

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENANTE MENDEZ AND BABY CABAGTONG, ACCUSED-APPELLANT.

G.R. No. 147671. November 21, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 22, Laoang, Northern Samar, finding accused-appellants Renante Mendez and Rene “Baby” Cabagtong guilty of the crime of rape with homicide and sentencing each of them to death and to indemnify the heirs of victim Candy Dolim in the amount of P100,000.00 as damages. Because the record of this case is replete with numerous instances of procedural and evidentiary lapses, we are constrained to reverse the judgment of the trial court and acquit accused-appellants on the basis of reasonable doubt.

The prosecution in this case began with the filing of an information by Prosecutor Napoleon C. Lagrimas on March 5, 1997. The information alleged ^¾

That on or about the 8[th] day of December, 1996, at about 7:30 in the evening, more or less, at Sitio Tinotogasan, Brgy. Burabud, Gamay, Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, by means of force and intimidation, and with lewd design did, then and there willfully, unlawfully and feloniously have sexual intercourse with the private offended party named CANDY DOLIM, which is against her will and consent; and that on the occasion of said incident, the above-named accused with intent to kill and without any justifiable cause, did then and there, willfully, unlawfully and feloniously attack, assault and stab said CANDY DOLIM, on the different parts of her body, which wounds caused the instantaneous death of the latter.

CONTRARY TO LAW.[2]

Accused-appellants, assisted by counsel, pleaded not guilty to the crime charged, whereupon trial ensued.

The prosecution presented six witnesses: Rico Dolim, Aurea Cabagtong, Ronnie Cabagtong, SPO2 Noli Cernio, Zosimo “Mager” Mejica and Dr. Santiago M. Engo, Medical Officer III of Gamay District Hospital, Gamay, Northern Samar.

Rico Dolim is the father of the victim. (It appears that he and his wife, Erma Ada, were estranged.) He testified that, in the morning of December 8, 1996, Candy Dolim, then 13 years old, left their house to collect bets on the PBA ending games from the local residents. When she did not return home that evening, Rico asked his father Ambrosio and his daughter Jinky to look for Candy, but they did not find her. Information that Candy was in Mapanas with her mother proved wrong. On December 12, 1996, word reached Rico that a young girl was found dead in Sitio Tinotogasan. Rico immediately went to the place and found the lifeless body of Candy. Her panty and shorts were hanging from an ankle, while her shirt was rolled up to her throat. She had wounds in different parts of her body.

Rico sought the help of the police and Barangay Captain Pedro Gomba.[3] Having heard that a certain Ronnie Cabagtong[4] was involved in the killing of his daughter, Rico filed a complaint against Ronnie, who was then investigated by the police. While Ronnie was under investigation at the police headquarters, his mother, Aurea Cabagtong, came to the station. She told Rico Dolim that she knew what actually happened to Candy and offered to be a witness.[5] Aurea Cabagtong pointed to accused-appellants Baby Cabagtong[6] and Renante Mendez as the perpetrators of the crime.

Rico Dolim's statement, as well as that of his father, was taken by the police, as were those of Aurea Cabagtong, Dimas Pugnit, and Ronnie Cabagtong. Rico said he knew accused-appellant Renante Mendez because he was their neighbor. He was acquainted with accused-appellant Baby Cabagtong because the latter was also from Barangay Burabud.[7] Rico Dolim claimed he had suffered unbearable loss as a result of his daughter's death and that he had incurred burial and other incidental expenses which he estimated to be P7,000.00.

For her part, Aurea Cabagtong claimed that, on the night of December 8, 1996, accused-appellants Renante Mendez and Baby Cabagtong went to her house. They were soaked from the rain. She said that her son Ronnie, who was already about to sleep, asked her to let the two inside. She said her son talked with accused-appellants, but she did not understand what they had been discussing. Aurea Cabagtong said she saw accused-appellants washing their clothes to remove bloodstains on them. The two spent the night in her house with her son Ronnie. When she woke up the following morning, she found they had already left.[8]

Aurea said she was able to talk to her son about accused-appellants' visit only when she went to the police headquarters while Ronnie was being investigated. She gave a statement, which was reduced in writing, before SPO2 Noli Cernio.[9] On cross-examination, Aurea said that Ambrosio Dolim had asked her to testify in this case. According to her, Ambrosio went to her house and paid for her expenses in attending court sessions.[10]

Ronnie Cabagtong, the third witness for the prosecution, claimed to be an eyewitness to the crime. He said that, on the night of December 8, 1996, he watched a Betamax show in Kagawad Tesoro's house in Occidental II, poblacion of Gamay. Several people were there, including accused-appellants Renante Mendez and Baby Cabagtong and the victim Candy Dolim. He said that Candy Dolim left after the first show to solicit bets for the PBA ending games. Accused-appellants Renante Mendez and Baby Cabagtong followed. Ronnie said he left Kagawad Tesoro's house five minutes later and met Dimas, who told him that he had seen accused-appellants with a girl. According to Ronnie, he was about three meters away when he later saw accused-appellants. Renante Mendez was on top of Candy, having sexual intercourse with her, while Baby Cabagtong was holding the victim's hands. It was raining and there was no moonlight, but Ronnie said he recognized Renante and Baby because of a lantern which illuminated the place. According to Ronnie, he proceeded home and, at about 9 o'clock that night, he heard someone calling from the outside. It was accused-appellants Renante Mendez and Baby Cabagtong. Ronnie said he asked his mother to let the two inside their house. He noticed that they had bloodstains on their shirts. He said the two washed their clothes to remove the stains and later slept in his room. They warned Ronnie not to tell anyone about what he saw or else they would kill him and his family. Ronnie said that he and accused-appellants then went to sleep. The next morning, accused-appellants left.[11] Ronnie said he later learned that Candy had been killed and she was buried on December 12, 1996.

