

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO SOLIS Y SEGOVIA, APPELLANT.

G.R. No. 138936. January 30, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Circumstantial evidence is considered sufficient only when the facts from which the inferences are derived are themselves duly proven. Well-established is the rule that an inference cannot be drawn from another inference.

The Case

Rolando Solis y Segovia appeals the February 22, 1999 Decision[1] of the Regional Trial Court of Bacolod City (Branch 49), in Criminal Case No. 9954, finding him guilty of the special complex crime of rape with homicide and sentencing him to reclusion perpetua.

In an Information dated February 4, 1991, Assistant City Prosecutor Eduardo B. Esquilla charged appellant as follows:[2]

"That on or about the 20th day of September, 1990, in the City of Bacolod, Philippines, the said accused, did, then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and stab Lilibeth Balbuena, a minor, 8 years of age, and a retarded child thereby inflicting upon her serious and mortal wounds, to wit:

"Wound, stabbed, 7.0 cm. in length, chest, anterior, level of the 6th and 7th intracostal space, extending from left parasternal line to left mid-clavicular line medial extremity c[on]tused and lateral extremity sharp, fracturing sternum and the 6th and 7th ribs thereat, to enter thoracic cavity, perforating ventricle of the heart and lacerating inferior lob[e] of left lung.

which were the direct and immediate cause of her death and by reason or on the occasion thereof enabled the said accused to then and there willfully, unlawfully and feloniously succeeded in lying with and having carnal knowledge of the said Lilibeth Balbuena against her will and consent.

"That apart from the aforementioned aggravating circumstances, attend[ant to] the commission of the crime: That it was committed with abuse of superior strength and that there was cruelty by deliberately and inhumanly augmenting the suffering of the victim."

With the assistance of Counsel Romeo Subaldo, appellant pleaded not guilty when arraigned on September 27, 1994.[3] After trial, the Regional Trial Court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, finding the accused Rolando Solis y Segovia [g]uilty beyond reasonable doubt of the [s]pecial [c]omplex [c]rime of [r]ape with [h]omicide punishable by death under Art. 335 of the Revised Penal Code but considering that death could not be imposed by reason of the governing law at the time of the crime which automatically reduced the death penalty to [r]eclusion [p]erpetua, the Court hereby sentences the said accused to suffer the penalty of [r]eclusion [p]erpetua with all the accessories provided by law and to indemnify the heirs of Lilibeth Balbuena [in] the amount of P75,000.00 as compensatory damages,

P100,000.00 as moral damages and another P100,000.00 as exemplary damages and to pay the cost.

"SO ORDERED."

Hence this appeal.[4]

The Facts

Version of the Prosecution

The prosecution's version of the facts is summarized by the Office of the Solicitor General, as follows:[5]

"Lilibeth Balbuena, an eight (8) year old child at the time of the incident, was a retarded child. She could hardly talk and could communicate through hand signals only. She was the second of five (5) children of the couple, Sabiniano Balbuena and Lucia Balbuena (TSN, pp. 3-4, May 23, 1995).

"At about 9:00 in the morning of September 20, 1990, Sabiniano Balbuena and his wife, Lucia Balbuena, arrived home at Arabay I, Bacolod City after buying food and other household items from the market. Lilibeth and her younger sister were inside the house. They gave bread to Lilibeth and her sister. While the couple were cooking breakfast, they noticed a man about ten (10) meters away, later identified as appellant Rolando Solis, wearing white T-shirt and denim pants, cutting banana leaves at the back of their house. After Sabiniano finished cooking, he called for Lilibeth. Sabiniano received no answer. Sabiniano went around the house looking for Lilibeth. Unable to find her, Sabiniano proceeded to the adjacent purok searching for Lilibeth (TSN, pp. 7-11, May 23, 1995).

