

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FEDERICO LUCERO, ACCUSED-APPELLANT.

G.R. No. 188705. March 02, 2011

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-188705/>

VELASCO JR., J.:

Before this Court on appeal is the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00469-MIN dated December 17, 2008, which upheld the conviction of accused Federico Lucero in Criminal Case No. 10849, decided by the Regional Trial Court (RTC), Branch 30 in Tagum City on April 20, 2005.

Before the RTC, the accused was charged with the crime of Rape with Homicide in an Information dated July 31, 1997, which reads as follows:

That on or about June 7, 1997, in the Municipality of Tagum, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, armed with a knife, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA,[2] an eighteen (18) year old girl, against her will, and on the occasion of said rape, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab the said AAA, thereby inflicting upon her wounds which caused her death, and further causing actual, moral and compensatory damages to the heirs of the victim.

CONTRARY TO LAW.[3]

On October 14, 1997, the accused, with the assistance of counsel, pleaded "not guilty" at his arraignment.[4]

The Case for the Prosecution

The prosecution presented Alejandro Jao (Jao); Anastacio Langgoy (Langgoy); Police Officer 2 Galileo Gurrea (PO2 Gurrea); Dr. Ricardo M. Rodaje (Dr. Rodaje), National Bureau of Investigation (NBI) Medico-Legal Officer; and Dimpna D. Bermejo-Dulay (Dulay), NBI Regional Chemist as witnesses.

Jao, Purok Leader of XXX in Tagum, Davao del Norte, testified that on June 6, 1997, at around 11:00 p.m., he saw the accused and a certain Digoy Tewok drinking outside the Olympic Battery Shop, along the National Highway, where the accused was employed as a cook. He noticed that the accused was wearing green short pants.[5] About 10 meters from where the accused was drinking, Jao saw the victim, AAA, a certain May Laribas, and his daughter looking at pictures in an album, inside the purok hut.[6] He then told his daughter and her companions to go home, as there were people drinking in the area, especially since he knew that the accused was attracted to AAA. His daughter and her companions left after that, and Jao and his wife slept in their store.[7]

At around 2 o'clock the next morning, Jao was awakened by his daughter's shouting that someone had entered the room of AAA. He went outside the store and saw his daughter coming from the direction of AAA's house, followed by the accused being chased by a neighbor, Langgoy. Jao's daughter pushed him inside the store, and then the accused, wearing only white briefs, with something covering the top of his head, ran by, at a distance of

six feet. The area was lighted by a 40-watt fluorescent lamp, which was about seven meters from accused. Jao did not join the chase, and instead went to check on AAA. AAA's uncle, BBB, also went into her house and shouted that AAA had a stab wound on her breast.[8] AAA was then brought to the Tagum Doctors Hospital where she was declared "dead on arrival."

At 3:00 a.m. on June 7, 1997, Jao saw the accused come out of the Patalinghug Funeral Homes, after which he proceeded to his room in his place of work. Jao said that the accused was barefoot, his feet were muddy, and he wore the same green short pants Jao saw him wearing the night before.[9] Later on, Jao peeped through a hole in the wall of the room of the accused, and he saw the latter washing his green short pants, all the while looking in different directions. At 11 o'clock that morning, in the Olympic Battery Shop, Jao, along with the police, saw scratches on the back of the accused when he took off his shirt. Half an hour later, Jao accompanied the police and a radio reporter to the room of the accused, where upon questioning, the accused said that the knife he used in killing AAA was at the left side of his bed's headboard. Jao recovered the knife, which he later identified during his testimony in court.[10]

Langgoy testified that, at around 2:30 a.m. on June 7, 1997, he was awakened by a voice calling for help, and that it was from AAA, who lived five meters from his house.[11] He rushed to her house, but when he tried to enter it, his hands were held by someone inside, so he stepped back. Then someone came out of the house, and Langgoy identified him as the accused, Lucero, who was clad only in his underwear, with his green short pants covering the top of his head and his forehead. Langgoy gave chase but was unable to catch the accused, so he went back to the house of the victim, who had by that time been brought to the hospital. Langgoy claimed to have recognized the accused by the light of the 40-watt fluorescent lamp nearby. He was also familiar with the accused and his particular green shorts, since they were close neighbors, with their houses being only four meters apart.[12]