That same day, December 12, 1996, Ronnie, together with Renante Mendez, was apprehended by SPO2 Noli Cernio. Ronnie testified that he did not immediately tell the police or SPO2 Cernio what he knew about the case because Renante had a cousin who was a policeman. SPO2 Cernio did not put his statement in writing. Ronnie was later released by the police. In February 1997, he went to Manila to avoid involvement in this case and to look for a job.[12] He was fetched from Manila by his mother on April 29, 1997 and was later taken to Catbalogan, where he was investigated by the NBI.[13] According to Ronnie, he finally decided to talk about this

case because he was bothered by his conscience. He said he had been acquainted with accused-appellants for a long time, particularly Renante Mendez, whom he had known since he was a boy. He denied any relation to Baby Cabagtong and claimed that he had no grudge against accused-appellants.[14]

On cross-examination, Ronnie reiterated that, at around 8 o'clock in the evening of December 8, 1996, he saw accused-appellant Renante Mendez raping Candy. He recognized Renante because of the light from a lantern. He did not stay long in the area because it was drizzling. Ronnie could not remember what Candy and Renante were wearing at that time. Neither did he hear cries from the victim. He said he did not tell his mother about the incident because he went to sleep immediately after eating dinner. When Renante and Baby went to his house at around 10 o'clock in the evening, Ronnie asked his mother to let them in because they were his acquaintances. He claimed he agreed to testify in this case because Candy was his cousin.[15]

Dr. Santiago M. Engo performed the autopsy on Candy Dolim. He found the body of Candy in a state of decomposition. In his report,[16] he stated he found five (5) wounds on different parts of Candy's body: (1) a hack wound on the neck, which, according to him, was fatal; (2) an incised wound, 5 inches long, gaping and 1 [1]/2 inches deep, located at the anterior upper third of the left arm; (3) an incised wound, 3 inches long, gaping and 2 inches deep, located at the lateral 3[rd] of the right forearm; (4) an incised wound, 7 inches long, gaping and 2 inches deep, located at the anterior upper 3[rd] of the right forearm extending up to the lower 3[rd] of the arm of said side; and (5) a lacerated vaginal wound, 2 inches long, located at the 6 o'clock position of the vaginal orifice.[17]

Dr. Engo stated that wounds no. 1, 2, 3 and 4 were caused by a sharp bladed instrument, with the victim facing his assailant, and that wound no. 4, the vaginal laceration, was caused by a blunt instrument. Only wound no. 1 (the hack wound in the neck) was serious and could have caused the instantaneous death of the victim. It was possible that the assailant was on top of the victim and that he was right-handed. By Dr. Engo's estimate, Candy Dolim could have died either on December 7 or December 8, 1996. Due to the decomposition of the body, Dr. Engo was not able to extract or take any semen samples from the vagina, although he was able to examine the wound found on it. He said he could not be certain if the victim had been sexually assaulted.[18]

Farvesio Banawis, also testifying for the prosecution, declared that he owned a coconut plantation in Barangay Bato, Gamay, Northern Samar. On December 8, 1996, while he was on his way home to Barangay Burabud from Barangay Bato, where his plantation was situated, he met three persons, one of whom was Candy Dolim. He knew her to be the granddaughter of a certain "Bokoy." He identified accused-appellants in court as the persons in the company of Candy that night. He said he even talked with Candy Dolim. He asked her what she was doing, and she answered she was looking for the winner of the PBA ending games. He did not talk with accused-appellants Renante Mendez and Baby Cabagtong.[19]

The following day, Farvesio said, he left for Manila. A week later, he learned from his townmates, who had come from the province, that a little girl had been found dead in Gamay. He thought it might be the girl he had met near his property. But he stayed long in Manila and only went home to Gamay in May. After he had verified the news about Candy Dolim, he went to Ambrosio Dolim and told him that he was willing to testify in this case.

