

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO AQUINO Y CALOT AND EDUARDO CATAP Y ESTRADA, ACCUSED-APPELLANTS.

G.R. Nos. 123550-51. July 19, 1999

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PER CURIAM:

For as long as constitutional safeguards are adequately complied with, a confession constitutes evidence of the highest order since it is supported by the strong presumption that no person of normal mind would deliberately and knowingly confess to a crime unless prompted by truth and his conscience.[1] But since voluntariness in making such confession gives it its probative weight, it is the court's duty to determine in every case that no undue pressure of whatever nature would taint it and render the same inadmissible in evidence. We are not, however, lacking in guidance. In the early case of *People v. Paciano Cruz*,[2] this Court ruled that the voluntariness of a confession may be inferred from its language, such that if upon its face the confession exhibits no sign of suspicious circumstances tending to cast doubt on its integrity, it being replete with details which could possibly be supplied only by the accused, reflecting spontaneity and coherence which psychologically cannot be associated with a mind to which violence and torture have been applied, the confession may be considered as having been given voluntarily. It is this light that the Court shall now resolve the trial court's imposition of the capital punishment on the accused-appellants.

Records disclose that on October 11, 1994, the Office of the provincial Prosecutor of Rizal charged Leonardo Aquino y Calot, Eduardo Catap y Estrada and Jover Lofamia y Perlas with the complex crime of rape with homicide under the following informations:

Criminal Case No. 107065-H

"That on or about the 1st day of October 1994, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable court, accused Leonardo Aquino y Calot, with the indispensable cooperation of accused Eduardo Catap y Estrada and accused Jover Lofamia y Perlas, all accused with lewd designs and by means of force, threats and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with one Angelita Anillo, six (6) years of age; that on the occasion of said rape, the above-named accused taking advantage of their superior strength, nocturnity and with intent to kill, did, then and there willfully, unlawfully and feloniously attack, assault, strangle and inflict physical injuries upon said Angelita Anillo which directly caused her death.

"Contrary to law."[3]

Criminal Case No. 107066-H

"That on or about the 1st day of October 1994, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, accused Eduardo Catap y Estrada, with the indispensable cooperation of accused Leonardo Aquino y Calot and accused Jover Lofamia y Perlas, all accused with lewd designs and by means of force, threats and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with one Angelita Anillo, six (6) years of age; that on the occasion of said

rape, the above-named accused taking advantage of their superior strength, nocturnity and with intent to kill, did, then and there willfully, unlawfully and feloniously attack, assault, strangle and inflict physical injuries upon said Angelita Anillo, which directly caused her death.

"Contrary to law."[4]

Criminal Case No. 107067-H

"That on or about the 1st day of October 1994, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, accused Leonardo Aquino y Calot, with the indispensable cooperation of accused Eduardo Catap y Estrada and accused Jover Lofamia y Perlas (sic), all accused with lewd designs and by means of force, threats and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with one Angelita Anillo, six (6) years of age; that on the occasion of said rape, the above-named accused taking advantage of their superior strength, nocturnity and with intent to kill, did, then and there willfully, unlawfully and feloniously attack, assault, strangle and inflict physical injuries upon said Angelita Anillo, which directly caused her death.

"Contrary to law."[5]

Upon arraignment on November 16, 1994, all of the accused pleaded not guilty to the charges. Joint trial on the merits soon followed establishing the following material facts:

Prosecution witness Ernesto Coronado, the victim's uncle, testified that upon arriving at home on the evening of October 1, 1994, he noticed Jover Lofamia, Dick Magpili and three others having a drinking spree in front of his house where the victim, Angelita Anillo, was likewise staying. At around 9:00 o'clock in the evening, accused-appellant Aquino came to his house looking for Rolando Laureano but since Laureano was not there, Aquino left. Later, Ernesto heard the victim come home also looking for Laureano, purportedly upon Aquino's request. It was at about 11:00 o'clock of that evening when Ernesto last saw the victim alive. Upon learning subsequently that the victim was missing, he joined her relatives in searching for her.[6]

Aurora Anillo, the victim's mother, testified that at around 9:00 o'clock in the evening of October 1, 1994, she was busy lulling her son to sleep when she felt the need to go to the toilet. On the way to the toilet which was located outside of their house, she passed by a group of men, one of whom was later identified as Jover Lofamia, having a drinking spree in front of their house. After half an hour, she went back to the house. She checked her daughter but found that she was not in her room. Alarmed, she immediately looked for her together with some of her relatives but their efforts were futile. She then solicited the help of a radio station and their barangay captain.[7] The dead body of her daughter would later turn up after four days in a vacant lot at Christine Village, Bgy. Dela Paz, Pasig.

