

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FILOMENO SALUFRANIA, DEFENDANT-APPELLANT.

G.R. No. 50884. March 30, 1988

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-50884/>

PADILLA, J.:

In an information, dated 7 May 1976, Filomeno Salufrania y Aleman was charged before the Court of First Instance of Camarines Norte, Branch I, with the complex crime of parricide with intentional abortion, committed as follows:

"That on or about the 3rd day of December, 1974, in Tigbinan, Labo, Camarines Norte, Philippines, and within the jurisdiction of the Honorable Court, the accused Filomeno Salufrania y Aleman did then and wilfully, unlawfully, and feloniously attack, assault and use personal violence on MARCIANA ABUYO-SALUFRANIA, the lawfully wedded wife of the accused, by then and there boxing and strangling her, causing upon her injuries which resulted in her instantaneous death; and by the same criminal act committed on the person of the wife of the accused, who was at the time 8 months on the family way, the accused likewise did then and there wilfully, unlawfully, and feloniously cause the death of the child while still in its maternal womb, thereby committing both crimes of PARRICIDE and INTENTIONAL ABORTION as defined and punished under Art. 246 and Art. 256, paragraph I, of the Revised Penal Code, to the damage and prejudice of the heirs of said woman and child in the amount as the Honorable Court shall assess.

"CONTRARY TO LAW".

Upon arraignment, the accused, assisted by counsel de oficio, pleaded not guilty to the offenses charged.

After trial, the lower court rendered a decision* dated 9 August 1978, the dispositive part of which states:

"WHEREFORE, finding the accused Filomeno Salufrania y Aleman guilty, beyond reasonable doubt, of the complex crime of Parricide with Intentional Abortion, he is hereby sentenced to suffer the penalty of DEATH, to indemnify the heirs of the deceased Marciana Abuyo in the sum of P12,000.00 and to pay the costs.

"For unselfish, valuable and exemplary service rendered by counsel de oficio, Atty. Marciano C. Dating, Jr., a compensation of P500.00 is hereby recommended for him subject to the availability of funds.

"SO ORDERED".

The accused having been sentenced to suffer the penalty of death, this case is on automatic review before this Court.

At the trial in the court a quo, the prosecution presented the following witnesses: Dr. Juan L. Dyquiangco, Jr., Pedro Salufrania and Narciso Abuyo.

Dr. Juan L. Dyquiangco Jr., who was then Rural Health Officer of Talisay, Camarines Norte, testified that, after passing the Board Examination, he was employed as a Resident Physician of La Union Provincial Hospital, then as Junior Resident Physician of Bethane Hospital in San Fernando, La Union and that later, he joined the

government service, starting from 1968 up to the time of the trial; that as a Doctor of Medicine, he had performed about ten (10) post mortem examinations; that he was called upon by the Municipal Judge of Talisay to examine the corpse of Marciana Abuyo-Salufrania that was exhumed from its grave in the Municipal Cemetery of Talisay at around 11:00 o'clock in the morning of 11 December 1974; that his post mortem examination lasted from 12:30 o'clock to 2:00 o'clock in the afternoon of the same day. He reduced his findings of injuries into writing, (Exhibit "A") which, together with their probable cause, as testified to by him, are as follows:

Injury

Cause

1)

Multiple abrasions with contusion, left leg, middle part, posterior covering an area of about 2 & 1/2 by 5 inches.

"Blunt object or friction by hard object" (tsn., Aug. 20, 1976, p. 7)

2) Abrasions, 1/2 by 2 inches, medial side of the cubital fossa (back left leg)

"Friction on a hard object" (tsn., Aug. 20, 1976, p. 7)

3)

Multiple pinhead sized wounds, right face, starting from the side of the right eye down to mandibular bone (right cheek)

"Hard pinhead sized material" (tsn., Aug. 20, 1976, p. 7)

4)

Upper right eyelid more prominent than the left eyelid ("the right upper eyelid a little bit bulging than the left eye" and "sort of swollen") (tsn., Aug. 20, 1976, pp. 7-8)

No cause given.

