

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARTIN MAGTIRA Y DELA CRUZ, ACCUSED-APPELLANT.

*G.R. No. 28255. November 25, 1983*

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-28255/>

---

### PER CURIAM:

For the crime of rape and homicide committed against ten-year old Clarita S. Constantino, accused-appellant Martin Magtira y dela Cruz, then 33 years old, was charged and convicted to suffer the supreme penalty of death. Said accused was likewise ordered to indemnify the heirs of the victim in the sum of P6,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

No one saw the actual commission of the crime but the lower court found that the guilt of Martin Magtira had been established beyond reasonable doubt on the strength not only of his statement before the Municipal Court of Masinloc, Zambales (Exhibits "C" and "C-1") admitting the authorship of the macabre crime but also on the evidence of the corpus delicti and the presence of a web of circumstantial evidence virtually trapping said accused to a point that he could no longer successfully deny the same.

Automatic review of the death sentence being required by law, the accused-appellant thru counsel de oficio herein made a creditable attempt to reverse the aforesaid decision but to no avail as will be clearly set forth below.

The appeal raised the following assignment of errors:

### I

"The lower court erred in admitting Exhibits "C", "C-1", the alleged statement of the accused and Exhibit "E".

### II

"The lower court erred in not holding that the circumstantial evidence of the prosecution failed to prove the guilt of the accused beyond reasonable doubt.

### III

"The lower court erred in not acquitting the accused." [1]

The Solicitor General synthesized the evidence of the prosecution as follows:

"In June 1967, complainant Juanita Sarmiento, a 30-year old widow was residing in barrio Balu-ganon, Masinloc, Zambales with 3 of her 4 child-ren, namely, Clarita, almost 11 years old, Vale-riano, 8, and Carmelita, 6, all surnamed Constantino (p. 24, 25, 44, 45, t.s.n.). Some 30 meters from her house lived Martin Magtira, herein appel-lant, known in the neighborhood as 'Pocol' be-cause of a blinded right eye and an amputated left arm two inches below the elbow (pp. 24, 25, 27, t.s.n.).

At about 2 o'clock p.m. of June 9, 1967, Clarita, Valeriano and Carmelita were playing on the road in front of the house of appellant (pp. 53, 74, 76, 44, t.s.n.). Appellant who was in the second floor of his house beckoned

Clarita to come up (pp. 74, 76-77, t.s.n.). Obediently, Clarita went up the house (p. 74, t.s.n.). Appellant gestured with his right hand to Valeriano and Carmelita to go away, and the two left the place (pp. 74, 76-77, t.s.n.).

At about 4 p.m., complainant noticed that Clarita had not yet come home (pp. 26, 44, t.s.n.). She asked her two children where their sister was; neither Valeriano nor Carmelita knew (pp. 26, 45, 75, 76, t.s.n.). Complainant scoured the neighborhood looking for her missing daughter (p. 26, t.s.n.). Clarita could not be found (p. 26, t.s.n.). Complainant returned home and inquired again from her son Valeriano where he left his sister that afternoon (pp. 26, 46, t.s.n.). Valeriano suddenly recalled and told her that earlier in the afternoon, Martin Magtira called Clarita to his house (pp. 26, 46, 75, t.s.n.).

Complainant and her aunt and neighbor Susan Olivo, went to search for appellant Magtira (pp. 26, 27, t.s.n.). They saw him walking along the railroad tracks in the barrio (pp. 27, 46, 51, t.s.n.). Complainant asked appellant if he had seen her daughter Clarita; appellant gave a negative answer (p. 27, t.s.n.). The two women then proceeded to Magtira's house, without appellant (p. 28, t.s.n.). In the second floor of the house, in the back room, complainant discovered her daughter Clarita lying on the bamboo floor covered by a mat (pp. 28, 41-42, t.s.n., Exhibit H). Removing the cover, she found her dead, her arms and legs spread apart, her red dress, Exhibit F, stained with blood in front and the back (pp. 28, 29, t.s.n.). Raising her dress, she found the child was without a panty, although she always wore one, exposing her vagina where there was inserted a portion of a man's sweat-shirt (Exhibit G) (pp. 28, 29, 31, t.s.n.). Complainant, knowing what happened, cried in deep anguish as she embraced the cold and lifeless body of her daughter (pp. 29, 31, t.s.n.).

At about 11:30 o'clock in the evening of the same day, the chief of police of Masinloc, Raymundo Buenaventura, receiving a report that the dead body of a young girl was found in appellant's house, fetched Municipal Judge Gerardo Elicaño and Municipal Health Officer Dr. Diosdado Asuncion (pp. 19, 63, 3, 11, t.s.n.). The three officials repaired to the house of Magtira in Baluganon, and there saw the dead body of the child Clarita Constantino lying prostrate on the bamboo floor (pp. 19, 63-64, 4, 49, t.s.n.). Dr. Asuncion conducted a postmortem examination and the following were his findings:

1. Lacerated hymen
2. Vaginal hemorrhage
3. Lacerations, anterior and posterior commissures of the vagina;
4. Echymosis, medial aspect of the upper third of both thighs;
5. Echymosis, lateral aspect of the upper third of left thigh; and
6. Contusion-abrasion, anterior aspect of neck (Exh. A, p. 10, rec.) (pp. 4-5, t.s.n.)