"When he came back, Sabiniano did not see appellant anymore. After searching for about half an hour, Sabiniano went home. Later, Sabiniano continued his search for Lilibeth. At this juncture, Sabiniano again saw appellant cutting banana leaves. Sabiniano inquired from appellant if he had seen a child. Appellant answered that he saw a child wearing black shirt and white pants cross a bridge leading to another purok. Sabiniano crossed the bridge and continued his search for Lilibeth. After spending half an hour without any result, Sabiniano returned home. Sabiniano saw appellant near his house still cutting banana leaves. Again he inquired from him if he had seen Lilibeth. As before, appellant answered that he saw the child crossing the bridge. Sabiniano asked a third time but the answer was the same. Sabiniano once more crossed the bridge and looked for Lilibeth. Unable to find Lilibeth, Sabiniano returned home. Momentarily, Sabiniano saw appellant running away, his pants wet, and carrying a small bundle of banana leaves (TSN, pp. 11-15, May 23, 1995).

"At about 10 in the morning of September 20, 1990, Zelbred Santillan went home from work. As he was passing the house of the Balbuena's, he met appellant along the road leading to the highway. Zelbred noticed that appellant was seemingly in a hurry. He was wet and was carrying banana leaves. Zelbred greeted appellant but appellant simply ignored him (TSN, pp. 3-6, July 27, 1995).

"Sabiniano became suspicious of appellant. He had sought the help of his neighbors in looking for Lilibeth (TSN, p. 15, May 23, 1995). Rolando Oliveros, a neighbor, was among those who volunteered to look for Lilibeth. He went inside the banana grove, located a little distance from his house. The[re] he saw signs of trampled grasses. Rolando followed the trail leading towards a ditch where he saw newly cut banana leaves. When Rolando was about to turn back, his eyes caught a glimpse of the exposed feet of a child protruding under a clump of banana leaves. Without much ado, Rolando dashed back to his house and informed his neighbors about his finding (TSN, pp. 6-9, February 16, 1996).

"Together with Rolando Oliveros, Sabiniano and other neighbors of his repaired to the place pointed to by Rolando. There, Sabiniano was shocked to see [his] daughter Lilibeth covered with banana leaves about 100 meters away from his house. Sabiniano called the police and a doctor (TSN, pp. 15-17, May 23, 1995).

"A police team, headed by PO3 Homer G. Vargas, of the Bacolod City PNP, responded. The police team was accompanied by Dr. Romeo Gellada, medico legal officer, PNP, Bacolod City. They removed the banana

leaves and the slashed and naked body of Lilibeth was exposed. Lilibeth's black calico shirt and pajamas were laid beside her body. The naked body of Lilibeth lay on [its] back (TSN, pp. 17-22, May 23, 1995; TSN, pp. 11-12, February 16, 1996).

"Dr. Gellada examined the cadaver of Lilibeth. He found the chest of Lilibeth slashed. Dr. Gellada told the group that Lilibeth was raped (TSN, p. 12, February 16, 1996; TSN, p. 9, June 7, 1996). Dr. Gellada conducted an autopsy on the cadaver of the victim (TSN, pp. 5-14, April 11, 1997). The Autopsy Report (Exh. 'D', p. 333, Record) shows the following findings:

PHYSICAL FINDINGS:

- Wound, stabbed 7.0 cm. in length, chest, anterior, level of the 6th and 7th intracostal space, extending from left parasternal line to left mid-clavicular line medial extremity contused and lateral extremity sharp, fracturing sternum and the 6th and 7th ribs thereat, to enter thoracic cavity, perforating ventricle of the heart and lacerating inferior lobe of left lung.

GENITAL FINDINGS:

Pubic hair absent, labia majora and labia minora markedly swollen and congested. Hymen with fresh bleeding lacerated at 4, 5, 6, 7, 8 and 9 o'clock. Fourchette lacerated, cervical smear positive for spermatozoa.

CAUSE OF DEATH: Shock and Hemorrhage due [to stab] Wound."

"On the basis of his autopsy, Dr. Gellada found one (1) stab wound located at the left anterior chest of the victim which penetrated the chest cavity and lacerated the left anterior lung. Upon genital examination, Dr. Gellada found that the 'labia majora and labia minora were swollen and congested, hymen with fresh bleeding lacerated at 4, 5, 6, 7, 8 and 9 o'clock, the cervical smear was positive for spermatozoa'. Dr. Gellada concluded that the victim was raped (TSN, pp. 7-8, April 11, 1997).

