



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 191271

Present:

- versus -

SERENO, *CJ*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ*.

GERALD SORIANO alias
PEDRO,
 Accused-Appellant.

Promulgated:

MAR 13 2013

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DECISION

SERENO, *CJ*:

This is a review¹ of the Decision dated 22 October 2009² issued by the Court of Appeals, Cagayan de Oro City (CA) in CA-G.R. CR-HC No. 00474-MIN finding accused-appellant guilty beyond reasonable doubt of rape with homicide and sentencing him to suffer the penalty of *reclusion perpetua*. The dispositive part of the assailed Decision reads:

FOR REASONS STATED, the Decision of the Regional Trial Court of Marawi City, 10th Judicial Region, Branch 10, in Civil Cases No. 3200-99, is **AFFIRMED** with **MODIFICATION** in that the appellant Gerald Soriano alias Pedro is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole. He is further ordered to pay the heirs of the victim moral damages in the increased amount of ₱75,000 and temperate damages in the amount of ₱25,000.

SO ORDERED.³

¹ Pursuant to Rule 124, Sec. 13.

² *Rollo*, pp. 4-13; Penned by CA Associate Justice Edgardo T. Lloren and concurred in by CA Associate Justices Edgardo A. Camello and Leoncia R. Dimagiba.

³ *Id.* at 12-13.

On 17 February 1999, accused-appellant Gerald Soriano alias Pedro (Soriano) was charged with rape with homicide in an Information, which reads in part:

That on or about December 31, 1998 at around 4:00 o'clock [sic] in the afternoon at Barangay Katutungan, Municipality of Wao, Province of Lanao del Sur, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, and by means of force, violence and intimidation, grabbed [AAA], a girl of eight (8) years old, covered her mouth, bitten [sic] her right face and left breast and succeeded in having sexual intercourse with her against her wi[ll], and thereafter grabbed the victim's neck and choked her to death and threw her body into the water of irrigation canal of Katutungan, Wao, Lanao del Sur.

CONTRARY to and in [v]iolation of the last paragraph of Article 335 of the Revised Penal Code as amended.⁴

Facts According to the Prosecution

Around 8:00 a.m. of 31 December 1998, Soriano arrived with the nephew of Alice Hibaya (Hibaya) to drink liquor at her house until about 10:00 a.m.⁵ Hibaya saw Soriano drink some more at the house of one Noel Quinatadcan (Quinatadcan), who lived about two meters away from her.⁶ She then witnessed Soriano leave with his other companions at approximately 3:00 p.m.⁷

Around that time, Vicky Bearneza (Vicky) was grazing her carabao on a palm road when she saw Soriano, clad in a yellow t-shirt and blue denim, walk drunkenly towards the shortcut to Wao. She did not see anyone else pass by the area until she went home about 5:00 p.m.⁸

At roughly 3:30 p.m. of the same day, Vicky's sister BBB saw Soriano, whom she later similarly recalled was in yellow t-shirt and pants, pass by her house as he walked to the direction of Wao. It was also around the same time that she was expecting her eight-year-old daughter, AAA, to take the same shortcut on her way home from harvesting *palay*.⁹

Thereafter, at approximately 6:00 p.m., BBB asked for help in looking for AAA. The other residents assisted in the search, which lasted until midnight and turned out to be unsuccessful.¹⁰

⁴ CA *rollo*, p. 8.

⁵ *Rollo*, p. 5, CA Decision.

⁶ *Id.* at 5-6.

⁷ *Id.* at 6.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

On 1 January 1999, about 8:00 a.m., Tomas Bearneza (Tomas), the husband of Vicky, found the lifeless body of AAA in a canal along the shortcut. The victim was naked except for her shorts, which loosely hung below her knees. Her face and breast revealed bite marks.¹¹

The health physician of the Wao District Hospital, Dr. Calico Haji Ali (Dr. Ali), examined the body of AAA. He observed the presence of human bite marks on the right side of her face and on her left breast.¹² According to his examination, she was raped and her death was caused by drowning.¹³

According to the mayor of Wao, Elvino C. Balicao (Mayor Balicao), Soriano confessed to being under the influence of alcohol when the latter killed AAA, but denied having raped her.¹⁴

On 2 January 1999, the Chief Investigator of Wao, Senior Police Officer 4 Edwin B. Bacerra, Sr. (SPO4 Bacerra), questioned Soriano. Because there were no lawyers available and Soriano claimed to be a minor, a representative from the Department of Social Welfare and Development (DSWD), Mercedes Oyangoren (Oyangoren), assisted him during the investigation. He admitted therein that he saw AAA near the canal. She tried to run away, but he caught up with her. She then started shouting for help, prompting him to panic and choke her. Thereafter, he removed her clothes, bit her left breast and threw her into the water. These statements were reduced into writing and signed by both Soriano and Oyangoren.¹⁵

