer at the place she slept but that her slippers were still there. She further stated that she found a pair of rubber slippers on top of a wooden bench outside of her backdoor. The sole of the slippers was red while the strap was a combination of yellow and white. She assured the court that the slippers did not belong to any member of her family. In court, she identified Exhibit "D" as the slippers she found that night. Thereafter, she proceeded to the house of Alma Diaz to ask her for help. Then, in the morning of September 16, 1997, she went to the police station to report the loss of her child. She also reported the discovery of the pair of slippers. She then went home while the police began their search for Nairube. At around 12:30 p.m., Alma Diaz requested her to go with the searching team. During the search, Alma Diaz found a panty which she recognized as that of her daughter. After seeing the panty, she cried. She was thereafter ordered to go home while the others continued the search. On September 18, 1997, they found the dead body of her daughter in Villa Anastacia. Helen also testified on the amounts she spent in connection with the funeral of her daughter and produced a list which totaled P37,200.00. During cross-examination, Helen stated that the pair of slippers she found on top of the bench was muddy.[11]

SPO2 QUIRINO GALLARDO testified that on September 16, 1997 at around 7:30 in the a.m., Helen Ramos reported that her daughter, Nairube, was missing. He thereafter proceeded to the house of the victim together with members of the Crime Investigation Group, the PNP and some townspeople to conduct an ocular inspection. Helen Ramos gave him a pair of slippers and pointed to him the location where she found the same. Alma Diaz also gave him a black T-shirt which she found. Loreto Veloria informed him that the two items were worn by the accused when he went to the house of Violeta Cabuhat. At around 7:00 p.m., he apprehended the accused on the basis of the pair of slippers and the black T-shirt. He then brought the accused to the police station where he was temporarily incarcerated. At first, the accused denied that he did anything to Nairube but after he told him what happened to the girl. Gallardo claims that the accused told him that after the drinking spree on September 15, 1997, the accused wanted to have sexual intercourse with a woman. So after the drinking spree, the accused went to the house of Gemma Lingatong, the neighbor of Helen Ramos. Upon his arrival at the house of Gemma, he bumped pots which awakened the occupants of the house. Considering the commotion he caused, he left and went to the house of Nairube Ramos. After removing his slippers, he entered the house of Nairube and slowly went upstairs. He saw that Helen Ramos was sleeping beside her husband so he took Nairube instead. In court, Gallardo demonstrated how the accused claimed to have lifted the child by raising two of his hands as if he was lifting something off the ground. After taking Nairube, he brought her to the farm where according to the accused; he raped her three times. After successfully raping Nairube, the accused slept. When he woke up, he saw the lifeless body of Nairube which he wrapped in a blanket and hid in a grassy place. Then, he took a bath in the river. He then returned to Villa Anastacia and went out through its gate. Although he admitted to having raped and killed Nairube, the accused refused to make a statement regarding the same. After having been informed that the body of Nairube was in the grassy area, Gallardo together with other members of the PNP, the Crime Watch and the townspeople continued the search but they were still not able to find the body of Nairube. It was only when they brought the accused to Villa Anastacia to point out the location of the cadaver that they found the body of Nairube. Gallardo stated that the accused pointed to the location by using his lips.[12]

PO2 ANTONIO DECENA's testimony corroborates the testimony of Ricardo Vida although he claims that the accused pointed to the location of the body of the victim by using his lips.[13]

DANILO RAMOS, the father of Nairube, testified that on September 15, 1997 at around 7:00 in the evening, he was asleep in his house together with his wife, Helen and five children, Nimrod, Neres, Nairube, Nixon and Nerdami. At around 12:30 a.m., he felt someone going down the stairs of their house. He woke his wife up and checked if his children were all there. He noticed that Nairube was not there so his wife went downstairs and checked if she was downstairs. After three minutes, his wife returned and told him that Nairube was not downstairs. So, he went down to double check. Upon his return, his wife gave him a pair of red rubber slippers. He described the slipper as having a red sole but that he did not notice the color of the strap since the light was dim. In court, he identified Exhibit "D" as the pair of slippers he saw that night. In the early morning of September 16, 1997, they continued searching for Nairube. On September 18, 1997, a member of the bantay bayan went to their house informing them that the accused would be pointing out where the body of Nairube was. At around 4:00 p.m., the accused pointed out the location of the body of Nairube inside Villa Anastacia by using his lips.[14]

