PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE BRONIOLA @ "ASOT", ACCUSED-APPELLANT.

G.R. No. 211027. June 29, 2015

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

On appeal is the Decision[1] dated September 24, 2013 of the Court of Appeals (CA)-Cagayan de Oro City in CA-G.R. CR-HC No. 00805-MIN affirming with modification the Judgment[2] dated September 30, 2009 of the Regional Trial Court (RTC) of Kidapawan City, Branch 17, in Criminal Case No. 207-2000. The RTC found appellant Jose Broniola alias "Asot" guilty beyond reasonable doubt of Rape with Homicide under Republic Act (R.A.) No. 8353[3], Article 266-A, in relation to Article 266-B of the Revised Penal Code, as amended, and sentenced him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, AAA,[4] the sum of P100,000.00 as civil indemnity.

Antecedent Facts

AAA, a Grade VI pupil, left her house for school in the morning of February 28, 2000. She did not return home that day. Her lifeless body was found on February 29, 2000 in a grassy lot near an uninhabited farm hut at Sitio Kabanatian, Barangay Tumanding, Arakan, Cotabato.

Assistant Provincial Prosecutor Oscar D. Bayog filed the following Information[5] charging appellant with the crime of rape with homicide:

> That on or about February 28, 2000, in the Municipality of Arakan, Province of Cotabato, Philippines, the said accused, armed with a bolo (Lagaraw), did then and there, willfully, unlawfully and feloniously and by means of force and intimidation, have a carnal knowledge with [AAA], minor, 13 years old, against her will, that after the occasion, accused with intent to kill, attack, assault, hack and use physical violence to the above-named victim, thus inflicting upon her hack wounds on the different parts of her body, which is the direct and proximate cause of her death thereafter.
>
> CONTRARY TO LAW.

At his arraignment, appellant, duly assisted by counsel, pleaded not guilty to the charge. After pre-trial, trial on the merits ensued.

Version of the Prosecution

On February 28, 2000, at around 5:30 in the afternoon, Alfredo Abag[6] (Abag), a resident of Sitio Kabanatian,[7] Bgy. Tumanding, was on his way home bringing some "Taiwan" fish to sell when he met the appellant at a shortcut road passable only to people and animals. He noticed that appellant had scratches on his face and his hand was holding a lagaraw[8] (bolo) with blood on it. Appellant asked for the price of the fish but he did not buy and just left. From what he had observed, appellant was restless and uneasy.[9]

Meanwhile, AAA's father, BBB, reported to the barangay authorities that his daughter was missing. In the morning of February 29, 2000, he, together with Abag and two barangay officials, began to search for AAA. They found her already dead, lying on a grassy area near a farm hut owned by Jhonefer Q. Darantinao[10]. AAA's body bore several hack wounds, blood oozed from her mouth, her one hand and one finger were cut off. He knows appellant because they are neighbors. Their families had a rift because appellant's father was killed by his son-in-law, Lito Miguel.[11]

Dr. Sofronio T. Edu, Jr., Municipal Health Officer of Arakan, conducted a post-mortem examination on the cadaver of AAA. He submitted a Post-Mortem Report[12] with the following findings:

> Multiple hacked wounds:
>
> Left face mandibular area, partial transection
> Left neck area lateral and anterior area, partial transection extending into the vertebra
> Left hand completely transected at the midpalmar area
> Right thumb completely transected
> Right hand partially transected at the palmar area, medial
> Right wrist, partially transected anterior
>
> Perineal and internal examination:
>
> Blood stained white underwear
> Lacerated hymen at 3, 9 and 11 o'clock position
> Whitish discharge sent to Arakan, Valley District Hospital Antipas, Cotabato for sperm analysis
>
> CAUSE OF DEATH:
>
> Cardio-Respiratory Arrest secondary to hemorrhage secondary to multiple hacked wounds

According to Dr. Edu, the probable cause of death was loss of blood due to the hack wounds. He also opined that the genital injury could have been caused by a penetrating penis or any blunt object.[13]

Version of the Defense

In the morning of February 28, 2000, appellant was plowing his farm located adjacent to their house. After having lunch, he worked in the fishpond just beside their house until 3:00 o'clock in the afternoon. Thereafter, he stayed inside their house together with his mother, wife and children. Pelita[14] Antac, who is a niece of her mother, and Jessie Panesales who is the husband of his younger sister, were also there in the house. He denied having left the house at that time and meeting Abag at Sitio Kabanatian.[15]

