PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANITA AYOLA Y AREVALO AND VALENTIN BARNESO (AT LARGE), ACCUSED, ANITA AYOLA Y AREVALO, ACCUSED-APPELLANT.

G.R. No. 138923. September 04, 2001

Ponente: PUNO, J.

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PUNO, J.:

Accused-appellant Anita Ayola y Arevalo was convicted by the Regional Trial Court, Branch 69, Silay City, Negros Occidental of the crime of murder for the alleged killing of her common-law husband, Eduardo Irog-Irog (a.k.a. Eddie Irog-Irog). She was sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of the victim the amount of one hundred thousand pesos (P100,000.00) representing actual, moral and exemplary damages.[1] Accused-appellant now appeals from said Decision, raising the following errors:

> "1.
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> The lower court erred seriously in sending and languishing in prison the accused-appellant due to the insufficiency of evidence on the part of the prosecution to inculpate her of the crime charged herein.
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> 2.
>
> The court below has committed a grave error in not acquitting her of the crime charged considering the presence of reasonable doubt in her favor."[2]

Accused-appellant, together with Valentin Barneso who is still at large, were charged under the following information:

> "That on or about the 20[th] day of February, 1994, in the Municipality of Victorias, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the first above-named accused, in company of her co-accused, who is still at large, armed with sharp-pointed and bladed weapons, conspiring, confederating and helping each other, with evident premeditation and treachery and with intent to kill, did then and there, wilfully, unlawfully and feloniously attack, assault and stab one EDUARDO IROG IROG alias `EDDIE', thereby inflicting stab wounds upon the latter which caused his death.
>
> CONTRARY TO LAW."[3]

Accused-appellant pleaded not guilty to the charge during the arraignment.[4] Trial ensued.

The prosecution presented the testimonies of the following witnesses: SPO1 Rolando Descalsota, Rogelio Somondong, Elvis Laus, Romeo Bacabac, Procula Lopez and Norberto Braca.

SPO1 Rolando Descalsota, a member of the Philippine National Police (PNP), Victorias Police Station, testified that on October 8, 1994, while posted as desk officer, he received a letter[5] from Valentin Barneso thru a certain Elmer, the helper of the Chief of Police, Maj. Leonardo Villanueva. Barneso revealed in the letter written in Hiligaynon that his wife, Anita Ayola, had killed her former partner, Eddie Irog-Irog. The contents of the letter

read:

> "Dear Lando Descalsota,
>
> I am submitting to you my problem concerning my wife Anita Irog-Irog. It seems that I could no longer keep the secret for the sake of justice because of what she did to me while I was asleep when she attempted twice to kill me, similar to what she did to her husband Eddie Irog-Irog, who is dead now and we buried him near the trunk of the banana plant just behind our house where there is even a hole where we got the soil to cover him and there's a mound near the garbage heap; the distance from the hole is one arm's length because when Anita killed Eddie after she let him sleep. I saw it after coming home from work. I was scared and I forced myself to help her in burying although I was afraid but I could not stand because she also wanted to do the same to me. Justice would be meted to her as there shall be many men who shall be her victim just as the killing on February 20, 1994 at about 9:45 p.m. Before you should do the clearing on the site, you have to apprehend Anita Irog-Irog because she might flee and investigate her about the whereabouts of Eddie and bring her to the place and let her point out and if she refuses to do so, it is up to you to dig in order to bring her to justice, Lando. And the person to whom I gave this letter, give your response because the digging must be immediate to avoid unnecessary delay and you shall be accused by the sister of Eddie Irog-Irog who is a teacher, and regarding this problem, ask regarding Irog-Irog among our neighbors; I have to think seriously before I sent this letter and this concerns me much because I am the husband but I did not have any part in Eddie's death. When I left from work Eddie Irog-Irog was already dead and had wounds on the pit of his stomach and Anita and I talked and asked her why she did it to her husband, when we could have gone away to other places. I also asked her if she also was not afraid if the two of us would go to jail of what she did of which I had nothing to do. She asked me to help her bury near the banana plants because if daylight comes, we shall be surely caught and imprisoned. She told me that her children are already big while our own are still small. And no amount of quarrel about this incident must be known and she threatened me of what she did to her husband, so she would do the same to me; that if she would go straight we can live together but since you are to substitute for me, that is why you are driving me out and I am going to accuse you of what you did to your husband. So I have to leave because you might do it to me. Of course, my children shall be hopeless but I have not committed any wrong. I have to send this letter and I hope that justice shall be given to Anita Irog-Irog.
>
> The sender: Valentino Varneso"[6]

