

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMMANUEL DESALISA, ACCUSED-APPELLANT.

G.R. No. 95262. January 04, 1994

Ponente: NOCON, J.

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NOCON, J.:

Circumstantial evidence has adequately established the identity of the killer in this case, destroyed the presumption of innocence in his favor and fulfilled the test of moral certainty sufficient to convict. Hanged by means of a rope, the victim, accused-appellant's legal wife, and the approximately five month old fetus in her womb died as a consequence. Unfounded infidelity of the victim moved accused-appellant to perpetrate the highly condemnable deed. As one proverb goes, "A tranquil mind gives life to the body but jealousy rots the bones."

Accused-appellant Emmanuel Desalisa, a twenty four year old farmer, was charged with the complex crime of parricide with unintentional abortion in Criminal Case No. 1017 before the Regional Trial Court of Sorsogon, Fifth Judicial Region, Branch 52. The information filed in said case reads, as follows:

"That on or about the 9th day of October, 1983, in the (sic) sitio Pinaductan, barangay San Juan, municipality of Bacon, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the said accused moved by hatred and jealousy with evident premeditation, did then and there, wilfully, unlawfully and feloniously with intent to kill armed with a sharp pointed instrument, assault, attack, and inflict physical injuries on the vagina of one Norma Desalisa y Dioneda with whom he was united in lawful wedlock and who was pregnant for about five (5) months, and thereafter with the use of rope hang her to a jackfruit tree causing her death and that of her fetus, to the damage and prejudice of her legal heirs.

That in the commission of the offense there exist the aggravating circumstances of nighttime and uninhabited place which facilitated the commission of the offense, and evident premeditation.

CONTRARY TO LAW."[1]

Upon arraignment, accused-appellant entered the plea of not guilty. Thereafter, trial on the merits ensued. On July 10, 1990, the trial court rendered its decision, the dispositive portion of which reads, as follows:

"WHEREFORE, with the circumstantial (sic) evidence pointing to the guilt of the accused, the Court finds accused Emmanuel Desalisa guilty beyond reasonable doubt for (sic) the crime of Parricide, and sentences him to suffer the penalty of LIFE IMPRISONMENT (sic) and to indemnify the heirs of the deceased Norma Desalisa y Dioneda, the amount of Five Thousand (P5,000.00) Pesos, as burial expenses and Thirty Thousand (P30,000.00) Pesos as damages.

SO ORDERED."[2]

Hence, the present appeal.

The antecedent facts of this case, as culled from the records are, as follows:

Accused-appellant lived with his eighteen year old legal wife, Norma Desalisa, and two year old daughter in a small nipa house on a hill at Pinaductan, San Juan, Bacon, Sorsogon. There are two other houses in the neighborhood which are about 150 meters away: the house of his parents-in-law and the house of Carlito Dichoso. These cannot, however, be seen from the couple's house because of the many fruit trees and shrubs prevalent in the area.

According to Paulina Dioneda, mother of Norma, on October 9, 1983, at about 10:00 o'clock in the morning, she was informed by the mother of accused-appellant that accused-appellant and Norma had an altercation. He slapped and boxed her on the stomach. At about 5:00 o'clock in the afternoon of the same day, Norma complained to her that accused-appellant manhandled her by slapping and boxing her on the stomach when she told him not to go out of the house and get drunk because during that time their child was sick; also, accused-appellant was jealous of a man. Even before October 9, 1983, Norma used to tell her that she was being manhandled by accused-appellant.[3]

Vicente Dioneda, father of Norma, testified that on October 9, 1983, at around 6:00 or 7:00 o'clock in the evening, accused-appellant went to their house and left his child. On the following morning, between 6:00 and 7:00 o'clock, he went to the house of accused-appellant and Norma. When he arrived there, he noticed that the plates were scattered on the floor, the kettle with rice that was not eaten was also on the floor, and the rope which was used to tie the other end of their hammock was missing. He went out of the house. He saw the couple's pig and observed that it was hungry. He thought of feeding it with coconut meat so he climbed a coconut tree which was nearby. While on the third step of the trunk, he saw the back of the body of Norma. He went down the tree and called her. Inasmuch as she did not answer him, he approached her and touched her back. However, her body swayed. It was only then when he realized that she was hanging from a branch of the jackfruit tree. Her neck was tied with the missing rope of their hammock. Her bloody feet were approximately four inches above the ground. Her dress was wet. He informed his wife immediately about the matter. He and his wife proceeded to the house of Carlito Dichoso and requested the latter to fetch the authorities. Accused-appellant often manhandled his daughter because he suspected her of having a paramour and that the baby in her womb was not his. The last time that he saw Norma alive was on October 9, 1983, at around 4:00 to 5:00 o'clock in the afternoon when she went to their house. He corroborated the previous narration of Paulina Dioneda on this aspect. He saw accused-appellant at the municipal building of Bacon on October 10, 1983. He asked accused-appellant why he killed Norma. Accused-appellant did not answer him but just stooped down.[4]