PO2 Gurrea testified that at 8:00 a.m. on June 7, 1997, he was told to investigate an incident at XXX, Tagum, Davao del Norte. When he got to the area, the people he interviewed told him that there had been a commotion in AAA's house, and that the suspect was a short, stout, bowlegged man who wore only briefs and carried a knife. PO2 Gurrea went back to the police station, but told the witnesses to report to him at his office if they saw the suspect. At 11:00 a.m., PO2 Gurrea was told that the suspect had woken up. Along with Senior Police Officer 1 (SPO1) Judil Chavez, SPO1 Wenifredo Rivas, and SPO2 Eric Baloyo, PO2 Gurrea went to the Olympic Battery Shop and saw the accused paring vegetables. He invited the accused to the police station where the accused admitted killing AAA, but denied raping her. They then accompanied the accused back to XXX, where, in the house of the accused, he saw a bloodied white t-shirt. He asked the accused where he had placed the knife used in killing the victim, and the accused pointed to the bottom of his bed. They found the knife after turning the bed over. The accused was then told to take off his shirt, and when he did so, PO2 Gurrea and Purok Leader Jao saw scratches on the back and right thigh of the accused.[13]

Dr. Rodaje, NBI Medico Legal Officer, prepared the autopsy on the body of the victim, and found several stab wounds and contusions, with one stab wound penetrating the heart, causing her death.[14] His examination also found hymenal lacerations, after which he performed the vaginal swabbing to see if there was still seminal fluid in the vaginal canal.[15] The findings in the autopsy report indicated the following injuries:

Contusion, temporal region, left, 7.0 x 8.0 cm.

Contused-abrasions: nose, left side, 0.9 x 1.0 cm.; face, right side, 0.3 x 0.4 cm.; thigh, middle third, antero-lateral aspect, right, 9.5 x 10.0 cm.

Hematoma, frontal region, right, 2.0 x 2.4 cm.

Incised wound, hand, postero-lateral aspect, left, 4.0 cm.; palmar region, left, 2.3 cm.;

Hymenal laceration, complete at [4:00 and 7:00] position corresponding to the face of a watch, edges are edematous and with clotted blood.

STAB WOUNDS, modified by suturing and embalming.

- Roughly spindle-shaped, 1.2 cm.; edges are clean-cut, oriented horizontally, lateral extremity is sharp, medial extremity is blunt located at the right, shoulder, 26.0 cm. above the right elbow, directed backward, downward and medially, involving the soft tissues only with an approximate depth of 3.0 cm.

- Roughly spindle-shaped, 3.0 cm., edges are clean-cut, oriented horizontally, lateral extremity is sharp, medial extremity is blunt located at the infra-mammary region, 4.5 cm. from anterior median line, directed backward, upward, and medially, involving the soft tissues, cutting the sternum, penetrating the left ventricle with an approximate depth of 4.5 cm.

- Roughly spindle-shaped, 1.5 cm. edges are clean-cut, oriented horizontally, lateral extremity is sharp, medial extremity is blunt. Located at the supra-mammary region, 20.0 cm. from anterior median line directed backward, upward, and laterally, involving the soft tissues only, with an approximate depth of 2.4 cm.

x x x x

CAUSE OF DEATH: STAB WOUNDS[16]

He then submitted the swab specimen to Dulay, NBI Regional Chemist, who found the specimen positive for the presence of seminal stains.[17]

