

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIO MANLIGUEZ, SHIRLEY IGNACIO Y AGATIA AND LUCIA GUIRAL, ACCUSED-APPELLANT.

G.R. No. 91745. March 04, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The information dated April 25, 1988 in Criminal Case No. 16207-88 of the Regional Trial Court of Davao City, Branch 15, charged the accused-appellant, Julio Manliguez, and his two co-accused, Shirley A. Ignacio and Lucia Guiral, with the crime of kidnapping, committed as follows:

"x x x That on or about April 16, 1988, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, conspiring, confederating and cooperating together and helping one another, willfully, unlawfully and feloniously kidnapped one Diana Grace Ali, a minor, seven (7) years of age while the latter was sleeping in her room, accused brought and carried away the herein minor at 171 Fatima Boulevard, Davao City and detained her in a house of one accused Jose Manliguez from April 16, 1988 up to April 22, 1988, but until now the victim child has not been recovered." (p. 21, Rollo.)

When arraigned, the three defendants entered pleas of not guilty.

As summarized in the Solicitor General's "Manifestation (In Lieu of Appellee's Brief)," the facts of the case are the following:

Diana Grace Ali, the "kidnap victim," is an adopted child and was 7 years old when the incident at issue occurred on April 16, 1988.

At about noontime on April 16, 1988, Priscilla, the widowed adoptive mother of Diana Grace, was about to sleep in the sala of their house located in Bangkal, Davao, City. Diana Grace was in her room accompanied by a certain Susan and Lucia Guiral (one of the accused), the latter being the Ali's househelper. Priscilla woke up at about 2:00 o'clock in the afternoon and found that Diana Grace was missing. She then instructed Lucia Guiral and Susan to look for the girl in the neighborhood. Diana Grace was nowhere to be found (pp. 54-67, tsn, October 4, 1988).

Earlier, at about 1:00 o'clock in the afternoon of the same date, Lori Jean Ali, the 16-year-old daughter of Priscilla Ali, left their residence and proceeded to Santa Cruz to get her report card. On her way out, she saw a maroon colored Minica cab parked in front of their house (p. 8, tsn, June 28, 1988). She saw two persons seated inside the back, one male and female. She later pointed to the accused-appellant, Julio Manliguez, as the man standing near their gate beside the parked Minica cab, and to the accused, Shirley Ignacio, as the female occupant of the Minica cab (pp. 13-14, Ibid.).

Susan Caberte, Lucia Guiral and Priscilla Ali searched for Diana Grace around the neighborhood. Failing to find her, Priscilla Ali left her house with daughter Lori Jean. Accused Guiral also left and went home to her place at Guihing, Davao del Sur. She was fetched on April 21, 1988 by Lori Jean Ali. Susan Caberte and Shirley Albarico

who told her that Mrs. Ali wanted her back. She obliged and went back with them to Davao City. Upon arrival in Davao City, accused Lucia Guiral was immediately brought to the Ulas Police Station where she was accused of hiding Diana Grace Ali (pp. 80-83, tsn. Nov. 14, 1988).

The police conducted a thorough investigation, but the police investigators comported themselves in a manner beyond the constitutional prohibition. Accused Lucia Guiral was subjected to torture to extract a confession. Guiral was undressed, her body was soaked wet and then she was subjected to electric shocks. The agony prompted her to concoct a story. She pointed at a house in Juna Subdivision as the place where Diana Grace was supposedly being kept. It turned out to be the house of a certain Major Payo. She was tortured some more and brought to a garbage dump where a police officer fired shots near her ear (pp. 83-86, tsn, Nov. 14, 1988).