5) Tongue protruding between the lips, about 1 inch teeth line.

"Usually, the main cause of protruding tongue during death is (by) strangulation." (tsn., Aug. 20, 1976, p. 8).

6)

Deceased is pregnant with a baby boy about 7-8 months old" (tsn., Aug. 20, 1976, p. 8).

Dr. Dyquiangco testified that after conducting the post mortem examination, he issued a certification thereof (Exhibit "A"); that he issued a death certificate (Exhibit "B") for the deceased Marciana Abuyo Salufrania, bearing the date of 5 December 1974, made on the basis of the information relayed by a certain Leonila Loma to his nurse before the burial, without mentioning the cause of death; that the cause of death, as cardiac arrest, was indicated on said death certificate only after the post mortem examination on 11 December 1974.

The other witness for the prosecution was Pedro Salufrania, son of herein appellant and of the deceased. The lower court's decision states that, by reason of interest and relationship, before Pedro Salufrania was allowed to testify against his father-accused Filomeno Salufrania, he was carefully examined by the prosecuting officer and the defense counsel under the careful supervision of the court *quo*, to determine whether, at his age of 13 years old, he was already capable of receiving correct impressions of facts and of relating them truly and, also, whether he was compelled and/or threatened by anybody to testify against his father-accused[1].

The lower court found Pedro Salufrania to be determined and intelligent. He convincingly declared that he was not threatened by any of his uncles on his mother's side to testify against his father, because it was true that the latter killed his mother. Then, formally testifying as the prosecution's lone eyewitness, he stated that his father Filomeno Salufrania and his mother Marciana Abuyo quarrelled at about 6:00 o'clock in the evening of 3 December 1974, in their small house at a far away sitio in barrio Tigbinan, Labo, Camarines Norte; that during said quarrel, he saw his father box his pregnant mother on the stomach and, once fallen on the floor, his father strangled her to death; that he saw blood ooze from the eyes and nose of his mother and that she died right on the spot where she fell.

Pedro Salufrania further testified that after killing his mother, the accused-appellant went out of the house to get a hammock; that his brother Alex and he were the only ones who witnessed how the accused killed their mother because his sister and other brothers were already asleep when the horrible incident happened; that his brothers Celedonio, Danilo and sister Merly woke up after the death of their mother and kept watch at their mother's body while their father was away; that their father arrived early the next morning with the hammock and after placing their dead mother on the hammock, the accused carried her on his shoulder and brought the cadaver to the house of his sister Conching, located at a populated section of Tigbinan; that from Tigbinan, the corpse was transferred to Gabon, Talisay, Camarines Norte for burial.

Continuing his testimony, Pedro Salufrania stated that he is now living with his uncle Eduardo Abuyo and had refused and still refuses to live with his father-accused, because the latter has threatened to kill him and his other brothers and sister should he reveal the true cause of his mother's death.

The third witness for the prosecution was Narciso Abuyo, a resident of Gabon, Talisay, Camarines Norte. He testified that the accused Filomeno Salufrania and his sister, the deceased Marciana Abuyo, were lawfully wedded husband and wife as evidenced by a marriage contract (Exhibit "C"). He declared that his sister was more or less seven (7) months pregnant when she died; that he first came to know about his sister's death on 4 December 1974 thru his nephews Pedro and Alex Salufrania who first informed him that their mother died of stomach ailment and headache; that he went to Tigbinan to request for the body of his sister so that it may be buried in Talisay, Camarines Norte and, as intended, Marciana Abuyo was buried in the Talisay Cemetery on 6 December 1974.

Narciso Abuyo also declared that after the burial of Marciana Abuyo, the three (3) children of his deceased sister went to his house and refused to go home with their father Filomeno Salufrania; that when asked for the reason why, his nephew Alex Salufrania told him that the real cause of death of their mother was not stomach ailment and headache, rather, she was boxed on the stomach and strangled to death by their father; that immediately after learning of the true cause of death of his sister, he brought the matter to the attention of the police authorities of

Talisay, Camarines Norte, who investigated Alex and Pedro Salufrania and later, to that of the Office of the Provincial Fiscal of Camarines Norte.