Appellant claimed he does not know Abag, AAA or BBB. He admitted that his family has a land in Sitio Kabanatian but after the death of his father, he does not go there anymore. When BBB testified in this case, it was only then he learned that BBB is the father-in-law of Lito Miguel who reportedly killed his (appellant) father. He denied having grudges with the family of BBB and he does not have any knowledge regarding the amicable settlement between their families in connection with the killing of his father. At present, Lito Miguel is now his co-inmate at the provincial jail and they are now friends. Lito Miguel told him that Lito killed his father because they had a quarrel. When Lito Miguel asked him about this case of rape with homicide, he told Lito Miguel that he did not do it.[16]

Pelita Antac stayed in appellant's house from February 23, 2000 until the second week of March, because it was planting season. She corroborated the testimony of appellant, who is her cousin, that he never left the house on February 28, 2000 and just worked in his farm in Bgy. Tumanding.[17]

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Ruling of the RTC

The trial court found the testimony of Abag to be straightforward, categorical and convincing, which established that appellant went to Sitio Kabanatian where Abag met him coming from the shortcut road in the afternoon of February 28, 2000 carrying a blood-stained lagaraw. Said court gave no credence to appellant's defense of denial and alibi as it failed to show the impossibility of his presence at the scene of the crime and to rebut the prosecution's circumstantial evidence proving that he committed the rape and killing of AAA.

Ruling of the CA

The CA found no merit in appellant's argument that the circumstantial evidence failed to prove he was guilty beyond reasonable doubt of rape with homicide. It noted that the timing of witness Abag's encounter with appellant who was then holding a lagaraw stained with blood, restless and with scratches on his face, coincides with the time when the victim was missing, and the place was near the spot where the dead victim was found the next day. As to appellant's alibi, the CA also was not convinced and held that the rule that alibi and denial are weak defenses applies even where the conviction is based on circumstantial evidence.

The fallo of the CA Decision reads as follows:

> WHEREFORE, the appeal is DENIED. The Decision dated September 30, 2009 of the Regional Trial Court, 12[th] Judicial Region, Branch 17 of Kidapawan City in Criminal Case No. 207-2000 is AFFIRMED with MODIFICATIONS that the penalty of RECLUSION PERPETUA is imposed without the possibility of parole. In addition to the P100,000.00 civil indemnity, moral and exemplary damages shall also be awarded in the amount of SEVENTY-FIVE THOUSAND (P75,000.00) PESOS and THIRTY THOUSAND (P30,000.00) PESOS, respectively. An interest at the rate of six percent (6%) period shall be applied to the award of civil indemnity, moral and exemplary damages from the finality of the judgment until fully paid.
>
> SO ORDERED.[18]

Our Ruling

The appeal is without merit.

Appellant was charged and convicted of rape with homicide. The felony of rape with homicide is a special complex crime that is, two or more crimes that the law treats as a single indivisible and unique offense for being the product of a single criminal impulse.[19] In 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.[20]

In this case, nobody witnessed the actual rape and killing of AAA. Appellant, however, may still be proven as the culprit despite the absence of eyewitnesses. Direct evidence is not a condition sine qua non to prove the guilt of an accused beyond reasonable doubt. For in the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden.[21] As we held in People v. Pascual[22]:

> 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.[23]

Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the

main fact may be inferred according to reason and common experience.[24] Section 4, Rule 133, of the Revised Rules of Evidence, as amended, sets forth the requirements of circumstantial evidence that is sufficient for conviction, viz:

> SEC. 4. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:
>
> (a) There is more than one circumstance;
>
> (b) The facts from which the inferences are derived are proven; and
>
> (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

The RTC and CA found the following circumstantial evidence presented by the prosecution as sufficient for the conviction of appellant: First, witness Abag met the appellant on a shortcut road near the place where AAA's dead body was found, at about the same time (5:30 p.m.) AAA went missing as she failed to return home that day, February 28, 2000; Second, appellant had scratches on his face and he was holding a lagaraw a type of bolo used in the rural areas, which was stained with blood, and he was restless and uneasy; Third, in the morning of the following day, February 29, 2000, AAA's lifeless body was found with several hack wounds inflicted on her face, neck and extremities, one hand and one finger were totally severed; Fourth, the post-mortem examination conducted by Dr. Edu confirmed that AAA died from loss of blood due to multiple hack wounds, her underwear was blood-stained, she had hymenal lacerations and a whitish discharge was found in her vagina; Fifth, appellant had the motive to commit the crime against AAA considering that it was BBB's son-in-law, Lito Miguel, who killed appellant's father; and Sixth, appellant was evasive when being questioned on his knowledge of the identity of his father's killer and the latter's relationship to the family of AAA, and the amicable settlement executed by his mother in behalf of appellant's family.

We concur with the CA and RTC.