SPO4 Remigio Bugnot testified that on October 5, 1994, a dead body of a little girl who was later identified as that of the victim Angelita was reportedly found in a vacant lot in Christine Village. The police branch chief who received the said report immediately dispatched an investigating team to verify it. The investigation team conducted an ocular inspection of the crime scene and gathered pieces of physical evidence like the victim's underwear, short pants, five bottles of "Merko" syrup, and a broken shovel.[8]

The medico-legal officer, Dr. Emmanuel Aranas, testified that, pursuant to a letter-request from Sr. Inspector Felix Bulatao, he conducted an autopsy on the decomposing body of the victim, to determine the cause of death.[9] Post-mortem examination yielded the following results:[10]

"FINDINGS:

Fairly developed, fairly nourished female child cadaver in beginning state of decomposition. The 5th left toe is missing.

HEAD, NECK AND EXTREMITIES:

1. Lacerated wound, frontal region, measuring 1 x 0.7 cm., just right of anterior midline.
2. Lacerated wound, frontal region, measuring 1.5 x 0.6 cm., 4 cm left of anterior midline.
3. Contusion, neck, measuring 5 x 3 cm, bisected by the anterior midline.
4. Lacerated wound, dorsal aspect of the right hand, measuring 1.5 x 1 cm, 3 cm lateral to its posterior midline.
5. Lacerated wound, perineum, measuring 5 x 3 cm, bisected by its midline with extrusion of the small intestine.
6. Hematoma, middle third of the right thigh, measuring 19 x 6 cm, 10 cm medial to its anterior midline.

The brain is liquefied.

The tracheal luminae reveals hemorrhages.

The anterior aspect of the uterine wall is lacerated with herniation of the small intestine.

Stomach is empty and the rest of the visceral organs are autolyzed.

EXTRAGENITAL AND GENITAL:

The breasts are undeveloped. There is absence of pubic hair. The labia majora and minora are bloated. The anterior aspect of the vaginal wall as well as the cervix are lacerated.

Vaginal, peri-urethral and intrauterine smears are negative for gram-negative diplococci and for spermatozoa.
xxx

CONCLUSION:

Cause of death is Asphyxia by strangulation.

Subject is in non-virgin state physically.

To show that the victim was last seen in the company of the accused, the prosecution presented Junior Caloma, a 15-year old tricycle driver who testified that on October 5, 1994, he was accosted by a police officer who asked him if he had a driver's license. In the course of the inquiry, he was allegedly asked if he knew something about the disappearance of Angelita Anillo. He then related to the police officer that on the night in question, he saw the victim boarding a tricycle together with accused Eduardo Catap and two others whom he did not recognize.[11]

On October 5, 1994, accused Eduardo Catap was arrested and brought to the Pasig Police Station. Assisted by counsel, Atty. Reynario Campanilla, and Councilor Ernesto Dimapili, Catap gave a sworn statement implicating a certain Reynaldo Magpili as having raped and killed the young Angelita Anillo.[12] Subsequently, Catap intimated to Atty. Campanilla that he wanted to give another confession, whereupon Atty. Campanilla asked him to write it down himself, which he did.[13] This was followed by another sworn statement wherein Catap confessed that he and accused Leonardo Aquino raped Angelita Anillo and that Aquino killed her.[14]

On the part of the defense, Leonardo Aquino denied any participation in the commission of the crime for which he was indicted. He claims that at about 5:30 o'clock in the afternoon of October 1, 1994, after finishing his work as a helper (peon) in a demolition site, he went straight to his grandmother's house and had dinner there. Thereafter, he proceeded to his uncle's residence where mahjong was being played. He allegedly stayed there until 10:20 o'clock that night after which he sat inside a parked tricycle owned by his brother and slept. He only woke up at around 3:00 to 4:00 a.m. the following day and then went home to sleep some more, eventually getting up at past

6:00 o'clock in the morning. Later, Rolando Laureano arrived to confirm whether he was looking for him. He was informed by Laureano that Angelita Anillo was missing.[15]

On October 3, 1994, Aquino went to his aunt's house to paint her gate. After finishing his job, he proceeded to Bataan on October 7, to give his earnings to his wife. At about 2:00 o'clock in the afternoon of October 9, a team of seven policemen arrived at his house, introduced themselves as members of the Pasig City police, and invited him for questioning to shed light on the disappearance of the victim. While inside the vehicle on the way to Pasig, Metro Manila, a certain Fidelino allegedly kicked him and forced him to admit having committed the crime.[16] His maltreatment, according to him, resumed at the Pasig Police Headquarters,[17] but he did not disclose the same to media men loitering about in the station or to his lawyer as he was warned by a certain SPO1 Mansibang not to say anything that would destroy the image of the police force. Neither did he file an administrative complaint against the policemen who allegedly tortured him.[18]

He testified further that during the investigation of the case, Catap's name was mentioned but he denied having associated himself with the latter who was much younger than him. He saw how Catap was manhandled by PO1 Fidelino and SPO1 Mansibang which abuse eventually forced Catap to point to him as one of those who participated in the commission of the crime.[19]

Appellant Eduardo Catap likewise denied any involvement in the crime. According to him, he never saw Atty. Campanilla sign his extra-judicial confession and that even if he signed his extra-judicial confession, the same was not in the presence of said lawyer. For this reason, he claimed that his extra-judicial confession was taken in violation of his constitutional rights. He admitted, however, knowing the victim as "Helen" and that he was familiar with the victim's relatives who were residing at F. Mariano St., Barangay dela Paz, Pasig City.