The defense had for witnesses Geronimo Villan, Juanito Bragais, Angeles Liling Balce and the accused Filomeno Salufrania.

Geronimo Villan testified that he was a neighbor of Filomeno Salufrania. He declared that Marciana Abuyo died at around 6:00 o'clock in the morning of 4 December 1974 in her house at Sitio Kapagisahan, Tigbinan, Labo, Camarines Norte; that he happened to pass by said house because his attention was attracted by the bright light in the fireplace and he saw Filomeno Salufrania boiling "ikmo" and garlic as medicine for his wife who was about to deliver a child; that he helped the accused by applying "ikmo" to the different parts of the body of Marciana Abuyo and by administering the native treatment known as "bantil", that is, by pinching and pulling the skin with two fingers of his closed fist; that when the condition of Marciana Abuyo worsened, he told Filomeno Salufrania to go and get Juanito Bragais who is known as a healer but the latter arrived at about 7:00 o'clock in the morning of 4 December 1974 and that at that time Marciana Abuyo was already dead.

Witness Juanito Bragais testified that he was fetched by Felipe Salufrania, another son of Filomeno Salufrania at about 6:00 o'clock in the morning of 4 December 1974. He further testified that when he reached the house of the Salufranias, Marciana Abuyo was already dead so he just helped Filomeno Salufrania in transferring the body of his wife to the house of the latter's brother-in-law at Tigbinan, Labo, Camarines Norte.

Angeles Liling Balce, who claimed to be a former resident of Kapagisahan, Tigbinan, Labo, Camarines Norte testified that she arrived in the house of Filomeno Salufrania at about 6:00 o'clock in the morning of 4 December 1974 after being called by one of the latter's sons; that she saw Marciana still in a coma lying on the lap of her husband who informed her that Marciana was suffering from an old stomach ailment.

The accused Filomeno Salufrania admitted that he was the lawful husband of the deceased Marciana Abuyo; that at around 9:00 o'clock in the morning of 3 December 1974, Marciana arrived home from Talisay where she had earlier stayed for about a week; that she was hungry upon her arrival, so he hurriedly cooked their food and after eating their lunch, he proceeded to his work while his wife rested in their house; that when he returned home at 3:00 o'clock in the afternoon of that same day, his wife complained to him of stomach pain and he was told to prepare the beddings because she was already sleepy; that at about 4:00 o'clock in the morning of 4 December 1974, he was awakened by his wife who was still complaining of stomach pain, and that she asked for a drink of hot water; that while he was boiling water, Geronimo Villan arrived and assisted him in administering to his wife the native treatments known as "hilot" massaging and "bantil"; that Geronimo Villan and Francisco Repuya alternately applied "bantil" to his wife but when her condition worsened, he woke up his children, Pedro and Alex to fetch Rico Villanueva who might be able to save the life of their mother; that his children left and returned without Rico Villanueva but the latter arrived a little later.

Accused-appellant then went on to say that he sent for Juanito Bragais but the latter was not able to cure his wife, since the latter was already dead when he arrived; that after the death of his wife, he ordered his children to get the hammock of Kaloy Belardo whose house was about two (2) kilometers away from their house, and upon the arrival of the hammock, he placed the body of his wife thereon and brought it to the house of his sister Consolacion Salufrania in Tigbinan; that while the corpse of Marciana Abuyo was at Tigbinan, he sent Chiding and his elder son to inform the brothers and sisters of his wife at Talisay about her death and that Leonila Abuyo and Salvador Abuyo came; that he informed the Barangay Captain of Tigbinan of the cause of death of his wife; that upon the suggestion of the brothers and sisters of Marciana Abuyo, especially Salvador Abuyo, the body of their sister was brought home to Talisay and thereafter buried at the Talisay Cemetery; that there was no quarrel

between him and his wife that preceded the latter's death, and that during the lifetime of the deceased, they loved each other; that after her burial, his son Pedro Salufrania was taken by his brother-in-law Narciso Abuyo and since then, he was not able to talk to his son until during the trial; and that at the time of death of his wife, aside from the members of his family, Geronimo Villan, Francisco Repuya and Liling Angeles Balce were also present.

