

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SPO1 JOSE FLORES Y SALINAS, PO3 ROMEO ARTIENDA Y GALVEZ, PO3 MANUEL CORPUZ Y LACUATA, PO1 AMADO MERCA Y LOPEZ AND PO3 EDWIN “E...

G.R. Nos. 111009-12. December 08, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

Jose Flores y Salinas, Manuel Corpuz y Lacuata, Romeo Artienda y Galvez, Jr., Amado Merca y Lopez, Edwin "Eden" Tubiera y Detabli, Leonito Macapagal and one other unknown person who remains at-large, were charged before the Regional Trial Court of La Trinidad, Benguet, with the crimes of Murder with Unintentional Abortion, two (2) counts of Murder and Frustrated Murder in four (4) separate informations, allegedly committed as follows:

1. Criminal Case No. 92-CR-1358 - Murder with Unintentional Abortion.

"That on or between the period from June 18 to June 19, 1992 along the Naguilian Road, Banangan, Municipality of Sablan, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then duly appointed members of the Philippine National Police Force assigned at San Fernando, La Union, conspiring, confederating and mutually aiding one another, with the use of motor vehicles, and with evident premeditation, abuse of superior strength, cruelty and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and kill one VIVIAN GONZALES DIONES, by inflicting fatal wounds on the vital parts of the body of the offended party which directly caused her death immediately thereafter, and by the same criminal act committed on the person of Vivian Gonzales Diones, a married woman who was at the time five (5) months on the family way, wilfully, unlawfully and feloniously caused the death of the child while still in its (her) womb.

That in the commission of the offense, the aggravating circumstance of nocturnity was present, the same having been purposely sought to facilitate the commission thereof.

CONTRARY TO LAW."^[1]

2. Criminal Case No. 92-CR-1365 - Murder

"That on or between the period from June 18 to 21, 1992, along the Naguilian Road, Banangan, Municipality of Sablan, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then duly appointed members of the Philippine National Police Force assigned at San Fernando, La Union, conspiring, confederating and mutually aiding one another, with the use of motor vehicles, and with evident premeditation, abuse of superior strength, cruelty and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and kill LAURITA DIONES NITCHA, by inflicting fatal wounds on the vital parts of the body of the offended party which directly caused her death immediately thereafter.

That in the commission of the offense, the aggravating circumstance of nocturnity was present, the same having been purposely sought to facilitate the commission thereof.

"CONTRARY TO LAW."[2]

3. Criminal Case No. 92-CR-1366 - Murder

"That on or about the period from June 18 to June 19, 1992, along the Naguilian Road, Banangan, Municipality of Sablan, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then duly appointed members of the Philippine National Police Force assigned at San Fernando, La Union, conspiring, confederating and mutually aiding one another, with the use of motor vehicles, and with evident premeditation, abuse of superior strength, cruelty and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and kill one ZENAIDA DIONES RAGADI, by inflicting fatal wounds on the vital parts of the body of the offended party which directly caused her death immediately thereafter.

That in the commission of the offense, the aggravating circumstance of nocturnity was present, the same having been purposely sought to facilitate the commission thereof.

CONTRARY TO LAW."[3]

4. Criminal Case No. 92-CR-1407 - Frustrated Murder

"That in or between the period from June 18 to June 19, 1992, along the Naguilian Road, Banangan, Municipality of Sablan, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then duly appointed members of the Philippine National Police Force assigned at San Fernando, La Union, conspiring, confederating and mutually aiding one another, with the use of motor vehicles, and with evident premeditation, abuse of superior strength, cruelty and with deliberate intent to kill, with treachery and with employment of means to insure impunity, did then and there wilfully, unlawfully and feloniously attack, assault, punch, stab and inflict mortal wounds on the body of one MYRNA DIONES y NITCHA, which wounds could have ordinarily caused her death, and thereafter dump her body at a precipice, thus performing all the acts of execution which would have produced the crime of Murder as a consequence, but which nevertheless did not produce it by reason of causes independent of their will, that is, by timely assistance of the police officers of Sablan, Benguet and the medical assistance rendered to said Myrna Diones which prevented her death.

That in the commission of the crime, the accused took advantage of their positions as public officers and availed of night time to facilitate its commission.

CONTRARY TO LAW."[4]

Upon arraignment, all the accused present pleaded not guilty to all the offenses charged. The cases were tried jointly and on 2 July 1993, the trial court rendered a decision* the dispositive part of which reads:

"WHEREFORE, based on the foregoing premises, judgment is hereby rendered:

1. In Criminal Case No. 92-CR-1358

The Court finds the accused Jose Flores y Salinas, Manuel Corpuz y Lacuata, Romeo Artienda y Galvez, Jr., Amado Merca y Lopez, and Edwin Tubiera y Detabli GUILTY of the crime of Murder with Unintentional Abortion as charged in the Amended Information and hereby sentences them to suffer the penalty of reclusion perpetua and to pay the proportionate costs.