"When informed that appellant was the only person last seen in the area, the police team proceeded to the house of appellant. When they arrived, appellant's parents told the police that appellant had left to sell banana leaves in the market. His parents, however, voluntarily surrendered a stainless knife which was left by their son in the house after cutting banana leaves. PO3 Vargas, who received the knife, found a sticky substance akin to blood stain. PO3 Vargas informed appellant's parents that their son was a suspect in the rape with homicide case that happened in Arabay I (TSN, pp. 8-16, June 7, 1996).

"Appellant eluded arrest and had remained at large for about four (4) years. The arms of the law finally caught up with him on July 18, 1994 (TSN. pp. 16-17, June 7, 1996; TSN, p. 16, July 16, 1997)."

Version of the Defense

Appellant, on the other hand, presented the following version of the facts:[6]

"On September 20, 1990 at around 7:00 a.m., [appellant] went to the house of Benjamin Oliveros to buy banana leaves because there was an order from a certain Fidel of Homesite. At around 8:00 a.m. he went out from the banana plantation and went to Benjamin's house to pay for the banana leaves. Since Benjamin was not around, he gave the amount of P10.00 to the daughter of Benjamin. He arrived at Homesite at about 9:30 a.m. to deliver the banana leaves to Fidel, after which, he went home at about 10:00 a.m. Upon arrival, his sister asked him to buy fish and rice at Burgos Market. He arrived at the market at around 10:30 a.m. and arrived at his residence at about 11:20 a.m. After taking lunch at about 12:00 p.m., he heard over the radio that he was a suspect in a certain killing. He went immediately to the Barangay Captain who advised him to stay away because it is very hard to be a suspect. The Barangay Captain was later shot dead at Burgos Market.

"[At] about 10:00 a.m. on the day of the incident, [Lanie Pagdatu] saw accused [pass] by going towards the direction of their house. She was sure that it was the accused because they were neighbors since childhood and

she was also sure that it was 10:00 a.m. because the radiodrama series "Provincial Jail" ha[d] already started as it always start[ed] at 10:00 a.m. everyday.

"Lolita Solis, the mother of the accused, used to go with the accused together with another child to gather banana leaves. But on September 20, 1990 the accused went alone because she ha[d] work at San Miguel Corporation. Their customer, Fidel, ordered P10.00 worth of banana leaves.

"When Lolita Solis went home from work at around 11:30 a.m., she saw the accused chopping wood. At around 12:30 after finishing lunch, she noticed that there were policemen. They were looking for her son. She told them that her son was not around. The policemen asked for the knife that the accused used in gathering banana leaves and she gave it to them. When she gave it to them the knife was then clean and it had no handle. When she saw the accused at around 5:00 p.m. she inquired from him where he went. The accused told her that he went to Barangay Captain Basilio Flor and asked for advice. She also talked with Barangay Captain Basilio and the latter advised her that if her son didn't commit the crime, they must not surrender him because he might be manhandled and salvaged by the police. Following the advice, they sent their son to Iloilo for two weeks and after which he returned to their house and worked in a reclamation area. He [went] home every night after work."

Ruling of the Trial Court

The trial court gave credence to the testimonies of the prosecution witnesses. Although there was no eyewitness account, it believed that "the combination of all [the] circumstances point[s] unerringly to the accused, to the exclusion of all other persons, as the one responsible for the rape-slay of Lilibeth Balbuena."

Assignment of Errors

In his Brief, appellant imputes these two errors to the trial court:

"I

The trial court erred in relying mainly on circumstantial evidences presented by the prosecution as basis for the conviction of the accused.

"II

The trial court erred in finding the accused guilty beyond reasonable doubt of the special complex crime of rape with homicide."[7]

In the main, the Court will determine the sufficiency of the prosecution evidence.

The Court's Ruling

The appeal is meritorious.