According to Dr. Asuncion, the girl must have been dead for more than 6 hours at the time of examination as the body was already in complete rigor mortis (p. 5, t.s.n.). The doctor said that the lacerated hymen and lacerations on both sides of vagina were caused by the insertion of a blunt object, like a penis, into the vagina; that in the vaginal cavity there was a combination of fresh and clotted blood; that outside the vaginal cavity and on the skin of the thigh of the victim were hemorrhages called echymosis; that on the floor underneath the vagina were fresh and clotted blood; that the lacerations on the folds of the skin at both ends of the vagina could have been caused by introduction of a forceful blunt object like a penis into the vagina; that the echymosis on the thighs could have been caused also by a forceful application of a blunt object, like fist blows or kicks; and that the contusion and abrasion on the neck must have been caused by blunt instrument in rubbing motion (pp. 5-8, t.s.n.). Dr. Asuncion attributed the death of Clarita Constantino to strangulation because of the slightly protruding tongue of the victim, aggravated by hemorrhage (pp. 8, 11, t.s.n.).

While Dr. Asuncion was conducting the post-mortem examination on the body of Clarita, police chief

Buenaventura spotted appellant Magtira among the people who flocked the second floor of the house (pp. 64, 65, t.s.n.). He arrested appellant and took him to the D'Chrome, a restaurant in the barrio, where he investi-gated him (p. 65, t.s.n.). Appellant denied having to do with the death of Clarita and invoked alibi (pp. 65-66, t.s.n.). Appellant was thereafter brought to the police headquar-ters in Masinloc (p. 66, t.s.n.). The officer summoned complainant Juanita Sarmiento and Valeriano Constantino (p. 67, t.s.n.). Con-fronted by the two and told by the Chief of Police that if he would tell the truth he would help him, appellant Magtira confessed to the police chief that he raped and killed Clarita Constantino (pp. 67, 68-69, t.s.n.). Pat. Abraham Vengua interrogated appellant and his declaration was reduced in writing, Exhibit B (pp. 68, 69, 71, t.s.n.).

Municipal Judge Elicaño was in the morning of June 10, 1967 in his sala when appellant Magtira was brought to him by policemen of Masinloc (p. 14, t.s.n.). The judge sent out of the courtroom the policemen (p. 20, t.s.n.).

Judge Elicaño read in Tagalog appellant's statement in Tagalog (Exhibit B); thereafter, appellant swore and signed his statement before the judge (pp. 10, 14-15, 18, t.s.n.; Exhibit B, p. 6, rec.; Exhibit B-1, translation, p. 27, rec.). Then Judge Elicaño conducted a preliminary examination of appellant which was reduced in writing and which appellant signed (Exhibits C, C-1, pp. 7-8, rec.; pp. 15-16, 17 t.s.n.). Appellant therein rei-terated and affirmed the veracity of his extra--judicial confession that he raped and killed Clarita Constantino (Exhibits C, C-1). Pertinent portion of Exhibits C and C-1 read as follows:

'4. C- Sinabi mo kanina na ang ina ni Clarita Constantino, ang bata na ginahasa mo, ay kaibigan mo; ano ang kanyang pangalan?

S- Nita po; hindi ko alam ang apelyido.

5. C- Ilan taon mo ng kakilala itong si Nita?

S- Magdadalawang taon na po.

6. C- Sinabi mo na ito si Clarita Constantino at kanyang mga kapatid ay parating naglalaro sa iyong bahay. Nuong Biernes, sino itong dalawang kapatid ni Clarita ang pumunta sa iyong bahay?

S- Isang babae at isang lalaki.

7. C- Nasabi mo naman na nuong nagawa mo ang panggagahasa doon sa itaas ng iyong bahay kay Clarita Cons-tantino nandodoon pa ba sa ibaba ng bahay mo ang kanyang mga kapatid?

S- Opo.

8. C- Sa anong paraan mo nagawa ang panggagahasa?

S- Hindi ko matiyak kung papano, sapagkat lasing ako.

9. C- Sumigaw ba si Clarita?

S- Hindi po.

10. C- Bakit?

S- Aywan ko po kung bakit hindi sumigaw.

11. C- Sinabi mo naman sa unang declaracion mo na kinuha ng mga pulis at pinagsumpaan dito, na noong matapos ginahasa si Clarita ay inipit mo ang kan-yang leeg ng dalawa mong tuhod hanggang sa malagot ang kanyang hininga upang siya ay hindi makapagsumbong sa kanyang ina sa may kapangyarihan; tutoo ba ito?