For insufficiency of evidence, the Court finds the accused Leonito Macapagal NOT GUILTY of the crime charged and hereby acquits him.

2. In Criminal Case No. 92-CR-1365

The Court finds the accused Jose Flores y Salinas, Manuel Corpuz y Lacuata, Romeo Artienda y Galvez, Jr., Amado Merca y Lopez, and Edwin Tubiera y Detabli GUILTY of the crime of Murder as charged in the Amended Information and hereby sentences them to suffer the penalty of reclusion perpetua and to pay proportionate costs.

For insufficiency of evidence, the Court finds accused Leonito Macapagal NOT GUILTY of the crime charged and hereby acquits him.

3. In Criminal Case No. 92-CR-1366

The Court finds the accused Jose Flores y Salinas, Manuel Corpuz y Lacuata, Romeo Artienda y Galvez, Jr., Amado Merca y Lopez, and Edwin Tubiera y Detabli GUILTY of the crime of Murder as charged in the Amended Information and hereby sentences them to suffer the penalty of reclusion perpetua and to pay proportionate costs.

For insufficiency of evidence, the Court finds accused Leonito Macapagal NOT GUILTY of the crime charged and hereby acquits him.

4. In Criminal Case No. 92-CR-1407

The Court finds the accused Jose Flores y Salinas, Manuel Corpuz y Lacuata, Romeo Artienda y Galvez, Jr., Amado Merca y Lopez and Edwin Tubiera y Detabli GUILTY of the crime of Frustrated Murder as charged in the Amended Information and hereby sentences them to suffer an indeterminate sentence of Ten (10) years of prision mayor as MINIMUM to Seventeen (17) years and Four (4) months of reclusion temporal as MAXIMUM and to pay the pro-portionate costs.

For insufficiency of evidence, the Court finds accused Leonito Macapagal NOT GUILTY of the crime charged and hereby acquits him.

The cash bond posted by the accused Leonito Macapagal for his temporary liberty is hereby cancelled and the amount deposited for that purpose may be returned to him.

SO ORDERED."[5]

The trial court made no pronouncement on the civil liability of the accused since a separate civil action for damages had been filed by the spouses of the deceased victims and the parents of Myrna Diones, in her behalf, against the accused.

All five (5) convicted accused appealed the judgment to this Court and assigned the following errors to the trial court, which allegedly should result in their acquittal:

"1) THE TRIAL COURT ERRED IN GIVING FULL CREDENCE TO MYRNA DIONES UPON WHOSE TESTIMONY SAID COURT OBSERVED, THE 'EVIDENCE OF THE PROSECUTION AGAINST THE ACCUSED RESTS SOLELY', DESPITE THE FACT THAT AS SAID COURT FOUND, 'THERE WERE ALSO TIMES WHEN SHE WAS CONFUSED AND COULD NOT GIVE STRAIGHT ANSWERS PARTICULARLY DURING CROSS-EXAMI-NATION', AND THAT ON VITAL POINTS, MYRNA DIONES OBVIOUSLY TOLD LIES.

2) THE TRIAL COURT ALSO ERRED IN GIVING FULL CREDENCE TO EUSEBIO DIONES DESPITE THE FACT THAT AS SAID COURT ITSELF OBSERVED WHILE EUSEBIO DIONES WAS TESTIFYING: 'THIS IS THE SECOND TIME HE IS TELLING A LIE,' AND ADMONISHING HIM: 'WHY DO YOU COME HERE TO TELL A LIE, MR. WITNESS?' TO WHICH NO LESS THAN THE PROVINCIAL PROSECUTOR REMARKED: 'WE ARE SADDENED ABOUT THIS. x x x'.

3) THE TRIAL COURT LIKEWISE ERRED IN PRONOUNCING ACCUSED-APPELLANTS GUILTY DESPITE THE FACT THAT AS SAID COURT ITSELF MADE CLEAR BEFORE ADMITTING THE PROSECUTION'S WRITTEN OFFER OF EVIDENCE: 'WITH THE QUALIFICATION THAT THEY ARE NOT ADMITTED TO PROVE THE IDENTITIES OF THOSE PERSONS DEPICTED IN THOSE PICTURES, AND THAT REFERS TO ALL THE REST', AND THE FURTHER FACT THAT INDEED, THE IDENTITIES OF THE THREE WOMEN WHOSE BODIES THE PROSECUTION THEORIZED WERE THOSE OF THE SUPPOSED VICTIMS IN THE CRIMINAL CASES, WERE NOT ESTABLISHED.