The case was considered submitted for decision by the trial court on 18 July 1978. As aforesated, the trial court found the appellant guilty of the crimes charged and sentenced him to the penalty of death.

The appellant assigns the following errors allegedly committed by the trial court:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF THE TESTIMONY OF AN INCOMPETENT WITNESS, AND ON INCONSISTENT AND INSUFFICIENT EVIDENCE OF THE PROSECUTION, THEREBY VIOLATING THE RULE THAT THE ACCUSED IS ENTITLED TO AN ACQUITTAL UNLESS HIS GUILT IS SHOWN BEYOND ANY REASONABLE DOUBT.

II

ASSUMING ARGUENDO THAT THE EVIDENCE FOR THE PROSECUTION IS CREDIBLE AND SUFFICIENT, THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE COMPLEX CRIME OF PARRICIDE WITH INTENTIONAL ABORTION.

III

THE TRIAL COURT ERRED IN DISCREDITING THE EVIDENCE FOR THE ACCUSED.

Appellant alleges that the trial court failed to determine the competence of Pedro Salufrania before he was allowed to testify. Since Pedro was allegedly a child of tender age, being only thirteen (13) years old when he testified, and only eleven (11) years old when the offense charged occurred, he is presumed incompetent under Rule 130 sec. 19 (b) of the Revised Rules of Court, which includes among those who cannot be witnesses:

"Children who appear to the court to be of such tender age and inferior capacity as to be incapable of receiving correct impressions of the facts respecting which they are examined, or of relating them truly".

Therefore, according to appellant, for failure of the trial court to determine Pedro's competence, the presumption of incompetency was not rebutted and Pedro's testimony should not have been admitted. Moreover, appellant stresses that there is no basis for the trial court's finding that Pedro is intelligent.

Appellant's contention is without merit. The record shows that the trial court determined Pedro Salufrania's competency before he was allowed to testify under oath[2]. The trial court's conclusion that Pedro was intelligent and competent is fully supported by Pedro's responsiveness to the questions propounded to him when he was already under oath:

"Q.

Did you go here in court to testify voluntarily?

A. Yes, Your Honor.

Q. Were you not forced by your uncle to testify in his case?

A. No, I was not forced by my uncle.

XXXX XXXX

Q. The accused is your father?

A. Yes, sir.

Q. Do you love him?

A. No, sir.

Q.

Your father is accused now of crime which carries the penalty of death, are you still willing to testify against him?

A. Yes sir. I hate him.

XXXX XXXX

Q. Why did you say that you don't love your father?

A. Because he killed my mother.

Q. And that is the reason why you hate your father now?

A. Yes, sir." (tsn., pp. 3, 7, 17, Nov. 12, 1976).

Pedro's strong sense of moral duty to tell the truth, even though it should lead to his father's conviction, shows that he fully appreciated the meaning of an oath, which likewise proves that he was no longer a child of tender years at the time of his testimony.

Appellant also alleges that, since Pedro changed his answer from no to yes when he was asked whether he was threatened by his uncle to testify against his father, shows that Pedro was lying and proves that he did not appreciate the meaning of an oath at all[3].

Again, this contention is without merit. Pedro became confused when the trial court ordered that the original question be reformed. Pedro's confusion is apparent from the fact that when asked the third time, he affirmed his first answer.

"Q. Isn't it that your uncle threatened you with bodily harm if you will not give statement before the police?

A. No, sir.

X X X XXX

Q. But later you actually went with your uncle to the police because you were threatened by him with bodily harm if you will not follow him?