During his testimony, Catap claimed that after eating supper at home on October 1, 1994, a friend, Vergel Alviz, invited him to have a drinking session. Later, they met co-accused Jover Lofamia, together with other friends. The group then proceeded to the Bakahan/Manukan Apartment situated near Catap's house where they drank two bottles of gin. Catap eventually fell asleep only to be awakened later by Jay Azar and Nanding who requested him to buy two more bottles of gin so they could continue their drinking session. He acceded to their request and so he went to a nearby sari-sari store located in front of the victim's house. While there, he met Maricel Coronado and her husband who informed him that the victim was missing. He brought the two bottles of gin to his friends, then he allegedly joined the group searching for the victim.[20]

To corroborate Catap's testimony, Maricel Coronado testified that she indeed saw Catap in front of the store and that he even joined the search party when it went to an apartment where the victim usually played.[21]

Catap's mother, Estrellita, testified that in the early evening of October 1, 1994, her son arrived from his work as a tricycle driver, turned over to her the key to the tricycle and the boundary earned for the day, and then asked permission to go drinking with a friend. It was already 9:00 o'clock in the morning of the following day when Catap returned home. She learned of Catap's arrest on October 5, and when she visited him at the Pasig Police Headquarters, she noticed that his face was swollen, so she sought the assistance of the Commission on Human Rights (CHR). She denied having hired the legal services of Atty. Campanilla to assist her son in the execution of the latter's alleged extra-judicial confession.[22]

Acting upon the request of Catap's mother, Carlos Sabile, Jr., the CHR's Special Investigator, testified that he took the sworn statement of Catap in the evening of October 17, 1994, at the Pasig Detention Center and noticed the contusions on the latter's body. Catap allegedly sustained said contusions when he was mauled by other prisoners detained therein.[23]

Finally, Vergel Alviz testified that he was with Catap and Lofamia in the evening of October 1, 1994 having a drinking session at the Bakahan/Manukan Apartment along F. Mariano St., Barangay dela Paz, Pasig City. The last time he saw Catap was at around 11:00 o'clock of that evening when the latter bought liquor from a store.[24]

The prosecution then presented rebuttal evidence in the form of the testimony of Atty. Reynario Campanilla. According to Atty. Campanilla, Pasig City policemen went to his apartment in Pasig City and informed him that there was someone who wanted to engage his services as counsel in connection with that person's intention to execute an extra-judicial confession. He asked who it was and was told that it was appellant Catap. At the police headquarters, he verified from Catap whether he really wanted to execute an extra-judicial confession. At that time, Catap had a female companion and there were several policemen around. In order to ensure that the extra-judicial confession will be made voluntarily and without pressure from the policemen, Atty. Campanilla brought Catap to the police captain's room where they talked in private. Atty. Campanilla informed Catap of his constitutional rights, more particularly the right to counsel, the right to remain silent, and that anything he would say might be used against him. He further declared before the trial court that at the time Catap gave his extra-judicial confession, nobody inflicted physical harm on him. Atty. Campanilla even requested the policemen for the medical examination of Catap before his confession is taken. He likewise asked Catap if he really wanted legal services and Catap answered in the affirmative. Finally, this witness testified that he instructed Catap to write down his confession.[25] Considering, however, that Catap made two extra-judicial confessions on different dates implicating different persons in each, Atty. Campanilla clarified that in both instances, he apprised Catap of his constitutional rights, and let him write and sign his confession. Thus:

"Q:

Mr. Witness, you said you also requested Catap to sign this handwritten Extra Judicial Confession marked as exh. "O" and wherein he implicated Andeing Aquino as the one who raped the young Angelita and the fact that Aquino was the one who killed the child, before Eduardo Catap affixed his signature thereon, what steps did you undertake if any to safeguard the rights of the accused Catap?

A:

Again, I apprised him of his constitutional rights.

Q:

Thereafter, what did Aquino (sic) do?

A:

He voluntarily signed and made those statements.

Q:

You identified exh. "O-1" which is the second extra judicial confession executed on Oct. 9, 1994 which was a clear reflection of exh. "O," the handwritten statement. After the preparation of this exh. "O-1," what steps if any did you undertake to safeguard the constitutional rights of the accused?

A:

As I said, I apprised him of his constitutional rights, I asked him to read the statement and I explained to him in details the contents thereof and I asked him if he understood the same, thereafter he voluntarily signed this

documents together with me, I also signed the document.

Q:

Were there people present when this was voluntarily signed by Catap?

A:

Yes, ma'am.

Q:

Could you recall who were present?

A:

There were lots of people present at that time but I really do not know whether they were policemen or media men, because there were many people at that time.

