# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GILBERT BAULITE AND LIBERATO BAULITE, ACCUSED-APPELLANTS.

*G.R. No. 137599. October 08, 2001*

Ponente: PARDO, J.

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**PARDO, J.:**

Appeal seeking to reverse the decision[1] of the Regional Trial Court, Cotabato, at Kidapawan City, Branch 17 finding accused Gilbert Baulite and Liberato Baulite guilty beyond reasonable doubt of rape with homicide and sentencing each of them to reclusion perpetua and to indemnify the heirs of Delia Jacobo Lano in the sum of P50,000.00, with costs.

On December 1, 1993, Eddie Arguelles, a farmer, passed by a river on his way to Old Bunawan, Tulunan, Cotabato. In the river, he saw two men -- Gilbert and Liberato Baulite washing their bloodied hands. Eddie continued on his way after seeing them. Upon reaching the road, he heard a boy shouting that somebody was found dead.

Jonathan Cando, a civilian volunteer, was on horseback crossing a river on his way to Bunawan. He heard a woman crying "indi" "indi." He checked his left, and approximately six (6) meters away, he saw a person mounting somebody, as if choking the one mounted. He went to the barangay captain and related what he heard and saw. The barangay captain, however, dismissed the incident, speculating that the two were "only sweethearts."

Around 3 to 4 in the afternoon of the same day, a boy found the body of Delia Jacobo Lano. Delia was a public school teacher at Old Bunawan, Datu Paglas and a resident of Maybula, Tulunan, Cotabato. An examination of her body revealed that Delia suffered a three-inch-deep punctured wound between her eyes, a smashed face (left side) and a bruised neck (upper portion). Vaginal smear test also found her positive for (dead) spermatozoa. However, there were no indications that Delia's genitalia sustained any laceration. The medical examiner opined that Delia had probably delivered several children. The examination was conducted approximately five (5) to six (6) hours after Delia died.

On December 7, 1993, 2nd assistant provincial prosecutor of Cotabato Alfonso B. Dizon, Jr., filed with the Regional Trial Court, Cotabato, at Kidapawan an information for rape with homicide against Gilbert Baulite and Liberato Baulite, the two men caught washing their bloodied hands by the river. The information reads:

> "That on or about December 1, 1993, at Barangay New Bunawan, Municipality of Tulunan, Province of Cotabato, Philippines, the above-named accused, with lewd design, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously with the use of force and intimidation succeeded in having sexual intercourse with one DELIA JAGOBO LANO against her will, and thereafter said accused, with intent to kill, with personal violence, strangulated the victim with the use of a hand as shown by finger nails marking which caused hematoma of the upper portion of the neck and likewise with the use of a sharp object, inflicted punctured wound (sic) located just above and between the eyes, three (3) inches deep, directed and posteriorly and superiorly and multiple fracture of the bone of the left face with

> hematoma of both eyes, which injuries' is (sic) the direct and proximate cause of death of said DELIA JACOBO LANO."[2]
>
> On June 23, 1994, the trial court arraigned the accused. They each pleaded not guilty.[3]

After due trial, on November 25, 1998, the trial court rendered a decision finding the two accused guilty of rape with homicide, the decretal portion of which reads as follows:

> "Prescinding from the foregoing facts and considerations, the Court finds accused Gilbert Baulite and Liberato Baulite guilty beyond reasonable doubt, of the crime charged, accused Liberato Baulite and Gilbert Baulite are hereby sentenced each to suffer the penalty of Reclusion Perpetua. Consonant with the recent jurisprudence, both accused are hereby ordered to indemnify the heirs of Delia Jacobo Lano the sum of P50,000.00.
>
> "With costs de oficio.
>
> IT IS SO ORDERED.[4]

On December 29, 1998, the accused filed a notice of appeal.[5]

The issues in the appeal are: (1) Was the guilt of the accused-appellants proved beyond reasonable doubt? (2) Is circumstantial evidence sufficient to convict the accused-appellants?

The trial court convicted the accused on the basis of the following circumstantial evidence, namely:

> a) A witness saw accused-appellants Gilbert and Liberato Baulite washing their bloodied hands;
>
> b) A boy was heard shouting that somebody was found dead;
>
> c) A witness heard a woman shouting "indi, indi" who was being choked and later the dead body of Delia Lano was found.[6]

An autopsy revealed that the body of Delia Lano sustained a three-inch-deep punctured wound between the eyes and a smashed face.[7]

Accused-appellants explained that the blood in their hands was that of a chicken that they had dressed recently.[8]

Witness Jonathan Cando heard a woman shouting "indi, indi," then saw a person mounting somebody as if choking the person mounted. However, in the absence of an eye-witness identifying the person choking, accused-appellants would not necessarily be incriminated in the crime. Subsequent examination of the body of Delia Lano revealed that she was choked, as evidenced by the finger markings or hematoma on the upper portion of her neck. The fact that the upper portion of the neck was the one severely injured is physical evidence consistent with the scenario that one in a mounting position applied pressure or choking in the upper portion of the neck of the person "mounted." The prosecution, unfortunately, failed to positively identify the person "mounting and choking" the victim.[9]