As the policemen kept hitting her head with their pistols and fired shots near her head when she was brought again to the garbage dump, Guiral told another lie so the police would stop torturing her. She told them that the kidnappers were in the Fatima Village. She was shoved into a Ford Fiera vehicle and brought to Fatima Village where she mentioned the accused Julio Manliguez because he is the only person she knows who was staying at Fatima Village. Manliguez was rouse from his sleep at 6:00 o'clock in the morning of April 22, 1988 and boarded into the Ford Fiera (pp. 88-91, Ibid; p. 145, tsn, Nov. 28, 1988). Inside the Fiera, a police officer pushed the barrel of his armalite rifle on Manliguez's chest. He asked the police officer not to do that because it hurt. The policeman was irked and fired shots near his ear (pp. 147-148, tsn, Nov. 28, 1988).

Afterwards, Manliguez was brought to the Talomo Police Station where he was detained. He was not given any food to eat nor water to drink. At 2:00 o'clock in the afternoon of the same day, the police brought him out of his cell and interrogated him on the whereabouts of the child. After repeated denials, Manliguez was also tortured. A cellophane bag was put over his head and tightened around his neck. He lost consciousness. Manliguez refused to admit any complicity in the alleged kidnapping. In the evening of that day, Manliguez was brought out of his cell and taken to the office of the police investigator. There, he was hit on the head with a rattan chair (pp. 152-154, Ibid.).

Reports were lodged against the abusive policeman in the office of Colonel Miguel Abaya. An investigator, Lt. Camorongan, was sent together with a doctor. Manliguez was brought to the Regional Hospital where he was treated. After treatment, Lt. Camorongan brought Manliguez to the headquarters of the 431st Metrodiscom (Metropolitan District Command) and investigated regarding his complaint of police brutality. He executed a statement (Exh. "4" - -Manliguez) and was transferred to the Ma-a City Jail to identify his tormentors. He pointed to policemen Plaza and Mirando as among those who tortured and beat him (pp. 155-161, *ibid.*).

Meanwhile, Shirley Ignacio was arrested in her house at Piapi Boulevard in connection with the disappearance of Diana Grace Ali. Before going with the policemen, she asked for permission to call up her brother but the policemen refused to let her. She was brought to the Talomo Police Station and was placed in the cell occupied by accused Lucia Guiral. A Lt. Obrero asked Guiral if "this is Shirley," and Guiral said "she is the one." Shirley Ignacio vehemently denied knowing Guiral (pp. 114-117, TSN, Nov. 15, 1988; p. 118, *ibid.*).

She was tortured and brought to places she falsely pointed to as the hiding place of the child, to avoid further torture (pp. 120-131, *ibid.*).

On their return to Davao City, Shirley Ignacio tried to kill herself by jumping from the jeep in which they were riding. She was brought to a hospital for treatment of the injuries she sustained (pp. 131-132, *ibid.*).

About two (2) months later, on June 12, 1988, Diana Grace Ali was reunited with her family. It turned out that the Solon family took Diana Grace into their custody after she was found roaming the street that rainy afternoon of

April 16, 1989 when she was first missed by her family (pp. 215-254, tsn, July 31, 1989 and August 28, 1989, pp. 76-81, Rollo).

After trial on the merits, the lower court rendered a decision on May 2, 1988, finding Manliguez guilty as charged, but it exonerated his co-accused, Shirley A. Ignacio and Lucia Guiral, because their extra-judicial confessions were found to have been obtained through "third-degree" methods in violation of their constitutional right against self-incrimination. The dispositive portion of the decision reads:

"WHEREFORE, the prosecution having proved the guilt of the accused beyond reasonable doubt, Julio Manliguez is hereby sentenced to be imprisoned to (sic) reclusion perpetua.

"Lucia Guiral and Shirley Ignacio are hereby acquitted since the prosecution failed to prove their guilt beyond reasonable doubt." (p. 51, Rollo.)

On June 13, 1989, Manliguez filed a motion for new trial on the ground of newly-discovered evidence.

The trial court, after granting a new trial and hearing the testimonies of Esmeraldo Solon, Sr., Anastacia Solon and Esmeraldo Solon, Jr., still maintained his conviction (p. 61, Rollo). He appealed to this Court.

