

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANICIO MASONGSONG, ACCUSED-APPELLANT.

G.R. No. 63609. June 06, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Accused-appellant Anicio Masongsong was charged with the crime of rape with homicide in an information filed against him and reading as follows:

"That on or about August 16, 1982 in the evening, of (sic) Barangay Inayapan, Municipality of Santa Maria, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, then provided with a deadly weapon, with lewd design and with intent to have carnal knowledge, did then and there wilfully, unlawfully and feloniously, by means of force and intimidation succeed in having sexual intercourse with one AMANDA REYES VDA. DE MATIBAG, an old woman, 67 years of age against her will and consent, and by reasons on the occasion thereof, after sexually abusing the aforementioned woman, did then and there wilfully, unlawfully and feloniously, with intent to kill, attack and assault and tie her feet, hands and mouth with a piece of cloth and thereafter drag and throw said victim, Amanda Reyes Vda. de Matibag, into an irrigation canal with water which caused her death by abdominal distention, secondary to massive water swallowing, to the damage and prejudice of the heirs of said victim.

"CONTRARY TO LAW." (Rollo; p. 3)

Upon arraignment, the accused-appellant pleaded not guilty notwithstanding his admission of guilt in an extra-judicial confession. After trial, judgment was rendered, its dispositive portion reading:

"WHEREFORE, the Court finds the accused ANICIO MASONGSONG y DE GUZMAN guilty beyond reasonable doubt of the crime of RAPE WITH HOMICIDE and hereby sentences him to suffer the supreme and extreme penalty of DEATH; and to pay the heirs of Amanda Reyes the sum of P12,000.00, with accessory penalties provided for by law, and to pay the costs." (Rollo, pp. 23-24)

The prosecution evidence upon which the judgment of conviction was based is as follows:

"Appellant Anicio Masongsong y de Guzman, 23 years of age, single, was a farmer residing in Bgy. Bejia, Tiaong, Quezon. In 1979, he was accused of the crime of Frustrated Murder, which charge was eventually dropped, in consideration of P5,000.00 which he paid to the offended party (tsn., Dec. 20, 1982, pp. 2-19; tsn., Dec. 22, 1982, pp. 19-20).

"In 1981, appellant became close to his uncle, Sergio Ocampo, when the latter along with his family transferred residence to the same town (id.).

"Sergio formerly lived and owned a house in Bgy. Inayapan, Santa Maria, Laguna. In 1981, he sold it to the victim, Amanda Reyes Vda. de Matibag, a 67 year old widow, residing in the same place. After the sale, the old woman immediately occupied the house but allowed Sergio and family to stay until they finally moved out to Tiaong, Quezon (tsn., Dec. 3, 1982, pp. 2-19).

On August 16, 1982, appellant went with Sergio to attend a fiesta celebration in Sta. Maria, Laguna (tsn., Dec. 20, 1982, pp. 2-19; tsn., Dec. 22, 1982, pp. 19-20).

"At around 6:00 in the evening, they proceeded to the town plaza to watch an amateur singing contest. While in the town plaza, they met by chance Felisa Macalindong, the victim's daughter, who was also there watching. When Sergio smiled at her, Felisa readily recognized him, taking noticed of appellant whom she saw for the first time (tsn., Dec. 3, 1982, pp. 2-19).

"After watching the amateur contest, Sergio and appellant left the town plaza. On their way, they agreed to steal chickens and pig at the victim's house at Bgy. Inayapan (Records, Extra-Judicial confession, Exhibit "P").

"Upon reaching the place, Sergio immediately went under the house and stole the pig tied to a post and some chickens inside a pen (id.).

"On the other hand, appellant ascended the house and seeing the old woman, immediately grabbed and forcibly laid her on the floor. The victim shouted for help, but appellant took out his knife and threatened to kill her. Appellant ripped off her clothes with the knife and mounted her. After taking off her panties, appellant hastily unzipped his pants, took out his penis, inserting it into the victim's vagina. The old woman could only cry in silence, suffering the extreme pain of the forcible sexual intercourse being perpetrated on her (id.).

"After the bestial act, appellant tied the victim's hands and hurried down the house to look for Sergio (id.).

"When he did not find his uncle, appellant proceeded to leave (id.).

"As he was leaving, however, he saw the old woman (having freed herself) running towards the ricefields. Appellant gave chase and easily overtook her. He securely tied the victim's hands with a string, her feet with her own brassieres and covered her mouth with a white shirt (id.). Having bound the victim, appellant mercilessly junked the old woman into an irriga-tion canal, drowning her in the process. He then fled to Siniloan, Quezon seeking refuge at a friend's house (id.)

