

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON CAPARAS JR. Y TEMPORAS A.K.A. “JUN PUSA” AND JOSE SANTOS Y JORDAN A.K.A. JUN BALBON A.K.A. “JUN NARCOM”, ACCUSED-APPELLA...

G.R. Nos. 121811-12. May 14, 1998

Ponente: MELO, J.

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MELO, J.:

Under review is the decision of the Regional Trial Court of the Third Judicial Region (Branch 25, Cabanatuan City) convicting accused-appellants Ramon Caparas, Jr. y Temporas and Jose Santos y Jordan of the crime of rape with homicide and imposing on them the extreme penalty of death. Inexplicably, the State Prosecutor who handled the case below filed two almost identical informations with the only variance that Caparas was named first in one, while Santos was mentioned earlier in the other, for one single complex crime committed on the same day. We quote the first information, to wit:

That on or about January 1, 1994, in Cabanatuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RAMON CAPARAS, JR. Y TEMPORAS alias “JUN PUSA” conspiring and confederating with JOSE SANTOS Y JORDAN a.k.a. “JUN BALBON”, a.k.a. “JUN NARCOM” by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one MARICRIS FERNANDEZ Y VICTORIA, a 13-year-old girl against her will and consent; and on the occasion thereof, said accused with intent to kill, and in conspiracy with accused JOSE SANTOS Y JORDAN a.k.a. “JUN BALBON”, a.k.a. “JUN NARCOM” wilfully and unlawfully bashed her face with a piece of hollow block, thereby causing multiple and fatal intracranial injuries in the frontal area which were the direct and immediate cause of her death thereafter.

CONTRARY TO LAW.

(p. 13, Rollo.)

Upon arraignment, both accused-appellants entered not guilty pleas and a consolidated trial of the two cases was thereupon undertaken, following which, a decision dated August 14, 1995 was rendered, the dispositive portion of which reads :

PREMISES CONSIDERED, finding both accused Ramon Caparas, Jr. y Temporas and Jose Santos y Jordan guilty beyond reasonable doubt of the crime of rape with Homicide in Criminal Case No. 5878-AF both of them are hereby sentenced to suffer the penalty of DEATH with all the accessories provided by law, and ordering them to compensate the heirs of Maricris Fernandez P50,000.00 by way of indemnity, P50,000.00 for burial and other expenses, plus costs.

Relative to Criminal Case No. 5879-AF, finding that only one crime of Rape with Homicide has been committed, both accused are hereby ACQUITTED of the second information, with costs de officio.

SO ORDERED.

Accused-appellants' conviction is based on circumstantial evidence, essentially on the testimony of two prosecution witnesses, namely, Arnulfo Esmino and Morimar Sandaan, whose declarations were condensed by the trial court as follows :

MORIMAR SANDAAN, 23 years of age, single, tricycle driver and a resident of Sanbermicristi, Cabanatuan City, testified that he is a tricycle driver; that the tricycle he drives is owned by his father; that on January 1, 1994 at about 7 o'clock and 8 o'clock in the evening, he was washing the buses at the Arayat terminal; that while he was washing, he saw Maricris Fernandez waiting for a tricycle; that Maricris Fernandez is a daughter of Aling Zeny; that Maricris Fernandez was wearing a white T-shirt and short pants; that Maricris Fernandez has waited for two (2) minutes; that he saw Maricris Fernandez rode in a tricycle; that the tricycle came from the direction of Manila and that it curved back to the direction going to Manila at the corner of Capitan Pepe Subdivision; that Maricris Fernandez was more or less fifteen (15) meters away from him when the former boarded the tricycle; that the area where he was cleaning Arayat buses and where Maricris Fernandez boarded the tricycle was lighted; that he knew that the person standing in place about fifteen (15) meters away from him was Maricris Fernandez because she is known to him; that Maricris Fernandez used to ride with him when he was driving a tricycle and Maricris Fernandez was known to him for a long time; that he said that the face of the driver of the tricycle which Maricris Fernandez boarded is familiar to him (namukhaan lang); that the hair of the driver if flat top and that was the only time he saw the driver (that at that juncture the witness stepped down from the witness stand and as directed by the Court he tapped the shoulder of a certain person who was seated at the bench of the Courtroom who when asked of his name answered Ramon Caparas, Jr.). In this regard, it is enlightening to quote:

Q What was the condition of the area where you were cleaning the bus and where you saw her (Maricris) actually boarded the tricycle, what was the condition of those area?