Q:

Mr. Witness, there was yet an allegation of the defense witness Aquino to the effect that it was upon your instruction that Catap implicated himself, Leonardo Aquino in this case. When Catap was executing or giving the extra judicial confession, what can you say to that?

A:

When I arrived during the second time, Catap already told me that Aquino was his company and he changed his previous statement that there was another person, I cannot remember the name. I could not have induce Catap to implicate Aquino because Mr. Aquino was not known to me, so with Catap, and I don't think that is in accordance with my oath as a lawyer."[26]

After the parties formally rested, the trial court rendered its decision[27] on December 1, 1995, convicting Leonardo Aquino and Eduardo Catap as charged and acquitting Jover Lofamia. The dispositive portion of the decision reads:

"WHEREFORE, in view of the foregoing, the Court hereby renders judgment finding accused LEONARDO AQUINO and EDAURDO CATAP GUILTY beyond reasonable doubt of two (2) counts of Rape with Homicide each and imposes the penalty of:

- DEATH to both accused, in Criminal Case No. 107065-H;
- DEATH to both accused in Criminal Case No. 107066-H;
- To jointly and solidarily indemnify the heirs of the victim Angelita Anillo the sum of P100,000.00 for each case; and
- Pay the cost of suit.

"Accused JOVER LOFAMIA is hereby ACQUITTED as far as these cases are concerned for want of proof beyond reasonable doubt. The Court orders his immediate release from detention unless held for some other lawful cause or causes.

"Criminal Case No. 107067-H is hereby ordered DISMISSED for lack of evidence.

"Considering the penalties imposed, let the records of this case be elevated to the Supreme Court within the reglementary period.

"SO ORDERED."

In convicting appellants, the trial court gave full faith and credit to the extra-judicial confession executed by Catap and circumstantial evidence pointing to them as the perpetrators of the crime. As explained by the trial court:

"Admittedly, there is not one iota of evidence on record as to the manner by which the rape was committed or to acts done by the perpetrators which ultimately led to or caused the death of the victim. In cases such as this when the victim dies, and more importantly when rape was committed prior to said death, it is seldom if not ever that there is an eyewitness to the act itself. The Court thus, relies on mainly circumstantial evidence, which in the natural course of things would lead to the obvious conclusion and to the identity of the perpetrators. This is further strengthened if an extrajudicial confession is subsequently executed by one of the perpetrators. As the testimony of the confessant is usually the only direct evidence available, the Court is inclined to give credit to the veracity of said confession if the same fits with the corroborative testimonies of other prosecution witnesses." [28]

With this case now on automatic review in light of the death sentence, appellants raise the following errors [29] of the trial court, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN ADMITTING IN EVIDENCE THE EXTRAJUDICIAL CONFESSION OF THE ACCUSED-APPELLANT EDUARDO CATAP.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE WITH HOMICIDE.

According to appellants, the extra-judicial confession upon which the trial court placed heavy emphasis to convict them was tainted with infirmity for non-compliance with the constitutional guidelines. To them, appellant Catap, who executed two confessions, the second one implicating appellant Aquino, acted under duress and without the benefit of a counsel of his choice. Appellants averred, thus:

"The circumstances attendant to its [the second confession] execution would readily show that it was taken in violation of the constitutional rights of the accused.

"As testified to by accused Catap he never retained the services of Atty. Campanilla to assist him in the execution of the said written confession. No less than prosecution witness Investigator Remigio Dugnot testified that he fetched Atty. Reynaldo Campanilla as the accused was allegedly ready to execute a written confession as regards his participation is (sic) the commission of the said crime. We submit that on this score alone, the constitutional right of the accused to be assisted by a counsel of his choice, as emphasized in RA-No. 7438, was already blatantly violated.

"Assuming arguendo that Atty. Campanilla was the accused' counsel of choice at the time he executed the said written confession, it is rather strange why he repeatedly remind (sic) the accused of his right to remain silent and right to counsel before the confession was reduced into writing and before the accused affixed his signature thereon (TSN, pp. 9-11, Oct. 6, 1995).

"Said lawyer's actuation only shows that he was not at the time acting as counsel for the accused but as an investigator helping in the conduct of the interrogation. Moreover, the presence of several policemen led by