Carlito Dichoso, neighbor of accused-appellant, testified that at about 6:00 or 7:00 o'clock in the evening of October 9, 1983, accused-appellant went to his house. It was raining during that time. Accused-appellant borrowed a flashlight because he will be looking for his wife. After two and a half hours, accused-appellant returned to Carlito's house. He sat on a bench. Carlito asked him whether or not he found his wife but he did not answer. Carlito told him to look for his wife in the house of his in-laws because she might be there. Again, he did not answer. Carlito also told him to look for his wife in the nearby hut because perhaps the heavy downpour prevented her from proceeding home. Accused-appellant remained sitting on the bench, leaning on the post. He uttered the following words: "My wife is continuously possessed by devils." Carlito's wife then advised accused-appellant: "You must be patient with your wife because she is pregnant." Accused-appellant did not answer her. She then prepared a mat and a pillow for accused-appellant but the latter preferred to remain sitting on the bench. During the time that it was raining hard, or about 3:30 o'clock in the morning of the following day, accused-appellant was frightened because he fell down from the bench. He sat again on the bench and Carlito noticed that he did not sleep anymore. At around 5:00 o'clock of the same morning, accused-appellant opened the door and said: "If there is something that happened, Manoy Carlito, what would I do?" Carlito was not able to ask him where he was going because he already went down. At around 7:30 o'clock of the same morning, Carlito was

informed by Vicente and Paulina Dioneda that Norma is dead. Accused-appellant and his wife used to quarrel because of jealousy.[5]

Corporal Crisonogo Gillego, chief investigator and government prosecutor of the Bacon Integrated National Police, testified that he was ordered by their station commander to investigate the case of a woman who was hanged at San Juan, Bacon, Sorsogon. He was accompanied by two members of the Bacon INP and some barangay officials of San Juan. He saw the woman hanging from a jackfruit tree branch, whom he later came to know as Norma Desalisa. A rope was tied around her neck. Her feet were twelve inches above the ground. There were blood stains on the back of her dress and on her panty. He suspected that it was not a suicide case because he noticed that the hair of Norma was entangled with the knot of the rope. He opined that if a person is about to commit suicide, he has to prepare the knot first in order to place it around his neck and then jump. Before Norma was untied, pictures were taken of her. He also investigated the house of the couple and found that the rope that was used in hanging Norma was the same as the rope tied to one end of their hammock. Some things inside the house were not in proper places. He saw accused-appellant at the house of the barangay captain. He asked him how the incident happened but he did not answer. He asked him if he suspected somebody as the paramour of his wife. Accused-appellant answered that a person whose surname is Ariate is courting his wife. He asked accused-appellant whether or not they always quarrel. Accused-appellant answered that they quarrel sometimes. He noticed that accused-appellant was trembling while he was asking those questions. He asked him why he was not in his house. He answered that he was afraid the relatives of his wife might retaliate. Accused-appellant was informed by his mother about the death of his wife.[6]

Dr. Amelia Escarcha, resident physician of the Sorsogon Provincial Hospital, conducted an autopsy on the body of Norma and submitted the following report:

"PHYSICAL FINDINGS:

External Findings:

Head & Neck:?

1. Rope embedded around the neck with knot directing to the right lateral of the neck;
2. Contusion, 3 cm. post-auricular area; right;
3. Ligature mark on the anterior neck extending to the sub-mandibular area & infra-auricular area;
4. Tongue bitten right.

Abdomen:

5. Abdomen enlarged, at about 5 months size with fetal parts on abdominal palpation.

Genitalia:

6. Scanty pubic hair
7. Parous vagina
8. Hematoma with contusion both labia
9. Punctured wound 1 cm. long & 2 cm. depth, perineum with slight blood clot, non-perforating.

Internal Examination:?