The Case for the Defense

The accused testified in his defense, saying that he had been a resident of XXX, Tagum, Davao del Norte since February 2, 1997, and that he had been invited by the police for questioning at 11:00 a.m. on June 7, 1997.[18] He had been slicing ampalaya in the kitchen when the police arrived, and when he asked what they wanted with him, he was told to just accompany them to the police station. He put down his knife, but PO2 Gurrea picked it up, and then the accused was brought to the police station. He was handcuffed and brought to the comfort room where he was told that if he did not admit to killing AAA, he would be beaten to death. He was also subjected to electric shock. He then confessed to the killing, even if he did not commit the crime. The accused stated that he was not informed of his right to remain silent or to be assisted by counsel. After his confession, he was mauled by AAA's brother and father. He was then brought back to his rented room, which PO2 Gurrea searched, finding a knife which he brought back to the police station, along with the accused. The accused was then locked in a prison cell where the other prisoners beat him up. The next day, he was visited by his elder brother, Dionisio Lucero, to whom he said that he wanted to be medically examined, but Dionisio was told by the police not to interfere in the case.[19]

Dionisio testified that he visited his brother, the accused, on June 8, 1997, and noticed that his brother's face was swollen. The accused told him to go to the Chief of Police so that Dionisio could bring him to a doctor, but Dionisio was not allowed to do so, and instead went home. On cross-examination, Dionisio testified that he did not believe his brother was tortured.[20]

The Ruling of the Trial Court

The trial court found that there was no proof of maltreatment or torture on the part of the police to elicit the confession of the accused. It further held that enough circumstantial evidence was presented to prove the guilt of the accused.

After deliberating upon the evidence, the trial court rendered its Decision finding the accused guilty in Criminal

Case No. 10849, the dispositive portion of which reads:

In View Of All The Foregoing, the Court finds accused Federico Lucero guilty beyond reasonable doubt of the crime of Rape with Homicide and he is hereby sentenced to suffer the penalty of DEATH and to pay the heirs of the victim AAA P75,000.00 civil indemnity; P50,000.00 moral damages and P25,000.00 exemplary damages.

Conformably with the Decision promulgated on 7 July 2004 in G.R. No. 147678-87, entitled People [v.] Efren Mateo y Garcia, upon finality of this Decision, let all the pertinent records of this case be forthwith forwarded to the Court of Appeals, Cagayan de Oro City for intermediate review.

SO ORDERED.[21]

The Ruling of the Appellate Court

In his appeal to the CA, the accused questioned the identification of him made by witnesses Jao and Langgoy, and assailed the trial court's appreciation of the allegedly illegally-obtained evidence.

The CA found that enough circumstantial evidence was present to convict the accused. Even so, it held that the extrajudicial confession made by the accused to PO2 Gurrea was inadmissible since the accused was deprived of his right to counsel when he was questioned. The bloodied shirt and knife that were found in the room of the accused were also held to be inadmissible, being "fruits of the poisonous tree." [22] The CA followed the trial court in finding that there was no proof of maltreatment or torture, and that the brother of the accused did not believe the allegations of torture. [23]

Even as the CA upheld the accused's conviction, it found it proper to modify the award of damages. The amount of the award of civil indemnity was increased to PhP 100,000 and that of moral damages increased to PhP 75,000, in line with current judicial policy. Temperate damages were awarded, as there was no proof of the actual amount of loss. The dispositive portion of the CA decision reads as follows:

WHEREFORE, premises considered, the Decision dated April 20, 2005 of the Regional Trial Court, 11[th] Judicial Region, Branch 30, Tagum City, in Criminal Case No. 10849, is hereby AFFIRMED with MODIFICATIONS. As modified, appellant is hereby SENTENCED to suffer the penalty of reclusion perpetua with no possibility of parole. He is ORDERED to indemnify the heirs of AAA the amounts of P100,000.00 as civil indemnity; P75,000.00 as moral damages; P25,000.00 as temperate damages; and P25,000.00 as exemplary damages. Costs against appellant.

SO ORDERED.[24]

Hence, we have this appeal.

The Ruling of this Court

In his appeal, Lucero questions the positive identification made by witnesses Jao and Langgoy. He insists that the witnesses were unable to see the face of the perpetrator, and identification was made solely on the basis of the green short pants worn by the suspect. He also claims that Jao did not immediately report the identity of the perpetrator to the police, and that this casts doubt on the witness' credibility. In his defense, he also claims that a DNA test should have been done to match the spermatozoa found in the victim's body to a sample taken from him, and that since no DNA test was done, he cannot be linked to the crime.