S- Opo."[2]

Lucena Mesias was a laundress living in barrio Baluganon (pp. 35-38, t.s.n.). At about 3:00 p.m. of June 9, 1969, appellant arrived at her house and asked her to wash his trousers, Exhibit J, which was rolled (pp. 35-38, 58, t.s.n.). Mesias excused herself saying that she could not wash his pants inasmuch as her daughter was sick (pp. 35, 38, t.s.n.). Appellant insisted and left his pair of pants in one of the corners of Lucena's house (p. 35, t.s.n.). The following morning, June 10, 1967, Mesias went to see appellant's aunt, Barbara de la Cruz, who was her neighbor, and told her that the pants of appellant was left with her (p. 36, t.s.n.). She asked her to take appellant's trousers from her house (p. 36, t.s.n.). Mesias already knew then that appellant was involved in a 'case' (p. 36, t.s.n.). Barbara's son, Pedro Garcia, picked up the pants, Exhibit J, from Mesias' house (pp. 27, 58, t.s.n.). When Barbara dela Cruz saw the pants it was with blood stains around the area of the opening (pp. 58-60, 61, t.s.n.). The pants (Exhibit J) had an acrid (malansa) odor (p. 59, t.s.n.). She recognized it as the one usually worn by appellant (p. 62, t.s.n.). She turned over the pants to Pat. Juan Morales (p. 60, t.s.n.).

The red dress (Exhibit F) worn by Clarita at the time of her death, the sweatshirt (Exhibit G) a portion of which was found inserted in the vagina of the child, and the pair of pants (Exhibit J) of appellant, were submitted for laboratory examination to the Zambales Provincial Hospital (pp. 60-61, 80, t.s.n.). Dr. Felixberto Valdez who conducted a chemical examination of the exhibits found that the stains on the dress (Exhibit F), on the right sleeve of the sweatshirt (Exhibit G), and on the area around the opening of the pants (Exhibit J), were all blood (pp. 80, 81-82). He, however, could not determine whether or not the blood stains were human because the blood cells had already deteriorated (p. 82, t.s.n., Exhibit K, p. 61, rec.)."[3]

As indicated in the People's brief, accused-appellant executed an extrajudicial statement given to the police marked Exhibit "B" which is reproduced below:

"SINUMPAAN SALAYSAY NI MARTIN MAGTIRA Y DELA CRUZ,  
KUHA NI PAT. ABRAHAM D. VENGUA, NG MASINLOC POLICE  
DEPARTMENT, DITO SA PUNONG HIMPILAN NG HEPE NG  
PULISYA NG MASINLOC, ZAMBALES, NGAYON IKA-10  
NG HUNYO 1967.

-----  
1. TANONG - Matapos mong mabatid ang iyong kara-patan batay sa Saligang Batas, handa ka bang magsabi ng katutuhanan walang iba kundi pawang katutuhanan lamang?

SAGOT - Opo senior.

2. T- Sabihin mo nga ang iyong pangalan, taon gulang, hanapbuhay at iba pang mga bagay na may kaugnayan sa iyong pagkatao?

S- Ako, Martin dela Cruz Magtira, 33 taon bulang, walang asawa, walang trabaho at kasalukuyan naninirahan sa Baloganon, Ma-sinloc, Zambales.

3. T- Noong araw ng Viernes pecha 9 ng Hunio 1967, saan ka naroroon?

S- Naroon po ako sa bahay ko sa Baloganon, Masinloc, Zambales.

4. T- Mayroon ka bang natatandaan ginawa mo na hindi kanais-nais?

S- Mayroon po.

5. T- Isalaysay mo nga ang buong katutuhanan pang-yayaring nagawa mo?

S- Noong araw ng Viernes pecha 9 ng Hunion 1967, oras humigit-kumulang sa ika isa ng hapon, ito si Clarita

Constantino at ang dalawang niyang kapatid ay nasa aking bahay sa Balo-ganon, Masinloc, Zambales. Ang mga batang ito ay malimit sa bahay, sapagkat ang kani-lang ina ay matalik kong kaibigan. Habang silay naglalaro sa silong ng bahay ito si Clarita Constantino ay umakyat sa itaas at naiwan ang kanyang dalawang kapatid sa silong.

6. T- Nang nasa itaas na ng bahay si Clarita Cons-tantino, ano ang ginawa mo?

S- Sinundan ko po siya sa itaas at ginawa ko ang isang bagay na hindi kanais-nais sa kanya.

7. T- Nang matapos mong makuha ang isang bagay (sexual intercourse) sa batang ito, ano pa ang ginawa mo?

S- Inipit ko ang kanyang leeg ng dalawa kong tuhod hanggang sa malagot ang kanyang hininga.