Farvesio was investigated by SPO2 Noli Cernio. He executed a sworn affidavit[20] before the clerk of court of the Municipal Court of Gamay, Gil Ada. He said that it was possible that accused-appellants raped and killed Candy because they were the ones following her. He claimed he had no grudge against accused-appellants. He volunteered to be a witness in this case, but, according to him, his affidavit was executed only when this case was already filed in court because he stayed in Manila for a long time.[21]

The next witness for the prosecution, SPO2 Noli Cernio, testified that he was a member of the PNP of Gamay

assigned as an investigator in the Intelligence Section. In the morning of December 8, 1996, he was informed that a dead body had been found in Sitio Tinotogasan. For this reason, he went to Barangay Burabud with Chief of Police Peter Longcop and Dr. Santiago Engo to conduct an investigation. When they arrived in Sitio Tinotogasan, Barangay Burabud, they found the lifeless body of Candy Dolim. Candy's grandfather identified her body.[22]

SPO2 Cernio found the victim to have been stabbed several times. She was lying on a grassy area with her panty pulled down to her feet and her upper dress raised up to her neck. Her body was already in a state of decomposition. The right side of Candy's face was unrecognizable. SPO2 Cernio took pictures of the dead body, which were marked as Exhibits G, G-1 and G-2.

SPO2 Cernio said he questioned Ronnie Cabagtong and accused-appellant Renante Mendez. Ronnie told him that accused-appellants Renante Mendez and Baby Cabagtong went to his house at around 10 o'clock in the evening on the day of the incident. SPO2 Cernio said he did not take the sworn affidavit of Ronnie Cabagtong because the latter denied involvement in the case and claimed that he was in their house on the night of the incident.[23]

SPO2 Cernio said that Ronnie Cabagtong was released from custody after he had informed the Chief of Police that he was innocent. Accused-appellant Renante Mendez remained in custody for investigation, while the Chief of Police ordered accused-appellant Baby Cabagtong to be arrested. SPO2 Cernio investigated accused-appellant Baby Cabagtong, who denied participation in the incident. The investigation was not put in writing. Cernio said he also investigated Aurea Cabagtong, Rico Dolim and Ambrosio Dolim. He testified that he knew accused-appellant Renante Mendez because there were several cases filed against the latter, including a rape charge which was dismissed after Renante married the complainant. With respect to accused-appellant Baby Cabagtong, SPO2 Cernio said he too had several complaints against him, but not all were filed in court. SPO2 Cernio claimed that accused-appellant Baby Cabagtong was a trouble-maker. He also said that Ronnie Cabagtong and accused-appellants Renante Mendez and Baby Cabagtong were always seen together.[24]

On cross-examination, SPO2 Noli Cernio testified that he filed the case against accused-appellants Renante Mendez and Rene "Baby" Cabagtong because he had been informed that they had watched a Betamax show together with the victim. From other sources, he had learned that the victim and accused-appellants were in Barangay Burabud on the date and time in question. He investigated Ronnie Cabagtong, but he did not take down the latter's affidavit because he believed his claim that he was at home at the time of the incident.[25]

The defense then presented its evidence. Its theory is that the crime was committed by one Randy Gomba, and not by accused-appellants, as charged by the prosecution. The first witness, Josefina Bernas, testified that, on the day of the crime, she and her husband were in Sitio Tinotogasan making copra. While they were working, they heard a woman crying. When Josefina went to see what it was, she saw a girl being raped by a man. Josefina recognized the assailant to be Randy Gomba. The girl was lying on her back with her legs raised, her shorts were at her ankle and her blouse was around her neck. She saw Randy Gomba holding the girl in his arms. She was bleeding profusely. Randy warned her: "No such story would come out, otherwise, [I will] kill [you]." Frightened, Josefina ran fast until she reached her husband. After she had told her husband what she had witnessed, they hurriedly went home, passing through another route because they were afraid they might encounter Randy Gomba.[26]

Upon reaching home, Josefina wrote the date and time of the incident and told her husband to watch out as Randy Gomba might come to their house. Randy in fact went to their house and threatened to harm them if they told anybody about the incident. Josefina said Randy even asked P20.00 from them for his fare, but they had no money at that time.[27]

After Randy had left their house, Josefina and her husband went to the house of her in-laws. A few days later, they asked a neighbor to seek the help of the barangay captain. It was the barangay captain's son, July Gobatana,

who came and brought them to his house. They stayed there for almost three weeks, and left the barangay captain's house only when they were informed that Randy had gone to Manila.[28] Josefina said she gave the note she had made to Eladio Cabagtong. She then sought the help of Isabelo Lucero, a barangay captain in Laoang and a godfather of the victim. Isabelo Lucero wrote a letter to Erma Ada, the victim's mother. Josefina went with Isabelo Lucero to deliver the letter to Erma, but she did not know its contents. Josefina said she knew accused-appellants Renante Mendez and Rene Cabagtong and that she did not see either of them near the area where the incident took place at any time during that day.[29]

On cross-examination, Josefina said that she came forward because she was bothered by her conscience. She decided to tell what she knew about the case so that "justice [would] be [done]" to the victim as well as to accused-appellants, who would suffer imprisonment even though they were innocent. She said that she blamed herself for not reporting the matter to the authorities until February 1997.[30]

Isabelo Lucero, barangay captain of Barangay Guilaoangi, Laoang, Northern Samar, confirmed that Josefina Bernas had told him that she had seen a girl raped and killed. The girl was Isabelo Lucero's goddaughter, Candy Dolim. He said that Josefina told him that the assailant was a certain Gomba, whose first name she could not remember. Josefina Bernas and Isabelo Lucero did not discuss whether accused-appellant Renante Mendez or Baby Cabagtong were involved in the crime. Isabelo Lucero wrote a letter to the Chief of Police of Gamay, informing the latter what Josefina had told him and recommending that Gomba be arrested. However, the Chief of Police did not heed his advice.[31]