The only issue in this case is whether the prosecution was able to establish beyond reasonable doubt that Manliguez kidnapped the seven-year old child, Diana Grace Ali, on April 16, 1988.

The Solicitor General, in his "Manifestation (In Lieu of Appellee's Brief)," opined that the prosecution's evidence is insufficient to prove that the child was kidnapped, much less that the accused-appellant was the kidnapper. The Solicitor General noted that the lone witness to the kidnapping, the 7-year-old victim, admitted that she had been coached by her mother to point to Manliguez as her kidnapper. The following excerpt from her testimony is revealing:

CROSS-EXAMINATION

x x x x x x x x.

Q. Before you came here you were still in that house, what did you talk about with your mother?

A. (The child does not understand she nodded her head sidewise).

Q. While you were in the jeep, did you talk with your mother?

A. Yes, sir.

Q. What did you talk about?

A. (The child does not answer).

Q. When you went down and came to this building, where were you brought?

A. Here.

Q. And when you arrived here, somebody talked with you?

A. Yes, sir.

Q. Who was he?

A. (The child does not answer).

Q. The man who talked with you, he is here in Court?

A. He is not here.

Q. Before we entered this room, you were there in the other room?

A. No, sir.

Q. When you arrived here, you were told to point at that man, is that right?

A. Yes, sir.

Q. That is why when you were asked if that man is here, you pointed at him?

A. (The child is nodding her head signifying yes).

Q. The one who told you to point at that man is your mother?

A. Yes, sir.

Q. Tell us, did your mother tell you to point to other persons?

A. No, sir.

Q. I point to you this person, did he talk to you a while ago?

A. No, sir.

Q. This man, did he talk with your mother?

A. Yes, sir.

Q. Do you know what day is today?

A. (The child cannot answer).

Q. Do you know what is a month?

A. (The child cannot answer).

Q. You don't understand what is the month of May?

A. (The child cannot answer).

ATTY. CAÑETE:

That is all, your Honor. (pp. 87-89, Rollo.)

The Solicitor General further noted that the only other prosecution witness, Lori Jean Ali, the victim's adoptive sister, linked Manliguez to the "kidnapping" by testifying that on April 16, 1988 she saw Manliguez near the gate of a house across the street from their house (p. 90, Rollo). That lone circumstance, even if it were true, proves nothing. The constitutional presumption of innocence that the accused enjoys is not shaken by it (*People vs. Tolentino*, 145 SCRA 597). Before there can be conviction upon circumstantial evidence, there should be more than one circumstance present. The facts from which the inferences are derived must be proven, and the circumstances should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the author of the crime (Sec. 5, Rule 133, Rules of Court; *People vs. Magallanes*, 147 SCRA 92; *People vs. Colinares*, 163 SCRA 313).

The testimonies of the defense witnesses, Esmeraldo Solon, Sr. and Esmeraldo Solon, Jr., disprove the alleged kidnapping of Diana Grace. True, she disappeared from her residence in the afternoon of April 16, 1988, but

Esmeraldo Solon, Jr. testified that he found her in front of his parents' house at about 4:00 o'clock of that rainy afternoon roaming on the highway to Toril. Because it was raining, he called her and brought her inside the house. He asked her why she was roaming the street but she did not answer. His mother changed her wet clothes with those of his sister's (p. 234, tsn, August 28, 1989). Esmeraldo, Jr. reported to the police how he found the child (p. 236, *ibid.*). Not knowing whose child she was, the police advised the Solons to keep her with them until they could locate her parents. Esmeraldo Solon, Sr. corroborated his son's testimony on how the child, Diana Grace Ali, came to live with them since April 16, 1988 and up to June 12, 1988, a Sunday, when after hearing mass with Diana Grace, he brought her around the neighborhood of the church and Diana recognized the Ali residence and pointed it out to him (p. 249, tsn, *Ibid.*, p. 93, Rollo).