In light of the prosecution's evidence, we are not convinced that the guilt of the accused has been proved beyond reasonable doubt. "The rule is clear. The guilt of the accused must be proved beyond reasonable doubt. The prosecution, on its part, must rely on the strength of its own evidence and must not simply depend on the weakness of the defense. The slightest possibility of an innocent man being convicted for an offense he has never committed, let alone when no less than the capital punishment is imposed, would be far more dreadful than letting a guilty person go unpunished for a crime he may have perpetrated."[10] "On the whole then, the scanty evidence for the prosecution casts serious doubts as to the guilt of the accused. It does not pass the test of moral certainty and is insufficient to rebut the presumption of innocence which the Bill of Rights guarantees the accused. It is apropos to repeat the doctrine that an accusation is not, according to the fundamental law, synonymous with guilt;


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the prosecution must overthrow the presumption of innocence with proof of guilt beyond reasonable doubt."[11]

Where the evidence is purely circumstantial, there must be an even greater need to apply the rule that the prosecution depends not on the weakness of the defense but on the strength of its own evidence. Conviction must rest on nothing less than a moral certainty of the guilt of the accused. "For circumstantial evidence to convict, the Rules of Court require that: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. On the latter, decided cases expound that the circumstantial evidence presented and proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to accused, to the exclusion of all others, as the guilty person."[12]

The Solicitor General recommends the acquittal of the accused.[13] We agree.

We find the circumstantial evidence adduced not sufficient to support a finding that both accused-appellants were guilty beyond reasonable doubt of rape with homicide. To begin with, witness Jonathan Cando was not able to identify either the woman victim or the person choking the victim.[14]

We cannot conclude with certainty that the blood in the hands of the accused-appellant was the blood of the victim, and that the person choking her was one of the accused-appellants. Speculations and probabilities cannot substitute for proof required to establish the guilt of the accused beyond reasonable doubt.[15] In a criminal case, every circumstance favoring the innocence of the accused must be duly taken into account.[16]

In our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[17]Where there is reasonable doubt as to the guilt of the accused, he must be acquitted even though his innocence may be doubted since the constitutional right to be presumed innocent until proven guilty can only be overthrown by proof beyond reasonable doubt.[18]

In conclusion, because of reasonable doubt as to the guilt of the accused-appellant, they must be acquitted. "Every accused is presumed innocent until the contrary is proved; that presumption is solemnly guaranteed by the Bill of Rights. The contrary requires proof beyond reasonable doubt, or that degree of proof that produces conviction in an unprejudiced mind. Short of this, it is not only the right of the accused to be freed; it is even the constitutional duty of the court to acquit them.[19]

WHEREFORE, the appealed decision is REVERSED. Accused-appellants Gilbert Baulite and Liberato Baulite are hereby ACQUITTED of the crime charged in Criminal Case 2834 of the Regional Trial Court, Cotabato, Kidapawan, on reasonable doubt.

Costs de oficio.

The Director, Bureau of Corrections is ordered to release the accused-appellants immediately unless held for another cause. He shall inform the Court of such release or the reason for non-release within ten (10) days from notice.

**SO ORDERED.**

Davide, Jr., (Chairman), Puno, and Ynares-Santiago, JJ., concur.
Kapunan, J., on official leave.

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[1] In Criminal Case no. 2834, dated November 25, 1998, Original Record, pp. 381-387.

[2] Rollo, pp. 6-7.

[3] Original Record, p. 20.

[4] Rollo, pp. 16-23, at p. 23.

[5] Rollo, p. 24. On July 05, 1999, we accepted the appeal (Rollo, p. 26).

[6] Decision, Regional Trial Court, Rollo, pp. 16-23, at p. 23.

[7] Original Record, p. 7.

[8] TSN, January 7, 1998, pp. 7-11.

[9] TSN, July 11, 1995, pp. 5-7.

[10] People v. Manzano, 227 SCRA 780, 787 [1993].

[11] People v. Dismukem, 234 SCRA 51, 61 [1994], citing People v. Dramayo, 149 Phil. 107 [1971]; People v. Garcia, 215 SCRA 349 [1992].

[12] People v. Santos, 333 SCRA 319, 336 [2000].

[13] Manifestation and motion in Lieu of Brief, Rollo, pp. 84-96.

[14] TSN, July 11, 1995, pp. 5-7.

[15] People v. Isla, 343 Phil. 562, 570 [1997], citing People v. Jumao-as, 230 SCRA 70 [1994].

[16] People v. Sinatao, 319 Phil. 665, 687 [1995].

[17] People v. Parel, 330 Phil. 453, 471 [1999]; People v. Salangga, 234 SCRA 407 [1994].

[18] Pecho v. People, 331 Phil. 1, 19 [1999].

[19] People v. Valeriano, 226 SCRA 694 [1993], citing People v. Pido, 200 SCRA 45 [1991].


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