Accused-appellant Rene "Baby" Cabagtong testified in his defense. He said that he was arrested on December 13, 1996 in his farm in Sitio Pinamihagan, Gamay, Northern Samar, by barangay tanod Mano Mejica.[32] Accused-appellant Baby Cabagtong was on his way home to take his meal when he met Mejica, who asked him to go with him. When Baby demanded to know why he should do so, Mejica pointed a gun at him. Baby was taken to the municipal hall of Gamay, where he was investigated by policeman SPO2 Noli Cernio. A certain Peter Longcop was the sole companion of SPO2 Cernio during the investigation. Cernio asked him his whereabouts on that particular Sunday when the crime occurred, and Baby answered that he was at his farm for it was customarily a working day. According to Baby, SPO2 Cernio asked him only one question. Peter Longcop, on the other hand, asked Baby to testify against accused-appellant Renante Mendez because they wanted Baby to implicate him, but he refused.[33] He claimed he was told to go downstairs and was then placed in jail. There were other prisoners inside the jail cell, including accused-appellant Renante Mendez.

Accused-appellant Baby Cabagtong said everything Ronnie Cabagtong had said was a lie and that SPO2 Noli Cernio convinced Ronnie to testify against them as a condition for the latter's release. Baby claimed that at the time of the incident, he was with his parents and siblings in his house at the outskirts of Barangay Burabud, more than one kilometer, from the scene of the crime.[34]

On cross-examination, accused-appellant Baby Cabagtong testified that he was not aware of an order of the MCTC of Gamay (Exhibit H), requiring him and Mendez to submit their counter-affidavits. Baby Cabagtong told the court that he harbored no grudge against Farvesio Banawis, with whom he was acquainted, and Aurea Cabagtong, who was his aunt, although a distant relative. He also knew Gil Ada, the Clerk of Court of MCTC of Gamay, and he even appeared in court before him. Gil Ada had required them to sign a waiver which they did not sign.[35]

Accused-appellant Renante Mendez also took the witness stand. He claimed that in December 1996, he was in Gamay, helping his father make copra. He was arrested on December 12, 1996 as a suspect in this case, together with Ronnie Cabagtong, by SPO2 Noli Cernio, Peter Longcop, Gejada and Barredo, all of whom were members

of the PNP of Gamay. He was not shown any warrant when they were arrested.[36]

Accused-appellant Renante Mendez and Ronnie Cabagtong were brought to the municipal hall, where their pictures were taken. After they were investigated, Renante was locked up in jail and brought downstairs, while Ronnie Cabagtong was taken upstairs. Renante overheard the police asking Ronnie to testify against him in this case. Because he agreed, Ronnie was released and later utilized as a witness.[37]

Upon cross-examination, accused-appellant Renante Mendez testified that he was not aware that the municipal court of Gamay had ordered him to submit counter-affidavits nor was he furnished with a copy of the charges filed against him. He denied participation in the crime, saying he did not leave his house that evening of December 8, 1996 because he was sick. He knew the mother of Ronnie, Aurea Cabagtong, as well as Farvesio Banawis. According to accused-appellant Renante Mendez, he did not harbor any ill will against Farvesio Banawis, Aurea Cabagtong or Ronnie Cabagtong.[38]

On October 5, 1999, Gil Ada, the Clerk of Court of MCTC of Gamay, Northern Samar, was presented as a defense witness. Ada said that, as Clerk of Court of MCTC of Gamay, he had issued an order requiring accused-appellants Mendez and Cabagtong to appear and submit their counter-affidavits, together with those of their witnesses, in connection with the criminal complaint filed against them. Ada said he had issued the order on the authority of Judge Espina, now retired, and upon the order of the present judge, Judge Lagrimas, who conducted the preliminary examination in this case.[39]

On cross-examination, Gil Ada said that it was usual for the court to issue an order for the submission of counter-affidavits. Ada did not know, however, if accused-appellants submitted their counter-affidavits. On re-direct examination, he testified that his purpose in issuing the order was to let accused-appellants answer the complaint, but he could not say if it was also for the issuance of the warrants of arrest.[40]

The prosecution presented SPO2 Noli Cernio as a rebuttal witness. SPO2 Cernio denied that he taught Ronnie Cabagtong what to say in court. According to him, Ronnie was not arrested but only “invited” to the police headquarters. Aurea Cabagtong informed them that Ronnie was not involved in the case and that Ronnie would be willing to testify against the perpetrators. He said that accused-appellant Renante Mendez could not have overheard him promising liberty to Ronnie if the latter agreed to testify. SPO2 Cernio said that the Chief of Police had ordered the arrest of accused-appellants on the basis of information given by Aurea Cabagtong. SPO2 Cernio said no pictures were taken of accused-appellants.[41]