4) THE TRIAL COURT FURTHERMORE ERRED IN DISREGARDING THE ACCUSED-APPELLANTS' DEFENSE OF ALIBI DESPITE THE FACT THAT THE SAME WAS FULLY CORROBORATED BY WITNESSES WHOSE REPUTATION FOR PROBITY COULD NOT BE IMPUGNED. CONSEQUENTLY, THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANTS."[6]

Myrna Diones y Nitcha, the lone survivor of the crimes committed, narrated the circumstances which led to the deaths of Vivian Gonzalez Diones, Zenaida Diones Ragadi and Laurita Diones Nitcha, and which circumstances also nearly caused her own demise. Her testimony was clearly and concisely summarized by the trial court as follows:

"On June 17, 1992, she (Myrna), together with her parents Eusebio and Jaunita Diones and her sister, Zenaida Diones Ragadi were at their home in Binalonan, Pangasinan. At around 9:00 o'clock in the morning, she and her sister, Zenaida Diones Ragadi, boarded a vehicle to go to Urdaneta, Pangasinan, to fetch Laurita Diones Nitcha and Vivian Gonzales Diones. In Urdaneta Pangasinan, the four girls rode a bus and went to San Fernando, La Union, each with a purpose in mind. Myrna Diones was to meet her brother, Toribio Diones, who was working in San Fernando, La Union, as her brother would give her money to spend for her uniform as she was enrolled in the first year at the National High School in Binalonan, Pangasinan. Laurita Diones Nitcha hoped to collect a debt from her mother-in-law in La Union, Vivian Gonzales Diones wanted to see the child of Toribio Diones and Zenaida Diones Ragadi just went along for the ride. Upon reaching La Union, they got off the bus at Pagdalagan, San Fernando, La Union. At the waiting shed, they met Virginia Manzano, Toribio Diones' wife who was on her way to the market. She informed Myrna and her group that her (Myrna's) brother, Toribio Diones, was out of town on a trip. Since her purpose in going to La Union was rendered naught, Myrna and her companions decided to go along with her sister-in-law to the market. At the market they parted ways. Virginia Manzano went inside the market while Myrna's group went to the dry goods section. Myrna's companions Zenaida Ragadi, Vivian Diones and Laurita Nitcha then went to a place along the sidewalk where pants were being displayed while Myrna went across the street to a drugstore to buy Cortal as she was suffering from headache which she attributed to the long trip. After buying her pain reliever, and while she was still inside the drugstore, she noticed a male person standing just around two feet away from her. This male person who was four meters away from where Myrna's companions were, appeared to be observing them as they were still looking at the pants on display at the sidewalk. When asked to identify this male person, Myrna Diones pointed to accused Edwin Tubiera.

Myrna's companions then left the pant display and started walking away. Accused Edwin Tubiera followed the girls and so Myrna also followed the group. She saw her companions stop at the parking space for jeeps bound for Lingsat, San Fernando, La Union. She also stopped and there she saw accused Edwin Tubiera with an old man whom she identified as accused Jose Flores. While she and her companions were about to board a tricycle to go to her Aunt's place, accused Tubiera told them not to leave. Zenaida Ragadi asked what was their fault and why were they not allowed to leave and accused Tubiera answered that they were thieves. Zenaida Ragadi retorted that they could not be thieves because they did not steal anything. Accused Tubiera did not reply. As the girls remained where they were, accused Flores used his hand-held radio and after a while, three policemen arrived in a vehicle. One of them alighted from the vehicle and Myrna overheard accused Flores tell him to bring the girls to 'Station B'. The girls were then told to board the vehicle. Another policeman whom Myrna identified as accused Leonito Macapagal boarded the vehicle at the back and sat beside the door of the vehicle.

The vehicle left the place and soon, Myrna read a sign which said 'Airport San Fernando'. The vehicle then stopped at a place near said signpost, which Myrna presumed to be Station B. The girls were made to alight and enter the station where they were detained in a small cell. Myrna then saw three other male persons inside the station whom she identified in open court as accused Amado Merca, Manuel Corpuz and Romeo Artienda.

As it was already lunch time on June 17, 1992 when they were brought to the station, the girls were fed by accused Tubiera. Accused Leonito Macapagal and the other policemen who brought them to the station had already left.

The cell where they were detained was small measuring 112 inches by 48 inches and contained four folding beds. The girls were kept detained there until dinner time and again it was accused Tubiera who fed them their dinner. They were made to sleep in their cell that night and the following day, June 18, 1992, they were still being detained. Again it was accused Tubiera who fed them their breakfast and lunch. When the men inside the station went outside, the cook, an old short man approached the girls in their cell and told them to tell the truth as the men who detained them were killers. But they replied that there was nothing to tell. The girls then cried and they were still crying when the men returned inside. The night of June 18, 1992, at around 11:30 o'clock [sic] in the evening, a tall male person arrived at the station, looked at them and went to sleep on a folding bed.

At 12:45 o'clock [sic] in the early morning of June 19, 1992, accused Leonito Macapagal came to the station and told them that they were going to see the mayor. However, on cross examination, Myrna admitted that it was not accused Macapagal who came to their cell at 12:45 o'clock [sic] that early morning but accused Jose Flores. Outside the station, Myrna saw a white Ford Fiera and a red car. She, Zenaida Diones Ragadi and Vivian Gonzales Diones were made to board the white Ford Fiera with accused Jose Flores, Romeo Artienda, Amado Merca, Manuel Corpuz and Edwin Tubiera following them inside. Laurita Diones Nitcha was placed inside the red car with the tall man who arrived at 11:30 o'clock [sic] that evening.