Main Issue:

Sufficiency of Prosecution Evidence

There is no question that under our judicial system, an accused may be convicted on the basis of circumstantial evidence alone. But before such evidence can be considered sufficient for conviction, all the following requisites must be established: (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.[8]

In the present case, there is indeed more than one circumstance. However, the Court agrees with appellant that requirements (b) and (c), as quoted above, were not satisfied.

The trial court convicted appellant on the basis of the following pieces of circumstantial evidence supposedly proven by the prosecution:

"1) [O]n the morning of September 20, 1990 around 9:00 A.M. more or less, the accused was seen by Sabiniano and Lucia Balbuena, parents of eight (8) year old Lilibeth, cutting banana leaves alone in a banana grove behind their house some 10-15 meters away. In the yard of their house was Lilibeth;

"2) At the time the accused was seen by the Balbuenas, he was wearing white T-shirt and maong pants;

"3) Previously, the accused, when buying the banana leaves from the banana grove owned by Benjamin Oliveros was always accompanied by his mother and/or sister. They ha[d] always done this for over a year. But on September 20, 1990 he came alone.

"4) Prior to September 20, 1990 the accused was seen three (3) times by the Balbuenas cutting banana leaves in the banana grove owned by Benjamin Oliveros which was behind their house.

"5) When on the morning of September 20, 1990 the parents called Lilibeth for breakfast, she was nowhere to be found and she was no longer in the yard. When the parents of Lilibeth went out to look for her they likewise noticed that the accused was gone too. When the parents returned sometime after their search, they found the accused again cutting banana leaves;

"6) When asked by the parents if the accused had seen the child, the accused lied by saying that he saw her crossing a bridge to the other purok. When the parents followed the direction given by the accused, Lilibeth could not be found there. When asked again for her whereabouts the accused gave the same lie three (3) times to the parents;

"7) When the parents returned home from the search a third time, they saw the accused now running away with his pants wet and he was shirtless. He looked pale and terrified;

"8) The accused was the only person seen at the crime scene before, during and immediately after the incident;

"9) When Zelbred Santillan, a former co-worker of the accused in a construction project and a neighbor met him on the road, the accused was wet all over and hurrying carrying a bundle of banana leaves. He ignored the greetings of Santillan;

"10) It was only on September 20, 1990 that the accused bought for the first time banana leaves worth only P7.00 when in all previous cases he bought leaves worth between P20.00 [and] P30.00;

"11) When he paid with a P10.00 bill for leaves worth P7.00 he immediately ran away without waiting for his change;

"12) Near the place where the body of Lilibeth was found [was] a creek with flowing water;

"13) Lilibeth's chest was slashed open by a bladed instrument and she was covered by freshly cut banana leaves and the accused at that time was provided with a knife and scythe and gathering banana leaves;

"14) When the police authorities went to the house of the accused, after the discovery of the crime, his parents turned over a knife which they said was used by the accused in cutting leaves and which was left to them that morning by said accused. It was covered [with] a sticky substance resembling blood;

"15) Right after the incident and when the police authorities looked for him, he fled [from] his parents['] home and could no longer be found nor reached by subpoena;

"16) The accused hid for almost 4 years after the crime until he was apprehended in a hospital being treated for stab wounds.[9]

Upon a careful study of the records of this case, we find that a number of the foregoing circumstances are not supported by evidence.

Alleged Lie of the Accused

The trial court found that the accused lied three times by saying that he had seen the victim crossing a bridge to the other purok. The father of the child, however, testified as follows:

"Q: What did you ask him?

A: I asked him, "To, have you seen my daughter?"

Q: Did he answer you?

A: He answered me x x x, "Your daughter who was wearing black shirt and white pants?"

Q: What did you do after he told you?

A: He told me that [he] saw [my] daughter crossing the bridge.

Q: What did you do when he told you that?

A:

I immediately crossed the bridge and looked for my daughter.[10]

xxx xxx xxx

A: I went back to him again,

Q: For the second time?

A:

Yes, I asked him again and he answered me that [he] saw her crossing the bridge.[11]

The mother also testified to the same incident in this wise:

"Q: Now, what happened when you saw him cutting banana leaves again?

A: I asked him if he saw a child wearing black vest and white pants.