FLORO ESGUERRA, the Vice-Mayor of Cavinti, testified that on September 19, 1997 at around 3:30 p.m., he attended the funeral of Nairube. After the funeral, he visited the accused in his cell. In the course of his conversation with the accused, the accused confessed to the commission of the offense.[15]

On October 8, 1998 the RTC rendered a decision finding the accused guilty beyond reasonable doubt of the crime of rape with homicide, the dispositive portion of the decision reads:

"WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, this Court finds the accused CLEMENTE JOHN LUGOD GUILTY BEYOND REASONABLE DOUBT of the special complex crime of RAPE WITH HOMICIDE under Section 11 of Republic Act No. 7659, otherwise known as the Death Penalty Law, amending Article 335 of the Revised Penal Code and hereby sentences him to suffer the SUPREME PENALTY OF DEATH. Accused is also ordered to indemnify the heirs of the victim, NAIRUBE RAMOS the sum of P50,000.00 as civil indemnity for her death and P37,200.00 as actual damages.

The accused is further ordered to pay the cost of the instant suit.

SO ORDERED."[16]

In view of the imposition of the death penalty, the case is now before this Court on automatic review.

In his brief, the accused-appellant assigns the following errors committed by the RTC:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT ON THE BASIS OF CIRCUMSTANTIAL EVIDENCE WHICH DID NOT PROVE WITH MORAL CERTAINTY THAT HE WAS THE PERPETRATOR OF THE CRIME CHARGED.

THE COURT ERRED IN HOLDING THAT APPELLANT CONFESSED HIS GUILT BEFORE THE VICE-MAYOR, WHICH CONFESSION IS ADMISSIBLE AS IT WAS NOT MADE IN RESPONSE TO ANY INTERROGATION.[17]

In support of his appeal, accused-appellant submits that the evidence presented by the prosecution fails to establish that he raped and killed Nairube Ramos beyond reasonable doubt. The prosecution did not present any direct evidence to inculcate him in the commission of the crime. Neither did the prosecution present circumstantial evidence sufficient to establish his guilt beyond reasonable doubt. Moreover, accused-appellant claims that the alleged confession he made to the vice-mayor was not a confession. He prays that the judgment of conviction of the RTC be reversed and that he be acquitted of the crime charged.

After a careful review of the case, we agree with the submission of accused-appellant and find that the prosecution failed to prove his guilt beyond reasonable doubt.

In rendering its decision, the trial court disregarded accused-appellant's defense of denial and alibi and relied on the following pieces of circumstantial evidence culled from the testimonies of the prosecution witnesses to justify its judgment of conviction:

"(1) In the evening of September 15, 1997, Accused CLEMENTE JOHN LUGOD wearing a pair of slippers and black T-shirt, had a drinking spree with the son of Pedro dela Torre outside their house at Udia, Cavinti, Laguna;

(2) On the same evening, accused wearing the same pair of slippers and black T-shirt and under the influence of liquor, entered the house of VIOLETA CABUHAT without her consent;

(3) On the same evening, LORETO VELORIA saw accused wearing the same pair of slippers and black T-shirt;

(4) At about 12:30 in the early morning of September 16, 1997, father of the victim noticed somebody going downstairs of their house;

(5) The pair of slippers were found near the door of the victim's house;

(6) The panty of the victim was found inside the premises of VILLA ANASTACIA at Cavinti, Laguna;

(7) In the early morning of September 16, 1997, Romualdo Ramos saw accused coming out of from VILLA ANASTACIA barefoot and half-naked;