The appeal is without merit.

The CA correctly disregarded the confession by accused-appellant Lucero, as well as the evidence gained by searching his room.

Among the evidence considered by the RTC during the trial were a blood-stained white t-shirt and knife found in the room of accused-appellant. However, these items were the result of a search conducted after accused-appellant had been questioned without the presence of counsel, nor had accused-appellant been apprised of his rights.

The testimony of PO2 Gurrea is quite informative:

Q

It was you who conducted the investigation?

A

Yes, sir.

x x x x

Q

When you investigated the accused, you did not inform the accused that he had the right to remain silent? Did you?

A

No, sir. We did not inform him of his right, but we directly questioned him.

Q

And also, you did not inform the accused that whatever he would answer to your question that he would give will be used against him in the court of law? Did you?

A

I did not tell him.

Q

And also, you did not inform the accused at that time that he would have the right to get counsel of his own choice?

A

We did not inform him.

Q

And also, you did not inform the accused that he would have the right not to be compelled to answer any of your question? Did you?

A

No, sir. When we asked, he immediately answered the question.[25]

Accused-appellant was not informed of his rights, nor was there a waiver of said rights. Thus, the information elicited is inadmissible, and the evidence garnered as the result of that interrogation is also inadmissible. This parallels *Aballe v. People*,^[26] wherein the accused in that case was questioned without the presence of counsel, and later produced the weapon used in killing the victim, also making an extrajudicial confession admitting his guilt. In that particular case, it was held, "Together with the extrajudicial confession, the fatal weapon is but a fruit of a constitutionally infirmed interrogation and must consequently be disallowed."^[27]

It is clear that the questioning of accused-appellant was made in violation of Section 12(1), Article III of the 1987 Constitution, which reads:

Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

Thus, the trial court erred in considering the knife and bloodied t-shirt when they are inadmissible, which is what the CA correctly concluded.

But even if the confession and evidence gathered as a result of it are disregarded, the evidence that remains still supports the result of the conviction of accused-appellant.

Here, there are no direct witnesses to the crime. But even if no one saw the commission of the crime, accused-appellant may still be pinned down as the perpetrator. As held in *Salvador v. People*:

Direct evidence of the crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt. The rules of evidence allow a trial court to rely on circumstantial evidence to support its conclusion of guilt. Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference. At times, resort to circumstantial evidence is imperative since to insist on direct testimony would, in many cases, result in setting felons free and deny proper protection to the community.[28]

In this particular case, with this particular crime, it is the circumstantial evidence that comes into play to reach a conclusion. In *People v. Pascual*, it was held:

It is settled that in the special complex crime of rape with homicide, both the rape and the homicide must be established beyond reasonable doubt. In this regard, we have held that the crime of rape is difficult to prove because it is generally unwitnessed and very often only the victim is left to testify for herself. It becomes even more difficult when the complex crime of rape with homicide is committed because the victim could no longer testify. Thus, in crimes of rape with homicide, as here, resort to circumstantial evidence is usually unavoidable.[29]

Under Sec. 4, Rule 133 of the Rules of Court, circumstantial evidence shall be sufficient for conviction when the following requisites are complied with: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proved; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Salvador also held:

All the circumstances must be consistent with one another, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent. Thus, conviction based on circumstantial evidence can be upheld, provided that the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that point to the accused, to the exclusion of all others, as the guilty person.[30]

Setting aside the knife and the bloodied t-shirt recovered from the room of accused-appellant, the CA and the RTC relied on several circumstances to justify the conviction, to wit:

- (1) On June 6, 1997, at around 11:00 p.m., Jao saw accused-appellant, wearing green short pants, and a certain Digoy Tewok drinking outside the Olympic Battery Shop.
- (2) On June 7, 1997, at around 2:00 a.m., Jao saw his daughter coming from the direction of AAA's house,

followed by accused-appellant, who was being chased by Langgoy. Accused-appellant wore white briefs with something covering his head. Jao recognized accused-appellant from a distance of six feet, and the lighting came from a 40-watt fluorescent lamp about seven meters away from accused-appellant.