Q: What was the answer of this man?

A:

The person answered x x x "the child who was wearing white pants and black vest [--] I saw her crossing the bridge."

Q: When he told you that what did you do?

A:

We crossed the bridge and looked for h[er]."[12]

From the above, it is clear that according to both the mother and the father of the child, appellant only said that he had seen the child crossing the bridge. Whether the direction of the child was towards the other purok or back to the plantation is not clear from the records. The trial court merely assumed that the victim was going to the other purok when the accused saw her.

The Rules of Court clearly requires that the facts from which the inferences are derived must be proven. In the present case, to find that the accused lied, one must assume the following: first, that the victim did not cross the

bridge, second, that the victim was killed at the banana plantation and that her body was not just dumped there; third, that appellant meant that when he said that he had seen the victim crossing the bridge, she was going towards the other purok -- not back to her home. Relying on these assumptions in order to come up with the finding that the accused lied was jumping to an unreliable conclusion. Such finding was clearly an inference based on another inference and cannot be used as a basis for conviction.

Appellant's Wet and Shirtless State

The mere fact that appellant was wet and shirtless did not prove the prosecution's case to the degree required by the law. From this, the trial court made another inference based on another inference. From the inference that he had thrown away his shirt, the trial court further inferred that he had done so because the shirt was spattered with blood. "The legal theorem, however, is that one can not draw an inference from another inference. If so, x x x in Moran's words 'we would be entering upon a sea of inferences with no rudder or compass to control the direction.'"[13]

The Only Person at the Scene of the Crime

The trial court also found that appellant was the only person seen at the crime scene before, during and immediately after the incident. This is not supported by the records. Although he was in the banana plantation, he was never seen near the dry creek where the body of the child was found.

Considering that the house of the victim was 100 meters away from where her body was found and that appellant was seen by her parents about 10 meters from their house, then his location in relation to her body was about 90 meters away. When asked for assistance, Prosecution Witness Rolando Oliveros was in fact nearer to the crime scene than appellant was, being just 50 meters away from where the body of the victim was found[14] Furthermore, since Oliveros was the one who reported finding the body, then he, not appellant, was the only one who was certainly known to have been at the crime scene immediately after the incident. The trial court again made an erroneous finding of fact in this instance.

Location of Flowing Water

The trial court further found that the body of the victim was found near a creek with flowing water. The records show, however, that this creek was about 30 meters away[15]-- quite a distance from the body.

Supposed Blood on the Knife

Further, we cannot give weight to the allegation that there was a sticky substance resembling blood on the knife given by appellant's mother to the police officer. There is evidence on record that the knife was clean when handed to the police by appellant's mother, who testified as follows:

"Q

After the Policemen inquired from you where is your son Rolando, what did you do?

A

I answered the Policemen that he was there listening [to] the radio and I [was] also listening the radio and I did not notice where he [went].

Q

After that Mrs. witness, what transpired next?

A

They asked me where was that knife used by [my] son in gathering banana leaves.

Q

And who asked you that question?

A

The policemen.

Q

So what did you do after certain policemen asked x x x you where was the knife used by your son in gathering banana leaves?

A

I got the knife from our kitchen and gave it to [them].

Q

And what happened after you showed the knife to the policemen?

A

When I gave that knife to the policemen, that knife ha[d] no handle and it was clean.

Q

And what did the policemen do after you ha[d] shown to them the knife?

A

They brought the knife with them."[16]

The prosecution itself had the evidence of the knife at its disposal. Police Officer Homer Vargas stated:

"Q:

You said that the knife was handed by the father of Rolando Solis. Could you tell us where is the knife now?

A:

The knife is now in the possession of Sr. Insp. Dulaca, the Station Commander of Himamaylan, Negros Occidental.

x x x x x x x x

Q: Did you exert efforts to look for that so that you can present that during the hearing?

A: We also asked Sr. Insp. Dudero to have it presented at this hearing but we failed to contact him to bring it today.

Q: In your mind that gun [sic] was lost?