8. T- Bakit naman nagawa no pang kitlin ang kanyang buhay samantalang nakuha na ang isang bagay (sexual intercourse) sa kanya?

S- Sa kalituhan ko at upang hindi siya maka-pagsumbong sa kanyang ina at sa maykapang-yarihan.

9. T- Matapos mong kitlin ang kanyang buhay, ano pa ang ginawa mo?

S- Umalis na po ako ng bahay at naglibang dahil sa nagawa kong pagkakasala, hanggang sa hulihin ako ng mga alagad ng batas.

10.T- Sa mga pagkakasalang nagawa mo na nabanggit sa itaas, ay inaamin mong kasalanan?

S- Opo senior.

11.T- Samakatuwid Ginoong Martin Magtira, handa mo bang lagdaan ang salaysay mong ito na walang sino man namilit o nagturo sa iyo?

S- Opo handa ko pong lagdaan ng kusang loob ko.

(SGD.) MARTIN MAGTIRA Y DELA CRUZ

(Lagda)

SUBSCRIBED AND SWORN to before me this 10th day of June 1967, at Masinloc, Zambales.

(SGD.) G. ELICAÑO

Municipal Judge

Masinloc, Zambales"

Accused-appellant Martin Magtira, on the other hand, presented in his Brief a different statement of facts evin-cing the defense of alibi, the inadmissibility of his sworn statement and the improbability of the commission of the crime by accused-appellant. Hereunder quoted is the afore-said statement of facts:

"Accused Martin Magtira y dela Cruz is a Bulakeño who came to reside in Barrio Baluganon, Municipality of Masinloc, Zambales in 1963. He suffers from two physical infirmities - a blind right eye and a left arm cut two inches below the elbow (t.s.n., July 17, 1967; Decision, p. 3).

In October of 1966, he started to live with Juanita Sarmiento, mother of the deceased-victim Clarita Constantino in Baluganon, Masin-loc, Zambales. The common-law relationship, however, lasted only for about two months as the accused left Sarmiento and took up Remedios Doctolero as his new common-law wife in the same barrio of Baluganon (t.s.n., Aug. 2, 1967, pp. 88-89).

At about 1:00 o'clock dawn of June 9, 1969, the accused, upon suggestion and invitation of Josie, a hostess,

Manuel Alberto and Erning started to have a drinking spree in the first floor of his rented house in the barrio. Shortly thereafter, Juanita Sarmiento dropped in and participated in the drinking spree. Together, they all drank and conversed until 12:00 o'clock noon of the same day.

At the same time Josie invited the group to have lunch at the D'Chrome Restaurant. Together, the group repaired to the said restaurant and there they ate their lunch except Josie who is a hostess there. After lunch they went back to Magtira's rented house and again conversed in the first floor. At that time, due to the presence of their mother Juanita Sarmiento, the children Valeriano, Carmelita and the victim Clarita Constantino were playing in front of the house. Thereafter, the accused Magtira together with Josie left the first floor of his rented house to go to the house of a certain "Tomoy". Meanwhile, Sarmiento and Manuel Alberto were left behind in Magtira's house. At the house of Tomoy, Josie took her lunch and from there at about 2:30 in the afternoon she boarded a Victory Liner Bus for Iba, Zambales (t.s.n., IBID., pp. 90-91; p. 104).

The accused thereafter went to the house of his mother Elena dela Cruz and stayed there until about 6:00 o'clock of the same afternoon when he went out intending to go back to his rented house. On the way, however, he met Juanita Sarmiento who asked her on the whereabouts of his daughter Clarita. The accused answered, "I do not know" (t.s.n., IBID, pp. 92-93). After that, the accused again saw Manuel Alberto drinking at one of the stores and the latter invited the accused to join him. The accused stayed for about one hour with Manuel Alberto and at about 7:00 o'clock in the evening of June 9, 1967, the accused and Manuel Alberto together with the latter's two companions went to the Russian Bar of the same barrio (t.s.n., IBID, p. 94). They were not however able to drink at the Russian Bar because they were not able to get money for the drinks.

The accused therefore, separated himself from the group and went to a gambling house at the residence of Mrs. Montero. There, he gambled until about 10:00 o'clock in the evening when he was called by a son of Susan Olivo who invited him to some drinks and pulutan, to be held also in his rented house. Upon reaching his rented house, the accused however, was informed that somebody was found dead on the second floor thereof. He went up to the second floor of the house and there came upon the Chief of Police, Dr. Asuncion and Judge Elicaño. He was not able to get near the cadaver because the Chief of Police restrained him from getting nearer. Shortly thereafter, he was arrested and brought to the D-Chrome Restaurant and there investigated by the Chief of Police. The accused however, denied any knowledge of the killing. The Chief of Police then brought him to the municipal building at Masinloc (t.s.n., IBID, pp. 95-97).