(8) Accused pointed to RICARDO VIDA and SPO2 ANTONIO DECENA the place where the cadaver of the victim could be found;

(9) Accused confessed to the Mayor and the Vice-Mayor of Cavinti, Laguna, that he committed the offense imputed against him; and

(10) Almost all eyewitnesses for the Prosecution positively identified the accused in open court as CLEMENTE JOHN LUGOD."[18]

There is no question that at the time of his apprehension, accused-appellant was already placed under arrest and was suspected of having something to do with the disappearance of Nairube. In fact, the lower court declared that accused-appellant's warrantless arrest was valid based on Section 5 (b) of Rule 113 of the Rules of Court.[19] However, at the time of his arrest, the apprehending officers did not inform the accused-appellant and in fact acted in a blatant and wanton disregard of his constitutional rights specified in Section 12, Article III of the Constitution, which provides:

(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.

(2)

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.

(3)

Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4)

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.

Records reveal that accused-appellant was not informed of his right to remain silent and to counsel, and that if he cannot afford to have counsel of his choice, he would be provided with one. Moreover, there is no evidence to indicate that he intended to waive these rights. Besides, even if he did waive these rights, in order to be valid, the waiver must be made in writing and with the assistance of counsel. Consequently, the accused-appellant's act of confessing to SPO2 Gallardo that he raped and killed Nairube without the assistance of counsel cannot be used against him for having transgressed accused-appellant's rights under the Bill of Rights.[20] This is a basic tenet of our Constitution which cannot be disregarded or ignored no matter how brutal the crime committed may be. In the same vein, the accused-appellant's act in pointing out the location of the body of Nairube was also elicited in violation of the accused-appellant's right to remain silent. The same was an integral part of the uncounselled confession and is considered a fruit of the poisonous tree. Thus, in *People vs. De La Cruz*,[21] we ruled that:

"Equally indmissible, for being integral parts of the uncounselled admission - or fruits of the poisonous tree - are the photographs of subsequent acts which the accused was made to do in order to obtain proof to support such admission or confession, such as (a) his digging in the place where Virginia Trangia was allegedly buried, (b) his retrieving of the bones discovered therein (c) his posing before a photographer while executing such acts." [22]

Even if we were to assume that accused-appellant was not yet under interrogation and thus not entitled to his constitutional rights at the time he was brought to the police station, the acts of accused-appellant subsequent to his apprehension cannot be characterized as having been voluntarily made considering the peculiar circumstances surrounding his detention. His confession was elicited by SPO2 Gallardo who promised him that he would help him if he told the truth. Furthermore, when accused-appellant allegedly pointed out the body of the victim, SPO2 Gallardo, the whole police force as well as nearly one hundred (100) of the townspeople of Cavinti escorted him there. Ricardo Vida stated that the townspeople were antagonistic towards accused-appellant and wanted to hurt him.[23] The atmosphere from the time accused-appellant was apprehended and taken to the police station up until the time he was alleged to have pointed out the location of the body of the victim was highly intimidating and was not conducive to a spontaneous response. Amidst such a highly coercive atmosphere, accused-appellant's claim that he was beaten up and maltreated by the police officers raises a very serious doubt as to the voluntariness of his alleged confession. The Vice-Mayor, who testified that when he visited accused-appellant in the jail cell, he noticed that the accused-appellant had bruises on his face, corroborated accused-appellant's assertion that he was maltreated.[24]

In addition, the records do not support the confession allegedly made by the accused-appellant to the Mayor and Vice-Mayor of Cavinti. Records show that the Mayor of Cavinti did not testify in the criminal trial. Moreover, the testimony of the Vice-Mayor with respect to the alleged confession made by the accused-appellant is not conclusive. The Vice-Mayor's testimony reads as follows:

"TRIAL PROSECUTOR;

Q: More or less what time did you visit Clemente John Lugod in his cell?

A: Between 3:30 and 4:00 o'clock in the afternoon, sir.

Q: Do you have any companion at the time you visited Clemente John Lugod?