A:

I do not know, sir, because he has a certificate that he would present [to the] Court if for him to present [it] will [be] demand[ed]."[17]

If the knife was really smeared with a sticky substance similar to blood, the prosecution could have easily

presented the knife itself during the presentation of its evidence in chief or even during rebuttal. That it did not do so raises the presumption that the condition of the knife was unfavorable to its case. As Justice Francisco had explained, "where a party fails to present a fact necessary to his case when it is within his power to do so, it will be presumed that such fact does not exist, and the same is true where evidence as to a certain matter is introduced, and the adverse party, having it within his power to refute such evidence if it is untrue, fails to introduce any refuting evidence." [18]

Furthermore, the testimonies of the two prosecution witnesses regarding the alleged blood on the knife are not believable. Police Officer Vargas testified thus:

"Q: When the parents gave you the knife, did they say anything about the knife?

A: I saw both surfaces of the knife had sticky substance similar to blood.

Q: You mean to say that the knife surrendered by the parents was still wet with substance?

A: Yes, sir.

Q: Similar to blood?

A: Yes, sir." [19]

Basic is the rule that evidence, to be believed, must not only proceed from the mouth of a credible witness but must be credible in itself, such that the common experience and observation of mankind can show it as probable under the circumstances. [20] In this case, Vargas testified that the knife given to him by appellant's mother was smudged with a sticky substance similar to blood. However, blood is not sticky but is more like water in consistency. It follows that either the substance on the knife was not blood; or the policeman was fabricating, and the knife really was clean as testified to by appellant's mother.

The testimony of Zebred Santillan indicating that he saw fresh blood on the knife is not believable either. It must be considered that appellant, according to Prosecution Witness Benjamin Oliveros, had left the banana plantation around ten o'clock that morning. [21] The victim's body was found sometime before eleven o'clock in the morning. The policemen were handed the knife around noon. Thus, if the knife really was the one used in the killing, the alleged blood would have been on it for about two hours already by the time the police and Witness Zebred Santillan saw it. Since blood starts to coagulate or clot after 15 minutes, [22] any blood that might have been on the knife must have already dried up at the time. Thus, any alleged blood that was on the knife would not fit the description of "fresh" blood.

Appellant Not in Hiding

The trial court and the Office of the Solicitor General also maintain that appellant had been in hiding for almost 4 years since the commission of the crime until his apprehension in a hospital while undergoing treatment for a stab wound. This allegation, however, is not supported by any convincing evidence, for it is based only on a manifestation by the public prosecutor, to wit:

"PROS. AMISOLA

Q

Mr. Solis, you know for a fact that on October 11, 1990 a subpoena was sent to you by Asst. Prosecutor Eduardo B. Esquilla for you to answer the charges against you for rape with homicide?

A

I have not received any subpoena.

PROS. AMISOLA

I would like to manifest on record, Your Honor, that a return of the subpoena dated October 8, 1990 stated that then respondent [could] not be found at the given address and this was also returned on October 11, 1990."[23]

A mere manifestation cannot take the place of evidence to prove the existence of a fact -- in this case, that appellant was in hiding. Evidence to the contrary - that he was not hiding -- was in fact elicited from him by the trial court and the public prosecutor. Below, we quote the relevant portion of his testimony:

"Q: You said that you were apprehended 1994. Where were you apprehended?

A: At the hospital.

Q: Which hospital?

A: Provincial hospital.

COURT

Q: Why were you there?

A: I was stabbed in our place at Greensville I.

COURT

Q In 1980 where were you residing?

A At Camingawan.

Q That is your permanent residence?

A Yes, sir.

Q You were staying there continuously even up to September 20, 1990?

A Yes, sir.

Q And you stayed there even up to September 20, 1990 to 1994?

A Yes, sir.

Q You were staying there?

A Yes, sir.

PROS. AMISOLA

Q

Mr. Solis, you answered that when you were stabbed you were residing at Greensville I. This Greensville is different from your residence at Camingawan, is that correct?

A Yes, sir. I am not residing at Greensville I.

Q

You want to impress this Honorable Court that, Mr. witness, that from September 20, 1990 up to 1994 when you were arrested, you [had] continue[d] to live in your present residence at Purok Paho, Brgy. Camingawan,

Bacolod City?