Inside the Ford Fiera, accused Jose Flores occupied the front seat and accused Romeo Artienda took the driver's seat. At the back of the vehicle, Tubiera sat beside Myrna who was seated at the back of the driver. Occupying the seat opposite Myrna and accused Tubiera were Vivian Gonzales Diones and Zenaida Diones Ragadi. Seated beside Zenaida was accused Merca and accused Corpuz took the seat beside Vivian. When everybody was seated, the vehicle took off with the red car following closely behind.

While the vehicle was moving, Myrna saw the sign 'Municipality of Naguilian'. As the vehicle went on and further away, Myrna saw another sign which read 'Welcome to Burgos'. She noticed that the red car where Laurita was boarded was still following them as she could see the car's headlights. It was at this point that accused Flores ordered his co-accused to handcuff the girls. The girls' hands were then placed behind their backs and accused Tubiera handcuffed Myrna, accused Corpuz handcuffed Vivian while accused Merca handcuffed Zenaida. As they drove on, Myrna noticed that inside the vehicle were a tire, rope and a piece of rounded wood with pointed ends. She was able to notice these things as there was a light inside the Ford Fiera. The vehicle continued moving and soon Myrna read a sign which said 'Welcome to Cordillera'. When Myrna saw this sign, she noticed that the red car was still following behind the vehicle where she and the other girls were.

It was at this juncture that accused Flores directed his co-accused to tie the girls. Accused Tubiera then tied a rope around Myrna's neck. She saw accused Merca tie a rope around Zenaida's neck while accused Corpuz tied a rope around Vivian's neck. Subsequently, Myrna saw accused Merca and Corpuz start mauling Zenaida and Vivian, respectively. Accused Tubiera then stabbed her left eyebrow with the pointed piece of wood she saw inside the vehicle. Then with the same piece of wood, accused Tubiera hit her head three times until she fell unconscious."[7]

At around 8:00 in the morning of 19 June 1992, the Sablan Police Station, Sablan Benguet received a report of an alleged "salvage" (summary execution) victim found at Sitio Dakes, Banangan, Sablan, Benguet about twenty

(20) feet below the level of Naguilian Road. An investigation team from the Sablan Police Station initially found the body of a dead female victim which bore what appeared to be strangulation marks around the neck and stab wounds on different parts of the body. The police team also found two (2) different colored sandals and a shoe about two (2) to three (3) meters away from the victim. This prompted the police to look for other victims. The police team, together with employees from the Ilagan Funeral Homes who were requested by the police to assist them, later found a second female body about fifty (50) feet from the first body. The second victim had a nylon rope tied around her neck and bore several stab wounds. A third victim was then found about thirty (30) feet from the second body. The third victim turned out to be Myrna Diones, who was alive but unconscious and had various injuries similar to those of the first two (2) victims. Myrna Diones was brought to the Baguio General Hospital where she later regained consciousness.

SPO1 Edward L. Esperanza, Chief Investigator of the Sablan Police Station, who heard about the discovery of "salvage" victims near Naguilian Road and that one victim, who was still alive, was brought to the Baguio General Hospital (BGH), immediately proceeded to the BGH. He arrived at the hospital before 2:00 in the afternoon of 19 June 1992 and he was able to interview Myrna Diones who had just regained consciousness and could hardly talk. Myrna was able to relate to him how she, together with her sister, sister-in-law and cousin, were picked up by persons who they believed to be members of the San Fernando Police force.

On 21 June 1992, another female body was recovered about a kilometer away from the place where the three (3) victims were found on 19 June 1992. The fourth victim, later identified as Laurita Diones, likewise bore several stab wounds and signs of strangulation.

Myrna Diones was also interviewed by SPO4 Mariano Rabaja III, Chief Investigator of the Criminal Investigation Service (CIS) Cordillera Regional Command Office (CRECOM) on 20 June 1992.

Major Mario San Diego, Regional Chief of the CIS-CRECOM, upon being informed by SPO4 Rabaja of Myrna's statements, got in touch with Colonel Amado Espino, Provincial Director of the Philippine National Police (PNP), La Union Provincial Command and informed him of the possible involvement of some of his (Espino's) men in the crimes. Col. Espino furnished the CIS with a copy of the Disposition of Troops of the San Fernando Police Station for the month of June 1992.[8] The CIS also secured photographs of all policemen in San Fernando, La Union. These photographs, which were pasted on separate sheets of paper, were later shown to Myrna Diones so she could identify the policemen who allegedly abducted, detained and attacked them. From the set of about 35 pictures, Myrna was able to single out five (5) photographs of policemen.

