PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEODEGARIO BASCUGIN Y AGQUIZ, ACCUSED-APPELLANT.

G.R. No. 184704. June 30, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the January 16, 2008 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01855 which affirmed the August 15, 2005 Decision[3] in Criminal Case No. 4371 of the Regional Trial Court (RTC), Branch 10 in Balayan, Batangas. The RTC found accused-appellant Leodegario Bascugin guilty of rape with homicide.

The Facts

In an information dated June 21, 1999, Bascugin was charged with rape with homicide committed as follows:

> That on or about the 4[th] day of June, 1999 at about 7:45 o'clock in the evening, at Barangay [XXX], Municipality of Balayan, Province of Batangas, Philippines and within the Jurisdiction of this Honorable Court, the above-named accused, armed with a bladed instrument and a hard object, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA],[4] against her will and consent and by reason or on the occasion of the said rape, accused with intent to kill, willfully, unlawfully and feloniously stabbed and hit the said AAA, thereby inflicting upon the latter multiple stab wounds and other injuries on the different parts of her body, which caused her instantaneous death.
>
> CONTRARY TO LAW.[5]

With the assistance of his counsel de oficio, Bascugin pleaded guilty upon arraignment on August 5, 1999. Since he was facing a charge for a capital offense, the trial court asked him if his plea was voluntarily given and whether he understood the consequences of his plea. The case then proceeded to trial. The prosecution presented testimonial, object, and documentary evidence, while the defense offered no contest. On June 15, 2000, the trial court adjudged him guilty of the charge beyond reasonable doubt and sentenced him to death.

In the automatic review by the Supreme Court, the Office of the Solicitor General (OSG) and Bascugin challenged the proceedings in the trial court, specifically the invalid arraignment of Bascugin. They contended that the consultation made by the counsel de oficio was hasty; and Bascugin was not sufficiently apprised of the nature of his case and the consequences of his plea. We found merit in appeal; hence, we annulled the trial court's judgment and remanded the case to the court a quo for appropriate proceedings.[6]

On May 6, 2002, Bascugin was once again arraigned. With assistance from his counsel de oficio, he pleaded not guilty. The prosecution asked the court to adopt the testimonies previously given in the first trial by some witnesses, namely: PO3 Menandro de Castro, Pet Byron T. Buan, Dr. Antonio Vertido, Rolando de Mesa, Domingo Liwanag, and BBB, AAA's father. The defense did not object to said motion; thus, it was granted by the trial court. The prosecution additionally presented the testimonies of CCC, mother of AAA; Aida R.

Villoria-Magsipok, NBI forensic chemist; and further direct examination of Dr. Vertido.[7]

According to the prosecution, AAA was last seen on June 4, 1999 around 7:00 p.m. by de Mesa, a tricycle driver. AAA was on board the tricycle driven by Bascugin. De Mesa saw Bascugin again at around 8:30 p.m. going towards Balayan town proper, but de Mesa did not notice if Bascugin had a passenger on board. On the same night, Liwanag, an employee of Steel Corporation located in Balayan, was on his way home from work via his motorcycle when he passed by Bascugin's tricycle parked near a waiting shed in Brgy. XXX, Balayan. Liwanag testified that he heard a girl shout but he ignored the same because the area was allegedly haunted.[8]

Around 11:50 p.m., AAA was reported missing. The police officers in Balayan conducted an investigation. PO3 de Castro received information that a patient was being treated at the Don Manuel Lopez Memorial District Hospital for tongue injury. Police officers rushed to the hospital and found the patient to be Bascugin. Bascugin told the police that AAA was his passenger that night but as he was about to leave the tricycle terminal, a man and a woman boarded. The man sat behind him while the woman sad beside AAA. While Bascugin was driving, he was hit by a hard object on his nape causing him to lose consciousness. When he woke up, his tongue was already injured and his three passengers were gone. Bascugin was then invited to the police station for further investigation.[9]

Around 1:30 a.m. of June 5, 1999, based on the information from Liwanag, police officers and AAA's relatives went to the waiting shed where Bascugin's tricycle was parked. They found a muddled portion of the sugarcane plantation with visible tricycle marks, and a hairclip belonging to AAA. Police officers returned to the site at around 6 a.m. to further investigate. On the way back to the police station, they discovered AAA's body in the canal along the national road, naked from the waist down and with 13 stab wounds.[10] They also recovered a pair of maong pants and two panties both belonging to the victim.[11]