A It was lighted, ma'am.

Q How about the place where Maricris was?

A Also lighted, Your Honor.

Q And how do you know that the person standing in place about fifteen (15) meters away from you was Maricris Fernandez?

A Because I know her previously (dati kong kakilala), Your Honor.

Q How did you come to know her or why did you claim to have known her?

A Because she used to ride with me or Maricris Fernandez used to ride with me, Your Honor, when I was driving the tricycle.

FISCAL CLAVE:

Q For how long have you known Maricris before?

A For a long time, ma'am.

COURT

Q You want to impress the Court that although she is far from you are sure that she is Maricris Fernandez?

A Yes, Your Honor.

x x x

x x x

x x x

FISCAL CLAVE:

Q

If you see that person again whom you said “namukhaan” will you be able to identify him?

A

Yes, ma’am.

Q

Please look around if that person whom you “namukhaan” is in this Court?

A

Yes, ma’am, he is here inside.

Q

Please approach or point if he is around?

A

At this juncture, the said witness stepped down from the witness stand and as directed by the Court tapped the shoulder of a certain person who was seated at the bench of the Courtroom who when asked gave his name as Ramon Caparas, Jr.

(tsn, pp. 18, 20 & 21, August 2, 1994, L.C. Mendoza, underlining ours.)

x

x

x

X

X

X

X

X

X

ARNULFO ESMINO, 31 years of age, married, cemetery caretaker and a resident of ACCFA, Cabanatuan City, testified that he has been a caretaker of the public cemetery since 1980; that aside from him, the other caretakers are Renato Esmino and Ricardo Nicolas; that their duties are to clean the pathways and to guard the cemetery; that his tour of duty is from 8 o'clock in the morning up to 5 o'clock in the afternoon; that he reports for work every Monday; that at about 8 o'clock in the evening of January 1, 1994, he was at the corner of the SV Orolfo Marble Store located in front of the cemetery at San Juan Accfa, Cabanatuan City, which is thirty (30) meters away from the cemetery; that he was there at that particular time looking for his cousin up to the place near NIA; that he could not find his cousin, so he went to the SV Orolfo Marble Store more or less at 9 o'clock that evening; that while he was in the place, he noticed a tricycle coming out from the cemetery; that the tricycle crossed the road which nearly bumped his wife if he was not only able to pull her away; that the tricycle crossed the road going towards Imelda; that the area at the time was alighted; that when he pulled his wife away from the tricycle, he saw a printed short pants at the floor of the sidecar of the tricycle and that he noticed the sky blue color of the tricycle and that when he raised his head, he saw the driver and that their eyes met; that the body of the tricycle driver is well built and he was wearing a white T-shirt; that he used to see the driver; that the last time he saw the said tricycle driver was one week before the incident; that because he often see him, he can recognize him (driver) and the witness pointed to accused Jose Santos who was wearing colored polo shirt; that he executed an affidavit in connection with this case; that he came to know the accused by the name of Jose Santos; (that the witness was shown the picture of the tricycle and confirmed that the said tricycle was the one which entered the cemetery that night of January 1, 1994).

(pp. 36-38, Rollo.)