A. Yes, sir.

Q. Is it true that your uncle threatened you with bodily harm if you will not give statement to the police?

A. No, sir." (tsn., pp. 6, 7, Nov. 12, 1976)

Appellant next lists the following alleged inconsistencies to discredit the testimony of Pedro. First, Pedro testified on direct examination that his mother died in the evening of December 3, while on cross-examination he said that she died in the morning of December 4. It must be noted that he affirmed twice during cross-examination that his mother died on December 3, just as he had testified during direct examination. Significantly, he did not mention December 4 as the date when she died, as appellant would make it appear. Pedro merely answered "yes" to the question "And isn't it that your mother died in the early morning on that day (December 4) and not on the evening of December 3?"[4]. Thus, Pedro's answer could have resulted only from a misapprehension of the question, and for no other reason.

Second, appellant alleges that Pedro testified on direct examination that he saw appellant leave the house to get a hammock after strangling the victim and then came back the following morning. However, upon cross-examination, Pedro testified that appellant left at noon or in the afternoon of December 4. Moreover, Pedro allegedly testified on re-direct that he saw appellant sleep beside the dead body of his mother. Again, Pedro misapprehended the question propounded to him. A judicious reading of the transcript will bear this out:

"Q.

When did your father leave to get the hammock?

A.

In the afternoon.

Q.

That may be when the body was brought to Talisay. When your father, rather, when you said that your father left to get a hammock so that your mother may be brought to Tigbinan, what time was that?

A.

About 12:00 o'clock noon." (Tsn, p. 16, Nov. 12, 1976)

One may discern that the court itself noticed that there was a missapprehension when it commented "that may be when the body was brought to Talisay" after Pedro answered "In the afternoon". When Pedro answered "about 12:00 noon" he must have been referring to the time when appellant carried his dead wife to Tigbinan. It must be noted that the question was so worded that it could have misled Pedro to think that what was being asked was the time when appellant brought his dead wife to Tigbinan. In fact, there is nothing inconsistent with Pedro's testimony that he saw his father leave in the evening of December 3 and again saw him asleep and thus not noticed appellant's coming back after securing a hammock and sleeping beside the deceased. Pedro was therefore telling the truth when he said that, upon waking up, he saw his father sleeping beside his dead mother. By then, appellant had already returned with the hammock.

Third, Pedro allegedly testified on direct examination that the corpse was carried to Tigbinan in the morning of December 4, while on cross-examination, he said it was in the evening.[5] It must be pointed out that Pedro merely answered "yes" to a question purportedly mentioning the time when the victim's body was transferred to Tigbinan. The question is as follows: "The corpse of your mother was brought to the Tigbinan proper when the vigil was had in the evening of December 4, is that right?" It is to be noted that the question's thrust is whether or not the victim's body was brought to Tigbinan. The time it was brought was merely incidental. Thus, Pedro may not have paid attention to the part of the question involving time. Moreover, the phrase "in the evening" may have referred either to the time of transport of the body or to the vigil, which could have definitely confused Pedro.

Fourth, Pedro allegedly testified on direct examination that he, together with his brothers and sister, kept vigil beside their mother's dead body that night, while on cross-examination, he testified that they just kept lying down and pretended to sleep.[6] There is nothing inconsistent here. The children could have kept vigil while lying down with their deceased mother.

Appellant further cites other alleged improbabilities to discredit Pedro's testimony. Appellant contends that it was improbable for Pedro to have seen the attack on his mother since he testified that the room was dimly lighted, and that, while the attack was going on, he closed his eyes pretending to sleep[7]. This contention is without merit. Even though the room was dimly lighted, Pedro was only two (2) meters away from his parents; thus, he could easily see, as he saw, the attack on his mother[8]. Also, although he pretended to be asleep, it was unlikely that he kept his eyes closed all the while, as he was aware that a fight was going on. Rather, it was to be expected that he had his eyes open and, thus, he saw the heinous crime unfold and ultimately consummated.

Appellant alleges that he does not believe that it was fear of him that caused the delay in Pedro's divulging the real cause of his mother's death until 10 December 1974. According to appellant, such fear could no longer have influenced Pedro from December 6, the date he started to live separately from him. This contention is untenable. Even though Pedro started to live separately from his father from December 6, it cannot be said that the influence of appellant's threat suddenly ceased from that time. It must be noted that Pedro was young and was still very much under appellant's influence and control. The thought and memory of his father's viciousness were still too fresh even after three days from his mother's death. The fear that he too could be killed by appellant in like manner must have deterred him from divulging the truth earlier.