On cross-examination, SPO2 Cernio told the court that the arrest of accused-appellant Renante Mendez without a warrant was based on their knowledge of his guilt. He claimed that they had released accused-appellant Renante Mendez from custody, but he did not want to leave because he was afraid of getting involved in the case. On the other hand, Magno Mejica arrested Rene “Baby” Cabagtong, also without a warrant, based on the citizens’ arrest law. Mejica knew about the case because he was from Barangay Burabud and a member of the Citizens’ Crime Watch and an NPA surrenderee.[42]

Zosimo Mejica, resident of Gamay, Northern Samar, also testified. Mejica declared that he knew accused-appellant Baby Cabagtong because Baby’s mother was his second cousin. When he learned that Candy Dolim had been raped and killed, he went to the place where Candy’s body had been found. There were no houses near the crime scene, the nearest being, in his estimate, 100 meters away. When he arrived at the scene, he saw Candy lying face up, with her panty on her ankles and her T-shirt raised up to her neck. Several people were present at the scene, including SPO2 Noli Cernio. Candy’s body was taken to her grandfather’s house. Mejica knew that the police conducted an investigation, which, according to him, pointed to accused-appellants as the ones responsible for the crime.[43]

Mejica recalled that, on December 13, 1996, while he was on his way to Sitio Pinamihagan, he met accused-appellant Baby Cabagtong. He said he collared accused-appellant and told him that he was being arrested as one of the suspects in the rape-slay of Candy Dolim. According to Mejica, Baby tried to escape but failed. He took Baby to the headquarters and turned him over to the police. Mejica stated that he did not use a gun in arresting Baby Cabagtong, but a small bolo belonging to Baby, which he pretended to borrow from the latter. He turned over the small bolo (tinogon) to the police. Mejica said he was present when the police and the mayor investigated accused-appellant Baby Cabagtong. According to Mejica, he based his arrest of Baby from the statement of Aurea Cabagtong. This was not the first time, he said, that he had arrested a suspect in a case.[44]

The trial court found the evidence for the prosecution, particularly the testimonies of Ronnie Cabagtong and his mother, credible and rendered judgment for the prosecution. The dispositive portion of its decision dated December 22, 2000, reads:

WHEREFORE, premises considered, the Court hereby finds both accused Renante Mendez and Baby Cabagtong guilty of the offense of Rape with Homicide beyond all reasonable doubt and hereby sentences them to the supreme penalty of DEATH. The accused are further condemned to indemnify the heirs of the victim the amount of P100,000.00 each as damages.

SO ORDERED.[45]

Assailing the decision of the trial court, accused-appellants argue that ³/₄

I. THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF PROSECUTION WITNESSES RONNIE CABAGTONG AND AUREA CABAGTONG.

II. THE TRIAL COURT ERRED IN NOT FINDING THAT ACCUSED-APPELLANTS WERE MERELY FALL GUYS TO THE RAPE-SLAY OF CANDY DOLIM.

III. THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.[46]

We find the appeal to be meritorious.

I.

First. As already noted, the prosecution is anchored mainly on the testimonies of Ronnie Cabagtong and his mother, Aurea Cabagtong. Upon closer examination, however, certain circumstances make these testimonies suspect. It is doubtful whether Ronnie really saw accused-appellant Renante Mendez raping Candy, with the latter's hands being held by the other accused-appellant, Baby Cabagtong. Ronnie admitted that it was raining that evening and that it was dark as there was no moonlight. He claimed, however, that he was nevertheless able to recognize accused-appellant Renante Mendez and Baby Cabagtong because of a light from a lantern (parol) hanging about five meters away from the trail where the crime had been committed.[47] His testimony is contrary to the testimony of another prosecution witness, Zosimo Mejica, who categorically stated that there were no houses near the area where Candy's body was found and that it was surrounded by trees. Mejica testified:[48]

FISCAL LAGRIMAS:

Q: That place where Candy Dolim was discovered dead, is it near a trail or street?

A: It is about 50 meters [from] the trail.

Q: Are there bushes?

A: Yes, sir.

Q: Tall bushes?

A: Yes, sir, taller than a man standing.

Q: What kind of grass is that?

A: There were trees and some vines.

Q: So it is not grass, is it a tree?

A: Yes, sir.

Q: Is that a forest?

A: There are plenty of trees.

Q: Are there houses nearby?

A: None.

Q: The nearest house from the place where the body of Candy Dolim was discovered is about how far?

A: More than 100 meters.

If there were no houses near the crime scene, it is cause for wonder how the parol, where the light allegedly came from, could have been hanged within a distance of five meters from the place where Ronnie claimed he witnessed the incident. Even if the crime was committed near the trail, and not on the exact spot where Candy's body was found, the nearest house would have to be at least 50 meters away. Ronnie even embellished his story by claiming that the parol was "made of wood with a wick, inside a bottle." [49]

Second. Ronnie's behavior after allegedly witnessing the incident belied his pretension. He was supposed to have witnessed a crime. Yet he went home, took his supper and went to sleep as if nothing had happened. When accused-appellants went to his house, Ronnie did not show any apprehension but matter of factly asked his mother to let them in. This is not the normal reaction of a person who supposedly has just seen a crime committed. Ronnie's claim that the victim was his cousin all the more makes his story incredible. For if this was true, why did he show no concern for her at all? Instead, he showed sympathy for the assailants. Thus, Ronnie testified: [50]

ATTY. SARMIENTO:

Q: After witnessing this act, you went directly home?