"On the next day, August 17, 1982, Pedro Tromaneri, the barangay captain of Inayapan and victim's son-in-law received a report that a dead person was found floating in the irrigation canal. Pedro, along with the other officers of the barangay and police department, rushed to the place. They saw the body float-ing on the water, about a meter high. When they retrieved the old woman, Pedro recognized her to be his mother-in-law. The victim was not wearing underwears. Her hands and feet were still as tightly bound and her mouth was covered with a white shirt (tsn., November 5, 1982, pp. 18-36).

"Dr. Cynthia Silva, the rural health physi-cian of Sta. Maria who examined the cadaver, declared her post-mortem findings, as follows:

"1. Blood clot on the mons veneris, laceration at the medial aspect, vaginal floor with blood oozing from the laceration.

"2. Cause of Death: abdominal disten-tion secondary to massive swallowing' (Exh. "A").

"In court, Dr. Silva explained that the vaginal laceration was still possible, the victim being an aged widow whose opening had already narrowed (tsn., Nov. 5, 1982, pp. 4-17).

"Meantime, a certain Rodolfo Padilla surrendered the stolen pig (placed inside a sack and which was supposedly entrusted to him by Sergio) to Sgt. Ednalino, a constabulary officer at the PC Detachment in Bgy. Nanguma, Mabitac, Laguna. A pair of blue rubber shoes was likewise recovered from the same sack. (tsn., Nov. 19, 1982, pp. 5-29).

"Felisa who was then in the PC Station readily recognized the pig as the same pig stolen from her mother and the pair of shoes as that worn by Sergio at the town plaza in the evening of August 16, 1982. She informed the

PC that Sergio was accompanied by appellant in the evening of the incident (id.).

"When asked for the description of the two, Felisa replied that she could not recall appellant's features since it was the first time she had ever seen him. As regards Sergio, Felisa described him as tall, with pointed chin, chinky eyes and wearing a yellow striped T-shirt (id.)

"Sgt. Balleber then inquired if she knew their whereabouts. Felisa said that Sergio stayed at the time in the bakery owned by a cer-tain Narding Diola in Sta. Maria (id.).

"When they went to the place, an old woman informed them that Sergio, along with a short and pimpled fellow, had just left and gone to a house behind the cemetery in Siniloan, Quezon. Accordingly, the PC proceeded to the said place and saw three persons conversing with each other. Sgt. Balleber inquired from them if they knew Sergio. Appellant, a short and dimpled man, asked why he was interested in Sergio. Sgt. Balleber replied that Sergio was in fact his 'compadre'. Appellant then told him that Sergio was his uncle. Suspecting that appellant was indeed Sergio's companion in the evening of the incident, Sgt. Balleber pointed at appellant saying: 'So you were the one who killed the old woman!'. Appellant immediately turned pale and speechless (tsn., Nov. 19, 1982, pp. 32-35).

"After a while, Sgt. Balleber asked appellant where Sergio could be found. Appellant said his uncle had already gone to Tiaong, Quezon (id.).

"The PC then brought appellant along to Tiaong, Quezon where Sergio was duly apprehended (tsn., Nov. 19, 1982, pp. 36-37)." (Rollo, pp. 115-122)

The accused-appellant now assigns the following errors:

I

THE TRIAL COURT ERRED IN APPRECIATING AND ACCEPTING THE EXTRAJUDICIAL CONFESSION OF THE ACCUSED WHICH RESULTED IN HIS CONVICTION.

II

THE TRIAL COURT ERRED IN ACCEPTING THE EXTRA-JUDICIAL CONFESSION IN THE ABSENCE OF ANY EVIDENCE TO CORROBORATE THE ALLEGED CONFESSION ASIDE FROM THE EVIDENCE OF CORPUS DELICTI. (Accused-Appellant's Brief, p. 1)

Considering that the two assigned errors are closely interrelated, we shall discuss them jointly.

The appellant's main contention is that his extra?judicial confession should not have been accepted considering that there was no evidence to corroborate it apart from the corpus delicti, and it was not given with the assistance of counsel.

The appellant's contention is untenable. In the first place, the records clearly show that the extra-judicial confession was not the sole basis for his conviction. There were pieces of other evidence presented, to wit: the testimonies of Dr. Cynthia Silva, Pedro Tromaneri, Sgt. Jesus Balleber, Juanito Ednalino, and Felisa Macalindong, the picture of the victim's geni-talia, the footprints near the dam and the shoes of the companion of the accused. When brought to the police station, co-accused Sergio Ocampo pointed to the appellant as the one who killed the old woman because he was left there. (tsn., Nov. 26, 1982, pp. 2-14). Moreover, the cause of death of the victim was sufficiently proven.