On January 2, 1994, the day after the incident charged, Ricardo Nicolas, one of the caretakers of the public cemetery at ACCFA, Cabanatuan City went to the Cabanatuan City PNP to report a corpse found in the cemetery. When SPO2 Francisco Mateo II got to the cemetery, he saw the body of a woman lying face-up on the ground. He summoned a photographer who took several pictures (tsn, September 27, 1994, pp. 9-11). Exhibits "D", "D-1", "D-2" "D-3" and "D-4" show a female naked from the waist down; she is wearing a white T-shirt with the print "Ligaya Store" in front; her legs are parted with her panties underneath one of them; her genitals are full of dried blood; and her face is obscured by blood which had also congealed on a piece of concrete on which her head was resting (pp. 17-20, Record). SPO2 Mateo got the panties, put them in a wrapper, labeled it with his initials which he then turned over to SPO4 Miguelito San Pedro (tsn, September 27, 1994, p. 32). From the scene, SPO4 San Pedro found three pieces of concrete, a portion of a hollow block, a rag, and a sack both with blood stains. He later turned them over to the NBI (tsn, September 27, 1994, pp. 53-54, 65-66).

The body was brought to Funeraria Santos, also in Cabanatuan City where it was identified to be that of Maricris Fernandez by her mother, Zenaida Fernandez (tsn, October 27, 1994, p. 18). Dr. Jun Concepcion, Medical Officer

V of the Cabanatuan City Health Office conducted an autopsy of the victim's body. He later testified that when he got to the funeral home where Maricris was taken, her corpse was already cleansed, the dried blood on her body gone. She was already in rigor mortis. He drew up the following report dated January 3 1994:

x x x

FINDINGS (pertinent only)

Height: 140 cm. in length

(+) Moderately smashed half face including the lips

(R)

(+) Hematoma, (finger prints in shape) R inner thigh

(+) Hematoma, (finger prints in shape) (L) wrist

(+) Several abrasions, both buttocks

(+) Several abrasions, (L) flank

(+) Several abrasions, (L) leg

Genitalia

(+) Lacerations, labia minora (L) side

Note:

Extracted hair strands on the body and right hand submitted together with these report for safe keeping.

CAUSE OF DEATH

Intracranial injuries, frontal area, multiple

(p. 14, Record.)

Explaining further his autopsy report, Dr. Concepcion said that the lacerations on the external part of the reproductive tract could have been caused by a long, round, and possibly hard object, including an erect penis. The hematoma and abrasions were definitely not self-inflicted and suggest that she put up determined resistance. Regarding her head injuries, these could have been caused by a blow from a hard, heavy object, something without a sharp edge, and delivered with great force, judging from the fracture above the right eyebrow and the

extensive break in the skull. Dr. Concepcion also took a sample of fluids inside the victim's vagina and incised her wrists to get some blood to determine her blood type. Hair samples were also taken from the victim's head. Lastly, he pointed out that the genital injuries, although affecting the labia minora, did not extend to the hymen even as there were healed lacerations indicating prior sexual experience (tsn, September 26, 1994, pp. 100-112).

Following information that the tricycle seen going out of the cemetery on the night of the incident had the markings "Imelda 34", SPO4 San Pedro and a companion proceeded to Barangay Imelda. There, they spotted the tricycle and talked to its owner, Reynaldo Malubay, who was asked to bring it to the barangay hall for identification. Malubay also told police that the last person who drove the tricycle was accused-appellant Caparas. Hair samples were found on the floor of the tricycle (tsn, September 27, 1994, pp. 48-49; p. 42, Record).

All physical evidence recovered from the cemetery and from the tricycle were turned over to the NBI for examination. In addition, hair samples were also taken from several other persons, accused-appellants among them, chiefly for the purpose of determining whether the hair strands found on Maricris' right hand or those found on the tricycle's floor match those of accused-appellants. Also, samples of the victim's fingernails were taken from both hands to look for blood, tissue, or any other matter for comparison with the samples provided (pp. 41-42, Record).

