

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME BUENAFLOR Y ARCILLA, ACCUSED-APPELLANT.***G.R. No. 62805. January 22, 1990*

Ponente: FERNAN, C.J.

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The Court decrees the acquittal of accused-appellant Jaime Buenaflor y Arcilla who was found guilty of the complex crime of rape with homicide on November 25, 1982 by the then Court of First Instance of Albay, Branch I, sentenced to death and ordered to indemnify the heirs of the offended party in the sum of P12,000.00 and to pay the costs of the suit.[1]

The version of the prosecution is as follows: The victim Marites Barado of Barangay 37, Bitano, Legazpi City, was only ten years old (she was born on December 9, 1970) when she was found brutally killed and sexually assaulted among the tall reeds at the back of an abandoned hotel.

Her mother, Elizabeth Barado, 36, housekeeper, was the last person to see Marites alive. Elizabeth recounted that on that fateful day of February 18, 1981, upon Marites' arrival from school at around 11:30 in the morning, the child asked permission to go to the communal toilet to answer the call of nature. The toilet was some distance from the house. Marites wore only a pair of shorts and slippers. She had nothing on top. As Marites failed to return home after sometime, her worried mother asked a brother-in-law, Silvestre C. Lorico, to look for her.[2]

Silvestre found Marites lying dead and naked on the grass at an isolated portion at the back of Hotel Bicolandia. Her head was twisted and her torso was contorted and mangled.[3]

The authorities were immediately notified and the body of the dead Marites was taken to Funeraria Oro where it was examined by Dr. Manuel N. Lorenzo, the city health officer. He found the body full of mud. Because of the telltale finger marks on the throat, the doctor placed the cause of death as asphyxia due to strangulation. He also found a long laceration at the base of the vagina and semen at the entrance and concluded that the girl had been sexually attacked. Dr. Lorenzo signed the appropriate death certificate.[4]

A team of police investigators and three barangay tanods scouted the area for suspects. At approximately three in the afternoon of the same day, about 100 meters from where the victim was discovered, they found the accused-appellant Buenaflor in a nearby grassy area ("Mabukad") gathering firewood and reeds for basket-weaving. He was brought to the yard of the victim's house where he was initially interrogated by the policemen. Then he was taken to the police headquarters and later brought back to Bitano to view the corpse. There in the presence of many persons, Buenaflor admitted having raped and killed Marites.[5]

Buenaflor was taken to the Legazpi City Police Station at about six in the evening but it was not until two hours later that his interrogation was resumed.[6]

Patrolman Apollo Dawis investigated Buenaflor for rape and homicide. He took the sworn statement of the accused[7] but only after apprising him of his constitutional rights to remain silent and to be assisted by counsel.

Buenaflor answered that he would not get a lawyer as he was pleading guilty anyway. That waiver was made orally and in the absence of counsel.

Pat. Dawis typed the questions in English and propounded them to the accused in the Bicol dialect. His statement reads:

"3. Q:

Why are you here at the Office of the Investigation Section, x x x and being investigated?

A:

Because I was arrested by members of the Legazpi City Police Station for the commission of an offense rape w/Homicide.

"4. Q:

Who was the victim of Rape w/Homicide, if you know?

A:

Marites Barado also of Barangay 37 Bitano, Legazpi City.

"5. Q:

Where did this incident happened?

A:

At Bgy. 37 Bitano, Legazpi City particularly at an isolated place more or less one hundred meters away from Marites' residence.

"6. Q:

When did this incident happened?

A:

This date February 18, 1981 at about 11:30 AM, Sir.

"7. Q:

How did this incident happened?

A:

At about 11:30 AM February 18, 1981, Marites followed me going to an isolated place (Matambo) passing the backyard of Marites' residence while thereat I forcibly remove the panty of Marites who at the time was only wearing a panty/half naked and forcibly sexually abused her for only one time. Thereafter Marites told me that he (sic) will tell his (sic) father about the incident, frightened and afraid of what Marites uttered I forcibly strangled her neck and soaked her head into the mud until she died.

"8. Q:

What did you feel at the time when you sexually abused Marites?

A:

I feel satisfaction when in fact my sperm cell went out inside the vagina of Marites.

"9. Q:

Did you ask Marites to follow you from your residence to (an) isolated place (Matambo)?

A:

Yes sir.

"10. Q:

When you abused Marites, did you gradually insert your penis to the vagina of Marites?

A:

No sir, I did it hurriedly.