(3) At around 3:00 a.m. on June 7, 1997, Jao saw accused-appellant come out of the Patalinghug Funeral Homes and proceed to his place of employment. Accused-appellant was barefoot, his feet were muddy, and he wore the same green short pants he had been wearing the night before. Accused-appellant also asked for water since he was thirsty.

(4) Sometime in the morning of June 7, 1997, through a hole in the wall of the room of accused-appellant, Jao saw accused-appellant washing his green short pants, seemingly restless and wary.

(5) At around 11:00 a.m. on June 7, 1997, Jao saw scratches on the back and right thigh of accused-appellant, after accused-appellant was told to take his shirt off by the police.

(6) Langgoy was awakened by a voice calling for help, and he recognized the voice as that of AAA. When he went to AAA's house, which was five meters from his, and tried to enter it, his hands were held by someone inside the house. When he stepped back, and the one who had held his hands came out, Langgoy recognized the person as accused-appellant, who was wearing only briefs and with green short pants covering his head. Langgoy gave chase, but was unable to catch him.

(7) Langgoy positively identified accused-appellant by the light of a 40-watt fluorescent lamp nearby, and was familiar with accused-appellant as they were neighbors, with their houses only four meters apart.

(8) A post-mortem examination of AAA's body revealed that she had had sexual intercourse, as found by NBI Medico-Legal Officer Dr. Rodaje. Dr. Rodaje found hymenal lacerations on AAA's hymen at 4 o'clock and 7 o'clock positions, with the edges of the hymen being swollen and with clotted blood. The conclusion that AAA had had sexual intercourse was supported by the findings of NBI Regional Chemist Dulay, from a vaginal swabbing from AAA that gave positive results for seminal stains.

The aforementioned circumstances lead to the inescapable conclusion that accused-appellant is guilty.

Positive identification of accused-appellant was made by Langgoy, and he remained unshaken in his testimony, even under cross-examination. He related his version of the events of June 7, 1997, as follows:

Q

At about 2:30 in the morning of June 7, 1997, please tell the Court where you were and what were you doing?

A

I was sleeping at that particular time.

Q

In that house which you said situated at [XXX]?

A

Yes, sir.

Q

While sleeping, tell us if anything transpired?

A

During that time and date, somebody called-up for help.

Q

Where did that voice come from, if you know?

A

The voice came from the residence of [AAA].

x x x x

Q

What did you do immediately after hearing that voice shouting for help?

A

I immediately ran to the door of the house of [AAA] and I noticed that somebody held my two hands.

Q

What did you do at the door of the house of [AAA]?

A

I wanted to open the door so that I can help her, but I cannot enter.

x x x x

Q

You said that you noticed somebody was touching your hand when you were trying to open the door of [AAA]'s house, what happened after that?

A

When I stepped backward, somebody was rushing out of the house and ran away.

Q

What made you [step] backward since your intention was to get inside the house?

A

I stepped backward because somebody held my hands.

x x x x

Q

Alright, you said that somebody went out of the house of [AAA] passing that door in which you wanted to get entrance, what did you do after that?

A

I chased the person who went out of the door.

Q

What did you do when you were following that person? Were you walking or running?

A

I ran, sir.

Q

To what direction did that person go?

A

Towards [XXX], sir.

Q

What can you say on the visibility of that place of that path where that person was running and when you were chasing?

A

There was a portion of the path which was lighted and there was also a portion which was dark.

Q

Since you said that there was a portion of that path which was lighted, tell us if you can describe to the Court the build or attire of that person?

A

I observed that the person whom I chased was robust, no clothing except his brief and with a green short pants placed on his head.

Q

What kind of short pants, if you can tell us, that was placed on his head?