A: Yes, sir.

Q: You did not tell your mother what you saw?

A: No, sir.

Q: Why not?

A: Because I immediately went to sleep.

Q: You were able to sleep at once after having witnessed that lustful act?

A: I ate first then I went to sleep.

Q: You mean you were able to eat and sleep after having witnessed this [dastardly] act and this involved your

friends?

A: Of course because I was hungry.

Q: Before December 8, 1996, Renante Mendez and Baby Cabagtong used to go to your house?

A: No, sir.

Q: They are not your friends?

A: No, sir.

Q: Are you sure?

A: They are not my friends.

Q: They are your enemies?

A: No, sir.

Q: But they are your acquaintances?

A: Yes, sir.

Q: And also Candy Dolim?

A: Yes, sir.

Q: Especially so that Candy Dolim is your cousin?

A: Yes, sir.

Q: That is why you are a witness in this case?

A: Yes, sir.

The fact is that another key prosecution witness, SPO2 Noli Cernio, testified that Ronnie and accused-appellants, Renante and Baby, were often seen together. In fact, Ronnie and Renante were picked up and investigated together by the police.[51] If Ronnie was later released, while Renante was detained at the municipal jail, it was only because his mother, Aurea, went to the police station and pointed to accused-appellants as the perpetrators of the crime. As Rico Dolim, the father of the victim, testified:[52]

FISCAL LAGRIMAS

Q: Did you finally know the persons or perpetrators responsible for the death of your daughter?

A: Yes, I finally [knew] the perpetrators who committed the crime against my daughter from somebody who told me that [she] would be a witness.

Q: Who is this person who told you about the persons responsible for the death of your daughter?

A: She is Mrs. Aurea Cabagtong.

Q: When did she tell you?

A: After the funeral of my daughter.

Q: Where did she tell you?

A: At the police headquarters.

Q: Why was she in the police headquarters?

A: Because she was there to look after her son because I made [a] complain[t] against him, Ron[nie], the son of Aurea.

Q: Why did you have Ron[nie] Cabagtong [investigated] in relation to the death of your daughter?

A: Because of the rumors circulating around that I must have to [pin] the person the fact that he is “Bogoy-bogoy”, he may be involved.

Q: Was he investigated by the police?

A: He was investigated by the police.

Ronnie Cabagtong was released upon the recommendation of SPO2 Cernio to the Chief of Police. When asked why he did not take Ronnie’s statement during the investigation, SPO2 Cernio testified:[53]

ATTY. SARMIENTO:

Q: You likewise investigated Ron[nie] Cabagtong?

A: Yes, sir, I investigated [him].

Q: All of these witnesses you have mentioned except Ron[nie] Cabagtong executed affidavit[s] which you took, is that correct?

A: Yes, sir.

Q: Why did you not take the affidavit or statement of Ron[nie] Cabagtong?

A: I made an affidavit for his mother instead.

Q: But Ron[n]ie gave his statement to you, but you did not reduce [it] into writing?

A: Yes, I did not.

Q: Why did you not reduce into writing the statement of Ron[nie]. . . ?

A: Because Ron[nie] was not present during the incident, He was at home.

Q: Why, [were] these other witnesses present, these witnesses you have listed in the Complaint, [whose affidavits you have taken], were they present?

A: No, they were not.

Q: Not [one] of them was present during the incident, is that correct?

A: Yes, sir. Nobody was there.

Q: So that the only reason why you did not take the statement of Ron[nie] was that he was not present during the incident?

A: Yes, sir.

Q: Ron[nie] actually told you that he was not [at] the scene of the incident as he was in his house?

A: Yes, sir.

Q: You will not change that statement?

A: Yes, sir.

Thus, SPO2 Cernio took at face value Ronnie's word that he was innocent. Ronnie and his mother were only too willing to testify against accused-appellants in exchange for his liberty. From the time of Ronnie's release until the time he gave his statement, Ronnie and his mother had sufficient time to iron out the details of their testimonies.

It has been held time and again that, to be credible, testimonial evidence should come not only from the mouth of a credible witness but it should itself be also credible, reasonable and in accord with human experience.[54] The testimonies of Ronnie Cabagtong and his mother Aurea simply do not meet these standards.

If for any reason there is a possibility that a witness might have been prompted to testify falsely, courts should be on guard in assessing the witness' credibility.[55] While we do not want to speculate on Ronnie's participation in the crime, we cannot overlook the ulterior motive that he and his mother had in pointing to accused-appellants as the culprits. For this reason, we cannot accord full faith and credit to their testimonies.

II.