Appellant also alleges that it was improbable for Pedro to have just watched the killing of his mother. This contention is untenable. At that moment, when his mother was being assaulted and strangled, Pedro must have been so shocked as to be rendered immobile and powerless to do anything. This is a normal reaction in such a situation. Besides, it is a fact of life that different people react differently to the same types of situations[9]. One cannot overlook that there is no standard form of behaviour when one is confronted by a shocking occurrence[10].

Appellant next alleges that since the prosecution has failed without satisfactory explanation to present Pedro's brother Alex who is alleged to be also an eyewitness to the killing of the victim, it is presumed that Alex's testimony would be adverse to the prosecution if presented. This contention is without merit. First, Alex, who is younger than Pedro by 3 years, may not have been competent to testify due to his tender age. Second, even assuming that he was competent to testify, his testimony could be merely corroborative. Corroboration is not necessary in this case because the details of the crime have already been testified to by Pedro with sufficient clarity. The failure to present all the eyewitnesses to an act does not necessarily give rise to an unfavorable presumption, especially when the testimony of the witness sought to be presented is merely corroborative[11]. Witnesses are to be weighed, not numbered, and it is a well established rule that the testimony of a single witness, even if uncorroborated, but positive and credible, is sufficient to support a conviction[12]. In any event, it is not for the appellant to say how many witnesses the prosecution should have presented[13].

The inconsistencies magnified by appellant in the testimony of Pedro Salufrania have been satisfactorily explained. In fact, some of them are not material since they neither touch upon the manner of death of the victim nor question the identity of the killer, both of which were unwaveringly testified upon by Pedro. Thus, with the alleged inconsistencies and improbabilities explained away, Pedro's testimony remains unperturbed. Even if there were discrepancies, such discrepancies were minor and may be considered as earmarks of verisimilitude[14].

The trial court's assessment of Pedro's testimony, as quoted hereunder, deserves more than passing consideration:

"x x x The testimony of eye-witness Pedro Salufrania, 13-year old son of the victim Marciana Abuyo and her killer-spouse Filomeno Salufrania, appears to be very clear, convincing and truthful. It is vivid as to the details of the horrible occurrence that took place at about 6:00 o'clock in the evening of December 3, 1974, in their small house at a far away sitio of Tigbinan, Labo, Camarines Norte, resulting in the untimely and cruel death of her (sic) mother. He and his brother Alex were the only eyewitnesses to the gory crime committed by their father. The credibility of this witness (Pedro Salufrania) and his testimony was tested when, despite rigid cross-examination, the veracity of his testimony in chief was not impeached. He remained firm and on the verge of crying, when he pointed an accusing finger at his father during the trial. He was unshaken notwithstanding a long and detailed cross-examination, And, there is reason to bestow complete credence to his testimony because he had the opportunity to closely observe how his father had deliberately and cruelly ended the life of his mother. Despite his tender age and apparent childish innocence, this Court believes that he can clearly perceive and perceiving, make known his perception, precluding the possibility of coaching or tutoring by someone. His declaration as to when, where and how the horrible incident complained of happened is the believable version"[15]

Appellant questions the competence of Dr. Dyquiangco as an expert witness, since this is the first time that the doctor conducted an autopsy on a cadaver which had been buried for about a week. It must be noted, however, that although this was the doctor's first autopsy under circumstances present in this case, he had, however, conducted similar post-mortem examinations on ten (10) other occasions. This would constitute sufficient experience. Significantly, appellant did not object to the doctor's expression of medical opinions during the trial. Being an expert in his field, the doctor is presumed to have taken all pertinent factors into consideration with regard to the autopsy, including embalming and the state of the cadaver's decomposition. Dr. Juan Dyquiangco, Jr., was a disinterested witness in the case, and a reputable public official in whose favor the presumption of regularity in the performance of official duties must be applied.