Capt. Balitao and Oscar Mansibang, at the time Catap executed his written confession clearly casts doubt whether the accused indeed voluntarily executed the same or under duress. Nonetheless, said doubt has been put to rest when Catap categorically claimed in court that he was forced and maltreated into executing his alleged confession. Catap's allegation of torture is not unfounded. Carlos Sabile, Jr., Special Investigator of the Commission on Human Rights, before whom the accused executed a Sinumpaang Salaysay dated October 17, 1994 (Exhibit "I") testified that he saw contusions on the body of Catap. The injuries sustained by the accused was also noticed by no less than Atty. Reynaldo Campanilla at the time he assisted the accused in his second confession for which reason he no longer required the accused to submit himself to a medical examination unlike what he did at the time the accused made his first confession. We therefore take exception to the court's finding that no external injuries were found on the person of the accused, as noted in the medical certificate dated October 11, 1994 issued by a certain Dr. Samuel Malinit. Clearly, said medical certificate states the fact that the accused (sic) physical examination was conducted on October 5, 1994, on the day the accused executed his first written confession, and not at the time he made his second confession on which the court premised its judgment of conviction. The aforesaid injuries sustained by the accused lend credence to his claim that his confession was secured through force and maltreatment. Further, if it was true that accused Catap signified his intention to confess his participation in the commission of the said crime after his arrest at the Pasig Police Headquarters, as what the prosecution is trying to impress upon the court a quo, then what could be the reason behind the execution of two written confessions. Certainly, there was a compelling reason why he execute (sic) a second written confession. Moreso, it was is (sic) the second extra-judicial confession that Catap narrated their alleged participation in the rape with homicide incident. Thus, accused Catap was indeed tortured into executing the said confessions."[30]

These arguments fail to persuade us.

We have painstakingly scrutinized the records of this case but we find nothing indicative of appellant's claim that Catap's confession was extracted in violation of his constitutional rights. In the first place, the testimonies of Atty. Campanilla who stood beside Catap and counseled him when he executed his handwritten confession as well as that of SPO1 Ricardo de los Santos who reduced said confession into typewritten form, clearly demonstrate that Catap was sufficiently accorded his rights as required by law. Excerpts from Atty. Campanilla's rebuttal testimony reveal that he was indeed retained as Catap's counsel of choice and that he adequately saw to it that Catap's rights were amply protected at the time that he executed his first confession and likewise when he recanted and gave another confession upon which the trial court based the conviction. Thus:

"Q: When you finally decided to talk to Catap privately inside a room, what exactly did you tell Catap about this matter?

A: I apprised him of his constitutional rights, the right to counsel, the right to remain silent and that anything he said might be used against him.

Q: At that point in time, was Catap aware that you were a counsel or an attorney?

A:

Yes, I was introduced by the policemen to him as a lawyer.

Q: When Catap knew or learned that you were a lawyer, what was his initial reaction, if any?

A:

At first ma'am, as if he is (sic) in doubt whether to give his confession to me, but afterwards, for reasons I do

not know, he changed his mind then finally started telling me what transpired.

x x x x x x x x

Q: What did you do in order to safeguard the rights of the accused?

A:

As I have said, before I hear (sic) the confession of Catap, I apprise (sic) him of his constitutional rights, the right to remain silent, the right to have a counsel of his choice, and that whatever he is going to say might be use (sic) against him before any Court of Justice and likewise I told him that if he does not want my services, I can leave at anytime.

Q: And what was the answer of Catap?

A: The answer of Mr. Catap was that he is willing to give his confession before me.

Q: And you previously stated that you are sure that no physical injuries had been inflicted upon the person of Catap, regarding this matter, what steps, if any did you take?

A:

First, I asked the policemen to have him medically examined, secondly, the confession he gave me, I asked him, in the presence of the policemen, to write it down, and thirdly, I asked for an identification card in order to be sure that the signature in the identification card and the signature he is going to affix will be one and the same to be sure that he is voluntarily making such confession.

x x x x x x x x

Q: You said that you require accused Catap to write down the extra-judicial confession, was it first on Oct. 5, 1994 or Oct. 9, 1994?

A: Twice ma'am.

x x x x x x x x

Q: How many extra-judicial confessions were made actually in your presence and upon your legal advise (sic)?

A: There were two (2).

x x x x x x x x

Q: Initially, when you asked him to write down in his own handwriting the admission he wish (sic) to do, what was his reaction or actuation when you thus requested him?

A: He voluntarily wrote down those statements appearing in the said document considering that at the time he already had his confidence on me.

Q: When you said that he had already confidence on you what actually do you mean?

A: Meaning he is willing to make those statements voluntarily having me as his counsel to assist him."[31] [Underscoring supplied].

SPO1 Ricardo de los Santos, on the other hand, testified in this wise:

"Q: How was this giving of extra-judicial confession made before the chief investigator?

A: It was given orally before Chief Balitao ma'm.

Q: When accused Catap gave his admission or confession before Chief Investigator Balitao what happened in particular during that particular moment?

A: Accused Catap voluntarily wrote down his answers, ma'm.

Q: And how did you come about [with] this?

A: I heard Chief Investigator Balitao told Catap if he really want to admit the crime can you write it down.

Q: And what was the answer of Catap?

A: Yes, ma'm.

Q: At the time Catap agreed to the said suggestion of Chief Investigator Balitao was Atty. Campanilla present?

A: Yes, ma'm.

Q: Did Catap actually write the same?

A: The answers were written in every question, ma'm.

x x x x x x x x

Q: After Catap signed this statement what happened next, if any?

A: Capt. Balitao instructed me [to] reduce his confession into writing, ma'am.