"11. Q:

After you sexually abused Marites, where did you go?

A:

I left the dead body of Marites and proceeded to harvest (Tambo) use for making baskets.

"12. Q:

What did you do next?

A: I went home sir, to change my clothes and stayed there until the arrival of the police who arrested me.

"13. Q:

By the way, what is your relation to Marites?

A:

None sir, she is only my neighbor.

"14. Q:

What clothes are (sic) you wearing at the time of the incident?

A:

I am (sic) wearing a maong pants and white T-shirt with small green stripes.

"15. Q:

Showing to you these T-shirts with small green stripes and a long maong pants (at this juncture investigator is showing to the affiant T-shirt and long maong pants), is (sic) these the clothes you wore?

A:

Yes sir.

"16. Q:

At this moment I have no more questions to ask you, do you have anything more to say, add or retract from the statement of yours?

A:

No more sir. x x x."[8]

Being an illiterate, Buenaflor placed his thumbmark on the second page of the two-paged affidavit, after which he was brought to the city fiscal's office where he was again informed of his right to counsel and other constitutional rights. In an information dated March 9, 1981, Buenaflor was charged with the following:

"That on or about the 18th day of February, 1981, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs did then and there wilfully, unlawfully and feloniously, by means of force and intimidation, have carnal knowledge of one MARITES BARADO, a minor under 12 years old, against her will and without her consent, and by reason of the said rape, the herein accused with intent to kill, strangled the said MARITES BARADO causing her untimely death. x x x."[9]

At the arraignment, Buenaflor repudiated his extrajudicial confession and entered a plea of not guilty.[10] Trial proceed accordingly and on November 25, 1982, the trial court handed down the judgment of conviction under review.[11]

In his appeal, accused Buenaflor contends that the lower court erred in admitting the extrajudicial confession against him, in giving credence to the testimonies of the prosecution witnesses and in convicting him when his guilt has not been proven beyond reasonable doubt.

It is not disputed that at no stage of his custodial investigation was Buenaflor ever represented by counsel, the reason being that he allegedly declined to have one. Such waiver, however, was made in the absence of a lawyer and for this reason alone, his confession[12] must be invalidated.[13]

We now address ourselves to the question of whether the conviction of Buenaflor can still be sustained notwithstanding the excluded confession.

There were no eyewitnesses to the brutal crime. To establish the corpus delicti, the prosecution introduced three (3) policemen, one (1) barangay tanod and two (2) fiscals. However, their testimonies dealt mainly on the

circumstances surrounding the investigation of the accused which culminated in the taking of his invalid confession.

The prosecution also presented Elizabeth Barado, the mother of the young victim, who testified that on the day her daughter was slain, she was only wearing shorts with nothing to cover the upper part of her body. She also stated that her family and the accused had been neighbors for more than three years and were in good terms. As a matter of fact, Buenaflor called her "Manay" and Marites used to frequent his house.[14] Elizabeth, however, did not witness the actual commission of the crime. All that she knew was that her daughter had asked permission to relieve herself at the communal toilet and hours later, she was found dead among the grass "near the house of Jaime Buenaflor." [15] She did not see the accused anywhere near her daughter.

Elizabeth's testimony, nonetheless, prompted the trial court to speculate on the inner thoughts and feelings of the accused. The court a quo stated that the accused must have seen the victim naked from the waist up. Marites, although only ten years of age, was healthy and must have possessed certain physical attributes of a young woman which excited the baser instincts of the accused. That the perfect opportunity must have presented itself to the accused because the unsuspecting victim was headed for the toilet which was then deserted because it was noontime. But as correctly observed by the counsel for the accused, the foregoing are merely assumptions and cannot be made the basis for conviction.

The prosecution likewise endeavored to offer in evidence, through the testimony of police officer Vargas, the sworn statement of Lorenda Buenaflor, the wife of the accused, wherein she claimed that on the day she died, Marites had gone to their house to demand payment for the "komiks" which her husband had damaged. Then Lorenda saw the girl leave and walk towards the communal toilet. She also caught sight of her husband following Marites and he was somewhat holding her hand. Lorenda did not mind that because her two-month old baby was crying. A moment later, she heard a shout for help coming from the direction of the toilet and it sounded like the voice of Marites. But Lorenda could not do anything. Her baby was being fretful and she was afraid to interfere because her husband would harm her.[16]

Lorenda's statement, executed before Pfc. Vargas, is without probative value in view of the defense's timely objection on the ground of marital disqualification,[17] aside from the fact that it is clearly hearsay.