There, he was maltreated by Luis de los Reyes, a member of the police force of Masinloc, who boxed him at the breast. Another member of the police force ordered the accused to lie on a prone position on the cement floor where he was kicked several times for his refusal to admit the killing of the deceased - -Clarita Constantino. Later on, he was again maltreated and asked to confess to the crime. Still later at the prodding of the Chief of Police who admitted in Court that he promised to render assistance to the accused, the latter signed a statement, the contents of which he did not know, and which turned out to be Exhibit "B" of the prosecution (t.s.n., IBID, pp. 97-98).

On June 13, 1967, the accused Magtira was brought before Municipal Judge Gerardo Elicaño and there made to sign another statement, Exhibits "C" and "C-1" (t.s.n., IBID, p. 99)."[4]

Significant from the aforesaid narration of facts of accused-appellant is the fact that while he alleged that he was maltreated by the police force of Masinloc, Zambales and asked to confess to the crime, it was not until later that he did so and only when the Chief of Police prodded him to admit the crime through promises of assistance. The alleged maltreatment is, therefore, not the immediate and proximate cause for the execution of Exhibit "B" but rather it was the assurance of aid by the Chief of Police that made him confess.

In fact, the lower court did not consider Exhibit "B" in the evaluation of evidence on the ground of maltreatment but on the fact that the Chief of Police admitted that he promised to help the accused if he tells the truth.

Accordingly, the argument of accused-appellant that Exhibits "C" and "C-1", entitled the Preliminary Examination of Martin Magtira y dela Cruz, and Exhibits "E" and "E-1", the plea of guilty of the said accused during preliminary investigation of the case, should not likewise be admitted for having been made under immediate fear and intimidation of violence from members of the municipal police force, is based on a wrong premise. Although accused-appellant was under police custody at the time he executed Exhibits "C", "C-1", "E" and "E-1", it cannot be said that he still labored under fear of violence when the alleged maltreatment he suffered in the first place did not even prompt him to confess.

It cannot likewise be said that he was still under the same undue influence of the Chief of Police when he executed Exhibits "C" and "C-1" as the latter was taken at a later date, i.e., June 13, 1967; it was executed not at the police station but before the Municipal Court of Masinloc, Zambales in the presence of witnesses and the questions were propounded, not by the police, but the judge himself, whose duty was not to gather evidence against the accused but to conduct a preliminary examination of the accused for the purpose of determining whether there is reasonable ground to believe that an offense has been committed.

Any other kind of involuntariness in executing Exhibit "C" and "C-1" is foreclosed by the fact that the judge made a clear declaration before the start of the preliminary examination that the accused had a choice to answer the questions or not. As further proof of its voluntariness, accused entered a plea of guilty, Exhibits "E" and "E-1", thereby confirming all that he had said during preliminary examination. Exhibits "C", "C-1", "E" and "E-1" are evi-dence of high quality against the accused, all arguments against their infirmity being unfounded. With the existence of the elements of corpus delicti, which accused-appellant did not question, his conviction on the basis of said exhibits must be sustained.

Owing to the nature of the crime of rape with homicide, where the victim is silenced forever, never again capable of narrating the horrendousness of the crime committed against her honor and her person, this Court has always attached importance to the extrajudicial confession of the accused as in the recent cases of *People vs. Umali*, 116 SCRA 23, where the victim was a thirteen-year old girl who was strangled to death after the commission of rape; *People vs. Vizcarra*, 115 SCRA 743, where the fourteen-year old rape victim was likewise strangled; *People vs. Gabierrez, Jr.*, 113 SCRA 155, a case of a twelve-year old victim of rape who was struck in the head causing her to fall; *People vs. Francisco*, 93 SCRA 351, where the nine-year old victim also suffered death through strangulation; and *People vs. Ramos*, 94 SCRA 842, where the eighteen-year old victim of rape was stabbed to death.

Nevertheless, even without the confession and the plea of guilty in the preliminary investigation of the accused, the presence of circumstantial evidence pointing to the accused as the author of the crime is sufficient for con-viction, pursuant to Section 5, Rule 133 of the Revised Rules of Court which provides, thus:

"Sec. 5. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inference are derived are proven; and
- (c) The combination of all the circums-tances is such as to produce a con-viction beyond reasonable doubt."

The court a quo found the following circumstantial evidence to have been duly proven:

"First, the familiarity of Martin Magtira and the children, Clarita, Valeriano and Car-melita. This circumstance is born of the fact that Magtira and the children live in the same neighborhood in Baluganon. The house of the accused is just 30 meters away from that of the children. In fact, the accused claimed that he lived with those children for two months and treated them as his own when their mother was still his paramour. This familiarity

gives the inference that Magtira can easily beguile Clarita, Valeriano and Carmelita.