On 24 June 1992, Myrna was taken to Camp Diego Silang, San Fernando, La Union. Members of the San Fernando, La Union police force were then made to line-up and Myrna was instructed to point to their attackers, if they were present. The line-up was conducted under the supervision of Colonel Espino and Major San Diego. Myrna was made to stand behind a one-way mirror and she readily identified five (5) of the policemen, SPO1 Jose Flores, PO1 Amado Merca, PO3 Manuel Corpuz, PO3 Romeo Artienda, Jr. and PO3 Edwin Tubiera. Myrna was then taken to the Canaoay Police Substation where she was able to verify that it was the place where they were detained by the accused-appellants.

On 16 July 1992, Myrna was again shown photographs of policemen of San Fernando, La Union. She was able to recognize one (1) other alleged attacker. Another line-up was conducted where she identified SPO4 Leonito Macapagal.

It was on the basis of these identifications made by Myrna Diones that the aforementioned informations for murder of the three (3) victims and frustrated murder of Myrna were filed with the Regional Trial Court of La Trinidad, Benguet.

The five (5) accused-appellants presented their individual defenses as follows:

SPO1 Jose Flores testified that on 17 June 1992, he reported for duty at 8:00 in the morning at the Canaoay Police Substation where he stayed until 6:00 in the morning of 18 June 1992. He admitted being alone at his post until accused-appellants Edwin Tubiera and Amado Merca reported for duty at 7:00 in the evening of 17 June 1992. He further stated that he went home to change clothes and have breakfast and then returned to the substation at 8:00 in the morning of 18 June 1992, where he stayed until 6:00 in the morning of the following day. At 7:00 in the evening of 18 June 1992, he was joined at the substation by accused-appellant Manuel Corpuz and a certain Police Officer Robert Cabrera. Flores stated that the three (3) of them stayed at the substation the whole night and that none of them ever left their posts. Flores denied ever seeing Myrna Diones or any of the three (3) other victims at the substation on the above-mentioned dates.

To corroborate his testimony, Flores presented Rodolfo Flores, a barangay councilor of Canaoay, San Fernando, La Union and Mariano S. Lete, the barangay captain of Canaoay, San Fernando, La Union.

Flores (no relation to accused-appellant Jose Flores) testified that at about 3:00 in the afternoon of 17 June 1992, he went to the Canaoay police substation to take shelter from the heat of the sun. He stated that he saw SPO1 Jose Flores alone at the substation.

Lete in turn testified that at about 4:00 in the afternoon of 18 June 1992, he dropped by the Canaoay police substation and saw SPO1 Flores alone manning his post.

Flores and Lete testified that neither of them saw any girls detained at the Canaoay police substation.

Accused-appellant Edwin Tubiera testified that at 6:30 in the morning of 17 June 1992, he reported for traffic duty at the intersection of Gen. Luna and P. Gomez streets in San Fernando, La Union, and that he never left his traffic post until his duty ended at 6:00 in the evening except when he took his lunch at a nearby eatery at around 1:00 until about 1:30 in the afternoon. He further testified that after his traffic duty, he proceeded to the Canaoay police substation where he arrived before 7:00 in the evening. He stated that his co-accused, Flores was already at the substation when he arrived and another co-accused, Amado Merca, arrived a short while later. Tubiera corroborated SPO1 Flores' testimony that only the three (3) of them were at the substation in the evening of 17 June 1992, and that none of them left the station that night. Tubiera further stated that after his duty ended at 8:00 in the morning of 18 June 1992, he proceeded home to San Vicente, San Fernando, La Union where he stayed until he reported for duty at 6:30 in the morning of 19 June 1992.

To support his story, Tubiera presented his mother, Juana D. Tubiera, and the barangay secretary of San Vicente, San Fernando, La Union, Helen F. Pimentel. Mrs. Tubiera testified that her son stayed home the whole day of 18 June 1992.

Pimentel, on the other hand, testified having talked to accused-appellant Edwin Tubiera for thirty (30) minutes in the evening of 18 June 1992 when she went to the latter's house to borrow a typewriter.

Accused-appellant Amado Merca testified that at 6:30 in the morning of 17 June 1992, he reported for traffic duty at the intersection of P. Gomez and Don Pacoy Ortega Streets in San Fernando, La Union and that he never left his traffic post until his duty ended at 6:00 in the evening, except when he took his lunch at around 12:00 noon, returning to his post before 1:00 in the afternoon. When his traffic duty ended at 6:00 in the evening, he ate dinner at a canteen near his traffic post and he thereafter proceeded to the Canaoay police substation since he was on night duty until 8:00 in the morning of 18 June 1992. He stated that his co-accused Flores and Tubiera were already at the station when he arrived and he likewise contended that all three (3) of them remained at the station the whole evening. Merca further testified that at 8:00 in the morning of 18 June 1992, he proceeded to the house

of his common-law wife at Damortis, La Union. He arrived there at about 10:00 that same morning and he stayed there until 5:00 in the morning of 19 June 1992 when he left to report for traffic duty at his assigned post. Merca added that at around 12:00 midnight on 19 June 1992, a neighbor requested him to accompany him in fetching the latter's son who was involved in a fight at a dance in a nearby barrio. Merca stated that he returned at around 1:00 in the morning.