Considering all the circumstances mentioned and in light of previous rulings, we are satisfied that the evidence adduced against appellant constitutes an unbroken chain leading to the one fair and reasonable conclusion that appellant was the perpetrator of the crime. It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.[25] This was adequately established in the case at bar.

As regards the penalty imposed, R.A. No. 8353 provides:

> ART. 266-A. Rape, When and How Committed. – Rape is committed –
>
> 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
>
> a) Through force, threat or intimidation;
>
> b) When the offended party is deprived of reason or otherwise unconscious;
>
> c) By means of fraudulent machination or grave abuse of authority; and
>
> d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
>
> x x x x x x x x x
>
> ART. 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

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x x x x x x x x x

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

x x x x x x x x x

(Emphasis supplied)

On the other hand, Section 2 of R.A. No. 9346 or "An Act Prohibiting the Imposition of Death Penalty in the Philippines" provides:

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.

Furthermore, Section 3 of R.A. No. 9346 provides, "[p]ersons 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, otherwise known as the Indeterminate Sentence Law, as amended."

The CA thus correctly modified the RTC judgment by declaring that the penalty of reclusion perpetua is without the possibility of parole, in accordance with the law.

Conformably with People v. Gambao,[26] we sustain the award of P100,000 as civil indemnity and increase the awards of moral and exemplary damages to P100,000 each. In addition, we award P25,000 to the victim's heirs as temperate damages in lieu of unproven actual damages.[27] The CA correctly added that damages assessed in this case shall be subject to interest at six percent (6%) per annum.

WHEREFORE, the appeal is DISMISSED. The Decision dated September 24, 2013 of the Court of Appeals-Cagayan de Oro City in CA-G.R. CR-HC No. 00805-MIN is hereby AFFIRMED with MODIFICATION in that the awards of moral and exemplary damages are increased to P100,000 each and that temperate damages of P25,000 is awarded to the heirs of AAA.

With costs against the accused-appellant.

SO ORDERED.

Peralta,[*] (Acting Chairperson), Bersamin,[**] Perez,[***] and Perlas-Bernabe,[****] JJ., concur.

July 8, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on June 29, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 8, 2015 at 2:18 p.m.

Very truly yours,
(SGD.)
WILFREDO V. LAPITAN

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[*] Designated Acting Chairperson per Special Order No. 2071 dated June 23, 2015.

[**] Designated additional Member per Special Order No. 2081 dated June 29, 2015.

[***] Designated Acting Member per Special Order No. 2084 dated June 29, 2015.

[****] Designated Acting Member per Special Order No. 2072 dated June 23, 2015.

[1] CA rollo, pp. 79-90. Penned by Associate Justice Renato C. Francisco with Associate Justices Romulo V. Borja and Oscar V. Badelles concurring.

[2] Records, pp. 194-205. Penned by Executive Judge Francis E. Palmones, Jr.

[3] "The Anti-Rape Law of 1997."

[4] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, together with that of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. [People v. Cabalquinto, 533 Phil. 703, 709 (2006).]

[5] Records, p. 2.

[6] Also referred to as Ambag in some parts of the records.

[7] Kabalantian in some parts of the records.

[8] Lagaraw n. long machete with a blunt end which curves downwards, used for rough clearing, picking up coconuts, and the like. (A Dictionary of Cebuano Visayan, compiled by John U. Wolff, Vol. II [L-Y], p. 547.)

[9] TSN, January 10, 2001, pp. 4-6, 11.

[10] Also referred to as Jonifer Tarantinao and Johnefer in some parts of the records.

[11] TSN, January 10, 2001, pp. 6-8; TSN, February 21, 2001, pp. 4-15.

[12] Records, p. 7.

[13] TSN, March 21, 2001, p. 7.

[14] Also referred to as Pilita elsewhere in the records.

[15] TSN, July 7, 2008, pp. 5-8.

[16] Id. at 8-27.

[17] TSN, January 5, 2009, pp. 4-12.

[18] CA rollo, p. 89.

[19] People v. Villaflores, G.R. No. 184926, April 11, 2012, 669 SCRA 365, 380.

[20] People v. Yatar, G.R. No. 150224, May 19, 2004, 428 SCRA 504, 521.

[21] People v. Sace, 631 Phil. 335, 343 (2010), citing People v. Navarro, Jr., 454 Phil. 728, 745 (2003).

[22] 596 Phil. 260 (2009).

[23] Id. at 272.

[24] Id., citing People v. Darilay, 465 Phil. 747, 767 (2004).

[25] People v. Guihama, 452 Phil. 824, 843 (2003), citing People v. Guarnes, 243 Phil. 665, 675 (1988).

[26] G.R. No. 172707, October 1, 2013, 706 SCRA 508, 533.

[27] People v. Notarion, 585 Phil. 611, 624-625 (2008).

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