1. Cervix soft, closed, no vaginal discharge

2. Uterus - pregnant to about 4-5 months in size.

Internal Findings:

1. Lung - both lungs collapsed colored grayish

2. Heart - normal in size.

CAUSE OF DEATH: Asphyxiation secondary to hanging."[7]

On the other hand, accused-appellant professes his innocence of the crime charged against him. He speculates that his parents-in-law are harboring ill-feelings against him since his wife died. His relationship with his wife has deteriorated as early as June 24, 1983, when she told him upon coming home: "You nearly came upon the man." From that time on, they had no peace at home and often quarrelled. He did not consider her anymore as his wife. But he suspects nobody of having killed his wife, for he was of the impression that she probably committed suicide by hanging herself as previously, she wanted to hang herself but was stopped by her uncle, "Tio Awe." His version of the incident is, as follows: In the afternoon of October 9, 1983, his wife was in their house. When he arrived in the evening of that day, he and his wife had an altercation because she suspected him of having an affair with the daughter of Manoy Charito. She told him to leave otherwise, she will leave. So, he left and visited his farm. Upon returning at around 6:00 o'clock in the evening he found his wife gone and their daughter crying alone. He carried her and proceeded to the house of his parents-in-law to inquire whether or not his wife is there. Not finding her, he left the child in their care and proceeded to the house of Carlito. He likewise did not find her there. He then borrowed Carlito's flashlight to look for her. At that time, he was armed with a sharp bladed instrument. He looked for her in the huts near their farm but she was not there. When it started to rain, he returned to the house of Carlito to check whether or not his wife is already there, only to find out that it was not so. Since it was raining hard, he stayed in the house of Carlito up to around 5:30 o'clock in the morning of the following day, when he went home hoping to find his wife there. Still, there was no trace of his wife. Searching around the premises, he saw his wife hanging from a branch of the jackfruit tree. He was shocked and taken aback because he did not think that his wife would do such a thing. He knew that she was dead because she was not moving. But the first thing he did was to go to the house of his parents and informed them about the incident instead of running to her and cutting her down. His mother went immediately to the police station, while he went to Dominador Baluyot, one of the peace and order officers to inform him about the incident.[8]

Juan Don, a councilor, and Dominador Baluyot, a laborer, testified that there was no eyewitness to the incident. They opined, however, that accused-appellant did not kill Norma.

In this appeal, accused-appellant imputes error on the part of the trial court for finding him guilty beyond reasonable doubt despite evidence to the contrary.

Accused-appellant asseverates that the trial court erred in arriving at the conclusion that he was motivated by jealousy in killing his wife. Not only is this not true but on the contrary, it was the victim who was jealous. She previously tried to commit suicide but was fortunately prevented from doing so by the timely intervention of her "Tio Awe." In fact, he spent the night in the house of Carlito Dichoso which he would not have done if he were guilty. His first impulse, if he had killed his wife, is to go into hiding to avoid arrest.

The Office of the Solicitor General supports the conviction of accused-appellant. The injuries sustained by his wife belie his assertion that she committed suicide by hanging herself. His defense of denial is one of the weakest defenses. The presence of motive and the attendant circumstances, correctly led the trial court to believe that he killed his wife.

We uphold the conviction of accused-appellant.

The quantum of proof necessary to establish accused-appellant's guilt, albeit based on circumstantial evidence, is sufficient. There is more than one circumstance. The facts from which the inference are derived are proven. The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[9] Thus, we quote as our own the ratiocination of the trial court:

"MOTIVE:

There is not (sic) question (that) there was a serious quarrel between accused Emmanuel Desalisa and his young wife deceased Norma Desalisa. The accused admitted the existence of the quarrel to P/Cpl. Gillego, as was testified to by the mother-in-law of the accused Paulina Dioneda and admitted by the accused when he testified for and in his own behalf. x x x . Likewise, accused admitted (that) one Aryate was courting Norma and that when the matter was brought out to him, the accused was trembling and very pale.

Paulina Dioneda testified, which was unrebutted nor denied by the accused, that on October 9, 1983, at about 10:00 o'clock in the morning, her daughter (deceased) Norma accompanied by her mother-in-law (mother of the accused) told her she had an altercation with her husband accused Emmanuel. Norma was, according to her, slapped, boxed and manhandled by the accused x x x.

When the accused testified for and in his own behalf, he admitted that on October 9, 1983, or immediately prior to Norma's hideous hanging, Norma refused to allow him to enter the house or she will be the one to leave the house. A statement coming from a wife when told to a husband cannot be mistaken to anything less than a very serious quarrel.

The quarrel between accused Emmanuel and deceased Norma prior to and immediately before the fatal hanging when considered with the kind of quarrel the couple were having, an affair with another man, culminating to his doubt having fathered the child Norma was carrying at the time was doubtful (sic). Jealously (sic) is a motive as old as time.