On September 8, 2003, before the prosecution could rest its case, the defense manifested that Bascugin wishes to change his plea of "not guilty" to "guilty." The trial court set his re-arraignment to September 29, 2003 to allow him more time to consider his plea. He was then arraigned on September 29, 2003, and he pleaded guilty to the charge. Upon motion of the prosecution, Bascugin was placed on the witness stand. He affirmed that he understood the consequences of his voluntary plea, and admitted that AAA rode his tricycle on June 4, 1999 and that he brought AAA to Brgy. XXX where he raped and killed her.[12]

On November 12, 2003, Bascugin moved to withdraw his plea of guilty. This was granted by the trial court in an order dated November 17, 2003. He was re-arraigned on December 1, 2003 and he pleaded "not guilty."[13]

Bascugin testified that on June 4, 1999, around 5:00 p.m., he and AAA's cousin, DDD, had three bottles of gin to celebrate the latter's birthday. Around 7:00 p.m., Bascugin's cousin, Christopher de Mesa, requested Bascugin to wait for AAA and bring her home because Christopher had to be with his wife who was about to give birth. AAA arrived around 7:30 p.m.; Bascugin told her that Christopher asked him to bring her home. AAA then rode Bascugin's tricycle. Due to the heavy rain, they stopped at a waiting shed in a barangay for a long time. Bascugin stated that something happened which he could not tell but after that incident, he started the engine of his tricycle to bring AAA home but AAA ran away. He said that he pursued her but he could only remember that he drove the lifeless body of AAA to Bagong Daan. Assuming responsibility for his passenger, he went to the house of AAA's parents. Thereafter, he went home; his father saw his bloodied shirt so he was brought to Don Manuel Lopez Memorial District Hospital. Police officers arrived at the hospital and invited him to the police station. He voluntarily went with the investigators. On cross-examination, Bascugin admitted that he raped and killed AAA.[14]

The trial court appreciated the following circumstantial evidence as incriminatory:

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> - the victim boarded the tricycle being driven by the accused at around 7:00 o'clock in the evening of June 4, 1999;
>
> - at about 8:30 o'clock of the same night, the accused was seen driving his tricycle without any person on board going towards the direction of Balayan town proper from Brgy. [XXX];
>
> - the tricycle then being driven by the accused was seen parked near the waiting shed at Brgy. [XXX] which was the place discovered by the police officers where the incident took place and the hairclip belonging to the victim was found;
>
> - the abaca rope found by the police inside the tricycle of the accused, the pair of maong pants belonging to the victim was found near the body of the latter, a white panty and yellow panty also belonging to the victim, a Hanford brief, a sleeveless undershirt, a blue T-shirt and a pair of corduroy pants, all belonging to the accused were all found to be positive for human blood reactions of Group `A' which was the same grouping as that of fresh blood taken from the victim;
>
> - the yellow panty belonging to the victim was found to be positive to seminal stains;
>
> - the findings of the medico-legal officer who examined the body of the victim which shows that the latter bore multiple stab wounds and complete fresh hymenal lacerations;
>
> - the complete matching of the bucal swab taken from the accused with the vaginal smear sample taken from the victim which sufficiently established that the accused had sexual intercourse with the victim before killing her; and
>
> - the admission of the accused that he raped and killed AAA when asked by the Court and the prosecutor.[15]

On August 15, 2005, the trial court found Bascugin guilty. The fallo of its decision reads:

> WHEREFORE, premises considered, the Court finds accused Leodagario Bascugin y [Agquiz] GUILTY beyond reasonable doubt of the crime of rape with homicide, defined and penalized under Art. 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Republic Act No. 7659 and without considering any mitigating and/or aggravating circumstances, hereby imposes upon him the supreme penalty of DEATH. He is further ordered to indemnify the heirs of [AAA] the sum of P100,000.00, to pay the same heirs the amount of P50,000.00 by way of moral damages and to pay the costs.

In view of the imposition of the death penalty, the case was forwarded to the CA for review.

The Ruling of the CA

On appeal, Bascugin argued that there was no evidence of force, threat, or intimidation during sexual intercourse; thus, there was no rape. The human blood from his clothes which matched the blood type of AAA does not prove that he killed the latter. Also, he asserted that his confession when he pleaded guilty should have been expunged from the records since he withdrew said plea and substituted it with a plea of "not guilty."