Merca's neighbor, Enrique Abril, corroborated the former's testimony that Merca accompanied him to fetch his son.

Accused-appellant Romeo Artienda, Jr. testified that on 17 June 1992, he reported for duty at the Santiago Police Substation at San Fernando, La Union at 8:00 in the morning and he stayed at said sub-station until 8:00 the next morning after which he went home to Barangay Ilocanos Norte, San Fernando, La Union since it was his day off. He allegedly stayed home the entire day and at about 10:00 in the evening, his neighbor Sergio Boado came to his house and the two (2) of them played chess until 2:30 in the morning of 19 June 1992. He denied having anything to do with the crimes.

SPO3 Benjamin J. Dumaguino, Commander of the Santiago Police Substation, testified that Romeo Artienda, Jr. reported for duty at 8:00 in the morning of 17 June 1992 until 8:00 in the morning of the following day. He further stated that Artienda never left the station during that period.

Sergio Boado testified to having played chess with Artienda on 18 June 1992 until about 2:00 in the morning of 19 June 1992.

Accused-appellant Manuel Corpuz testified that on 17 June 1992, he stayed home at Gov. Luna street, San Fernando, La Union since it was his day off. He stated that he spent part of the day playing mahjong at a neighbor's house. The game ended at 3:00 in the afternoon after which he went home to sleep. At 6:30 in the morning of 18 June 1992, Corpuz stated that he reported for traffic duty at Saint Louis College, Barangay Lingsat, Quezon Avenue, San Fernando, La Union. He stayed at his post until 6:00 in the evening of the same day, leaving his post only to take lunch at a store a few meters away. After traffic duty, Corpuz stated that he had dinner, after which he reported for night duty at the Canaoay Police Substation at 7:00 in the evening. Corpuz further stated that his co-accused Jose Flores and PO1 Robert Cabrera were already at the substation when he arrived and that only the three (3) of them were at the station that night. He denied that any girls were ever detained at the substation on the dates in question. Corpuz further stated that he left the station at 8:00 in the morning of 19 June 1992.

Romeo Mallari, Corpuz' neighbor testified that on 17 June 1992, he played mahjong with the latter and two (2) others from 10:00 in the morning until 2:00 in the afternoon.

SPO1 Arsenio T. Bueno, the Traffic Section Chief of the San Fernando Police Station, testified that he saw Tubiera and Merca at their respective traffic posts on 17 June 1992 when he made his hourly supervision rounds. Bueno likewise testified to seeing Corpuz at his post while conducting his supervision rounds on 18 June 1992.

The crimes committed against Myrna Diones and the three (3) deceased victims were widely publicized and sensationalized immensely. The records of this case show that various human rights groups, legal aid organizations and the media have shown extraordinary interest in these cases. The story of Myrna Diones has even become the subject of a full-length movie, which was shown despite these cases being sub judice. The trial court, in its decision in these cases, found it necessary to state that:

"These cases have attracted nationwide attention probably by the very fact that those who are called to enforce the law are being charged with very serious offenses. It has become so sensationalized that the media, in its

enthusiastic desire to widen their readership, have always alluded to the accused not only the crimes of murder but rape as well. Almost all newspaper articles and radio commentaries about these cases have indicated that the victims have not only been murdered but raped as well. To remove all nagging doubts as to the crime of rape, the Court will digress to set the record straight once and for all.

From all the evidence presented by the prosecution, there has never been any talk of rape. The lone survivor, Myrna Diones, did not testify that there was any rape. Both doctors who testified did not make any statement that any of the victims were raped. There clearly is no evidence that any of the girls were raped".[9]

It is unfortunate that some groups have caused the real story of Myrna Diones to become muddled with accounts that the victims had been raped. There was, we repeat, no evidence to support such a conclusion.

The motives of these groups can only be surmised but the possible consequences are easily ascertained. While the Court recognizes the role of media in preventing any possible "whitewash" of this type of cases, it should be remembered that media's role is to report only the established facts of the cases, in short, the truth. Conjectures and inferences unsupported by evidence should be avoided not only because the injured parties and the accused may be unduly embarrassed or prejudiced but more importantly, since it may prevent a fair and unbiased trial of the case. Moreover, it should be noted that publicity can work like a double-edged weapon. It can insure that the guilty are punished but it can also, if used by the insidious, create the reasonable doubt which can result in the acquittal of the real perpetrators.

To be sure, a responsible media has an important role in the war against criminality. However, it should be made clear that any conduct of media, or any other party for that matter, which tends to, directly or indirectly, impede, obstruct or degrade the administration of justice, is subject to the contempt powers of the courts. The courts should and will not hesitate to use this power when acts inimical to the speedy and impartial dispensation of justice are committed.