Second, the presence of Clarita, Valeriano and Carmelita in front of the house of the accused in the afternoon in question. As testified to by Valeriano, these children were playing in all their innocence near that house which will soon be the scene of the most horrible crime in the annals of criminality in Zambales. The silence of that sultry after-noon must have been time and again punctuated by their laughters not knowing that in a short while the bud of youth will be plucked never to blossom anymore into the fragrance of woman-hood.

Third, the presence of Martin Magtira in the untenanted second floor of the house. With a malevolent eye perhaps, and a sexual urge slowly building itself inside him because it cannot be emptied into his paramour who was then in Olongapo City, the accused watched these children in their frolics like a jungle beast stalking its prey. If only these children noticed that sinister look, they would have scampered. But all what Clarita and Valeriano saw in that second floor was Martin Magtira, a man familiar to them and no more. His being in the house at that time and occasion was admitted by him in his testimony in open court. However, he gave the explanation that it was not in the second but in the first floor; that Juanita Sarmiento was also there with Manuel Alberto; that he and Josie left them there, including the three children. The presence of the children in front of his house while he was in the second floor gives the inference that the accused had the opportunity to commit the crime.

Fourth, Clarita Constantino went up that second floor upon the beckon of Martin Magtira. This fact was testified to by Valeriano Constantino, who despite his tender years, impressed the court that he is an honest and sincere witness. The observation of the court on his demeanor while testifying is reflected in the record. This observation was concurred by the distinguished counsel for the defense. Valeriano Constantino even demonstrated, unconsciously and as if it was a natural for him, how the accused waved his one hand in calling Clarita up the second floor of the house and gesturing to him and Carmelita to go away when their sister was already inside. During the cross-examination, it was suggested to Valeriano by the defense that his testimony was taught to him by his mother, Juanita Sarmiento. But the boy, without hesitation and in all candor and simplicity just answered it was not so because he saw the accused do it. That Clarita did go up the house was confirmed by the finding of her dead body there some-time later that evening.

Fifth, Clarita was raped and killed by strangulation in the unoccupied second floor of the house where the accused resides in the first floor. The testimony of Dr. Asuncion and his postmortem examination on the body of Clarita Constantino is conclusive on this fact. Considering that Clarita was last seen alive by Valeriano when she went up that second floor upon the beckon of Martin Magtira, the inference lies that it was the accused who raped and killed the girl. Clarita went up that floor without hesitation and with no foreboding of evil because she never expected that a man and a neighbor familiar to her would harm her. Imagine her horror when she suddenly found herself thrown on her back on the bamboo floor, the experienced one hand of the accused grabbing her panty away, his knees nailing her down to immobility, his labored breath smelling of liquor; imagine her fright as she felt his weight and hard pounding against her thighs and the pain of every thrust. With desperate strength of an impending death, Clarita Constantino must have fought the accused. It was no use. The echymosis on her thighs and around her vagina mutely trumpets the viciousness of the criminal assault on the girl. Virgin blood from the vagina splashed the pants of the accused which he had no time to remove in his hurry to be satisfied without being discovered. Virgin blood also stained Clarita's dress in front and at the back. After Magtira emptied himself he saw that Clarita's vagina bled profusely, so he tried to pack it with a dirty sweater. At first he must have felt secured in the thought that no eye has seen him commit the crime, no ear has heard the scream of pain of the girl. But what if Clarita will report what he did to her? The only solution to prevent Clarita from pointing to him as the criminal was to silence her forever. Magtira cannot do it with his one hand. So in scissors hold with his legs and knees he strangled Clarita Constantino to death. The contusion and abrasion on the neck of the girl and her protruding tongue confirmed this nauseating fact.

Sixth, the bloody trousers, Exhibit J, is owned by the accused. The inference lies that it became bloody because

of the vaginal blood of Clarita Constantino. When the accused saw that his trousers were bloody, he immediately descended to the first floor where he lives and changed the pants. But he could not wash the thing. He has only one hand. So that very afternoon, at three o'clock, he went to the house of Lucena Mesias. He gave her the pants to be washed. Mesias could not launder it because her child was then sick. The accused insisted in leaving the pants to her. So Mesias asked the aunt of the accused, Barbara dela Cruz, to get the trousers. Barbara sent her son, Pedro Garcia to retrieve it. That was in the early morning of June 10, 1967. Before that time, or at ten o'clock in the evening of June 9, 1967 the dead body of Clarita Constantino was already discovered and Martin Magtira like-wise arrested by the police. These facts must have come to the attention of Barbara because she did not wash the trousers. The moment she saw that it was bloodstained in the area around the zipper and it had an acrid (malansa) odor, she gave it to the police. She knew that the pants belonged to Martin Magtira because she has seen it worn by him very often. So Magti-ra's claim that his trousers was owned by Manuel Alberto was belied by his very aunt. His ownership of the pants was conclusively proven when, on the request of his counsel, the court ordered him to try it on. Despite his efforts to expand his waistline, the pants, Exhibit J, fitted him perfectly. The observation of the court on this point is in the record. The trousers worn by the accused during the trial was measured together with Exhibit J. The measurements were identical. This fact was also entered in the record.