The CA upheld Bascugin's conviction. The appellate court concurred with the trial court's finding that there was sufficient circumstantial evidence pointing to him as the culprit. Moreover, he admitted in open court that he raped and killed AAA. This judicial admission constitutes evidence of high order, not only because it is presumed that a deliberate confession to a crime is prompted by truth, but also because such admission was supported by medical findings of sexual intercourse between the accused and the victim, and resistance by the victim.[16]

The appellate court, however, modified the ruling by ordering imprisonment and adding temperate damages and increasing the amount of moral damages, as follows:

> It having been established beyond any shadow of a doubt that appellant raped [AAA] and killed her on the

> occasion thereof, the mandatory penalty of death is inescapable. However, with the effectivity of Republic Act No. 9346 which prohibits the imposition of the death penalty, the penalty of reclusion perpetua, without eligibility for parole, should instead be imposed on accused-appellant.
>
> The trial court correctly awarded P100,000.00 as civil indemnity to the heirs of [AAA] commensurate with the seriousness of the said complex crime. Likewise, the heirs of [AAA] are entitled to temperate damages in the amount of P25,000.00, despite the paucity of evidence as to actual damages, inasmuch as it is reasonable to expect that they incurred expenses for the coffin, burial and food during the wake. Moreover, in line with prevailing jurisprudence, the award of moral damages in the amount of P50,000.00 should be increased to P75,000.00.
>
> WHEREFORE, the Decision appealed from is AFFIRMED with MODIFICATION by imposing on accused-appellant Leodegario Bascuguin y Agquiz the penalty of reclusion perpetua, without eligibility for parole, and ORDERING him to further indemnify the heirs of [AAA] in the increased amount of P75,000.00 as moral damages, and P25,000.00 as temperate damages.

Assignment of Error

> THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE WITH HOMICIDE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The Court's Ruling

The appeal lacks merit.

The decisive factor in Bascugin's conviction was his admission to the crime when he was examined by his lawyer in court. He testified as follows:

> Q:
>
> At that point, did you come to know the cause of your physical injury?
>
> A:
>
> Yes, sir.
>
> Q:
>
> What may be the reason?
>
> A:
>
> According to the doctor, the injury I sustained was a result of a person's bite, sir.
>
> Q:
>
> For how long did you stay at that hospital?
>
> A:
>
> Less than an hour, sir.
>
> Q:
>
> After one (1) hour of staying in that hospital, what happened next?
>
> A:

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While on our way out at the hospital, I was invited by police investigators to go with them to the police station and I voluntarily went with them to face the consequences of what I did, sir.

Q:

Could you tell to this Honorable Court what do you mean by the consequences of what you did?

A:

That if I did something wrong on that time, I should pay for it, sir.

Q:

So you mean to say that you have this thinking that you have committed something wrong?

A:

Yes, sir.

Q:

And you are willing to confront the same, freely, voluntarily and without offering any resistance?

A:

Yes, sir.

COURT:

Q:

Are you thinking of this case against you?

A:

Yes, Your Honor.

Q:

Meaning to say you might have committed the same?

A:

Yes, Your Honor.

ATTY. CHAVEZ:

Q:

You said that you were being brought to the police station. What happened there, Mr. Witness?

A:

The investigator incarcerated me, sir.

Q:

And at that time, do you know the reason why you were incarcerated by the police?

A:

No, sir.

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Q:

What was the date when you were being detained at the police station?

A:

June 4 already, sir.

Q:

Are you sure of that, Mr. Witness?

A:

Yes, sir, because it was already early morning.

Q:

At the police station, Mr. Witness, what happened?

A:

At around 7:00 o'clock in the morning, [AAA] arrived, sir.

Q:

Who were with [AAA]?

A:

[Her] parents and the police officers, sir.

Q:

Was she still alive during that time?

A:

No longer, sir.

Q:

What was your reaction upon seeing [AAA]?

A:

During that moment I was so sorry and I cannot explain and I cannot understand what happened, sir.

Q:

Do you mean to tell us that you have this feeling at that time that you were responsible for the killing and raping of this [AAA]?

A:

Yes, sir.

Q:

Did you feel any remorse or resentment to what happened with you and [AAA]?

A:

Yes, sir.

Q:

I noticed also, Mr. Witness, that at the course of the proceedings of this case you are always changing your plea of not guilty/to guilty. Why is it so, Mr. Witness?

A:

Because I am bothered by my conscience and I was always changing my plea but I feel responsible for what I did, sir.

Q:

Do you know fully the consequences of your testimony, Mr. Witness?

A:

Yes, sir.

ATTY. CHAVEZ: I have no more questions, Your Honor.