OPPORTUNITY TO COMMIT THE CRIME:

The accused has the opportunity to commit the crime. The house where accused Emmanuel and Norma live as pictured by both the witnesses for the prosecution and the defense is up a hill and isolated. The whole neighborhood consists of only three (3) houses. While it is true (that) from any of the three (3) houses, one cannot see the other because of the fruit trees and shrubs that abound, their distance from each other is only 150 meters. No one, definitely no one can go up the hill to visit or whatever without being known to the neighbor. With such an arrangement, no one can go up the hill to the house of the accused Emmanuel and Norma without their neighbors, who are related to them, being aware of. Nowhere in the whole evidence, where neither Norma's family nor accused Emmanuel Desalisa's family, directly or indirectly, even suspected any stranger for having committed the crime. The accused himself blamed that (sic) his wife Norma for having taken her own life. He never pointed his accusing finger to anybody.

As early as 5:00 o'clock in the afternoon of October 9, 1983, accused Emmanuel was with Norma and their child in their house up the hill at Pinaductan, San Juan, Bacon. They were all alone in that isolated house when he was not allowed, with threatening voice, entry in his own house, or his wife will leave the house. What can be more humiliating to a man aside from a wife being unfaithful to be refused entry to one's very home? A man maybe able to swallow defeat to a woman's affection, even lose the love of a wife, but to be scorned and refused entry to one's house by the very woman who was unfaithful to his love, is something a man cannot take sitting down, as the accused did take with his own hand the life of his young wife Norma.

The intensity of the hatred of the man who committed the dastardly act of hanging Norma by the neck tied to the branch of a jackfruit tree is shown by the injury suffered by the deceased. The injury on the head, the entangled hair of the deceased to the noose of the rope, the proximity (six inches) of the noose, that holds and encircles the neck of the deceased to that of the branch of the jackfruit tree, the contusion in the labia minora

and punctured wound suffered by the deceased in her genital area, could have only been done by a man whose manhood was trampled upon, as accused Emmanuel Desalisa in his jealousy was prone to believe, and in his blind jealousy not only snuffed the life of his wife by hanging but also tortured and humiliated the deceased by abusing and inflicting injury to her private parts as a last act of insult to humiliate her womanhood, as he was insulted and humiliated to (sic) what he believe (sic) his unfaithful wife has committed against his honor.

Another point that is noted, is, when the accused was at the house of his neighbor, his Manoy Carlito Dichoso, after having left said house to look for his wife, he was asked by Carlito if he found his wife. The accused did not answer the query. He just sat on the bench and said, "his wife Norma is possessed by devils." When Carlito's wife who was then present told him to be patient with his wife because she is pregnant, again, the accused did not answer. When the accused was at the police headquarters of Bacon, and in the presence of many, was accused (sic) by his father-in-law Vicente Dioneda, why he killed his daughter Norma. Again, the accused did not answer. That when P/Cpl. Gillego was able to extract from him the information that one Ariate was courting Norma, the accused was trembling and very pale. These are actuations and circumstances pointing to a man bothered by a guilty conscience."^[10]

The uncorroborated assertions of accused-appellant that it was the victim who was jealous of him and that she has tried to commit suicide previously are nothing but self-serving statements which cannot outweigh the prosecution's overwhelming evidence to the contrary.^[11]

There is ample evidence to support the finding that the hanging of the victim was homicidal^[12] and not suicidal, as claimed by accused-appellant. A day after the incident, Vicente Dioneda found scattered plates and kettle with untouched rice on the floor of the house of accused-appellant^[13] while Cpl. Gillego found that some things in the house were not in proper places.^[14] These are indicia of previous struggle. There were blood stains on the victim's dress,^[15] panty,^[16] and feet.^[17] On her genitalia, the doctor found a punctured wound, 1 cm. long and 2 cm. deep, with slight blood clot which could have been caused by any pointed object, sharp bolo or sharp pointed instrument.^[18] Accused-appellant admitted during the cross examination that he was armed with a sharp bladed instrument while he was looking for his wife.^[19] The doctor also found hematoma with contusion on both labia of her genitalia, which could have been caused by a fist blow.^[20] According to the doctor, these injuries could not have been self-inflicted.^[21]

Although accused-appellant spent the night in the house of Carlito Dichoso and did not flee, this circumstance standing alone is no brief on his innocence. There is no case law holding that non-flight is conclusive proof of innocence.^[22]

What strikes the attention of this Court further is the testimony of accused-appellant that when he saw his wife hanging from a branch of the jackfruit tree, he went to the house of his parents and informed them about the incident,^[23] instead of bringing her down and determining if she was still alive, and if so, to rush her to any doctor, clinic or hospital. He didn't even bother to let his parents-in-law know of what happened to their daughter because according to him, he was confused.^[24]

We find it hard to believe in his excuse, considering that the house of his parents-in-law, is only 150 meters away from his house.^[25] Furthermore, it goes without saying that his parents-in-law are the more concerned persons than his parents with respect to the misfortune that befell their daughter. Or, he could have proceeded to the house of Carlito Dichoso, which is likewise only 150 meters away from his house. We view the course of action that he took as akin to seeking sanctuary in the protective arms of his parents.

