

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. VICTORIO PIA Y BAYHON, GAUDENCIO LAMANGAN Y SARIA, VENANCIO PIA Y BAYHON, DIOSDADO ANCIADO Y AMORA, MARIO GARCIA Y UMALI, AND EDUAR...

G.R. No. 59604. November 14, 1986

Ponente: PARAS, J.

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PARAS, J.:

This case is before Us on automatic review from the decision of the Court of First Instance of Cavite finding Gaudencio Lamangan guilty beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention and accordingly sentencing him to death, the dispositive portion of which reads:

"WHEREFORE, the Court finds that the guilt of the accused GAUDENCIO LAMANGAN, as principal, and DIOSDADO ANCIADO and MARIO GARCIA, as accessories, in the Commission of the offense charged in the information, has been established with proof beyond reasonable doubt, and hereby imposes upon the accused GAUDENCIO LAMANGAN the mandatory penalty of death, and sentences the accused Diosdado Anciado and Mario Garcia to suffer imprisonment from eight (8) years of prision mayor, as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum; and each to pay one-fifth of the costs. Said accused are hereby ordered, jointly and severally, to pay the spouses Juanito Chua and Elma Diato Chua the sum of P100,000.00 as moral damages.

The accused Diosdado Anciado and Mario Garcia shall be credited with four-fifths (4/5) of the period during which they have been under preventive imprisonment, unless at the time of their initial confinement they had executed an agreement binding themselves to the same rules and regulations applicable to regular prisoners, in which event they shall be credited with the entire period of their preventive imprisonment.

In the event the accused Diosdado Anciado and Mario Garcia should opt to appeal from the judgment, the Court hereby fixes their appeal bond in the amount of P25,000.00.

In view of the imposition of the death penalty upon the accused Gaudencio Lamangan, let the original folio of this case, together with all the evidence, oral and documentary, be forthwith elevated to the Honorable Supreme Court for automatic review.

SO ORDERED."

It appears undisputed that the antecedent facts upon which this case is based hinged primarily on the kidnapping and serious illegal detention of Juanito Chua and his wife in the evening of December 28, 1977 at Dimasalang, Imus, Cavite committed in the following manner: Immediately after complainant Juanito Chua parked his car near their residence and while he was opening its door, two (2) persons accosted him, one of them poked a gun at his head and the other poked a knife at his neck, warning Juanito Chua to keep quiet. They tied Juanito Chua's hands and those of his wife Elma Deato Chua and brought them in a car to a hut. The kidnappers demanded a ransom of P100,000.00, warning that a refusal would compel them to kill Juanito Chua and his wife. Juanito Chua told them

that he did not have that amount. He bargained to reduce it. The kidnappers finally agreed to accept the amount of P18,000.00. Juanito Chua's wife was then released so that she could secure the money which was to be delivered to the kidnappers at Zapote, Las Piñas, Metro Manila in the afternoon of December 29, 1977. In the meantime, Juanito Chua continued to be detained in the hut by his kidnappers. He was rescued by the Philippine Constabulary on January 3, 1978. (pp. 3-4, Appellant's Brief)

Under an information filed by the Office of the Provincial Fiscal of Cavite on March 28, 1978, herein appellant Gaudencio Lamangan, together with his co-accused Victorio Pia, Venancio Pia, Diosdado Anciado, Mario Garcia and Eduardo Vinas, were charged with the crime of Kidnap-ping and Serious Illegal Detention.

Two other alleged participants in the commission of the offense, Emiliano del Rosario and Federico Camia alias Iding were, at the time of the filing of the information, at large. Of the six (6) accused in the custody of the authorities, five (5) namely, Diosdado Anciado, Venancio Pia, Mario Garcia, Victorio Pia and Eduardo Vina, bolted the Provincial Jail of Cavite during the trial. (pp. 3-9, Appendix of Appellant's Brief)

Accused Diosdado Anciado surrendered on March 21, 1979 to the Provincial Governor and was re-confined in the Provincial Jail of Cavite.

On June 11, 1979, accused Mario Garcia also surrendered and was likewise detained anew at the Provincial Jail of Cavite.

The court suspended the trial of the case against the remaining fugitives, Venancio Pia, Victorio Pia and Eduardo Vina, and the two other participants, Emiliano del Rosario and Federico Camia, who were at large, until they shall have been apprehended. The trial of the case proceeded with respect to accused Gaudencio Lamangan, Diosdado Anciado and Mario Garcia. As herein earlier stated, they were found guilty and sentenced accordingly for their participation in the commission of the crime. Only Gaudencio Lamangan's case was elevated to Us on automatic review in view of the imposition by the trial court of the death penalty on him.