There is nothing in the records to suggest that the prosecution witnesses were ill-motivated and had any grudge or ill-feeling against appellant, or that they received any compensation or benefit which could have prompted them

to testify falsely for the prosecution (*People v. Santillan*, 157 SCRA 534 [1988]).

Second, there is reason for us to reject the extrajudicial confession. The constitutional requirement of providing the accused with a counsel to protect his rights and the process of explaining to the accused his rights were satisfactorily met.

Masongsong was told of his right to have a lawyer to assist him. He stated that he had no money to pay for a lawyer and that he needed no lawyer to aid him. When told that the government would provide him with the free services of counsel, he expressed his thanks and then conferred with Atty. Cenon Realeza of Siniloan, Laguna who was appointed to assist him. It was only after the conference that he gave a statement. The statement was taken in the presence of Fiscal Felipe Arcigal, Jr. The constitutional requirements were sufficiently met. There is nothing in the records to suggest the alleged psychological and physical coercion employed against him.

To accept the appellant's contention that he was in effect denied justice since the counsel assigned to him was not really his choice is ridiculous. As correctly stated by the Solicitor General, every lawyer is presumed to have knowledge of the law as well as the training in procedure sufficient to enable him to protect his Client. Furthermore, the accused was given sufficient time to choose his own counsel had he opted to do so. His failure, therefore, to request for another counsel negates his claim of denial of the right to choose his lawyer.

There is no proof that the extrajudicial confession was secured through duress, intimidation, or improper inducement. The accused-appellant did not exert any effort to complain about the alleged physical injuries that he now alleges on appeal. There was neither a medical certificate to show that a physical examination was conducted which would show any injury sustained by him. On the contrary, the charges were explained to him and he was apprised of his rights. All these were explained to him in Tagalog, the dialect in Laguna where he lived.

The extrajudicial confession jibed in its details with the other evidence presented as well as the testimonies given.

On the basis of the above, we are constrained to accept the extrajudicial confession, it appearing that the same has been corroborated on all material points by the other evidence presented.

The defense of the accused-appellant is mainly alibi. The records, however, not only show that it was not impossible for him to be at the scene of the crime at the time of the incident but precisely fixed his presence in the house where the rape was committed. This Court has held in a sufficient number of cases that alibi is a defense easily fabricated. In fact, the distance from Siniloan, Laguna where the appellant places himself at the time of the incident and Sta. Maria where the incident happened does not preclude the possibility that the appellant committed the crime (*People v. Santillan*, *supra*).

The accused-appellant's actuations are likewise indicative of guilt rather than innocence. During the two occasions when he was confronted, he never denied the charges made against him. Contrary to usual human behavior, the appellant kept silent instead of protesting if he were truly innocent. The records also reveal that immediately after the commission of the crime, the accused fled to a friend's house in Siniloan. The Supreme Court has held in not a few cases that flight after the incident is indicative of guilt (*People v. Reunir*, 157 SCRA 686 [1988]; *People v. Masangkay*, 157 SCRA 320 [1988]).

Lastly, the accused-appellant contends that he was not positively identified as the perpetrator of the crime since there was no witness to the actual commission of the crime.

The absence of witnesses in rape cases is not unusual as the offended party, more often than not, is the only one available to prove the commission of the crime of rape. Rape is usually done with the least possibility of being seen by the public. In fact, the presence of eyewitnesses could even raise serious doubts (*People v. Landicho*, 43

O.G. 3167). In this particular case, the only person who could testify against the accused-appellant, namely, the victim herself, was hogtied, thrown into an irrigation canal and left to drown.

The records of the case lead us to only one conclusion -- that the accused-appellant is guilty beyond reasonable doubt of the crime charged.

There being no reason for us to reverse the lower court's decision, we hereby affirm its decision with some modifications as to the non-imposition of the death penalty and the increase of the indemnity following the latest decisions of this Court.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision of the Regional Trial Court is hereby AFFIRMED except for the reduction of the death penalty to reclusion perpetua, pursuant to Section 19, Article III of the Constitution, and the increase in the indemnity to the heirs of the deceased, Amanda Reyes, Vda. de Matibag which shall be THIRTY THOUSAND PESOS (P30,000.00).

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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