The only evidence left against accused-appellants is circumstantial evidence. Such evidence, to pass muster, must meet the following criteria: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proved; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. Such circumstances must constitute an unbroken chain which leads one to the fair and reasonable conclusion that the accused is guilty. The combination of evidence must leave no room for doubt as to the guilt of the accused.[56]

In this case, Farvesio Banawis said that he met the victim Candy Dolim while he was on his way home. According to him, he saw accused-appellants following Candy.[57] His testimony merely establishes the fact that, at one point during the day of the incident, Candy Dolim was in the company of accused-appellants. However, this fact alone does not warrant the conclusion that accused-appellants raped and killed Candy. It is too dangerous a conclusion to be bridged by this singular event. Farvesio himself admitted that he was merely "thinking that maybe the two guys (referring to accused-appellants) who were following the girl (Candy) were the [ones] responsible." [58]

On the other hand, the defense presented Josefina Bernas, who claimed to have actually witnessed the crime. It puzzles the Court why no investigation was conducted to follow up this lead, considering the persistent efforts shown by the police of Gamay in pursuing accused-appellants. The information was not insignificant. It was an alleged eyewitness account identifying the perpetrator as a certain Randy Gomba. It was even reported through Isabelo Lucero, a barangay captain and a godfather to the victim. It would seem, however, that the police were keen on pinning the blame on accused-appellants, who made for easy targets because of their reputation in their community. But while SPO2 Cernio testified as to the troublesome nature of accused-appellants, he offered no proof for his assertion. There is no record of any case previously filed against them.

Accused-appellants' defense is alibi. But it is settled that where the evidence of the prosecution is itself feeble, particularly as to the identity of the accused as the author of the crime, alibi assumes importance and acquires commensurate strength. The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, the accused would be put in the difficult position of having to prove his innocence even where the prosecution's evidence is vague and weak. The prosecution cannot profit from the weakness of accused-appellants' alibi. It must rely on the strength of its own evidence and establish the guilt of accused-appellants beyond reasonable doubt.[59]

Indeed, unless his guilt is proven beyond reasonable doubt, an accused is entitled to an acquittal.[60] Only when the conscience is satisfied that the crime has been committed by the person on trial should the sentence be for conviction.[61] We find that the prosecution in this case failed to establish the guilt of accused-appellants beyond reasonable doubt. The evidence presented against them failed to prove that they were responsible for the crime. While we deplore this gruesome incident and commiserate with the victim's family, we cannot sustain accused-appellants' conviction on the wretched testimony of an alleged eyewitness presented by the prosecution.

Nor can we close our eyes to the palpable violations of the rights of accused-appellants during the period of their detention. The record shows that accused-appellants were arrested without any warrants from the courts. Contrary to his claim, SPO2 Cernio did not have personal knowledge of the commission of the crime so as to justify the warrantless arrest of Renante Mendez. Personal knowledge of facts in arrests without warrant under §5(b) of Rule 113 of the Rules of Criminal Procedure must be based upon "probable cause," which means "an actual belief or reasonable grounds of suspicion." The grounds of suspicion are reasonable when it is based on actual facts, i.e., when it is supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested.[62]

There is also an inconsistency between Ronnie's testimony and that of SPO2 Cernio. SPO2 Cernio testified that Ronnie told him the day he was arrested that accused-appellants Renante Mendez and Baby Cabagtong went to Ronnie's house at around 10 o'clock on the night of the incident. But Ronnie denied that he told the police what he knew of the incident when he was investigated because he feared for his life. The police failed to record the investigation, and so it is not now possible to determine who was actually telling the truth. It is clear from the records, however, that accused-appellant Renante Mendez was arrested together with Ronnie Cabagtong. On the other hand, the only time the police had evidence against accused-appellant Renante Mendez was when Aurea Cabagtong came forward after her son's arrest and pointed to him (Renante Mendez) and Baby Cabagtong as the perpetrators. But that was only on December 12, 1996, four days after the commission of the crime, and it could not justify the arrest of accused-appellants without a judicial warrant.

Accused-appellant Baby Cabagtong, on the other hand, was arrested by Zosimo Mejica, a member of the Citizens' Crime Watch, on the basis of the citizens' arrest law. Mejica was neither a police officer nor a witness to the incident. He was not a member of the investigating team. He did not have any personal knowledge of the incident. He admitted during cross-examination that he merely based his arrest on the information supplied by Aurea Cabagtong to the police.[63] This does not constitute personal knowledge to warrant a citizens' arrest.

Finally, the records do not show that accused-appellants were assisted by counsel in the course of the investigation. During their questioning at the headquarters, only the police investigators were present. Nowhere in the records was it shown that they were apprised of their rights under the Constitution. While no confession was obtained from them, their interrogation at that time could nonetheless have given the police valuable leads into the unsolved crime. Accused-appellants also insist that they did not receive a copy of the order requiring them to submit counter-affidavits. The Clerk of Court of the MCTC of Gamay merely testified as to the issuance of said order, but testimony does not confirm that such it was received by accused-appellants.

The fact that these irregularities were never raised before arraignment, and were therefore considered waived when accused-appellants entered their pleas, does not justify the short cuts. These procedural lapses clearly indicate that the police had shut its mind off to the possibility that other parties might have committed the crime.