Facts According to the Defense

Soriano averred that at 8:00 a.m. on 31 December 1998 at Hibaya's house, he and three other men drank Tanduay while they roasted a pig. By 2:00 p.m., they had transferred to the house of Quinatadcan, where they had a couple of beers.¹⁶ At around 3:30 p.m., Soriano claimed that he was not quite drunk when he went home using the shortcut to Wao.¹⁷ He was home by 5:00 p.m.¹⁸

Some policemen came to his house the following morning. Thinking that he was being hired to harvest corn, he voluntarily submitted himself to them. However, he was detained at the police headquarters.¹⁹

Soriano claimed that, without informing him of the contents of the document, SPO4 Bacerra made him sign it in front of Oyangoren. Mayor

¹¹ Id.

¹² Id.

¹³ Id. at 7.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 7-8.

¹⁸ Id. at 8.

¹⁹ Id.

Balicao purportedly questioned Soriano inside the former's vehicle, threatened him that he would be fed to the crocodiles if he would not confess, and promised to help him if he would admit to having perpetrated the crime. Allegedly for these reasons, Soriano confessed to killing AAA.²⁰

Upon the filing of an Information for rape with homicide against Soriano, the case was docketed as Criminal Case No. 3200-99 and raffled to the Regional Trial Court, 10th Judicial Region, Marawi City, Branch 10 (RTC Br. 10). It later rendered a Decision finding him guilty beyond reasonable doubt of rape with homicide and sentencing him to suffer the death penalty.²¹ He was likewise ordered to pay the heirs of AAA in the amount of ₱100,000 in civil indemnity and ₱50,000 in moral damages.²²

After the case was elevated for automatic review, the CA affirmed the ruling of the trial court, but modified the sentence of Soriano to the penalty of *reclusion perpetua* without eligibility for parole and increased the civil liability to ₱75,000. He was also ordered to pay the heirs of AAA moral and temperate damages in the increased amounts of ₱75,000 and ₱25,000, respectively.²³ He filed a Notice of Appeal.²⁴

Considering that the CA has already disregarded his supposed confession to Mayor Balicao, Soriano only raises the sole contention that the entirety of the circumstantial evidence presented by the prosecution was insufficient to sustain his conviction.²⁵ He posits the following arguments:

- (a) The estimated time of death of AAA did not preclude the possibility that other culprits had perpetrated the crime.
- (b) The prosecution failed to establish that he had caused the bite marks found on AAA.
- (c) He had never been found to be in the company of the victim.
- (d) It was not shown that he had gone to the place where her cadaver was found;
- (e) While he was seen going towards the direction of the crime scene, this fact does not conclusively prove that he had raped and killed the victim.

²⁰ Id.

²¹ *CA rollo*, pp. 19-A-33, RTC Br. 10 Decision dated 14 October 2002.

²² Id. at 32-33.

²³ *Rollo*, pp. 12-13.

²⁴ Id. at 14-15.

²⁵ Id. at 22-38, Supplemental Brief for the accused-appellant dated 9 June 2010.

(f) His soiled clothes were not found at or near the area where the crime was committed, but were taken from his house without the benefit of a search warrant.²⁶

At the outset, it should be underscored that following Section 12, Article III of the Constitution,²⁷ the CA was correct in ruling that the extrajudicial confession elicited by Mayor Balicao and SPO4 Bacerra from Soriano without the presence of counsel is inadmissible in evidence. Thus, the only issue is whether the circumstantial evidence presented by the prosecution was sufficient to hold Soriano guilty beyond reasonable doubt of the crime of rape with homicide. Ruling in the negative, this Court finds the appeal meritorious.

The prosecution faces a great deal of difficulty in cases involving the special complex crime of rape with homicide. In these cases, both the rape and the homicide must be proven beyond reasonable doubt, as the victim can no longer testify against the perpetrator of the offense.²⁸ Thus, a resort to circumstantial evidence becomes inevitable to prove the case.²⁹

Under Section 4, Rule 133 of the Rules of Court, circumstantial evidence is sufficient for conviction when the concurrence of the following factors obtain: (a) there is more than one circumstance; (b) the facts from which the inferences are derived have been proven; and (c) the combination of all the circumstances is such as would prove the crime beyond reasonable doubt. These circumstances and facts must be **absolutely incompatible** with any reasonable hypothesis propounding the innocence of the accused.³⁰ In the case at bar, the prosecution failed to establish the existence of an unbroken chain of circumstances that lead to no other logical conclusion but the guilt of the accused.

RTC Br. 10 anchored its Decision finding Soriano guilty of the crime charged on the following circumstances:

1. That the accused together with his companions had a drinking spree [at] the house and store of the two witnesses and admitted by accused until 3:00 in the afternoon and that day of December 30, 1998.