The results were inconclusive and most indefinite. The hair strands found on the body and right hand of Maricris, those taken from her head, from accused-appellant Caparas, from the tricycle, and from two other persons differ from each other. They were all likewise incompatible with hair samples taken from accused-appellant Santos. The victim's blood type could no longer be determined. The nail cuttings, the pair of panties, and the concrete slabs were positive for human blood, Group "B", the same as that of Santos. The T-shirt was positive for human blood, Group "O", same as that of Caparas. The victim's panties were negative for seminal stains. The fluid inside her vagina proved also not to be semen (pp. 52-58, Record). Marietta Bien, NBI Forensic Chemist, explaining her findings in court, said that the hair strands taken from the victim's hand do not belong to either Caparas or Santos, owing to the differences between them. Also, there are four human blood groups, Group "O" being the most common, then Groups "A" and "B" with almost the same percentage, and then "AB" as the least common. The victim's blood type could not be determined because of the unavailability of any sample fit for testing. Tissue samples were negative for traces of blood. No medical records were produced which may indicate the victim's blood type. Therefore, it is possible that the blood samples found on the concrete slabs, the panties, the T-shirt, and the fingernails samples belonged to the victim (tsn, October 28, 1994, pp. 22, 2 30-34, 45).

Accused-appellants, for their part, could only offer alibi as their defense. Caparas swore that on that fateful evening, he was at home asleep at 6 o'clock and did not wake up until around 6:30 or 7 o'clock the following morning. He said he was one of the sponsors at a christening earlier that day and the usual merriment after that had left him quite inebriated. This is corroborated by his wife, Melvin, accused-appellant Santos, and his common-law spouse, Leonora Malubay, who all share a house owned by the parents-in-law of accused-appellant Santos. All of them testified that they saw Caparas sleeping on the balcony at around 6 o'clock to 6:30 in the evening. Mrs. Melvin Caparas further stated that she woke up several times that night to check on their six-month old baby and that Caparas did not wake up, and did not leave until the following morning. Although Caparas admitted having driven the "Imelda No. 34" tricycle on December 31, 1993, he said that he did not drive it the following day because it had a broken front rim which was not replaced until several days later, as decided upon by Reynaldo Malubay, the tricycle's main driver, who confirmed this part of Caparas' alibi (pp. 45-46, 48-550, Rollo; tsn, April 24, 1995, pp. 4-5).

Santos likewise maintains that he was at home on the night of the incident. After eating supper early with Leonora and their children, they retired early because they slept very little the previous night, which was New Year's Eve.

Leonora confirmed this and further added that she woke up about two or three times that night to change her baby's diapers and breast feed him and saw her husband fast asleep all throughout the night (pp. 45-46, Rollo; tsn, march 17, 1995, p. 6).

Although observing that the prosecution only came up with circumstantial evidence, the trial court considered this sufficient to establish the culpability of accused-appellants. Specifically, the trial court noted that: (1) the witnesses for the prosecution were sincere and candid; (2) medical reports show that Maricris had been raped before she was killed; (3) the last time Maricris was seen alive was when she was riding in a tricycle driven by Caparas; (4) Santos was seen driving the same tricycle out of the cemetery that same night with a pair of printed short pants on the tricycle's floor; (5) both accused-appellants admitted that they know how to drive a tricycle; and (6) Reynaldo Malubay testified that the last person to drive the tricycle was Caparas, a fact admitted by the latter. Moreover, accused-appellants' alibis did not impress the trial court as it was not established that it was physically impossible for both men to have been at or near the scene of the crime during its commission (pp. 50-51, Rollo).

In the instant review, accused-appellants, among other grounds, argue that reasonable doubt exists in regard to their guilt, which means nothing less than their acquittal; that the strands of hair recovered from the victim's right hand differ from the samples provided by accused-appellants, which physical evidence is considered of the highest order, carrying more weight than the testimony of the witnesses combined; that the prosecution witnesses do not deserve credence, foremost among them is Arnulfo Esmينو who is biased against accused-appellant Santos, having had an altercation or misunderstanding with the latter in the past; and that it is highly possible and probable that witnesses Morimar Sandaan and Arnulfo Esmينو could have only been guessing as to the identities of accused-appellants because it was nighttime when they supposedly saw Caparas and Santos (pp. 118-119, Rollo).