A :Nobody, sir.

Q :Tell us how you were able to visit him in the said cell?

A: My first intention in visiting him was just to know him, sir.

Q: Did anybody introduce to you Clemente John Lugod?

A: A police officer called Clemente John Lugod, who was then lying inside the cell, sir.

Q: What did the police officer say to Clemente John Lugod?

A: The police officer said: "Lugod, the vice mayor wants to talk to you."

TRIAL PROSECUTOR:

Q: What did Lugod do if any when he was called by the police officer?

A: He arose and he greeted me good afternoon, sir.

Q: What happened after he greeted you good afternoon?

A: I pitied him during that time, I asked him why he did that thing.

COURT:

Q: Did you specify to him what you mean by why he did such a thing?

A: No, Your Honor, I merely asked him why was he able to do that.

Q: Do you know if Lugod understood what you mean?

A: I think he understood my question then, Your Honor.

TRIAL PROSECUTOR:

Q :What was the response of Clemente John Lugod when you asked him that question?

A:

He told me he was so drunk, he did not know what happened next. "Hindi niya namalayan na ganoon ang nangyari."

Q: Did you ask him what he has done?

WITNESS:

A: I asked him why he went to that place, sir.

TRIAL PROSECUTOR:

Q: What place are you referring to?

A: That house. I did not ask the specific place, what I was referring then was that house.

Q :What was the response of Clemente John Lugod?

A: He answered he thought of his two children, sir.

Q: What about if he thought of his two children?

A: According to him he planned to go back to Brgy. Layog where he left his children.

Q: Did you ask him what he do (sic) in that place?

A: I did not ask, sir.

Q: What else did he tell you?

A: I asked another question, sir.

Q: What is that other question?

A: I asked him if it was the mother whom he liked then, sir.

Q: What was the answer?

A: Allegedly not the mother, sir.

TRIAL PROSECUTOR:

Q: Did you ask him what did he do (sic) in that place?

A: No more, sir.

Q: What else did he tell you aside from what you have testified?

A: No more, sir, I bid him goodbye.

Q: Is Clemente John Lugod present in court?

A: Yes, sir.

Q Please point at him.

A:

(Witness going down of the witness stand and pointed to a person who when asked of his name answered Clemente John Lugod, the accused in this case).

TRIAL PROSECUTOR: That will be all, Your Honor.

COURT: Cross

ATTY. DE RAMOS: With the permission of the Honorable Court?

COURT: Proceed.

ATTY. DERAMOS:

Q:

Vice mayor, when you visited John Lugod on September 19, 1997 at around 3:30 to 4:00 o'clock in the afternoon, you stated that he was lying in his cell, is that correct?

A: Yes, sir.

ATTY. DE RAMOS:

Q: And the reason why the police officer called John Lugod is because you approached that police, is that

correct?

A: Yes, sir.

Q: And you asked him where is John Lugod?

A: Yes, sir.

Q: Because you do not know John Lugod personally?

A: Yes, sir.

Q: When you were about to talk to John Lugod, was he still inside the cell or outside the cell?

A: He was still inside the cell, sir.

Q: So you are outside the cell?

A: Yes, sir.

Q: How about the police officer who called John Lugod?

A: He was outside the cell, sir.

Q: So the police officer who called John Lugod was present while you were conversing with John Lugod?

A: No, sir, he was no longer present because after calling John Lugod he left.

Q: What was John Lugod wearing at that time?

WITNESS:

A: I cannot remember anymore, sir.

ATTY. DE RAMOS:

Q:

But you can still remember his physical appearance at that time?

A: Yes, sir.

Q: What was the physical appearance of Clemente John Lugod at that time?

A: As far as I can recall it seemed that he had some bruises on his face (witness pointing to his lower jaw)

COURT

Q: Did you not ask him what happened to his face?

A: No, sir.

Q: Did it not occur to you to think in that appearance that there was something that happened?

A: No, Your Honor, because my first intention was just to know him.