Accused-appellants' grounds for the present appeal can be classified into:

1. The issue of the credibility of Myrna Diones;
2. The issue of the identification of the bodies of the victims; and
3. The issue of whether or not accused-appellant's respective alibis deserve credence.

Accused-appellants contend that Myrna Diones' testimony contains inconsistencies, infirmities and contradictions which allegedly affect her entire credibility as a witness.

More specifically, according to accused-appellants, Myrna Diones' testimony should be rejected for the following reasons:

1. Myrna initially identified Leonito Macapagal as one of the persons who went with them to Naguilian Road on 19 June 1992 but she later withdrew the identification of Macapagal, saying that she was confused.
2. Myrna failed to describe the vehicle used in allegedly taking their group from the market to the Canaoay Police Substation but she readily identified and described the Fiera-type vehicle which took the group to Naguilian Road.
3. It is highly improbable for Myrna to have read the road signs along Naguilian Road in complete darkness.
4. Myrna was inconsistent in answering questions regarding her enrollment in school. She first denied being admitted to any school but later admitted being already enrolled at the National High School of Binalonan, Pangasinan and further stated that the reason she went to San Fernando, La Union on 17 June 1992 was to borrow money from her brother so she could buy her school uniform.

Accused-appellants also challenge the identification of the three (3) female bodies made by Eusebio Diones, Myrna Diones' father. It is argued that Eusebio is a perjured witness since his inconsistent and contradicting statements even elicited an observation by the trial court that he was lying.[10] Accused-appellants further argue that the prosecution should have presented the persons who, according to Eusebio Diones, were with him when he identified the bodies of the victims at the funeral parlor, since his credibility has been put into question by his inconsistent statements.

Accused-appellants further argue that identification of the bodies became extremely difficult since the bodies were in an advanced stage of decomposition when recovered.

Finally, accused-appellants argue that the trial court erred in failing to appreciate their respective alibis which were corroborated by credible witnesses.

The issues raised by accused-appellants basically concern the trial court's findings of fact and on the credibility of the witnesses.

The rule is settled that this Court does not generally disturb the findings of the trial court on the issue of credibility of witnesses.[11] The trial court having observed the manner, conduct and demeanor of the witnesses while on the stand is clearly in a better position to determine the weight to be given to their respective testimonies. Absent clear showing that the trial court overlooked certain facts and circumstances which might alter the result of the case, the Court accords respect, even finality, to these findings of fact made by the trial court.

After a careful study of the entire records of this case, including the transcripts of the testimonies of the witnesses covering almost 1,200 pages, the Court finds no reason to modify much less reverse the judgment of conviction rendered by the trial court.

Myrna Diones, the lone survivor of the heinous crimes committed, was able to positively identify each of the accused-appellants not only once but thrice.

She first picked out their photographs from the photographs of policemen assigned to San Fernando, La Union. She then pointed to each accused from a line-up of several policemen. The line-ups were conducted under the supervision of Major Mario San Diego, the Regional Chief of the Criminal Investigation Service-Cordillera Regional Command and Colonel Amado Espino, the Provincial Director of the Philippine National Police, La Union Provincial Command, thus negating any insinuation that Myrna Diones was coached or coerced to point to the accused-appellants. Finally, Myrna Diones, while testifying in open court, positively identified each of the five (5) accused-appellants as the perpetrators of the crimes.

Her (Myrna's) testimony may not be consistent on all details but it should be considered that she was made to recount her ordeal less than six (6) months after the actual incident. To a girl barely sixteen (16) years of age, the experience was undoubtedly terrifying, to say the least. It is to be noted that Myrna shed tears while she narrated her experience before the trial court. On at least two (2) occasions, her testimony had to be reset to a later date since the court observed that she could not continue her testimony because she was crying.[12] No ill motive was ever imputed to Myrna to falsely implicate accused-appellants. To be sure, Myrna realized how close she was to death and having survived, the natural thing was to make sure that those who had wronged her and her companions are convicted. The discrepancies in her testimony can be attributed to several factors among which are the mental and psychological strain of having to recall the details of the harrowing incident and the fact that she testified for eight (8) days, five (5) of which were on rigorous cross-examination by defense counsel. Nothing in her testimony, covering almost 350 pages of transcripts, even slightly indicates any doubt as to the identities of the assailants. Instead of being discredited, her testimony should be upheld for being clear, spontaneous and

unwavering. The minor inconsistencies are indications that her testimony was truthful and unrehearsed.

Against Myrna Diones' positive identification of accused-appellants as the authors of the crimes, the latter interposed their individual alibis.

In *People v. Salveron*[13] the Court held that:

"The alibi itself, although corroborated x x was not convincing enough in the face of the positive identification x x x."

In *People v. Cortes*[14] it was ruled that:

"Justifiably, courts have always looked upon the defense of alibi with suspicion and have received the same with caution, not only because it is inherently weak and unreliable but also because of its easy fabrication. It cannot prevail over the clear, direct and positive testimony of prosecution witness Dignos identifying appellants as the perpetrators of the crime."