WHEREFORE, the decision of the Regional Trial Court, Branch 22, Laoang, Northern Samar, dated December 22, 2000, is REVERSED and accused-appellants Renante Mendez and Rene "Baby" Cabagtong are ACQUITTED of the crime of rape with homicide on the ground of reasonable doubt.

The Director of Prisons is hereby directed to forthwith cause the release of accused-appellants unless the latter are being lawfully held for another cause and to inform the Court accordingly within ten (10) days from notice of the action taken herein.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Morales, Callejo, Sr., and Azcuna, JJ., concur.
Corona, J., on official leave.

[1] Per Judge Jose H. Mijares.

[2] Rollo, p. 5.

[3] TSN (Rico Dolim), pp. 3-9, July 21, 1997.

[4] Also known as “Bogoy-bogoy” and referred to in the records as “Rony” or “Ronie.”

[5] TSN (Rico Dolim), pp. 10-11, July 21, 1997.

[6] Also known as Rene Cabagtong.

[7] TSN (Rico Dolim), pp. 12-13, July 21, 1997.

[8] TSN (Aurea Cabagtong), pp. 22- 25, July 21, 1997.

[9] Exhs. A, A-1 and translation.

[10] TSN (Aurea Cabagtong), pp. 30-31, July 21, 1997.

[11] TSN (Ronnie Cabagtong), pp. 3-9, Sept. 24, 1997.

[12] Id., pp. 15-18.

[13] Exh. B and translation.

[14] TSN (Ronnie Cabagtong), pp. 19-22, Sept. 24, 1997.

[15] TSN (Ronnie Cabagtong), pp. 4-8, Sept. 25, 1997.

[16] Exh. C.

[17] TSN (Dr. Santiago Engo), pp. 5-10, Oct. 17, 1997.

[18] Id., pp. 12-13, 16-17.

[19] TSN (Farvesio Banawis), pp. 17-18, 21-25, Nov. 3, 1997.

[20] Exh. F and the translation.

[21] TSN (Farvesio Banawis), pp. 26-30, Nov. 3, 1997.

[22] TSN (SPO2 Nilo Cernio), pp. 3-6, Dec. 8, 1997.

[23] Id.

[24] Id., pp. 7-10.

- [25] Id., pp. 13-15.
- [26] TSN (Josefina Bernas), pp. 4-7, Oct. 14, 1998.
- [27] Id., pp. 8-9.
- [28] Id., pp. 9-12.
- [29] Id.
- [30] Id., pp. 15-20.
- [31] TSN (Brgy. Capt. Isabelo Lucero), pp. 3-8, Jan. 11, 1999.
- [32] Also referred to in the records as “Mager” or “Magno” Mejica.
- [33] TSN (Rene “Baby” Cabagtong), pp. 2-6, March 12, 1999.
- [34] Id., pp. 6-9.
- [35] Id., pp. 11-14.
- [36] TSN (Renante Mendez), pp. 2-4, Sept. 10, 1999.
- [37] Id., pp. 6-9.
- [38] Id., pp. 11-18.
- [39] TSN (Gil Ada), pp. 2-5, October 5, 1999.
- [40] Id., pp. 5-7.
- [41] TSN (SPO3 Nilo Cernio), pp. 3-7, June 30, 2000.
- [42] Id., pp. 7-13.
- [43] TSN (Zosimo Mejica), pp. 2-5, July 26, 2000.
- [44] Id., pp. 5-10.
- [45] Rollo, p. 39.
- [46] Brief for Accused-Appellants, pp. 1-2; Rollo, pp. 55-56.
- [47] TSN (Ronnie Cabagtong), pp. 11-12, Sept. 24, 1997.
- [48] TSN (Zosimo Mejica), pp. 3-4, July 26, 2000.
- [49] TSN (Ronnie Cabagtong), p. 12, Sept. 24, 1997.
- [50] Id., pp. 31-32.
- [51] TSN (SPO2 Noli Cernio), p. 6, Dec. 8, 1997.
- [52] TSN (Rico Dolim), pp. 10-11, July 21, 1997.
- [53] TSN (SPO2 Cernio), pp. 14-15, Dec. 8, 1997.
- [54] *People v. Larapie*, 354 SCRA 351 (2001); *People v. Sinco*, 355 SCRA 713 (2001).
- [55] *People v. Leonardo*, 332 SCRA 717 (2000); *People v. Manambit*, 271 SCRA 344 (1997).

[56] *People v. Tapales*, 313 SCRA 610 (1999).

[57] TSN (Farvesio Banawis), pp. 21-22, Nov. 13, 1997.

[58] *Id.*, p. 38.

[59] *People v. Giganto, Sr.*, 336 SCRA 294 (2000).

[60] *People v. Sananon*, Nov. 19, 2001; *People v. Patriarca*, G.R. No. 137891, July 11, 2001; *People v. Matyaong*, G.R. No. 140206, June 21, 2001; *People v. Leonardo*, 332 SCRA 717 (2000).

[61] *People v. Frago*, 232 SCRA 653 (1994).

[62] *People v. Escordial*, G.R. Nos. 138934-35, Jan. 16, 2002.

[63] TSN (Zosimo Mejica), pp. 8-9, July 26, 2000.

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