After reading the letter, Descalsota forwarded the same to their Station Commander for follow-up. Guided by the information contained in the letter, some police personnel, together with some detainees, went to Barangay Bangga Da-an Banwa to conduct an investigation at the site where the victim was allegedly buried, at the back of Ayola's house, near the banana clumps. The investigating team unearthed the skeletal remains and the t-shirt and short pants belonging to Eddie Irog-Irog. The recovered articles were forwarded to the Intelligence Section of the Victorias Police Station and the outcome of the investigation was recorded in the police blotter. The police apprehended Ayola and detained her for investigation.[7]

Rogelio Somondong, also a member of the PNP, Victorias Police Station, attested that in the morning of October 8, 1994, SPO1 Descalsota received a letter containing information that Eddie Irog-Irog had been murdered by Anita Ayola. Upon receipt of the information, Somondong, together with SPO3 Silava and others, proceeded to conduct an investigation and to apprehend Ayola. They sought the aid of Barangay Kagawad Romeo Bacabac to lead them to Ayola's house. The occupants of the house, however, told them that Ayola had transferred her residence to Mallorca. Some members of the investigating team proceeded to Mallorca and apprehended Ayola. They brought her to the police station for investigation. The other members of the team, in the meantime, made some digging at the spot described in the letter where the body of Irog-Irog was supposedly buried. The spot was about 15 to 20 meters away from the house of Ayola, near the banana trees. The team found the skull of a man and his skeletal remains. The remains were photographed[8] before they were placed in a plastic bag and brought

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to the funeral parlor. The findings were entered in the police blotter. The team also tried to locate Valentin Barneso to no avail.[9]

Elvis Laus, a resident of Bangga Da-an Banwa, Victorias, Negros Occidental, stated that he was approached by Valentin Barneso who requested him to write for him a letter because he did not know how to read and write. Since Barneso was his friend, he agreed. He wrote exactly what Barneso dictated to him. The letter was addressed to SPO1 Descalsota and it stated that "they killed Eddie Irog-Irog and buried the body at the back of the house." After he read the contents of the letter to Barneso, the latter warned him not to tell anybody about it as he might get involved in the controversy. Laus handed the letter to Barneso who placed the same in an envelope. He did not see Barneso again after that occasion.[10]

Romeo Bacabac, a Barangay Kagawad at Bangga Da-an Banwa, Victorias, Negros Occidental, testified that he knew Anita Ayola and Eddie Irog-Irog. He also knew Gemma Barneso and Valentin Barneso. Ayola and Irog-Irog were long-time residents of the barangay and were living together as common-law husband and wife. Gemma and Valentin Barneso, on the other hand, have recently moved to their barangay. They came from San Isidro, E. B. Magalona. On January 23, 1994, a complaint was filed with his office that Anita Ayola and Valentin Barneso were having an illicit affair. He conducted an investigation but Ayola denied having a relationship with Barneso. In February 1994, Gemma Barneso filed another complaint against her husband and Ayola. To resolve the problem, they sought the intervention of the Department of Social Welfare and Development (DSWD). Gemma later decided to leave her husband and sought work in Manila. Barneso then moved to the house of Ayola and Irog-Irog. Bacabac stated that in February 1994, he still saw Irog-Irog at their residence in Bangga Da-an Banwa. At that time, Irog-Irog was already asserting that Barneso should leave their residence. During the latter part of the month, he began to notice the absence of Irog-Irog. When he asked Ayola on the whereabouts of Irog-Irog, she explained that he "was disgusted with his situation, so he went to Cebu." Ayola and Barneso continued to live under one roof until October 1994 when Ayola filed a complaint with his office seeking his aid to eject Barneso from their house. The complaint was settled amicably. After signing the agreement[11] on October 5, 1994, Barneso packed his things and left. Ayola also left the house and moved to Mallorca. She leased the house to other families. On October 8, 1994, Bacabac was fetched by SPO3 Somondong and other members of Victorias Police Station. They asked him to accompany them to Ayola's house. They, however, found neither Ayola nor Barneso at said house. SPO3 Somondong proceeded to Mallorca to look for Ayola. The other members of the police force, meanwhile, asked Bacabac the location of the well. When they got there, they saw a pit which was being used as garbage site. Bacabac learned from the police that a crime has been committed in that area. The members of the police personnel then started to dig near the banana trees about 5 meters from the back of Ayola's house. The digging was witnessed by Bacabac, Barangay Kagawad Durana, and Sanitary Inspector Jessie Ocampo. After some digging, the police found a human skull. They also recovered a pair of short pants and a t-shirt labelled "Justiniani Machine Shop." The dug remains were brought to the funeral parlor.[12]