Q: Could you please tell the Honorable Court what was the medium did you use (sic) in reducing it into writing?

A: Typewriting, ma'm.

x x x x x x x x

Q: Before reducing into typewritten form the confession of accused Catap what step, if any, did you take as a police officer as a safeguard to the accused?

A:

I apprised him of his constitutional right and introduced myself as a police officer, ma'am.

Q: What are the constitutional right (sic) that you tell (sic) him?

A:

Right to remain silent to answer question and answer (sic); right to be assisted of (sic) counsel of his own choice; that if he cannot afford to get a counsel of his own choice, the government is ready or that he may avail the service of the government lawyer; and that anything that he would say may be used against him before any court, ma'm.

Q: When you apprised him of his constitutional right particularly the right of (sic) counsel of his own choice, what was his answer?

A: When I told him that he has the right to be assisted by his counsel he said he has his own, ma'm.

Q: And who was that counsel?

A: Atty. Campanilla, ma'm.

Q: Was he present when you asked him of his counsel?

A: When I asked his counsel he pointed to [a] man near him, ma'm.

Q:

When he answered that he has his counsel and even pointed to Atty. Campanilla as his lawyer, what other steps did you take?

A: I again repeatedly told him his rights and I asked him again why he was giving his statement, ma'm.

Q: And what was his answer, if any?

A: He said his conscience is bothering him because Helen Anillo was about to be interred. He wants justice, ma'm.

x x x x x x x x

Q: So, after these answers of accused Catap what else transpired, if any?

A: I told (sic) him why are you admitting it, don't you know that if you would admit it you would be imprisoned?

Q: And what was his answer?

A: He said he wanted that justice could be done before Helen Anillo could be interred, ma'm.

Q: After this what happened, if any?

A: I started to reduce his confession into writing, ma'm.

Q: How did you reduce into writing the statement of Catap?

A: In question and answer form, ma'm.

x x x x x x x x

Q: You mean to say that these were the very answers from the questions propounded by you?

A: Yes, ma'm.

Q: And while conducting this question and answer, Atty. Campanilla was there all along?

A: Yes, ma'm.

Q: And Catap finished the confession?

A: Yes, ma'm."[32] [Underscoring supplied.]

Subsequent cross-examination of SPO1 de los Santos showed further how Catap's rights were adequately protected.

'Q And you said that when this statement marked as Exh. O-1 was being reduced into typewritten form of question and answer, Atty. Campanilla was present all the time?

A: Yes, sir.

Q: You mean to say Atty. Campanilla was teaching or coaching Catap what to answer?

A: No, sir. What I mean is before giving answer to each question I asked [and] they talked and I just took down the answer given by Catap, sir.

Q: So, do I get you right that everytime you asked question from Catap, Catap referred the matter to Atty. Campanilla?

A: Yes, sir.

x x x x x x x x

Q: Of course before you took down or reduced in writing this Exh. O-1 you managed to notice the physical condition of accused Catap?

A: Yes, sir.

Q: And is it not true that at the time he has still some questions in every part of his body?

A: Yes, sir.

x x x x x x x x

Q: And that was the physical injuries inflicted on him, is it not?

A: According to him he was mauled, sir.

COURT

Q: Who mauled him according to him?

A: According to him, he was mauled by the jail inmates, sir.

ATTY. VERA

Q: Did you inquire further from Catap why he was mauled by his inmates?

A: Yes, sir.

Q: What was his answer?

A: He said his inmates were mad at them, sir.

COURT

Q: Did you verify why the inmates were mad at them so much so that they inflicted physical injuries?

A: According to them the inmates were waiting for them as rape suspects, sir.

ATTY. VERA

Q: Is it not true that aside from these inmates who inflicted physical injuries he told you also that some police officers mauled him?

A: There was no such information given to me, sir.

Q: Are you sure of that?

A: Yes, sir."^[33]

Aside from the above testimonies, a reading of the handwritten confession itself does not give the slightest suspicion that undue pressure attended its execution. The language used, the manner in which it was composed and written, as well as the fact that it was replete with details that could only be supplied by the accused and would not have been known to the investigating police officers were it not voluntarily made, convinces Us, appellant's protestations to the contrary notwithstanding, that indeed the confession of Catap was made voluntarily. Appellant's claim that they have been tortured by the police officers investigating the case in order for Catap to confess is belied by the records. Mr. Carlos Sabile, Jr., the Special Investigator of the Commission on Human Rights, together with a certain Dr. Jessie Cruel, visited Catap in his cell on October 17, 1994,^[34] eight days after he executed his second confession. While there was indeed a finding that Catap sustained injuries, the testimony did not show that these were sustained at the time the confession was made on October 9, 1994. Moreover, it was adequately explained by the testimonies on record that the mauling was actually done by inmates. The claim that policemen ordered the same is at best conjectural, Catap himself not having been able to identify who these policemen were. It is worth noting that Catap never even bothered to file criminal or administrative cases against the police officers when he had the chance to meet with the representative from the CHR who would have given him the help he needed in filing such cases.