In his Brief, appellant made the following assignments of error:

- The lower court erred in considering the extra-judicial admission of accused-appellant Gaudencio Lamangan as evidence of guilt.
- The lower court erred in concluding that accused-appellant Lamangan directly participated in the kidnapping of Juanito Chua.
- The lower court erred in convicting the accused-appellant Lamangan as principal in the crime of kidnapping and in imposing upon him the mandatory penalty of death.
- The lower court erred in not acquitting accused-appellant Lamangan of the crime charged on the ground of reasonable doubt.

all of which, boil down to the more important issue of whether or not the guilt of accused-appellant has been established beyond reasonable doubt.

The contention of appellant that his extrajudicial confession is not admissible, is untenable. Records show that accused Venancio Pia, Mario Garcia, Victorio Pia and appellant executed their confessions (Exhs. "A", "B", "C" and "H", respectively) before investigators in the presence of counsel de oficio (Order dated February 7, 1978 of Municipal Judge of Silang, Cavite). Appellant's repudiation of his sworn statement (Exh. "C") during the trial because the Philippine Constabulary (PC) allegedly extracted his admissions through the use of force, threats and intimidation consisting of physical violence is baseless. For if they had indeed been maltreated, particularly appellant, they should have complained to the counsel de oficio or to Municipal Judge to whom the case was

referred by the PC for preliminary investigation. In fact, since appellant's arrest on January 3, 1978, he only complained for the first time, that is, at the hearing held on May 23, 1980, that he was subjected to maltreatment by the PC, claiming that dried banana leaves were placed on his chest and set on fire. It has been held that where the defendants did not present evidence of compulsion or duress or violence on their persons; where they failed to complain to the officers who administered the oaths; where they did not institute any criminal or administrative action against their alleged intimidators for maltreatment; where there appeared to be no marks of violence on their bodies and where they did not have themselves examined by a reputable physician to buttress their claim, all these should be considered as factors indicating voluntariness of confessions. (People vs. Villanueva, 128 SCRA 488; People vs. Urgel, 134 SCRA 483; People vs. Toledo 140 SCRA 259).

At any rate, appellant's confession (Exh. "C") narrates that:

"5.

T.

Maaari bang sabihin mo sa tagasiyasat kung paano ninyo binalak o plinano ang pagkidnap sa inyong ginawa?

S.

Opo, ganito po iyon noong pong ika-24 ng Desyembre 1977 pinag-usapan po namin and pagkidnap na iyan sa mag-asawa nina Juanito Chua at Ginang Elma Chua sa pamumuno ni Nani del Rosario x x x at noong ika-28 ng Desyembre 1977 ang oras po ay humigit ika 9:00 ng gabi ay inutusan ako ni Boy Helen na magpunta sa bayan at magtagpotagpo kami sa gasolinahan sa tapat ng bahay ni Juanito Chua at noon nga pong ang oras ay humigit kumulang sa ika-10:00 mg gabi ay sapilitang isinakay namin sa kotse ang mag-asawa at dinala namin sa isang bahay kubo doon sa Bo. Balite Ist, Silang, Cavite x x x.

"6.

T.

At noong makarating kayo sa kubo ano naman ang inyong ginawa sa mag-asawa?

S.

x x x Inutusan namin ang kanyang asawa na si Mrs. Elma Chua na kumuha ng pera na nagkakahalaga ng Labinwalong Libong Piso (18,000.00) bilang kapalit ng kanyang asawa.

x x x x x x x x

"9.

T.

Saan naman ninyo napag-usapan ang lugar at oras na dadalhin ang pera?

S.

Doon po namin iniutos na dalhin ang salapi sa MVS Theater, Zapote, Metro Manila." (Underscoring supplied)

The rule is that an extrajudicial confession replete with details could not have been extracted by force. (People vs. Nillos, 127 SCRA 207) In the case at bar, the confession of appellant contains details which the investigators

could not have known beforehand.

Be this as it may, independent of the aforesaid confession, the inculpatory facts were established by prosecution witness Juanito Chua who testified as follows:

"ATTY. BINAY:

"All right. Now, what portion of your head, will you please tell this Honor-able Court the exact portion of your head when you stated a gun was poked at you?

"WITNESS:

"Here, sir. (Witness pointing to the left temple, 2 inches left eyebrow).

"ATTY. BINAY:

"Now, please tell us what happened after that?

"A

When a gun was poked on me, I was not able to alight from my car, sir.

"Q

Then, what happened?

"A

I was told to move to the other side of my car, sir.

"Q

Who instructed you to move on the other side of your car?

"A

That person who pointed that gun on me, sir.

"Q

Will you kindly look around this courtroom, Mr. Witness, and tell this Honorable Court if that person who poked a gun on your head and who instructed you to move on the other side of your car is present in this courtroom?

"A

Yes, sir. There he is.

X X X X X X X X

"COURT:

Make of record that the witness approached a certain person and tapped his shoulder who identified himself as Victorio Pia.

X X X X X X X X

"ATTY. BINAY:

Now, after you had unlocked and opened the door, please tell us what happened.