Procula Lopez, the sister of Eddie Irog-Irog, testified that her brother was formerly married to Maria Irog-Irog. After the death of his wife, Eddie Irog-Irog had a relationship with Anita Ayola. They lived together for almost 14 years. Lopez stated that she does not know the present whereabouts of her brother. She saw him last on November 2, 1993 when he visited the house of their mother in Cadiz City. She has not seen him since then. She said that according to Ayola, he went to Cebu on February 20, 1994 to visit their relatives. However, one of their relatives who went to Cebu told her that their relatives in Cebu denied seeing him there. On October 8, 1994, she was informed by her nephew that the skeletal remains of her brother were dug beside the house where Ayola and Irog-Irog used to reside. She went to the funeral parlor to view the remains. She identified them as those of her brother because of the quarter crown on the upper teeth and quarter crown on the lower teeth. After the discovery of the skeletal remains, Lopez went to see Ayola and asked her in the presence of the Chief of Police, Maj.

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Leonardo Villanueva, on the whereabouts of her brother. Ayola denied having killed Irog-Irog and pointed to Valentin Barneso as the culprit. Lopez further testified that the house where Ayola and Irog-Irog lived was owned by her brother. Ayola, however, sublet the same to two lessees and collected the rentals. Ayola later sold the house to the Barangay Captain of Victorias for P9,000.00. Ayola presently resides in Mallorca, Victorias, Negros Occidental.[13]

Norberto Braca, a resident of Bangga Da-an Banwa and former co-worker of Eddie Irog-Irog, identified the dug remains and the clothing articles recovered from the back of Ayola's house as belonging to Irog-Irog. He knew that the clothing articles consisting of collared white t-shirt labelled "Justiniani" and a pair of green shorts belonged to Irog-Irog because he often saw him wearing them at work.[14]

After the prosecution rested its case, the defense proceeded to present its evidence. They proffered the testimonies of Anita Ayola and Glenn Plaga.

Anita Ayola testified that Eddie Irog-Irog was her common-law husband. She was previously married to Eduardo Ayola with whom she had six children. They separated in 1976. In February 1980, she and Irog-Irog began to cohabit. She said that they had a good relationship because he loved her children. Sometime in February 1994, Irog-Irog told her that he would go to Cebu to seek greener pasture. At that time, Irog-Irog was employed at Victorias Milling Company. He left for Cebu on February 26, 1994. She accompanied him to the National Highway where he took the Ceres bound for San Carlos. Before they parted, he told her that he would write her and send her some money so that she could follow him in Cebu. Ayola, however, did not receive any letter from Irog-Irog since he left. She stayed at their house in Bangga Da-an Banwa for five months before she left for Manila to spend her vacation with her eldest son, Edwin. Ayola was in Manila for more than three months before she returned to Victorias, Negros Occidental. Ayola stated that their house in Bangga Da-an Banwa was commonly owned by her and Irog-Irog because it was built at the time that they were living together. When she left for Manila, the house had no occupant. But upon her return, she discovered that somebody had intruded into their abode. She reported the matter to Barangay Kagawad Romeo Bacabac and sought his help to eject the intruder who identified himself as Valentin Barneso. After the meeting with Bacabac, Barneso left. Ayola, on the other hand, went to stay with her daughter in Mallorca. On October 8, 1994, while having her lunch, Ayola was apprehended by the police and was detained at the municipal jail for the alleged killing of her common-law husband, Eddie Irog-Irog. She was informed by the police that they have exhumed the skeletal remains of Irog-Irog at the nipa swamp. Ayola denied any knowledge about the alleged killing and insisted that Irog-Irog was in Cebu.[15]