In rushing to convict Manliguez, the trial court carelessly overlooked the following significant facts which would have normally engendered doubts as to the credibility of the prosecution's evidence:

1. The conflicting "confessions" of Lucia Guiral and Shirley Ignacio were forced out of them by torture inflicted on them by the Talomo police led by a Lt. Obrero. As a result of torture, Guiral was forced to falsely implicate Manliguez, her brother-in-law, as the kidnapper. Shirley Ignacio was likewise forced to falsely admit that she herself kidnapped the child and hid her in her sister's (Chillita Rallos) house in Ma-a, Midland Village. Surely, the conflicting confessions could not both be true.
2. Those "confessions" were disproved by Solon's admission that the child had been in his house since April 16, 1988 after she had been picked up from the street at 4:00 o'clock in the afternoon by his 14-year old son, Esmeraldo, Jr.
3. Manliguez never admitted the kidnapping despite the torture which he suffered in the hands of the Talomo police. Instead, he reported to a CLAO lawyer. Attorney Cañete his ordeal in the police station. Upon complaint lodged with the PC's Col. Abaya, a PC doctor was sent to examine his injuries. Only after he was brought to the Regional Hospital for treatment of his injuries and transferred, first to the 431st PC company headquarters, and later, to the Ma-a City Jail, did the torture of Manliguez stop.
4. Neither in Manliguez's house at the Fatima Village, nor in Chillita Rallos' house at Ma-a, did the police find the missing minor.
5. During the more than two (2) months that Mary Grace Ali was missing, her family did not receive any ransom note from her supposed kidnappers.
6. The child herself led Esmeraldo Solon, Sr. to her house after they had attended a mass in Bangkal. While they were walking around looking at the houses, she recognized her home.
7. During her two-months stay with the Solon family, Mary Grace never mentioned that she had been kidnapped.

Under this state of the evidence, it can not be said with moral conviction that it was proven beyond reasonable doubt that the child, Mary Grace Ali, had been kidnapped and that the appellant did it. On the contrary, it is extremely doubtful that she was kidnapped at all. It appears that, being somewhat intellectually deficient, she had wandered away from home in the afternoon of April 16, 1988, got lost and could not find her way back. She also could not tell the Solons (who found her) her correct address.

The Court is inclined to reject the kidnapping charge for there is not the slightest hint of a motive for the crime. There is no evidence of any demand for ransom, nor proof that the child's widowed mother was in a position to satisfy the demand if it were made. The kidnapping theory appears to be the hobgoblin of the distraught mind of the child's mother who wildly unleashed her arrows of suspicion at everyone who had been seen anywhere near

her child, or her house, on the day the child disappeared, mindless of the pain and misery her reckless charge would cause the innocent victims of her wrath.

The Court sympathizes with the appellant, Julio Manliguez and his co-accused, Shirley Ignacio y Agatia and Lucia Guiral, who suffered horrible torture in the hands of some members of the Talomo Police Force on account of false accusations levelled against them by the child's mother, Priscilla Ali, and sister, Lori Jean Ali. We cannot conclude this decision without recommending to the Commission on Human Rights and the Philippine National Police that they undertake a thorough and speedy investigation of, and impose proper disciplinary sanctions on Police Lieutenant Obrero and Patrolmen Plaza and Mirando, members of the Police Force of Talomo, Davao City in April 1988, for the alleged torture of the three (3) accused, Julio Manliguez, Shirley Ignacio and Lucia Guiral, to extort confessions from them during the investigation of the alleged kidnapping of the child, Mary Grace Ali. Inhuman physical torture is the easiest means of obtaining "evidence" from helpless civilians when police investigators are neither sufficiently trained for detective work, nor adequately equipped with the scientific tools of criminal investigation. An end should be put to such police brutality.

WHEREFORE, the appealed decision is reversed and set aside. The appellant, Julio Manliguez, is acquitted of the crime charged and his immediate release from custody is ordered.

Let copies of this decision be furnished to the Commission of Human Rights and the Philippine National Police.

SO ORDERED.

Narvasa, C.J., Cruz, and Medialdea, JJ., concur.

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