A

Colored green short pants which is usually being used by basketball players.

Q

Can you tell us who that person was?

A

He was Lucero.

Q

What made you conclude that it was Federico Lucero, the person you chased from inside the house of [AAA]?

A

I positively identified that it was Federico Lucero, even if I have not seen his face, because he was wearing that green short pants and he, being bowlegged.

Q

You described to the Court the colored green short pants that was placed on his head; tell us if that was the first

time you saw that short pants.

A

I often saw him wearing that green short pants.

Q

Where had you been seeing Federico Lucero usually wear that green short pants, which you said placed on his head?

A

I always saw him wearing that short pants almost everyday, because we were just neighbors.[31]

During cross-examination, Langgoy was steadfast in his identification of accused-appellant as the person he chased, in spite of the attempts of the defense to shake him.

The defense claims that Langgoy admitted that he was unable to see the face of accused-appellant, as it was covered by the short pants. Langgoy's testimony under cross-examination belies that. His clarification reads as follows:

Q

Did he cover a part of his face?

A

On the part of the head.

Q

Did he cover his face?

A

Yes, sir.

Q

Which part of his face was covered?

A

Only his forehead.

Q

Forehead?

A

His forehead, sir.

x x x x

Q

Are you telling us that you saw the green short pants covering his face, aren't you?

A

Yes, sir.

Q

But you did not see the face?

A

I saw him only once. After that, he ran away.

Q

Are you telling us that you saw the face of the accused only once?

A

Yes, sir.

Q

Do you remember that you testified on direct-examination that you did not see the face? Do you still remember that?

A

I did not say that I did not see his face. I was not asked that question.[32]

Langgoy's testimony was that he saw the face of accused-appellant once, at the time when the short pants covered the top of the perpetrator's face, as well as his forehead. At no time during direct examination was the witness asked if he saw Lucero's face. Langgoy made no categorical statement that he had not seen the face of accused-appellant, contrary to what the defense has stated. As to his statement during direct examination, "even if I have not seen his face,"[33] which the defense latched onto as an admission, it cannot be interpreted to mean that he could not recognize the person he chased. In the context of Langgoy's testimony, it means that he could rely on other familiar characteristics for identification, namely the bowleggedness and the green short pants, that it was not necessary for him to see the person's face to identify him. Add to that Langgoy's maintaining that accused-appellant was the perpetrator, and his clarifying description of the person he chased, there was indeed positive identification.

Langgoy's testimony dovetails with that of Jao, and serves to identify accused-appellant as the one who ran from AAA's house. Their descriptions of the man they saw running away match, even if Langgoy was the only one who saw accused-appellant's face. Their testimonies place accused-appellant at the scene of the crime, and pinpoint him as the person leaving the house where AAA's body was found. This identification, along with the condition and actuations of accused-appellant after AAA's body was found, indicates that accused-appellant was the one who raped and killed AAA.

Even as the circumstances lead to the inevitable conclusion that accused-appellant committed the crime, he claims that since spermatozoa was found on the deceased, a DNA test should have been conducted by the prosecution so as to erase all doubts as to the identity of the perpetrator.

It is not for accused-appellant to determine which evidence or testimony the prosecution should present. In *Loguinsa, Jr. v. Sandiganbayan* (5[th] Division), the Court stated, "Section 5, Rule 110 of the Revised Rules on Criminal Procedure expressly provides that all criminal action shall be prosecuted under the direction and control

of the fiscal and what prosecution evidence should be presented during the trial depends solely upon the discretion of the prosecutor." [34] The DNA test is not essential, while there exists other evidence pinning down accused-appellant as the perpetrator. Indeed, if he honestly thought that the DNA test could have proved his innocence, he could have asked for the conduct of said test during his trial, instead of belatedly raising it on appeal, and attempting to dictate upon the prosecution what course of actions it should have undertaken.