Appellant further alleges that the findings of Dr. Dyquiangco and the testimony of Pedro Salufrania do not tally. Suffice it to say that the Court finds no inconsistencies between the findings of Dr. Dyquiangco and Pedro Salufrania's testimony. Both are consistent on material points. Thus, the Court sees no reason to disturb the conclusions reached by the trial court insofar as their credibility and the appellant's guilt are concerned.

Appellant's third assignment of error alleges that the trial court erred in discrediting his evidence simply because the testimonies of the defense witnesses were consistent on material points. Moreover, there is no showing, according to the appellant, that said testimonies were rehearsed so as to dovetail with each other.

This contention is without merit. The Court notes, first of all, that appellant did not even bother to discuss his defense in order to refute the massive evidence against him. This is tantamount to an admission that he could not adequately support his version of Marciana Abuyo's death. The trial court's reasons for rejecting the defense version, as hereunder quoted, are tenable and sound. Thus -

"On the contrary, the testimonies of defense witnesses Geronimo Villan, Angeles Liling Balce and the accused Filomeno Salufrania suspiciously dovetailed in every detail as to when, where and how Marciana Abuyo died at 6:00 o'clock in the morning of 4 December 1974, in their house at sitio Kapag-isahan, Tigbinan, Labo,

Camarines Norte, of stomach pain. On these points, these witnesses and the accused made statements which seemed to be very fresh and clear in their minds, despite the lapse of four long years. Their exact and uniform declarations on these points, their phenomenal recollections, without sufficient special or uncommon reason to recall, rendered their testimonies unconvincing. If at all, their testimonies appeared to this Court to be an eleventh hour concoction. And, as defense witnesses, after observing them and their declarations on the witness stand, they appeared to the Court to be untruthful and unreliable. For, despite the synchronization of time when, the place where and how the incidence happened, their testimonies on other material points revealed their tendency to exaggerate and their propensity to falsehood, thus - Aside from the accused Filomeno Salufrania, there are three other witnesses for the defense - Geronimo Villan, Angeles Liling Balce and Juanito Bragais. There is nothing in the testimony of Juanito Bragais because he did not witness how and when Marciana Abuyo died. Francisco Repuya, who was also alleged by Filomeno Salufrania to be present when Marciana Abuyo died, did not testify. Accused Filomeno Salufrania never claimed that he summoned for Angeles Liling Balce. According to him Angeles Liling Balce was not present during the moment of death of Marciana Abuyo, for she was fetched by him only after the death of his wife. Logically, there-fore, there is no basis for the presentation of Angeles Liling Balce that she was present during the moment of death of Marciana Abuyo. She was merely play-acting. Geronimo Villan, who claimed he passed-by the house of Filomeno Salufrania and saw the latter boiling water with 'ikmo' and garlic, as medicine for his wife Marciana Abuyo, who was about to give birth was discredited by accused himself who declared he was merely boiling water for the hot drink of his wife, who was suffering from her old stomach ailment. In like manner, witness Geronimo Villan discredited the accused Filomeno Salufrania, about the presence of Francisco Repuya, who allegedly alternated with Geronimo Villan in applying the native treatments of 'hilot' and 'bantil' to Marciana Abuyo, when throughout his testimony he (Geronimo Villan) never mentioned the presence of Francisco Repuya.

"After closely observing defense witnesses Geronimo Villan and Angeles Liling Balce, this Court is convinced that their testimonies and accounts of the incident are fabricated, untruthful and not worth of credence. Certainly, they were not present immediately before and during the moment of death of Marciana Abuyo. x x x

"Added to these, there is one scandalous circumstance, which to the mind of this Court, betrays the guilty conscience of the accused. If there was nothing revealing in the face of the deceased Marciana Abuyo, why was her face covered by a piece of cloth by the accused xxx"

Trial judges are in the best position to ascertain the truth and detect falsehoods in the testimony of witnesses. This Court will normally not disturb the findings of the trial court on the credibility of witnesses, in view of its advantage in observing first hand their demeanor in giving their testimony[16]. Such rule applies in the present case.