In the cases at bench, the alibis presented do not clearly show that it was impossible for the accused-appellants to be at the locus criminis at the time the crimes were committed. It is of note that a certain police officer, Robert Cabrera, who could have corroborated the alibis of Manuel Corpuz and Jose Flores, if the defense version were to be given credence, was never presented. The presumption therefore is that his testimony would be adverse to the defense.[15] The other defense witnesses who tried to establish the alibis of the other accused-appellants can hardly be considered to be disinterested witnesses. Against Myrna Diones' positive identification that the five (5) accused-appellants were the perpetrators, the alibis would have to fail.

The argument that there is no evidence to show that the dead bodies recovered were those of Myrna Diones' three (3) companions deserves scant consideration. Eusebio Diones positively identified the bodies of all the dead victims as being those of his daughter Zenaida Diones and his two (2) nieces Vivian Diones and Laurita Nitcha[16] The trial court upheld his identification of the victims despite the observation that he may have been lying about his meetings with a certain Atty. Pablito Sanidad. In this regard, it can be said that it is the prerogative of the trial court to reject only a part of a witness' testimony while upholding the rest. Furthermore, notwithstanding the testimony of Dr. Judith Codamon that the bodies had bloated to about twice their normal size and identification would be extremely difficult,[17] it should be remembered that Eusebio Diones was closely related to all the victims as to make identification of the victims feasible despite their advanced stage of decomposition, and even Dr. Codamon never made any statement that identification was impossible.

Accused-appellants in their Reply brief also argue that since Myrna Diones admitted having fallen unconscious after she was struck in the head, she could not have testified to the actual commission of the crimes. Hence, accused-appellants conclude that the findings of the trial court that they committed the crimes are really without basis.

The argument is specious. What occurred subsequent to Myrna Diones' becoming unconscious is adequately established by the other circumstances testified to by Myrna.

As previously discussed, Myrna Diones was able to convincingly testify to the participation of the five (5) accused-appellants in taking her and her three (3) female companions to Naguilian Road in the early hours of 19 June 1992. Myrna testified that her two (2) companions in the Fiera--type vehicle were handcuffed, tied around the neck with rope and mauled by the accused-appellants. Myrna testified that she, herself, was stabbed and hit three (3) times with a wooden club by accused-appellant Edwin Tubiera before she fell unconscious. The acts of accused-appellants clearly show that there was a conspiracy to inflict potentially fatal injuries on the four (4) women. Myrna and the three (3) deceased victims sustained injuries consistent with Myrna's account of how they

were mauled, stabbed and strangled with ropes.

That accused-appellants were the authors of the crimes committed is adequately established by circumstantial evidence which proves with moral certainty that accused-appellants not only conspired in inflicting injuries on Myrna Diones and the three (3) deceased victims but that they also conspired in committing the crimes of Murder with Unintentional Abortion, Double Murder and Frustrated Murder.

Finally, the offer of accused-appellants to compromise, which was never denied, constitutes additional evidence against their innocence.[18]

Clearly, the constitutional presumption of innocence in favor of accused-appellants has been overcome by proof which to a moral certainty establishes their guilt for the crimes of Double Murder, Murder with Unintentional Abortion and Frustrated Murder.

The five (5) accused-appellants are still fortunate that the court could not then impose the penalty of death upon them, for undoubtedly they would have been sentenced to suffer the supreme penalty of death for having violated, so heinously at that, the laws which they had sworn to uphold as members of the police force.

WHEREFORE, the joint decision rendered by the trial court in Criminal Case Nos. 92-CR-1358, 92-CR-1365, 92-CR-1366 and 92-CR-1407 convicting the five (5) accused-appellants is hereby AFFIRMED in toto.

SO ORDERED.

Davide, Jr., Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Rollo, p. 22.

[2] Rollo, p. 23.

[3] Rollo, p. 24.

[4] Rollo, pp. 24-25.

* Penned by Judge Romeo A. Brawner.

[5] Rollo, pp. 49-50.

[6] Rollo, pp. 66-67.

[7] Rollo, pp. 25-27.

[8] Exhibit "FF", Original Records.

[9] Rollo pp. 134-135.

[10] Citing TSN, 11 February 1993, p. 25.

[11] People v. Taneo, G.R. No. 87236, 8 February 1993, 218 SCRA 494.

[12] TSN, 7 December 1992, p. 27; TSN, 10 December 1992, p. 33.

[13] G.R. No. 102079, 22 November 1993, 228 SCRA 92.

[14] G.R. No. 105010, 3 September 1993, 226 SCRA 91.

[15] Section 3(e), Rule 131, Rules of Court.

[16] TSN, 4 February 1993, pp. 10-13.

[17] TSN, 23 November 1992, p. 49.

[18] Section 27, Rule 130, Rules of Court.

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