2. That the accused was seen by one of the witnesses while grassing [sic] their carabao at about 3:00 to 5:00 p.m. at the barangay road leading to crossing [sic] when he passed by under the influence of liquor,

²⁶ Id. at 32-35.

²⁷ Section 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

x x x x

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

²⁸ *People v. Romero*, G.R. No. 181041, 23 February 2011, 644 SCRA 210.

²⁹ Id.

³⁰ *People v. Gonzaga*, G.R. No. 90036, 21 August 1992, 212 SCRA 730.

wearing a yellow T-shirt and maong pants that appeared clean but when witness was shown of the soiled and dirty yellow T-shirt and maong pants during the trial affirmed that it was the same clothes;

3. That accused was also seen by the mother of the victim and admitted by the accused, to be wearing [the] same clothes aforesaid leading to crossing Katutungan, where the crime was committed at around or between 3:00 to 3:30 [p].m. on [the] same day;

4. That the post mortem examination on the body of the victim contained series of contusion which are signs of violence inflicted in the different parts of the body of the victim, was raped before she was killed and that there was laceration of the hymen;

5. That the position of the body of the victim indicated she had been rape[d] and simultaneously killed.

6. That the body of the victim was found in the grassy area near the canal where her under pants was [sic] beside her and without clothes in her body, where the accused was last seen to have pass [sic] by. And that no other persons have passed by except the accused at that point in time[.]³¹

Meanwhile, in sustaining the Decision of the trial court, the CA ruled in this wise:

In the instant case, appellant was seen walking towards the direction of the “short-cut” road to Wao where the body of the child-victim was found. He admitted that he used that road in going home. According to BBB, she saw appellant pass by her house at around 3:30 p.m. That was also the time when AAA was supposed to be on her way home using the same “short-cut” road. Appellant confirmed that BBB saw him and that he had spent the day drinking liquor.

He was admittedly at the scene of the crime at the time the child was discovered to be missing. Moreover, he was the only person seen going to that road. He admitted that he saw no one else using that road. Appellant stated that he arrived at his home at around 5:00 that same afternoon. By his own testimony, he was there at the scene of the crime at around the time it happened. There can be no doubt that he raped and killed AAA as he was the only one out there in the “short-cut” road.³²

The foregoing findings unquestionably establish that AAA was raped and killed. However, the circumstances presented by the prosecution do not form a solid and cohesive narrative that proves with moral certainty its contention that Soriano perpetrated these heinous acts. To synthesize, the only circumstances cited to implicate him in the crime are the following: (a) he passed through the shortcut to Wao around 3:00 p.m. on 31 December 1998; (b) Vicky did not see anyone else use that road from 3:00 p.m. to 5:00

³¹ CA rollo, p. 30.

³² Rollo, p. 11.

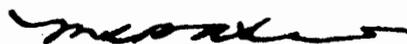
p.m. on that day; and (c) the soiled garments confiscated from him were identified to have been the same ones he was wearing then.

To an unprejudiced mind, the fact that Soriano was the only one whom Vicky saw pass through the shortcut to Wao from 3:00 p.m. to 5:00 p.m. does not logically lead to any conclusion regarding his participation in the raping and killing of AAA. It is a mere conjecture that can be refuted by other equally conceivable and rational inferences. It is possible that Vicky might have failed to see the perpetrator, because he came from the same place as AAA; but, instead of traversing the shortcut after raping and killing the victim, actually went back to his point of origin. Neither can the mere fact that Soriano's clothes were soiled isolate him as the only probable suspect, considering that his garments were not found anywhere near the scene of the crime, but at his own home.

As a consequence, the circumstances borne out by the records are severely insufficient to establish the culpability of Soriano as one may reasonably extrapolate other possible scenarios other than those pointing to his guilt. The evidence in this case having fallen short of the standard of moral certainty, any doubt on the guilt of the accused should be considered in favor of his acquittal. The law enforcers' missteps in the performance of the investigation and the prosecuting attorney's careless presentation of the evidence cannot lead to any other conclusion other than that there are doubts as to the guilt of the accused.

WHEREFORE, the assailed Decision issued by the CA in CA-G.R. CR-HC No. 00474-MIN dated 22 October 2009 finding accused-appellant guilty beyond reasonable doubt of rape with homicide and sentencing him to suffer the penalty of *reclusion perpetua* is **REVERSED** and **SET ASIDE**. Accused-appellant is hereby **ACQUITTED**. He is ordered to be immediately **RELEASED** from detention, unless he is being confined for another lawful cause. Let a copy of this Decision be furnished the Director, Bureau of Corrections, Muntinlupa City for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court within five (5) days from his receipt of this Decision, the action he has taken.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice