

[ CR No. 32111, May 26, 2010 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. RUFINO JULIANO Y ICO @ RUFING, ACCUSED-APPELLANT.**

**Court of Appeals**

This an appeal<sup>[1]</sup> from the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Malolos, Bulacan, Br. 78, Crim. Case No. 2863-M-2005, convicting the Accused-Appellant of Homicide, sentencing him to an indeterminate imprisonment of six (6) years and one (1) day to eight (8) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum, and ordering him to pay Fifty Thousand Pesos (Php50,000.00) as civil indemnity, Twenty-Five Thousand Pesos (Php25,000.00) as exemplary damages, Eighteen Thousand Pesos (Php18,000.00) as actual damages, and the costs of the suit.

**The Facts:**<sup>[3]</sup>

On October 19, 2005, an *Information* was filed before the RTC charging herein Accused-Appellant Rufino Juliano y Ico @ Rufino of Homicide. Thus:

*That on or about the 27th day of July, 2005, in the municipality of Paombong, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a pointed instrument and with intent to kill one Arnold A. De Villa, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab the said Arnold A. De Villa hitting him on his neck and inflicting upon him serious physical injuries which directly caused the death of the said Arnold A. De Villa.*

*Contrary to law.*<sup>[4]</sup>

Upon arraignment and with the assistance of a counsel *de oficio*, the Accused-Appellant pleaded not guilty.<sup>[5]</sup> After the pre-trial, trial on the merits followed.<sup>[6]</sup>

**The Version of the Prosecution:**

Jeffrey Santos (Jeffrey)<sup>[7]</sup>, a tricycle driver, testified that in the late afternoon of July 27, 2005, he and the Accused-Appellant, together with Arnold de Villa (Arnold) and Wilfredo Mendoza (Wilfredo), were engaged in a drinking spree at the house of their friend, Alfredo Mendoza (Alfredo). At one point, the Accused-Appellant and Arnold had a heated argument because the former wanted to get back his automated teller machine (ATM) card from the latter. Arnold, however, refused to give back the said ATM card. The argument worsened until the two (2) were already sharing each other. The secured-Appellant then ran his thumb across his neck threatening to kill Arnold. Despite the incident, Arnold and the Accused-Appellant thereafter left together and went to the rice field to continue their drinking session. Jeffrey, on the

other hand, did not anymore join them.

Jeffrey further testified that two (2) days after their drinking spree, he received news that a dead body with long hair and wearing a red shirt was found in Sto. Niño Bata, Paombong, Bulacan. He went to the place where the body was found and saw Arnold's lifeless body. He thereafter met the Accused-Appellant who admitted to him that he killed Arnold. Then, the Accused-Appellant requested for Jeffrey to testify and attest to his innocence. Not wanting to get involved in the mess, Jeffrey left and just continued to ply his route. It was only later that he went to the municipal hall of Paombong, Bulacan to give his statement to the police authorities.<sup>[8]</sup>

Mario De Villa (Mario)<sup>[9]</sup>, a baker and the brother of Arnold, testified that the last time saw Arnold, they were both at a bakery in Liang, Malolos, Bulacan at about 3:00 p.m. on July 27, 2005; that he was preparing the ingredients for baking when the Accused-Appellant arrived thereat and fetched Arnold; and, that Arnold left with the Accused-Appellant because the latter was indebted to the former. Mario added that he does not have any personal knowledge as to whether it was the Accused-Appellant who actually killed Arnold; that as per investigation of the police authorities, his brother's death was due to a stab wound on the nape and on the waist;<sup>[10]</sup> and, that he spent Eighteen Thousand Pesos (Php18,000.00) for Arnold's funeral and burial.<sup>[11]</sup>

PO1 Jayson Salvador (PO1 Salvador)<sup>[12]</sup> testified that sometime in July 2005, he was at the Calumpit Police Station in Bulacan when a tricycle driver came and reported that a person's head was found in Sto. Niño Bata, Paombong, Bulacan. In response, their team went to the reported place and saw a human cadaver. They summoned the Scene of the Crime Operatives of General Alejo Santos, Malolos, Bulacan, for assistance in the investigation. After learning that the victim was Arnold, they spoke to the latter's brother, Mario, and gathered information that the latter last saw Arnold in the company of the Accused-Appellant. Thus, the police operatives conducted a follow-up operation and, thereafter, brought the Accused-Appellant at the police station for investigation. At first, the Accused-Appellant denied that he killed Arnold but after much questioning by the police, he eventually admitted that he had an altercation with Arnold so he stabbed the latter on the neck, pulled his body, and submerged him in a fishpond filled with garbage. The Accused-Appellant also pointed to the location of Arnold's personal belongings. PO1 Salvador admitted, however, that when Accused-Appellant confessed to the charge of Homicide, the latter was not assisted by a counsel.

Alfredo Mendoza (Alfredo) did not anymore take the witness stand, as the defense counsel agreed to the admission of his sworn affidavit as part of his direct testimony.<sup>[13]</sup> Also, the parties agreed to dispense with the testimonies of the following witnesses, namely: Po2 Crisanto Fulgente, as his participation in the investigation is limited to the taking of the statements of the witnesses;<sup>[14]</sup> and, Dr. Reynaldo Dave, Jr. and the police inspector from Camp Olivas, San Fernando, Pampanga, as they will merely identify the cadaver of the victim and testify on the veracity of their findings. The defense counsel qualified, however, that said witnesses do not have personal knowledge of the facts surrounding the case.<sup>[15]</sup>

### **The version of the Defense:**

The Accused-Appellant<sup>[16]</sup> testified that, at about 2:00 o'clock to 3:00 o'clock in the afternoon of July 27, 2005, he and Alfredo were at Pineda's Bakery where they met Arnold and invited the latter for a drinking spree at Alfredo's, house. They also invited Jeffrey whom they chanced upon driving a tricycle. At Alfredo's house, the Accused-Appellant, Arnold, and Jeffrey commenced the drinking session. Thereafter, the Accused-Appellant inquired from Arnold if the latter still has his ATM card. When Arnold answered in the affirmative, the Accused-Appellant dropped the subject already.

On July 29, 2005, several policemen came to the Accused-Appellant's house and brought him to the police station where he was forced to admit that he killed Arnold. Thereafter, he was brought to a room where he was tortured - a wet towel was placed on his faced and cold water was poured on it, and he was beaten up by the police officers by kicking him with their knees and hitting him with magazine of a gun. He was also electrocuted, thus, causing the enlargement of his testicles. It was at this point that he admitted to the killing of Arnold. Before he was brought to the Provincial Prosecutor's Office, a policeman asked him to point to Arnold's personal belongings which were already at the police station. He recalled Junior Salvador and Ver Ramos as two (2) of the four (4) police officers who tortured him. The Accused-Appellant admitted, however, that he did not relate the maltreatment of the police officers to the investigating prosecutor or submit himself to a doctor for a medical examination.

The Accused-Appellant emphasized during his examination in Court that no heated argument arose between Arnold and him. He likewise denied the accusation that he threatened to kill Arnold by making a gesture of running his thumb across his neck. After the drinking session, he and Arnold left and went separate ways. He went home to cook and feed his children. The Accused-Appellant also admitted that he, Arnold, and Jeffrey are friends; and, that he was indebted to Arnold in the amount of One Hundred Pesos (Php100.00) and so he gave his ATM card to the latter.

The Accused-Appellant's mother, Paulina Juliano<sup>[17]</sup>, testified that, on July 27, 2005, she and her two(2) grandchildren stayed home the whole day. The Accused-Appellant arrived home at about 6:00 o'clock in the evening, watched some programs on the television, and thereafter went upstairs and slept. Two(2) days later, Barangay officials arrived at their house and brought her son to the Municipal Hall of Paombong, Bulacan where he was detained for about a week. When she finally saw the Accused-Appellant, the latter was lying pale inside the detention cell. The Accused-Appellant confided to her that he was tortured by the police officers. Despite these, she admitted that she did not do anything about it.

After the termination of the trial, the RTC rendered a decision finding the Accused-Appellant guilty beyond reasonable doubt of Homicide, viz;

*Wherefore, the foregoing considered, this Court hereby finds accused Rufino Juliano y Ico @ Ruping guilty beyond reasonable doubt of the crime of Homicide and hereby sentences him to suffer the indeterminate penalty of 6 YEARS AND 1 DAY TO 8 YEARS OF PRISION MAYOR MINIMUM AS MINIMUM TO 14 YEARS, 8 MONTHS AND 1 DAY TO 17 YEARS AND 4 MONTHS OF RECLUSION TEMPORAL MEDIUM AS MAXIMUM*

*and to pay the amounts of P50,000.00 as civil indemnity for the death of Arnold de Villa, P25,000.00 as exemplary damages, P18,000.00 as actual damages and the cost of the suit.*

SO ORDERED.<sup>[18]</sup>

Hence, this appeal.

**The Issues:**

The errors raised by the Accused-Appellant:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN ADMITTING IN EVIDENCE THE EXTRA-JUDICIAL CONFESSION OF THE ACCUSED-APPELLANT DESPITE THE PATENT VIOLATION OF HIS CONSTITUTIONAL RIGHTS.<sup>[19]</sup>

**This Court's Ruling:**

In seeking for an acquittal, the Accused-Appellant argues, in fine, that he was denied of his constitutional rights when the police officers tortured and coerced him into confessing to the charge of Homicide without the assistance of a counsel; that the circumstantial evidence relied upon by the RTC did not suffice to establish his guilt beyond reasonable; and, that he did not make any admission to Jeffrey regarding the killing of Arnold.

***The appeal is bereft of merit.***

Under Sec. 33, Rule 130 of the *Revised Rules of the Court*,<sup>[20]</sup> an extrajudicial confession made by an accused before the police authorities in which he acknowledges his guilt of the offense charged, or of any offense necessarily included therein, may be given in evidence against him. This rule, however, presupposes a strict observation of the rights of a person laid down in Sec. 12, Art. III of the 1987 *Constitution*, which provides in pertinent parts that:

- (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 counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.*
- (2) *No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him.*

*Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.*

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

Simply put, the foregoing provision plainly and clearly mandates that, when a person is under custodial investigation for the commission of a crime, he has the right to: (1) remain silent; (2) be assisted by a competent and independent counsel of his choice before and during questioning; (3) be informed of such rights; and, (4) be given a counsel if he cannot afford one.<sup>[21]</sup> These rights, which stemmed from the landmark decision of the United States Supreme Court in ***Miranda v. Arizona***<sup>[22]</sup>, are further strengthened by the stringent rule that the waiver thereof cannot be made unless it is reduced in writing and is done in the presence of a counsel. Moreover, our 1987 Constitution has proscribed the act of subjecting a person to torture, force, threat, or any other means of compulsion which vitiate his free will. Thus, the Supreme Court enunciated in ***Pp. v. Andan***<sup>[23]</sup> that:

***Plainly, any person under investigation for the commission of an offense shall have the right (1) to remain silent; (2) to have competent and independent counsel preferably of his own choice; and (3) to be informed of such rights. These rights cannot be waived except in writing and in the presence of counsel. Any confession or admission obtained in violation of this provision is inadmissible in evidence against him. The exclusionary rule is premised on the presumption that the defendant is thrust into an unfamiliar atmosphere and runs through menacing police interrogation procedures where the potentiality for compulsion physical and psychological, is forcefully apparent. The incommunicado character of custodial interrogation or investigation also obscures a later judicial determination of what really transpired. (Emphasis Ours)***

The rationale for the strict application of the rights of a person placed under custodial investigation is undeniable. The objective is to prohibit *incommunicado* interrogation of individuals in a police-dominated atmosphere, resulting in self-incriminating statements without full warnings of his constitutional rights.<sup>[24]</sup>

In this case, however, aside from the bare allegations of the Accused-Appellant and his mother that he was tortured and beaten up by the police officers, no other evidence was adduced by him to convince this Court that he suffered in the hands of the said police officers. The Accused-Appellant has shown no proof of the use of violence and force on him such as a medical certificate. In fact, he admitted in open court that he did not bother to seek the medical attendance of a doctor.

Be that as it may, what renders the Accused-Appellant's extrajudicial confession to PO1 Salvador as inadmissible in evidence is the undisputed fact that his Miranda rights were grossly violated. To be specific, he was interrogated by said police officer without the benefit of being assisted by a counsel. Worse, PO1 Salvador himself admitted in open court that the Accused-Appellant did not waive his right to counsel and, yet, interrogation on him still proceeded. The testimony of PO1 Salvador is revealing:

**Cross-examination by Prosecutor Benjamin Medrano:**