The People argues otherwise, maintaining that the evidence, even though circumstantial, sufficiently establishes the guilt of Caparas and Santos. The following points are stressed:

- Victim Maricris Fernandez who was wearing a T-shirt and short pants on January 1, 1994 boarded a faded blue tricycle with red linings on its side and printed "34 Imelda" at around 8 in the evening. The driver Ramon Caparas was wearing a white T-shirt;
- The faded blue tricycle went toward ACCFA;
- While in ACCFA at past 8 p.m., the same blue tricycle with passengers inside, including a young girl hurriedly entered the Cabanatuan Cemetery. The driver was likewise wearing a white T-shirt. It was later established that this driver was Ramon Caparas;
- At about 9 p.m., the faded blue tricycle came out of the cemetery, with no passengers, but on its floor there was a pair of short pants. The tricycle this time was driven by Jose Santos;
- The tricycle left hastily;

- The following day, Maricris Fernandez was found dead inside the cemetery. Her sexual organ was lacerated;
- Blood Types O and B, were extracted from the fingernails of Maricris Fernandez and were found to be that of the same blood types as accused-appellants;
- Both appellants Jose Santos and Ramon Caparas were living in the same house and are brothers-in-law. They know how to drive a tricycle.

The prosecution seems eager to brush aside as inconsequential the forensic examinations conducted by the National Bureau of Investigation, contending that this only indicates the possibility that a third malefactor may have been involved (pp. 176-178, 186-187, Rollo). It is even too ready to conclude that rape was indeed perpetrated and that accused-appellants were the ones driving the tricycle.

Circumstantial evidence is evidence which indirectly proves a fact in issue, where the fact finder must draw an inference or reason from the evidence established (*People vs. Ramos*, 240 SCRA 191 [1995], much like a tapestry forming a pattern from its interwoven strands (*People vs. Cabrera*, 241 SCRA 28 [1995])). To suffice for conviction, (1) there must be more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt (Section 4, Rule 133, Revised Rules on Evidence). Or simply put, the circumstances proven must form an unbroken chain which leads to a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator of the crime (*People vs. Malimit*, 264 SCRA 167 [1996]).

In the case at bar, the circumstantial evidence provided by the testimony of two witnesses is contradicted, or at least not supported, by the physical evidence on hand. Also, some circumstances considered by the trial court are really irrelevant as to the guilt, or innocence, for that matter, of accused-appellants.

Firstly, it was established by expert testimony that the hair strands found in the hand of Maricris belong neither to Caparas nor Santos. They were not even hers. Thus, it is most probable that she was resisting somebody else other than accused-appellants. Strangely, this fact was not discussed by the trial court.

Secondly, human blood extracted from the victim's fingernails which match the blood type of Santos, Group "B", again as opined by an expert, does not indicate with reasonable certainty that Santos killed the victim because such type is the second most common of blood types. We also cannot be certain how blood got into the victim's fingernails in the first place. Looking at the pictures of the victim when she was first found at the cemetery and the fact that the victim's blood type was never determined, it is not improbable that the blood might have been her own.

Thirdly, several circumstances considered by the trial court are irrelevant. Guilt is not established by the mere fact that accused-appellants know how to drive a tricycle. Many people possess such skill because this mode of transportation is widespread in our country, be it in urban or rural areas. And so what if accused-appellants are brothers-in-law living in the same house? Does this fact make them prone to commit rape and homicide? Lastly, although Malubay testified that Caparas was the last person to drive the tricycle, which fact Caparas admits, this was on December 31, 1993 and not on January 1, 1994 when the tricycle by then was not in running condition because of a broken front rim.

True, alibi is a weak defense. But then, so also is the prosecution's evidence in this case. With what is on record, especially the findings of the NBI's forensic chemist, we believe that reasonable doubt exists warranting the

dismissal of the charges against Caparas and Santos. Indeed, it is when evidence is purely circumstantial that the prosecution is much more obligated to rely on the strength of its own case and not on the weakness of the defense, and that conviction must rest on nothing less than moral certainty (*People vs. Payawal*, 247 SCRA 424 [1995]).

WHEREFORE, the judgment in Criminal Case No. 5878-AF is REVERSED and SET ASIDE. Ramon Caparas, Jr. and Jose Santos are hereby ACQUITTED and their immediate release is hereby ordered unless there be other legal grounds to hold them.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

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