The aggravating circumstance of evident premeditation can not be appreciated against accused-appellant absent any proof as to how and when the plan to kill was hatched or what time elapsed before it was carried out.^[26] Neither may the aggravating circumstance of nighttime be appreciated against him because there is no proof that

it was purposely sought or taken advantage of, or that it facilitated the commission of the crime.[27]

However, the aggravating circumstance of uninhabited place is present. The uninhabitedness of a place is determined not by the distance of the nearest house to the scene of the crime but whether or not in the place of commission, there was reasonable possibility of the victim receiving some help. Considering that the killing was done during nighttime and many fruit trees and shrubs obstruct the view of neighbors and passersby, there was no reasonable possibility for the victim to receive any assistance.[28] At any rate, in the imposition of the proper penalty we shall disregard the presence of this aggravating circumstance, which we shall explain later.

We note that the trial court convicted accused-appellant of the crime of parricide only. This is an error. The evidence on record has shown beyond reasonable doubt that accused-appellant has committed the complex crime of parricide with unintentional abortion. The abortion was caused by the same violence that caused the death of the victim. It is unintentional because accused-appellant must have merely intended to kill the victim but not necessarily to cause an abortion.[29]

In case of complex crimes, the penalty for the more serious crime in its maximum period shall be imposed.[30] The maximum period of the penalty for parricide, the more serious crime, is death.[31] However, by reason of Sec. 19(1), Article III of the 1987 Constitution which proscribes the imposition of the death penalty, the imposable penalty is reclusion perpetua.[32] Being a single indivisible penalty, reclusion perpetua is imposed regardless of any mitigating or aggravating circumstances.[33]

WHEREFORE, the decision appealed from is hereby modified. Accused-appellant is found guilty beyond reasonable doubt of the complex crime of parricide with unintentional abortion and sentenced to suffer the penalty of reclusion perpetua. The civil indemnity for the death of the victim is increased to P50,000.00. SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] Rollo, p. 10.

[2] Rollo, p. 30.

[3] TSN, August 16, 1984, pp. 2-16.

[4] TSN, July 12, 1984, pp. 17-40.

[5] TSN, February 29, 1984, pp. 60-74; TSN, July 12, 1984, pp. 3-12.

[6] TSN, October 10, 1984, pp. 2-50.

[7] Records, p. 10.

[8] TSN, August 21, 1985, pp. 3-46.

[9] *People v. Cadevida, et al.*, G.R. No. 94528, March 1, 1993.

[10] Rollo, pp. 28-30.

[11] *People v. Villalobos, et al.*, G.R. No. 71526, 209 SCRA 304 (1992); *People v. Villanueva*, G.R. No. 77396, 211 SCRA 602 (1992).

[12] *Legal Medicine* by Pedro P. Solis, 1987 Edition, p. 435.

[13] TSN, July 12, 1984, p. 22.

- [14] TSN, Oct. 10, 1984, p. 19.
- [15] Ibid, p. 11.
- [16] Ibid, p. 15.
- [17] TSN, July 12, 1984, p. 27.
- [18] TSN, February 29, 1984, p. 38.
- [19] Supra.
- [20] Ibid, p. 36.
- [21] Ibid, p. 47.
- [22] People v. Magtuloy, G.R. No. 105671, June 30, 1993.
- [23] TSN, August 21, 1985, p. 13.
- [24] Ibid, p. 21.
- [25] Ibid, p. 20.
- [26] People v. Peñones, et al., G.R. No. 71153, 200 SCRA 624 (1991).
- [27] People v. Aguiluz, G.R. No. 91662, 207 SCRA 187 (1992).
- [28] See People v. Damaso, et al. G.R. No. L-30116, 86 SCRA 370 (1978).
- [29] See People v. Salufrania, G.R. No. 50884, 159 SCRA 401 (1988).
- [30] Article 48 of the Revised Penal Code.
- [31] Article 246 of the Revised Penal Code.
- [32] People v. Collado, et al., G.R. No. 88631, 196 SCRA 519 (1991).
- [33] Article 294, paragraph 1 in relation to Article 63, paragraph 1 of the Revised Penal Code.

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