In support of his argument, accused-appellant would debunk the identification by witnesses by citing *People v. Faustino*, which stated:

The identification of an accused by an eyewitness is a vital piece of evidence and most decisive of the success or failure of the case for the prosecution. But even while significant, an eyewitness identification, which authors not infrequently would describe to be "inherently suspect," is not as accurate and authoritative as the scientific forms of identification evidence like by fingerprint or by DNA testing. [35] x x x

While a DNA test might have been more conclusive, the cited case did not mandate DNA testing in place of eyewitness testimony. In that particular case, scientific forms of identification were held to be preferable over eyewitness testimony, as pictures of the accused were what were presented for identification, so the testimony of the witness was tainted. The holding of a DNA test was never in issue.

In his defense, accused-appellant claims to have been sleeping in the early hours of June 7, 1997. [36] He was awakened by the cry of AAA's aunt at 4:00 a.m. [37] He then went to AAA's house and listened to people around the area talking about who might have killed AAA. [38] He says that he later went to work and was at work when the police arrived and invited him to the police station. [39]

Accused-appellant denies that he committed the crime, and offers up his version of events. He was unable to present any corroborating witnesses to testify that he did, indeed, go to AAA's house after the crime was committed. All accused-appellant presented is his bare denial that he committed the crime. In *People v. Alarcon*, We held, "Denial, if unsupported by clear and convincing evidence, is negative and self-serving evidence, which deserves no weight in law and cannot be given greater evidentiary value over the testimonies of credible witnesses who testify on affirmative matters." [40]

The witnesses Jao and Langgoy testified that accused-appellant was the person they saw leaving the scene of the crime. There is no reason for them to falsely identify accused-appellant, no motive presented for them to lie. In *People v. Bringas*, We held, "As a rule, absent any evidence showing any reason or motive for prosecution witnesses to perjure, the logical conclusion is that no such improper motive exists, and their testimonies are thus worthy of full faith and credit." [41] In the same case, We also stated, "In fine, when the credibility of witnesses is in issue, the trial court's assessment is accorded great weight unless it is shown that it has overlooked a certain fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case." [42] No facts or circumstances of substance were presented that the trial court overlooked, misunderstood, or misappreciated, which would necessitate a review of the findings of fact.

The elements of rape with homicide are present. Art. 335 of the Revised Penal Code, as amended by Republic Act No. (RA) 7659, reads as follows:

Art. 335. When and how rape is committed. ³⁴Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and

- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x x

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

x x x x

People v. Villarino held, "In the special complex crime of rape with homicide, the following elements must concur: (1) the appellant had carnal knowledge of a woman; (2) carnal knowledge of a woman was achieved by means of force, threat or intimidation; and (3) by reason or on occasion of such carnal knowledge by means of force, threat or intimidation, the appellant killed a woman." [43]

The prosecution was able to prove that accused-appellant had carnal knowledge of the victim, as per the post-mortem findings of Dr. Rodaje and the vaginal swabbings examined by NBI Regional Chemist Dulay. Dr. Rodaje found hymenal lacerations from his examination of AAA's body. In People v. Payot, Jr., it was held, "Hymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration." [44] Dulay's findings that there were seminal stains serve to bolster the conclusion that rape was committed.

As to the presence of force or intimidation, the several injuries and stab wounds suffered by AAA are mute but eloquent statements of the violence inflicted upon her, resulting in her death. Thus, the elements of the crime of rape with homicide are all present.

The RTC correctly convicted accused-appellant of the crime of rape with homicide, which, at the time of the offense, was penalized under Art. 335 of the Code, before it was amended by RA 8353, the Anti-Rape Law of 1997, and was punishable by death. The CA correctly modified the penalty in accordance with Sec. 2 of RA 9346 or "An Act Prohibiting the Imposition of Death Penalty in the Philippines," said section reading as follows:

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

The penalty meted out was thus reduced to reclusion perpetua. Furthermore, Sec. 3 of RA 9346 provides, "Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, known as the Indeterminate Sentence Law, as amended."

The CA was correct in modifying the penalty, in accordance with the law.