Another witness for the state, Dr. Lorenzo, the city health officer who examined the dead Marites, was candid enough to admit that he did not conduct an autopsy to ascertain the exact cause of death. He felt no need for such because he "has been practicing in twelve years" and could easily draw his conclusions from the "bodily signs".[18] Such bravado, on the part of the good doctor, only served to exacerbate the doubt already existing in the mind of the Court as to the precise nature of the crime for which Buenaflor was being held accountable.

Accused Buenaflor was the lone witness for the defense. Twenty-two years of age, unschooled, married, handicraft maker and a resident of Barangay 37, Bitano, Legazpi City, he disavowed his extrajudicial confession and denied having raped and killed Marites on February 18, 1981. He claimed that between 11:00 and 12:30 of that day, he was at home binding water lilies to make them into bags. He saw Marites inside her house (about fifty meters away) playing and that was the last time he saw her.[19]

Afterwards, around past noon, he left his house and went to a nearby subdivision to gather more water lilies. It was there where he was accosted by several barangay tanods and policemen in civilian clothes who asked him to help them find Marites' killer. When they did not find the culprit, they began to question him instead. Then he was shuttled back and forth between the police station and the residence of the victim.[20]

In the evening of the same day, he was interrogated by a police officer named Vargas who punched him on the

chest twice when he refused to admit the killing. Because he was afraid of being punched again, He "signed" the papers which Vargas had shoved in front of him. Since he could neither read nor write, he only affixed his thumbmark. He could not tell how many sheets there were. From the police station he was brought to the office of the city fiscal who read and explained the contents of his statement to him in the Bicol dialect.[21]

Altogether, it is evident that the prosecution has not proved the guilt of the accused beyond reasonable doubt. Outside of the extrajudicial admission, the prosecution has not offered any other substantial piece of evidence to establish the criminal culpability of Buenaflor to a degree of moral certainty. It relied heavily on Buenaflor's confession and when that fell through due to constitutional infirmities, necessarily the government's entire case collapsed.

Even the assessment by the trial court of the credibility of the witnesses is seriously impaired by the fact that Judge Ilustre, Jr., who convicted Buenaflor, was not the one who personally conducted the trial.

Furthermore, while it may appear from a reading of the stenographic notes that the accused was often evasive and inconsistent in his response to the court's unusually prolonged questioning and would frequently hide behind his illiteracy, nonetheless, this cannot be utilized by the state to impute guilt to the accused.[22] It is an accepted axiom in this jurisdiction that the prosecution must rely on the strength of its own evidence and not on the weakness of the defense to gain a conviction.[23]

WHEREFORE, by reason of reasonable doubt, the judgment of conviction is hereby reversed and the accused JAIME BUENAFLOR y ARCILLA is ACQUITTED of the crime charged. He is ordered released from confinement unless he is being held for another legal cause.

**SO ORDERED.**

Feliciano, Bidin, and Cortes, JJ., concur.  
Gutierrez, Jr., J., in the result.

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[1] Criminal Case No. 1991.

[2] TSN, pp. 2, 4, 6, June 24, 1981.

[3] TSN, pp. 3-4, June 24, 1981.

[4] Exh. B, Original Record; TSN, pp. 28-31, October 21, 1981.

[5] TSN, pp. 38-39, 42-44, November 10, 1981.

[6] TSN, p. 71, January 21, 1982.

[7] Exh. C.

[8] Exh. C, Original Record, pp. 5-6.

[9] Original Record, p. 1.

[10] Original Record, p. 19.

[11] Original Record, pp. 149-150.

[12] Exh. C.

[13] *People v. Diamsay*, G.R. No. 67289, October 5, 1989; *People v. Decierdo*, No. L-46956, May 27, 1987, 149 SCRA 496.

[14] TSN, pp. 2, 5-6, June 24, 1981.

[15] TSN, p. 5, June 24, 1981.

[16] Exh. D, Original Record, p. 7.

[17] See Rule 130, Section 20(b) of the Revised Rules of Court, now Section 22 of the Revised Rules on Evidence.

[18] TSN, pp. 31, 34, October 21, 1981.

[19] TSN, pp. 87, 115, February 3, 1972.

[20] TSN, pp. 88-89, 115, February 3, 1982.

[21] TSN, pp. 91-93, February 3, 1982.

[22] TSN, pp. 121-124, February 3, 1982.

[23] *People v. Duran*, No. L-39758, May 7, 1976, 71 SCRA 68.

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