"A

After unlocking and opening the door on the other side of my car, there was a person that I do not know who suddenly entered the said door and poked a knife.

X X X X X X X X

"Q

Will you kindly step down and tap the right shoulder of the person if he is inside the courtroom, as you said?

"A

Yes, sir. (Witness stepped down from the witness stand and approached a person who identified himself as Gaudencio Lamangan).

"ATTY. BINAY:

After Gaudencio Lamangan entered your car and he poked a knife on your neck, what happened after that?

"A

They tied my hands, sir.

"Q

Who in particular tied your hands?

"A

That person who pointed that knife on me (the witness pointed to the accused Gaudencio Lamangan).

"Q

Now, tell us what happened after your hands were tied by Gaudencio Lamangan?

"A

My wife went down our apartment, sir.

"Q

And what did she do, if she did anything?

"A

She approached the driver and said, 'ano bang nangyayari sa inyo' What is happening?

x x x x x x x x

"ATTY. BINAY:

With that particular statement, what did this Gaudencio Lamangan and Victorio Pia do?

"A

What he did, he dragged my wife at the rear of our car, sir.

"Q

All right, Now, after your wife was placed at the back of your car, what happened next?

"A

We left, sir, and upon reaching the corner of Dimasalang Subdivision, they blind-folded me, sir.

"ATTY. BINAY:

x x x x x x x x

"Q

All right. Now, you said you stopped cruising after thirty minutes. Will you please tell us what happened?

"A

He removed my blindfold after we have stopped, sir."

(pp. 7, 8, 9, 10, 11, 12 and 13, t.s.n., September 15, 1978)

"Q

Now, you said a while ago that when you rested for ten (10) minutes, you were blindfolded. Now, when you were walking for about one (1) hour, were you still blindfolded, Mr. Chua?

"A

Yes, sir.

"Q

After you were told to stoop down, what happened?

"A

I was asked to enter a place, as if, it was a hut, and which I could not see because I was then blindfolded.

x x x x x x x x

"ATTY. BINAY:

Alright, what transpired after that?

"A

I told them, how much are you demanding from me?

x x x x x x x x

"Q

What was the reply?

"A

P100,000.00, sir.

x x x x x x x x

"Q

Alright, now, when you said the amount was too big for you to raise what was their answer, if any?

"A

They told me that in case they could not get that amount demanded from me, they ought to follow their Commander, I will be killed otherwise they are going to kill us."

(pp. 7, 8, 19, 11 and 12, t.s.n., September 27, 1978, underscoring supplied).

x x x x x x x x

"Q

And then, what happened?

"A

Suddenly, I heard shouts that there were PC soldiers.

"Q

When you heard shouts that there were PC soldiers, what did you do, if you did anything.

"WITNESS:

I immediately jumped outside that hut, sir.

"ATTY. BINAY:

Will you kindly tell us why you have to jump outside the hut after you heard those shouts that they were PC soldiers?

"A

Because I was worried that there might be a shooting or they might fire on the hut.

"Q

What transpired after you jumped out of the hut, Mr. Chua?

"A

I was taken by Sgt. Cortez.

"Q

Now, would you be able to tell us what happened to that person whom you said you were talking earlier before you heard shouts that they were PC soldiers?

"A

Lamangan was also taken by Sgt. Cortez, including the gun.

"Q

Were you able to know finally, who was this person?

"A

Yes, sir.

"ATTY. BINAY:

Who is this?

"A

Gaudencio Lamangan. (and witness pointing to Gaudencio Lamangan).

(pp. 34, 35 and 36, t.s.n., id., underscoring supplied)

The foregoing declarations were corroborated in their essential details by prosecution witnesses Elma Chua and PC Sergeant Rodolfo Habana. Clearly then, even if the confession were to be disregarded, the testimony of the witnesses proved the guilt of the accused-appellant beyond reasonable doubt. (People vs. Crisanto Jr. 134 SCRA 413).

The crime committed by appellant and his group is kid-napping and serious illegal detention punishable under Article 267 of the Penal Code, as amended. Since the kidnapping was committed for the purpose of extorting ransom from the victim and since complainant Juanito Chua was kept under detention the imposable penalty for the offense committed is death. Appellant's direct participation (the evidence shows that he was the person who stuck a knife at the victim's neck at the time Juanito Chua and his wife were kidnapped) makes him guilty as principal.

Considering that as aforestated, Juanito Chua was rescued and the culprits failed to receive the ransom money which they had purposely sought, and that no bodily harm or injury was inflicted upon the victim, the penalty that We have decided to impose is that of reclusion perpetua.

WHEREFORE, the decision under review, being in accord-ance with law and the evidence, is hereby AFFIRMED with the modification of the penalty from one of death to reclusion perpetua.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., and Cruz, JJ., concur.
Feliciano, J., on official leave.

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