Lastly, appellant alleges that, assuming he indeed killed his wife, there is no evidence to show that he had the intention to cause an abortion. In this contention, appellant is correct. He should not be held guilty of the complex crime of Parricide with Intentional Abortion but of the complex crime of Parricide with Unintentional Abortion.

The elements of Unintentional Abortion are as follows:

- That there is a pregnant woman.
- That violence is used upon such pregnant woman without intending an abortion.
- That the violence is intentionally exerted.
- That as a result of the violence the foetus dies, either in the womb or after having been expelled therefrom[17].

The Solicitor General's brief makes it appear that appellant intended to cause an abortion because he boxed his pregnant wife on the stomach which caused her to fall and then strangled her. We find that appellant's intent to

cause an abortion has not been sufficiently established. Mere boxing on the stomach, taken together with the immediate strangling of the victim in a fight, is not sufficient proof to show an intent to cause an abortion. In fact, appellant must have merely intended to kill the victim but not necessarily to cause an abortion.

The evidence on record, therefore, establishes beyond reasonable doubt that accused Filomeno Salufrania committed and should be held liable for the complex crime of parricide with unintentional abortion. The abortion, in this case, was caused by the same violence that caused the death of Marciana Abuyo, such violence being voluntarily exerted by the herein accused upon his victim.

It has also been clearly established (a) that Marciana Abuyo was seven (7) to eight (8) months pregnant when she was killed; (b) that violence was voluntarily exerted upon her by her husband accused; and (c) that, as a result of said violence, Marciana Abuyo died together with the foetus in her womb. In this situation, Article 48 of the Revised Penal Code states that the accused should be punished with the penalty corresponding to the more serious crime of parricide, to be imposed in its maximum period which is death. However, by reason of the 1987 Constitution which has abolished the death penalty, appellant should be sentenced to suffer the penalty of reclusion perpetua.

WHEREFORE, as modified, the judgment appealed from is AFFIRMED. Accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua. The indemnity of P12,000.00 awarded to the heirs of the deceased Marciana Abuyo is increased to P30,000.00 in line with the recent decisions of the Court. With costs against the appellant.

SO ORDERED.

Teehankee, C.J., (Chairman), Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.

[*] Penned by Judge Domingo Medina Angeles.

[1] Decision of CFI, pp. 2-3

[2] tsn., pp. 1-2, Nov. 12, 1976

[3] tsn., pp. 6-7, Nov. 12, 1976

[4] tsn., pp. 15, Nov. 12, 1976

[5] tsn., pp. 11 & 19, Nov. 12, 1976

[6] tsn., pp. 11 & 25, Nov. 12, 1976

[7] tsn., pp. 25 & 28, Nov. 12, 1976

[8] tsn., p. 18, Nov. 12, 1976

[9] People vs. Realon, 99 SCRA 422; People vs. Gonzales, 99 SCRA 697

[10] People vs. Radomes, 141 SCRA 548; People vs. Amoncio, 122 SCRA 686

[11] People vs. Gardon, 129 SCRA 465

[12] People vs. Romero, 119 SCRA 234; People vs. Vengco, 127 SCRA 242; People vs. Martinez, 127 SCRA 260; People vs. Pueblos, 127 SCRA 746; People vs. Argana, 10 SCRA 311

[13] People vs. Gani, 139 SCRA 301

[14] People vs. Baseloy, 137 SCRA 39

[15] Decision of CFI, pp. 8-9

[16] People vs. Millarpe, 134 SCRA 555; People vs. Jones, 137 SCRA 166; People vs. Beltran, 138 SCRA 521; People vs. Mationg, 133 SCRA 167; People vs. Demate, 113 SCRA 353; People vs. Macatangay, 114 SCRA 743; People vs. Delasa, 115 SCRA 74; People vs. Gasendo, 117 SCRA 280; People vs. Cardinas, 118 SCRA 457; People vs. Monaga, 118 SCRA 466

[17] Book Two, Reyes, The Revised Penal Code, p. 486, (12th ed., 1981)

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.