A Yes, sir.

Q

You mentioned in your examination that you were advised by your Brgy. Captain named Basilio to stay away. My question is, did you follow his advice or suggestion that [was] why you were only apprehended 1994?

A No, sir.

COURT

Q Meaning to say that you continued to stay in your residence as usual?

A Yes, sir."[24]

Clearly, the trial court's finding that appellant had been in hiding for almost four years is not supported by any evidence. In fact, he had been staying in his residence all the time.

Alleged Flight of Appellant

The trial court also found that appellant had fled and was pale and terrified right after the incident. We are not convinced that this was so. Lucia Balbuena and Zelbred Santillan testified only that appellant "seemed feared[sic]".[25] Indeed, there is more than enough room for the probability that appellant was not really afraid. He might have only appeared to be so to the prosecution witnesses whose competence in reading human emotions was, however, not established.

When material, independent facts or circumstances are relied upon to identify the person who committed the crime charged, they must necessarily be so linked as to complete a chain or series of facts pointing to the guilt of the accused, with each link established as firmly as the main fact.[26] The evidence presented by the prosecution fails to prove beyond reasonable doubt that appellant had been terrified at the time.

The records also show, as the prosecution witnesses themselves narrated, that appellant continued cutting banana leaves and, afterwards, arranging them. He then proceeded to the house of Benjamin Oliveros, asked how much the banana leaves were worth and paid for them before leaving. It was only after the former had completed all these acts that he left the area. These were not the acts of a terrified person in flight.

That appellant was hurrying while carrying a bundle of banana leaves is susceptible of a reasonable explanation consistent with his innocence. In the province, it is a common and normal behavior, when carrying a load, to hurry along to reach one's destination quickly and to put down the load and relieve one's muscles.

Verily, after weeding out the facts and circumstances that have not been proven beyond reasonable doubt, only those circumstances that are ambiguous remain, as follows:

"1) [O]n the morning of September 20, 1990 around 9:00 A.M. more or less, the accused was seen by Sabiniano and Lucia Balbuena, parents of eight (8) year old Lilibeth, cutting banana leaves alone in a banana grove behind their house some 10-15 meters away. In the yard of their house was Lilibeth;

"2) At the time the accused was seen by the Balbuenas, he was wearing white T-shirt and maong pants;

"3) Previously, the accused, when buying the banana leaves from the banana grove owned by Benjamin Oliveros was always accompanied by his mother and/or sister. They ha[d] always done this for over a year. But on September 20, 1990 he came alone.

"4) Prior to September 20, 1990 the accused was seen three (3) times by the Balbuenas cutting banana leaves in the banana grove owned by Benjamin Oliveros which was behind their house.

"5) When on the morning of September 20, 1990 the parents called Lilibeth for breakfast, she was nowhere to be found and she was no longer in the yard. When the parents of Lilibeth went out to look for her they likewise noticed that the accused was gone too. When the parents returned sometime after their search, they found the accused again cutting banana leaves;

"6) When asked by the parents if the accused had seen the child, the accused said that he saw her crossing the bridge. When the parents followed the direction given by the accused, Lilibeth could not be found there. When asked again or her whereabouts, the accused gave the same lie three (3) times to the parents;

"7) When Zelbred Santillan, a former co-worker of the accused in a construction project and a neighbor met him on the road, the accused was wet, shirtless and hurrying carrying a bundle of banana leaves. He ignored the greetings of Santillan;

"8) It was only on September 20, 1990 that the accused bought for the first time banana leaves worth only P7.00 when in all previous cases he [had] bought leaves worth between P20.00 [and] P30.00;

"9) When he paid with a P10.00 bill for leaves worth P7.00 he immediately went away without waiting for his change;

"10) Lilibeth's chest was slashed open by a bladed instrument and she was covered by freshly cut banana leaves and the accused at that time was provided with a knife and scythe and gathering banana leaves;