As to the award of damages, the RTC ordered accused-appellant to pay the heirs of AAA PhP 75,000 as civil indemnity, PhP 50,000 as moral damages, and PhP 25,000 as exemplary damages. The award of damages was modified by the CA, with PhP 100,000 as civil indemnity, PhP 75,000 as moral damages, and PhP 25,000 retained as exemplary damages. In addition, the CA awarded PhP 25,000 as temperate damages.

In line with current jurisprudence, [45] We reduce the award of civil indemnity to PhP 75,000 and maintain the award of PhP 75,000 as moral damages, but increase the award of exemplary damages to PhP 30,000. The award of temperate damages is proper, following Art. 2224 of the Civil Code, which states, "Temperate or moderate

damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty."

Furthermore, the damages assessed in this case shall be subject to interest at six percent (6%).^[46]

WHEREFORE, the CA Decision dated December 17, 2008 in CA-G.R. CR-H.C. No. 00469-MIN is AFFIRMED with MODIFICATION as to the damages. Accused-appellant Federico Lucero is ordered to indemnify the heirs of AAA the amounts of PhP 75,000 as civil indemnity; PhP 75,000 as moral damages; PhP 25,000 as temperate damages; and PhP 30,000 as exemplary damages, all with interest at the legal rate of six percent (6%) per annum from the finality of this Decision until fully paid.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Romulo V. Borja and Mario V. Lopez.

[2] In accordance with Sec. 44 of Republic Act No. 9262, the Anti-Violence Against Women and Their Children Act of 2004, and Sec. 63, Rule XI of the Implementing Rules and Regulations of said Act, which mandate confidentiality, the real name of the victim is withheld to protect her privacy, and fictitious initials are used. The personal circumstances or any other information tending to establish or compromise the identity of the victim, as well as those of the victim's immediate family or household members, shall not be disclosed. See also Sec. 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; and *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[3] Records, p. 1.

[4] *Id.* at 32.

[5] *Id.* at 320.

[6] *Id.* at 320-321.

[7] *Id.* at 321.

[8] *Id.*

[9] *Id.*

[10] *Id.* at 322.

[11] *Id.*

[12] *Id.* at 323.

[13] *Id.* at 324.

[14] *Id.* at 328.

[15] *Id.* at 329.

[16] *Id.* at 18.

- [17] Id. at 330.
- [18] Id. at 331.
- [19] Id. at 332.
- [20] Id. at 333.
- [21] Id. at 347.
- [22] Rollo, p. 20.
- [23] Id. at 20-21.
- [24] Id. at 29.
- [25] TSN, November 13, 1998, pp. 36-37.
- [26] G.R. No. 64086, March 15, 1990, 183 SCRA 196.
- [27] Id. at 202.
- [28] G.R. No. 164266, July 23, 2008, 559 SCRA 461, 469-470.
- [29] G.R. No. 172326, January 19, 2009, 576 SCRA 242, 251-252.
- [30] Supra note 28, at 470.
- [31] TSN, February 5, 1999, pp. 6-10.
- [32] TSN, March 5, 1999, pp. 7-8.
- [33] TSN, February 5, 1999, p. 10.
- [34] G.R. No. 146949, February 13, 2009, 579 SCRA 161, 170.
- [35] G.R. No. 129220, September 6, 2000, 339 SCRA 718, 739.
- [36] TSN, February 7, 2000, p. 6.
- [37] Id. at 8.
- [38] Id. at 9-10.
- [39] Id. at 11-12.
- [40] G.R. No. 177219, July 9, 2010, 624 SCRA 678, 690.
- [41] G.R. No. 189093, April 23, 2010, 619 SCRA 481, 502-503.
- [42] Id. at 506-507.
- [43] G.R. No. 185012, March 5, 2010, 614 SCRA 372, 382.
- [44] G.R. No. 175479, July 23, 2008, 559 SCRA 609, 619.
- [45] People v. Combate, G.R. No. 189301, December 15, 2010.
- [46] See People v. Tubongbanua, G.R. No. 171271, August 31, 2006, 500 SCRA 727, 742-743.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.