Glenn Plaga stated that on October 8, 1994, he heard over the radio that Valentin Barneso had sent a letter to the police stating that he, together with Anita Ayola, killed Eduardo Irog-Irog. Three days later, he met Barneso at Hacienda Bernardino while he was waiting for a lorry on his way to Victorias to sell bamboo. He asked Barneso if it were true that he killed Irog-Irog together with Anita Ayola. Barneso admitted that he was the one who killed Irog-Irog but he nonetheless implicated Ayola because he held a grudge against her common-law husband. On August 11, 1997, Plaga was committed to the Provicial Jail in Bacolod City and there he met Anita Ayola. They talked about the case for which she was being detained. Knowing that she was wrongly implicated by Barneso, he offered to help her and promised to testify for her in court.[16]

The trial court found accused-appellant guilty of murder and sentenced her to reclusion perpetua and to indemnify the heirs of Eddie Irog-Irog the sum of one hundred thousand pesos (P100,000.00) representing actual or compensatory, moral and exemplary damages. The dispositive portion of the decision reads:

> "PREMISES CONSIDERED, the Court finds the accused Anita Ayola y Arevalo, a.k.a. Anita Irog-Irog GUILTY of the crime of murder and is hereby sentenced to suffer the penalty of reclusion perpetua and its

> accessory penalties in accordance with Art. 41 and the provision of Art. 248 of the Revised Penal Code and should indemnify the heirs of Eddie Irog-Irog the sum of One Hundred Thousand Pesos (P100,000.00), Philippine Currency, representing actual or compensatory, moral, and exemplary damages. With cost against the accused.
>
> SO ORDERED."[17]

We reverse.

Every criminal conviction requires of the prosecution to prove two things: the fact of the crime, i.e., the presence of all the elements of the crime for which the accused stands charged, and the fact that the accused is the perpetrator of the crime.[18] The prosecution in this case was not able to prove beyond reasonable doubt that accused-appellant was the perpetrator of the crime.

The records do not show any direct evidence to prove that it was accused-appellant who killed Eddie Irog-Irog. In finding accused-appellant guilty of murder, the trial court relied on the following circumstantial evidence:

> "1.
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> The allegation contained in the letter about the killing of Eddie Irog-Irog which led to the unearthing of his skeletal remains just five meters behind the house where the accused and Irog-Irog lived in the evening of February 20, 1994 at about 9:45 p.m.;
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> 2.
>
> The T-shirt and the green-colored pants identified to that worn often by Irog-Irog in the pursuit of his vocation as mason-carpenter identified by witnesses Romeo Bacabac and Norberto Braca;
>
> 3.
>
> The dentures identified by the sister of Irog-Irog referring to the quarter crown on both upper and lower teeth;
>
> 4.
>
> The transfer to Mallorca by the accused and had the house rented after an agreement to separate was concluded by the accused and Barneso before the barangay kagawad."[19]

It is true that to warrant a conviction, direct evidence is not always necessary. The rules of evidence allow the courts to rely on circumstantial evidence to support its conclusion of guilt. Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference. It is founded on experience and observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved.[20] Section 4, Rule 133 of the Revised Rules of Court, however, provides that circumstantial evidence is sufficient for conviction only if the following requisites are complied with: (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. With respect to the third requisite, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of others, as the guilty person.[21]

We find that the circumstances relied upon by the trial court in convicting accused-appellant do not satisfy the foregoing requirements. They do not indubitably point to accused-appellant as the author of the killing of Eddie Irog-Irog. The prosecution evidence, at best, prove that Irog-Irog is dead. They, however, do not show the circumstances surrounding his death, i.e., when and how he died, and if he was indeed murdered, who killed him.