Since these remaining pieces of circumstantial evidence are consistent not only with the guilt of appellant but also with his innocence, we find that the quantum of evidence required to sustain his conviction has not been met by the prosecution. Indeed, the Court has consistently ruled that "if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction." [27]

In case of doubt, the Court has stated that "the scales must be tipped in favor of the accused. Circumstantial evidence as a basis for conviction of crime should be acted on and weighed with great caution x x x as our jurisprudence is built around the concept that it is preferable for the guilty to remain unpunished than for an innocent person to suffer a long prison term unjustly." [28]

The records show that appellant was indeed a very convenient suspect. It appears that aside from naming him as the suspect, the police investigators did nothing more than a perfunctory investigation to substantiate their suspicions. They should realize that it is on the result of their work, the evidence they have gathered, that the conviction and the punishing of criminals largely depend. They should not sit complacently and consider their work finished upon identifying a suspect. They should bear in mind that conviction can be based only on the basis of evidence that proves the guilt of the accused beyond reasonable doubt. This Court cannot and will not countenance a conviction on the basis merely of suspicions, no matter how strong.

The evidence on record does not point to appellant, "to the exclusion of all others," [29] as the one who had killed and had carnal knowledge of Lilibeth Balbuena -- at least, not to the degree of moral certainty required in our judicial system.

WHEREFORE, the appeal is GRANTED and the appealed Decision is hereby REVERSED and SET ASIDE. On reasonable doubt, Appellant Rolando Solis y Segovia is ACQUITTED. The director of the Bureau of Corrections is ordered to cause the immediate release of appellant, unless he is being lawfully held for another cause; and to

inform the Court of the date of his release, or the reasons for his continued confinement, within ten days from notice. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

[1] Written by Judge Othello M. Villanueva.

[2] Records, pp. 1-2.

[3] Records, p. 26.

[4] The case was deemed submitted for resolution on August 16, 2000, when this Court received the Appellee's Brief. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[5] Appellee's Brief, pp. 4-8; rollo, pp. 109-113. The Brief was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Antonio L. Villamor and Solicitor Raul J. Mandin.

[6] Appellant's Brief, pp. 6-8; rollo, pp. 59-61. The Brief was signed by Attys. Arceli A. Rubin, Bartolome P. Reus and Ma. Vanessa B. Donato-Balmaceda, all of the Public Attorney's Office.

[7] Appellant's Brief, p. 8; rollo, p. 61.

[8] Sec. 4, Rule 133, Rules of Court. *People v. Asis*, 286 SCRA 64, 71, February 9, 1998; *People v. Llaguno*, 285 SCRA 124, 141, January 25, 1998; *People v. Quitarior*, 285 SCRA 196, 208, January 28, 1998.

[9] Rollo, pp. 32-34.

[10] TSN, May 23, 1995, p. 12.

[11] TSN, May 23, 1995, p. 13.

[12] TSN, June 27, 1995, pp. 20-21.

[13] *People v. Flores*, 186 SCRA 303,313, June 6, 1990, per Sarmiento, J.

[14] TSN, February 16, 1996, p. 15.

[15] TSN, May 23, 1995, p. 22.

[16] TSN, January 21, 1998, p. 6.

[17] TSN, December 6, 1996, pp. 10-11.

[18] Francisco, *Evidence*, 1994 ed., p. 417.

[19] TSN, June 7, 1996, p. 13.

[20] *People v. Alba*, 256 SCRA 505, 513, April 25, 1996; *Cosep v. People*, 290 SCRA 378, 385, May 21, 1998.

[21] TSN, May 23, 1995, p. 33.

[22] *People v. Jara*, 144 SCRA 516,538, September 30, 1986.

[23] TSN, July 16, 1997, p. 20.

[24] TSN, July 16, 1997, pp. 372-373.

[25] Records, pp. 158, 168.

[26] Francisco, Evidence, 1994 ed., p. 586.

[27] People v. Ale, 145 SCRA 50, October 14, 1986, per Gutierrez, J.

[28] People v. Salangoste, 188 SCRA 422, 443, per Bidin, J. (Citations omitted.)

[29] People v. Qutorio, 285 SCRA 196, 208, January 28, 1998.

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