Seventh, the stains on the trousers, Exhibit J; on the dress of Clarita Constantino, Exhibit F; and on the sweater, Exhibit G, are all blood. This fact was testified to by Dr. Felixberto Valdez. Although Dr. Valdez could not say what kind of blood the stains were because of lack of laboratory equipments, neither did the defense prove that the stains were not human blood. As a matter of fact, the accused did not explain how Exhibit J got those bloodstains nor did he deny that they were bloodstains."<sup>[5]</sup>

The accused-appellant attempted to destroy the chain of circumstantial evidence by claiming that his small rented house is made of "bojos" and its floor on the second storey is made of bamboo splits; that it is located beside a provincial highway and is adjoined on its two sides by small houses, the adjoining houses on the southern side being only 6 meters away and on the northern side also barely a few meters distant; that it is therefore very improbable that the one-armed accused could have so overwhelmingly over-powered the victim in one stroke without the latter being able to raise an outcry. Appellant's contention is untenable, as correctly argued by the Solicitor General, for there is completely no evidence on the record that the adjoining houses were tenanted at all or that at the particular time of the afternoon in question, there were people in the houses. The fact that accused-appellant has the full use only of his right arm does not in the least make the commission of the crime of rape with homicide on a ten-year old girl incredible. In *People vs. Savellano*, 57 SCRA 320, this Court affirmed the conviction of the accused therein, who had the full use of his left arm only for the crime of rape against a seventeen year old girl.

Accused-appellant next lays stress on the absence of finding that the blood stains on the pants, Exhibit "J", were human blood. Such finding is immaterial when We consider that the blood stains on the pants were found around the area of the opening; that the victim's vagina had fresh and clotted blood and that the accused wanted said pants washed on the very afternoon the victim was raped. The foregoing facts and circumstances establish the inference that the blood found on the trousers could not be but the blood of Clarita.

Accused-appellant further points to some alleged improbabilities in the testimony of Valeriano Constantino (the eight-year old brother of the victim) that he was shoved away by accused-appellant when he and his sister, Carmelita, tried to follow Clarita up the house. He assails as unnatural the fact that he did not tell their mother about such incident, more so for not remembering the same when he was initially asked by their mother where Clarita was. But We do not find anything unusual in such incident of his being shoved away that would merit the immediate report to the mother by a boy of tender age. Neither is it so significant or extraordinary that it would easily be re-called or remembered. However, upon further inquiry, said eight-year old boy narrated what

happened in front of appellant's house that afternoon. When placed on the witness stand, the lower court noticed that he even demonstrated unconsciously how the accused waived his hand in calling Clarita up the second floor of the house and gesturing to him and Carmelita to go away when their sister was already inside. This observation merits great weight. It is by reason of the lower court's ability to observe the demeanor and deportment of witnesses during trial that its findings of fact are held binding on this Court especially since such findings are essentially findings on credibility of witnesses.[6]

In resume, We hold that not a shred of doubt was cast by accused-appellant on the findings of the trial court. We find that the guilt of the accused-appellant was proven beyond reasonable doubt not only by his categorical and repeated admissions in Exhibits "C" and "C-1" and his plea of guilt in Exhibits "E" and "E-1", but also by the duly established facts and circumstances surrounding the case and pointing to no other but him as the culprit.

When the hapless victim is below twelve, We have always considered rape alone as a detestable crime.[7] In *People vs. Malate*, 116 SCRA 487, this Court, in sheer aghast over such crime even stated that "there should be a special place in hell for child molesters, for they are men who are dirty, despicable, deviant and the dregs of society." Where the crime is rape with homicide against a girl below twelve, as in this case, the criminal perversity of the accused is even greater, the helplessness and the harmlessness of the victim being further taken advantage of to camouflage or deflect the commission of the crime. Indeed, the punishment for this heinous and outrageous complex crime of rape with homicide should be nothing less than death.

We find the decision appealed from to be correct, the same being in accordance with the evidence and the law, except that the indemnity should be increased from P6,000.00 to P12,000.00.

WHEREFORE, the judgment of the trial court is hereby AFFIRMED with the modification that the indemnity be and is hereby increased from P6,000.00 to P12,000.00.

**SO ORDERED.**

Makasiar, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, and Gutierrez, Jr., JJ., concur.

Fernando, C.J., and Teehankee, J., no part.

Relova, J., for reclusion perpetua.

---

[1] Brief for Accused-Appellant, Rollo, p. 76.