In addition to the detailed manner in which the confession was made, it likewise exhibits an exculpatory tone which, to Our mind, is an indicium of the confession's voluntary nature.^[35] An excerpt from the handwritten confession shows this:

"...At inontog sa pader ang bata at ako ang nauna sa bata at si Anding [Leonardo Aquino] naman ang nahuli... at pero si Anding ang pumatay sa bata..."[36] [Underscoring supplied.]

It bears stressing that Catap's account of the events that transpired during the commission of the crime jibed with independent evidence presented during the trial which, apart from the confession, tend to show the commission of the crime.

As aptly observed by the Solicitor General in the Appellee's Brief:[37]

"Thus, appellant Catap's admission that he, accused Jover Lofamia and appellant Aquino were in the company of the victim in the evening of October 1, 1994 on board the tricycle driven by appellant Catap himself is corroborated by "Onio's" testimony that he saw appellant Catap and two others with Angelita on board a tricycle driven by appellant Catap himself on the said date and time. Also, appellant Catap's admission that he and appellant Aquino raped Angelita, that appellant Aquino inserted syrup bottle into Angelita's vagina and that appellant Aquino banged Angelita's head against a wall are corroborated by Dr. Emmanuel Aranas' testimony that Angelita sustained lacerations in the head which could have been caused by a hard blunt object and that the laceration between Angelita's vagina and anus could have been caused by inserting a bottle with a diameter which could be accommodated by the same area or by sexual intercourse (TSN, January 19, 1995, 8:30 a.m., pp. 4-16). Appellant Catap's further admission that he borrowed a shovel from Jaime Benipayo in order to bury Angelita's cadaver is also corroborated by Jaime Benipayo's statement given to the police investigators (TSN, Feb. 9, 1995, 2 p.m., p. 9; Exhibit "P"; People vs. Bersamin, et al. supra)."

Needless to say, a confession is presumed to be voluntary until the contrary is proved[38] so that once the prosecution has shown that there was compliance with the constitutional requirement on pre-interrogation advisories, a confession is presumed to be voluntary and the declarant bears the burden of proving that his confession is involuntary and untrue.[39] We find that appellant Catap was unable to discharge that burden.

But what is now the effect of Catap's confession upon the guilt of his co-accused Aquino who was implicated in said confession?

In this regard, the rule is that although an extra-judicial confession is admissible only against the confessor, jurisprudence makes it admissible as corroborative evidence of other facts that tend to establish the guilt of his co-accused.[40] The implication of this rule, therefore, is that there must be a finding of other circumstantial evidence which when taken together with the confession would establish the guilt of a co-accused beyond reasonable doubt. Applying this precept to Aquino's case, this Court finds, upon a painstaking scrutiny of the records, that circumstantial evidence shown by the prosecution failed to meet the quantum of proof required for his conviction.

It is worth noting that the records do not show that Aquino was positively identified by any witness as being with his co-accused Catap or with the victim herself during the time that the crime was committed. The prosecution, thus, relied on the following circumstantial evidence to link Aquino to the crime:

- (1) Catap's confession itself implicating him;[41]
- (2) SPO4 Bugnot's testimony to the effect that Aquino admitted before the members of the media interviewing him that he was with Catap on October 1, 1994 but pointed to Catap as the one who actually killed the victim;[42]
- (3) The autopsy report on the victim's injuries which coincided with Catap's description of how Aquino killed the victim;[43]
- (4) Junior Caloma's testimony that he saw Catap boarding a tricycle together with two other unidentified companions and the victim herself;[44]

(5) Aquino's alleged flight to Dinalupihan, Bataan a few days after the crime was committed; and

(6) Rolando Laureano's testimony that Aquino twice sent the victim to look for him.[45]

As we have said, the foregoing circumstances, even if taken together, would not really establish that Aquino was a participant to the crime. If these would have any value at all, they would only place Aquino in a situation where he is a suspect and that he probably had something to do with the crime. But the realm of suspicion and probability are not synonymous with guilt beyond reasonable doubt. Hence the saying: "The sea of suspicion has no shore, and the court that embarks upon it is without rudder or compass." [46]

The insufficiency of Catap's confession to convict Aquino needs no further elaboration, considering our declaration that such confession implicating Aquino must be corroborated by independent evidence other than the said confession. With respect to SPO4 Bugnot's testimony regarding Aquino's alleged confession before the media, the same has been consistently denied by Aquino both in his direct and cross-examination. Neither did the autopsy report nor Junior Caloma's testimony point to Aquino with certainty. Anent Aquino's alleged flight to Bataan, the same has been adequately explained by him when he testified that his family was there and that it was actually his place of residence. Finally, Laureano's testimony that Aquino called for him through the victim did not show at all that the victim was actually in the company of Aquino at the time she was last seen alive.