Q: Did not the accused Clemente John Lugod inform you of any maltreatment done to him by the police officers?

A: He did not say anything about that, Your Honor.

Q: Did you not ask John Lugod whether somebody laid force on him?

WITNESS:

A: I was not able to ask that, Your Honor.

ATTY. DE RAMOS:

Q: Aside from bruises on his face did you notice any other bruises or wound on other parts of his body?

A: No more, sir.

Q:

You stated earlier that you asked John Lugod why did you do that, tell the Court what was his response to your question?

A: He said he was so drunk then, sir.

Q: He did not tell you that he raped the victim and killed her?

A: He did not say that, sir.

Q: He did not directly answer your question because your question did not ask direct to something?

A: Yes, sir."[25]

As can be seen from the testimony of the Vice-Mayor, accused-appellant merely responded to the ambiguous questions that the Vice-Mayor propounded to him. He did not state in certain and categorical terms that he raped and killed Nairube. In fact, the Vice-Mayor admitted that the accused-appellant did not tell him that he raped and killed Nairube. In addition, we note the contradiction between the testimony of the Vice-Mayor who stated that he was alone when he spoke to the accused-appellant and that of SPO2 Gallardo who claimed that he was present when accused-appellant confessed to the Mayor and Vice-Mayor.

Considering that the confession of accused-appellant cannot be used against him, the only remaining evidence which was established by the prosecution is the fact that several persons testified having seen accused-appellant the night before the murder of Nairube and on several other occasions wearing the rubber slippers and black T-shirt found at the house of the victim and Villa Anastacia respectively as well as the testimony of Romualdo Ramos, the tricycle driver who stated that he saw accused-appellant in the early morning of September 16, 1997 leaving Villa Anastacia without a T-shirt and without slippers. These pieces of evidence are circumstantial in nature. Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference.[26] Under Section 4 of Rule 133 of the Rules on Evidence, 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.

Circumstantial evidence is sufficient to convict if the circumstances proven constitute an unbroken chain which lead to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.[27]

In the present case, much emphasis was placed by the trial court on the discovery of the pair of rubber slippers at the victim's house and the black T-shirt hanging on a guava twig near the cadaver of Nairube which were allegedly worn by accused-appellant the day before Nairube's disappearance. The trial court also relied on the fact

that there was an eyewitness who saw accused-appellant leaving Villa Anastacia, the place where the body of the victim was found, in the morning after the disappearance of the victim. However, the combination of the above-mentioned circumstances does not lead to the irrefutably logical conclusion that accused-appellant raped and murdered Nairube. At most, these circumstances, taken with the testimonies of the other prosecution witnesses, merely establish the accused-appellant's whereabouts on that fateful evening and places accused-appellant at the scene of the crime and nothing more. The evidence of the prosecution does not provide a link which would enable this Court to conclude that he in fact killed and raped Nairube. It must be stressed that although not decisive for the determination of the guilt of the accused-appellant, the prosecution did not present any evidence to establish that he was at any time seen with the victim at or about the time of the incident. Neither was there any other evidence which could single him out to the exclusion of any other as being responsible for the crime.

It may be argued that his presence at the scene of the crime was unexplained and gives rise to the suspicion that the accused-appellant was the author thereof but this circumstance alone is insufficient to establish his guilt. It is well settled that mere suspicions and speculations can never be the bases of conviction in a criminal case.[28]

More important, it appears that the rubber slippers, which were found at the house of the victim on the night Nairube disappeared, are an ordinary pair of rubber slippers without any distinguishing marks to differentiate the same from any other. In *People vs. De Joya*,[29] this Court ruled that:

"Rubber or beach walk slippers are made in such quantities by multiple manufacturers that there must have been dozens if not hundreds of slippers of the same color, shape and size as the pair that Herminia gave to appellant's wife. And even if conclusive identification of the slippers had been offered, and it is assumed that appellant (rather than his wife) had worn those slippers on that fatal afternoon, still the presence of that singular slipper did not clearly and directly connect the appellant to the robbery or the slaying. At most, under that assumption, the presence of that slipper in the house of the Valencias showed that the accused had gone to the house of the Valencias and there mislaid the slipper. We note in this connection, that appellant himself had testified that he did enter the house of the Valencias that afternoon, but after the killing of Eulalia Diamse had been perpetrated, and there found many persons in the house viewing the body."[30]

Likewise, in *People vs. Mijares*,[31] this Court ruled that the fact that the accused was the last person seen with the victim and that his slippers were found at the crime scene do not necessarily prove that he killed the victim. This Court stated that:

"That the appellant was the last person seen with the victim on the night she disappeared does not necessarily prove that he killed her. It was not established that appellant and the victim were together until the crime was committed. It was not even shown that the appellant proceeded to the crime scene, either by himself or together with the victim.

Likewise, the fact that the slippers which appellant borrowed from Elizabeth Oglos were found near the victim's dead body does not necessarily prove that he was the perpetrator of the crime. Even if we were to conjecture that appellant went to the locus criminis and inadvertently left them there, such supposition does not necessarily imply that he had committed the crime. Indeed, it was not established whether appellant went to the place before, during or after the commission of the crime, if at all. Moreover, the prosecution has not ruled out the possibility that the slippers may have been brought by another person to the crime scene, precisely to implicate him and thus exonerate the real culprit. Clearly, several antithetical propositions may be inferred from the presence of the slippers at the crime scene, and appellant's guilt is only one of them."[32]

WHEREFORE, in view of the foregoing, the appealed Judgment dated October 8, 1998 of the Regional Trial Court of Santa Cruz, Laguna, Branch 28 in Criminal Case No. SC-6670 finding the accused, Clemente John Lugod alias "HONASAN", guilty of the crime of rape with homicide is hereby REVERSED and SET ASIDE and

accused-appellant is ACQUITTED of the crime charged on the ground of reasonable doubt. He is ordered immediately RELEASED from confinement unless held for some other legal cause.

No pronouncement as to costs.

SO ORDERED.

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

[1] Penned by Judge Fernando M. Paclibon, Jr..

[2] Rollo, 8.

[3] Record, p. 42.

[4] TSN, November 27, 1997, 2-8.

[5] Ibid., 9-19.

[6] TSN, December 2, 1997, 1-14.

[7] TSN, December 2, 1997, 14-26.

[8] TSN, December 3, 1997, 2-8.

[9] TSN, December 3, 1997, 8-18.

[10] TSN, December 3, 1997, 18-30.

[11] TSN, December 4, 1997, 2-15.

[12] TSN, December 4, 1997, 16-32.

[13] TSN, December 10, 1997, 2-16.

[14] TSN, December 11, 1997, 2-22.

[15] TSN, March 17, 1998, 2-9.

[16] Judgment, 11; Rollo, 34.

[17] Brief for the Accused-Appellant, 1; Rollo, 48.

[18] Judgment, pp. 7-8; Rollo, pp. 30-31.

[19] "Arrest without warrant; when lawful.- a peace officer or private person may without a warrant, arrest a person:

(a)

When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b)

When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c)

When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 112, Section 7."

[20] *People vs. Del Rosario*, 305 SCRA 740, 758-759 [1999].

[21] *People vs. De La Cruz*, 224 SCRA 506 [1993].

[22] *Ibid.*, 527-528

[23] TSN, November 27, 1997, 13.

[24] TSN, March 17, 1998, 8.

[25] TSN, March 17, 1998, 3-9.

[26] *People vs. Rondero*, 320 SCRA 383, 396 [1999].

[27] *People vs. Mendoza*, 301 SCRA 66, 82 [1997].

[28] *People vs. Albao*, 287 SCRA 129, 151 [1998].

[29] 203 SCRA 343 [1991].

[30] *Ibid.*, 350-351.

[31] 297 SCRA 520 [1998].

[32] *Ibid.*, 531-532.

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