COURT: Cross?

PROS. ALIX: Yes, Your Honor.

Q:

By your own testimony you are not admitting that you are responsible for the death of [AAA] and that you did have carnal knowledge of that? Before you do that, may the Court remind this witness that he has the right to answer or not the question.

COURT:

The Court would like to remind you that you have the right to choose whether to answer or not to answer the question. You can remain silent so before you answer the question, think of the question carefully.

WITNESS:

A:

Yes, sir.

COURT:

Q:

Meaning to say that you not only admit that you killed her but you also raped her?

A:

Yes, Your Honor.[17]

Bascugin's confession was freely, intelligently, and deliberately given. Judicial confession constitutes evidence of a high order. The presumption is that no sane person would deliberately confess to the commission of a crime unless prompted to do so by truth and conscience.[18] Admission of guilt constitutes evidence against the accused pursuant to the following provisions of the Rules of Court:

SEC. 4. Judicial admissions.--An admission, verbal or written, made by a party in the course of the

> proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made. [Rule 129]
>
> SEC. 26. Admissions of a party.--The act, declaration or omission of a party as to a relevant fact may be given in evidence against him. [Rule 130]
>
> SEC. 33. Confession.--The declaration of an accused acknowledging his guilt of the offense charged, or of any offense necessarily included therein, may be given in evidence against him. [Rule 130]

Furthermore, Bascugin's confession is consistent with the evidence. We agree with the trial and appellate courts' finding that the chain of events constitutes circumstantial evidence that is sufficient to support a conviction. From the testimonies of witnesses and the physical evidence gathered, it was established that the victim was last seen with Bascugin in his tricycle; his tricycle was seen parked near a waiting shed in the premises of which the victim's personal belongings were later found; his pieces of clothing were found positive for human blood that matches the victim's; and the medico-legal report states that Bascugin had sexual intercourse with the victim.

Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference.[19] According to Rule 133, Section 4 of the Rules, circumstantial evidence is sufficient for conviction if: (1) there is more than one circumstance; (2) the inference is based on proven facts; and (3) the combination of all circumstances produces a conviction beyond reasonable doubt of the guilt of the accused. In the case at bar, the circumstantial pieces of evidence enumerated by the trial court all point to Bascugin as the perpetrator beyond reasonable doubt.

As regards damages, we agree with the appellate court's award of PhP 100,000 as civil indemnity; PhP 75,000 as moral damages; and temperate damages amounting to PhP 25,000 in lieu of actual damages, all consistent with prevailing jurisprudence for rape with homicide.[20] The Court also awards exemplary damages in the amount of PhP 50,000. Article 2229 of the Civil Code grants the award of exemplary or correction damages in order to deter the commission of similar acts in the future and to allow the courts to mould behaviour that can have grave and deleterious consequences to society.[21]

WHEREFORE, the CA Decision dated January 16, 2008 in CA-G.R. CR-H.C. No. 01855 is AFFIRMED with MODIFICATION that accused-appellant is ordered to pay additional exemplary damages of PhP 50,000 to the heirs of the victim. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

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[1] Bascuguin in some parts of the records.

[2] Rollo, pp. 1-19. Penned by Associate Justice Marina L. Buzon and concurred in by Associate Justices Rosmari D. Carandang and Mariflor P. Punzalan Castillo.

[3] CA rollo, pp. 13-20. Penned by Judge Cristino E. Judit.

[4] The real name of the victim and her immediate family members are withheld to protect her privacy, in accordance with Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules; and People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[5] CA rollo, p. 13.

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[6] People v. Bascuguin, G.R. 144404, September 24, 2001, 365 SCRA 729.

[7] CA rollo, p. 14.

[8] Bascuguin, supra note 6, at 731.

[9] Id. at 732.

[10] Id.

[11] Rollo, p. 5.

[12] Id. at 6.

[13] Id.

[14] Id. at 7.

[15] CA rollo, pp. 19-20.

[16] Rollo, pp. 15-17.

[17] TSN, November 8, 2004, pp. 3-6.

[18] People v. Samolde, G.R. No. 128551, July 31, 2000, 336 SCRA 632, 651.

[19] People v. Padua, G.R. No. 169075, February 23, 2007, 516 SCRA 590, 600-601.

[20] People v. Notarion, G.R. No. 181493, August 28, 2008, 536 SCRA 618, 631.

[21] People v. Rayos, G.R. No. 133823, February 7, 2001, 351 SCRA 336, 350.

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