Considering that the strength of the prosecution's evidence against Aquino falls short of the required quantum, Aquino's guilt is indeed put in serious doubt, hence, warranting a declaration of his innocence. Consequently, the trial court's theory that there was conspiracy and that both appellants are each guilty of two counts of rape would not therefore be applicable any more.

We now discuss the issue of indemnity. In line with the new policy adopted by the Court, the award of the trial court in the civil aspect of the case must be modified. Under this policy, the indemnification for the victim shall be in the amount of P75,000.000 if the crime of rape is committed or effectively qualified, as in the instant case, by any of the circumstances under which the death penalty is authorized by the applicable amendatory laws.[47] In addition, the Court ruled that in crimes of rape the amount of P50,000.00 as moral damages must be awarded to the victim without the need for pleading or proof of the basis thereof.[48]

Anent our decision to impose the death penalty on one of the appellants in this case, four justices of the Court have continued to maintain the unconstitutionality of Republic Act 7659 insofar as it prescribes the death penalty; nevertheless they submit to the ruling of the majority to the effect that this law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the appealed decision of the Pasig City Regional Trial Court, Branch 68, is hereby MODIFIED as follows:

(a) Accused-appellant Eduardo Catap y Estrada is found GUILTY of the complex crime of rape with homicide and is sentenced to suffer the penalty of DEATH. He is further ordered to indemnify the victim's heirs in the reduced amount of P75,000.00 as civil liability ex delicto and to pay the additional amount of P50,000.00 as moral damages.

(b) The trial court's finding of guilt on appellant Leonardo Aquino y Calot is REVERSED and SET ASIDE. Consequently, he is hereby ACQUITTED of all charges against him. Let him then be immediately released from his place of confinement unless there is reason to detain him further for any other legal or valid cause.

Considering the imposition of capital punishment upon appellant Edaurdo Catap y Estrada, upon finality of this decision, let a certified true copy thereof, as well as the records of this case, be forwarded without delay to the Office of the President for possible exercise of executive clemency pursuant to Article 83 of the Revised Penal

Code, as amended by Section 25 of Republic Act No. 7659.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

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- [1] *People v. Calvo, Jr.*, 269 SCRA 676, at 686 (1997).
- [2] 73 Phil. 651, 652 (1942).
- [3] *Rollo*, p. 9.
- [4] *Ibid.*, p. 11.
- [5] *Ibid.*, p. 13.
- [6] TSN, January 5, 1995, pp. 6-16, 25-31.
- [7] TSN, January 19, 1995, 2:00 p.m., pp. 6-10.
- [8] TSN, January 26, 1995, 10:00 a.m., pp. 7-10; TSN, February 2, 1995, pp. 2-62.
- [9] TSN, January 19, 1995, 8:30 a.m., p. 8.
- [10] Exhibit "S."
- [11] TSN, February 16, 1995, pp. 5-7.
- [12] Exhibit "J."
- [13] Exhibit "O."
- [14] Exhibit "P."
- [15] TSN, August 17, 1995, pp. 3-6.
- [16] TSN, August 17, 1995, pp. 7-9.
- [17] TSN, August 24, 1995, p. 4.
- [18] TSN, August 31, 1995, pp. 7-8.
- [19] TSN, August 17, 1995, p. 11; TSN, August 24, 1995, p. 5.
- [20] TSN, May 31, 1995, pp. 3-6.
- [21] TSN, May 9, 1995, pp. 4-7.
- [22] TSN, March 29, 1995, pp. 4-10.
- [23] TSN, April 4, 1995, pp. 8-10.
- [24] TSN, May 23, 1995, pp. 4-6.
- [25] TSN, October 6, 1995, pp. 7-13.
- [26] TSN, October 6, 1995, pp. 12-13.

- [27] Rollo, pp. 52-75.
- [28]Ibid., 67-68.
- [29] Appellant's Brief, Rollo, p. 87.
- [30]Ibid., pp. 100-102.
- [31] TSN, October 6, 1995, pp. 7-12.
- [32]TSN, February 23, 1995, pp. 4-8.
- [33]Ibid., pp. 11-13.
- [34]TSN, April 4, 1995, p. 8.
- [35] People v. Magdamit, 279 SCRA 423, at 433 (1997).
- [36] Exhibit "O."
- [37] Rollo, pp. 191-192.
- [38]People v. Ruelan, 231 SCRA 650, at 657 (1994).
- [39] People v. Suarez, 267 SCRA 119, at 135 (1997).
- [40] People v. de Guzman, 231 SCRA 737, at 743 (1994).
- [41] Records, pp. 206-207.
- [42] TSN, January 26, 1995, pp. 12-13.
- [43]Records, p. 23.
- [44] TSN, February 16, 1995, p. 7.
- [45] TSN, February 16, 1995, pp. 40-41.
- [46] Cited in People v. Geron, G. R. No. 113788, October 17, 1997.
- [47] People v. Victor, G. R. No. 127903, July 9, 1998.
- [48]People v. Prades, G. R. No. 127569, July 30, 1998.

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