[2] The full text of Exh. C and C-1 is as follows, except the pertinent portions (4.C-, S- to 11.C-, S-) already quoted above:

**“REPUBLIC OF THE PHILIPPINES**

**IN THE MUNICIPAL COURT OF MASINLOC,**

**PROVINCE OF ZAMBALES**

**PRELIMINARY EXAMINATION OF MARTIN MAGTIRA Y DE LA CRUZ**

1. COURT: Mr. Martin Magtira, tungkol sa dito sa nilag-daan mong affidavit na inaamin mong ginahasa at pinatay si Clarita Constantino nuong Biyernes, 9 ng Junio 1967, itong Juzgado gusto pa kayong tanungin sa ilan pang bagay tungkol sa nangyari, ngunit kung gusto nin-yong magkaroon ng abugado ngayon o sa ano mang

hakbang gagawin tungkol sa asuntong ito, maari naman; ngunit kung gusto mong sagutin ang mga tanong ng Juzgado saiyo ngayon, sa kusang loob mong magbigay ng declaracion, maari naman, ngayon, nahahanda ka bang sagutin ang mga tanong ng Juzgado saiyo?

ANSWER: Opo.

2. C- Kung ganon, sa harap ng mga saksi dito sa Juzgado ngayon, sabihin mo ang iyong pangalan at iba pang mga bagay tungkol sa iyong pagkatao?

S- MARTIN MAGTIRA, 33 taong gulang, hindi kasado ngunit may kasama, walarig trabaho at kasalukuyang naninirahan sa Baloganon, Masinloc, Zambales.

3. C- Anong ang pangalan ng kinakasama mo at nasaan siya ngayon?

S- Siya po ay si Remedios Imanas at nasa Maynila siya ngayon. Umalis siya nuong Juwebes ng umaga, mga alas onsi.

x x x

12. C- Sa mga sandaling ito lasing ka pa ba?

S- Hindi na po.

13. C- Tiga saan kayo?

S- Tiga Paumbong, Bulacan po.

14. C- Sinabi mo sa itaas na kayo'y lasing nuong nagawa mo itong bagay kay Clarita, Sabihin mo nga kung paano ka nalasing.

S- Nag-inoman po kami sa silong ng bahay namin.

15. C- Sino-sino ang mga kasama mo na nag-inoman sa silong ng iyong bahay?

S- Si Nita na ina ni Clarita, si Josie na hindi ko alam ang apeliyido at si Manuel Alberto.

16. C- Ano ang ininom ninyo?

S- Naghalo-halo na po; may Tanduay, serbesa at San Miguel gin.

17. C- Gumamit kayong chaser o pang-halo?

S- Opo.

18. C- Ilan botilyang alak kung natatandaan mo pa.

S- Tatlong (3) botilyang lapad na Tanduay, isang (1) boteng Gin (San Miguel) na bilog at labing limang (15) boteng serbesa.

19. C- Anong oras kayo nag-i-inoman?

S- Alas 6:00 hanggang alas onse (11:00) ng umaga.

20. C- Ang gusto mong sabihin kung ganon ay naganap itong ginawa mo kay Clarita nuong wala ng mga taong ka-inoman mo?

S- Opo.

21. C- Pinatutunayan mo itong lahat na nasabi mo sa itaas, na inaamin mong kasalanan kahit na ikaw ay maparusahan?

S. Opo.

22. C- Kung ganoon nahahanda mong lagdaan at pinagsusumpaan itong salaysay mo?

S- Opo.

**(SGD.) MARTIN MAGTIRA Y DE LA CRUZ**

SUBSCRIBED AND SWORN to by Martin Magtira before me this 10th day of June 1967 in the presence of wit-nesses Messrs. Reynaldo Edora, Arsenio Aguilon & Isidro B. Bautista at Masinloc, Zambales.

**(SGD) G. ELICAÑO**

Municipal Judge

Masinloc, Zambales

(SGD.) REYNALDO EDORA (SGD.) ARSENIO AGUILON

**(SGD.) ISIDRO B. BAUTISTA "**

[3] Brief for Appellee, pp. 2-8.

[4] Brief for Accused-Appellant, Rollo, pp. 77-79.

[5] Decision, Rollo, pp. 39-44.

[6] People vs. Chavez, 121 SCRA 806; People vs. Ramos, 94 SCRA 842; People vs. Gargoles, 83 SCRA 282; People vs. Pascual, 80 SCRA 1; People vs. Ancheta, 60 SCRA 333; People vs. Boduso, 60 SCRA 60; People vs. Cardenas, 56 SCRA 631; People vs. Carandang, 52 SCRA 259; and People vs. Espejo, 36 SCRA 400.

[7] See: People vs. Laguisma, 98 SCRA 69; People vs. Morales, 94 SCRA 191; People vs. Sarmiento, 94 SCRA 944; and People vs. Conchada, 88 SCRA 683.

**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.