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The only piece of evidence presented by the prosecution that points to accused-appellant as the culprit is the letter sent by Valentin Barneso to SPO1 Rolando Descalsota narrating how accused-appellant supposedly killed her common-law husband. Such piece of evidence, however, has very little probative value for being hearsay. Its vital contents have also not been verified by other independent evidence. We note that the skeletal remains recovered from accused-appellant's backyard were not subjected to a post-mortem examination which could have provided clues on very important facts such as the time of death and the cause of death. These details could have shed light on whether or not the facts narrated in the letter were true. Unfortunately, the evidence on these particulars are wanting.

To support its case, the prosecution tried to show that accused-appellant had a motive to kill Irog-Irog. It tried to prove through the testimonies of its witnesses the existence of an illicit affair between accused-appellant and Barneso. The prosecution also stressed the fact that the victim's remains were unearthed at the backyard of accused-appellant's house and that after the victim's disappearance, she vacated said house and moved to her daughter's residence in another barangay. These facts, however, are inadequate to prove beyond doubt the culpability of accused-appellant. The test to determine whether or not the circumstantial evidence on record are sufficient to convict the accused is that the series of circumstances duly proved must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.[22] It must exclude the possibility that some other person has committed the offense. The evidence for the prosecution fail to meet the test. The records bear that the prosecution did not present evidence to exclude other suspects like Valentin Barneso who also had motive to kill Irog-Irog. If it were true that he was having an amorous relationship with accused-appellant, then, he would be equally suspect for the killing of Irog-Irog. Although the information charged both accused-appellant and Barneso for the killing of Irog-Irog, the prosecution has not shown the nature and extent of the participation of each of them in the commission of the offense. This clouds our certainty as regards the guilt of accused-appellant. Under the circumstances, the Court is constrained to acquit her. It is a basic principle in criminal law that where the inculpatory circumstances are capable of two or more inferences, one of which is consistent with the presumption of innocence and the other compatible with a finding of guilt, the court must acquit the accused because the evidence does not fulfill the test of moral certainty and therefore is insufficient to support a judgment of conviction.[23]

IN VIEW WHEREOF, the appealed Decision of the Regional Trial Court is REVERSED and SET ASIDE. Accused-appellant is ACQUITTED. The Superintendent of the Correctional Institution for Women is ordered to IMMEDIATELY RELEASE accused-appellant unless she is being detained for other lawful cause, and to INFORM the Court within ten (10) days from receipt hereof of his compliance with this order.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo and Ynares-Santiago, JJ., concur

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[1] Decision penned by Judge Graciano H. Arinday, Jr.

[2] Appellant's Brief, Rollo, p. 76.

[3] Rollo, p. 13.

[4] Original Records, p. 27.

[5] Exhibit "A", Original Records, p. 130.

[6] English translation of the letter caused to be written by Valentin Barneso sent to SPO1 Rolando Descalsota,

Decision, Criminal Case No. 3529-69, p. 17, Original Records, p. 225.

[7] TSN, January 17, 1995, pp. 3-11.

[8] Exhibit "D", "E", "F", "G", "H", "I", Original Records, pp. 3-8.

[9] TSN, January 17, 1995, pp. 21-28.

[10] Id., pp. 31-38.

[11] Exhibit "K", Original Records, p. 131.

[12] TSN, January 24, 1995, pp. 3-18.

[13] TSN, March 2, 1995, pp. 4-15.

[14] Id., pp. 6-7.

[15] TSN, July 2, 1998, pp. 4-15.

[16] Id., pp. 30-35.

[17] Judgment, Criminal Case No. 3529-69, pp. 15-16, Rollo, pp. 39-40.

[18] People vs. Santos, 333 SCRA 319 (2000).

[19] Judgment, Criminal Case No. 3529-69, p. 15, Rollo, p. 39.

[20] People vs. Rondero, 320 SCRA 383 (1999); People vs. Raganas, 316 SCRA 457 (1999); People vs. Songcuan, 176 SCRA 354 (1989).

[21] People vs. Fronda, 328 SCRA 185 (2000); People vs. Gaballo, 316 SCRA 881 (1999); People vs. Bantilan, 314 SCRA 380 (1999).

[22] People vs. Rondero, 320 SCRA 383 (1999).

[23] People vs. Santos, 333 SCRA 319 (2000).

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