

## SECOND DIVISION

[ G.R. No. 179748, October 02, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FEBLONELYBIRTH  
T. RUBIO AND JOAN T. AMARO, APPELLANTS.**

### D E C I S I O N

**CARPIO MORALES, J.:**

Appellants Feblonelybirth Rubio (Rubio) and Joan Amaro (Amaro) challenge the August 17, 2006 Decision<sup>[1]</sup> of the Court of Appeals which affirmed the April 12, 2002 Decision<sup>[2]</sup> of Branch 45 of the Regional Trial Court of Bais City finding them guilty of **rape with homicide**.

The Amended Information<sup>3</sup> of October 25, 1999 indicting appellants reads:

That on or about 6:00 o'clock [*sic*] in the morning of July 21, 1999 at [xxx], Bais City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, and, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously take turn in having carnal knowledge with a girl named [AAA<sup>[4]</sup>], a minor, sixteen (16) years of age, against her will and, that on the occasion of the said rape and for the purpose of silencing her, the herein accused[,] in pursuance of their conspiracy and using bladed weapons which they were then armed and provided, did then and there willfully, unlawfully and feloniously, and with evident premeditation and taking advantage of their superior number and strength [*sic*] and with intent to kill, attack, assault and stab the victim thereby inflicting upon her the following injuries [,] to wit:

**Head**

- hematoma left infra-orbital area.
- incised wound #1-2 cms in length at the left side of the nose.
- Hematoma mid-upper lip.

**Neck**

- stab wound #1 - supra clavicular area® side.
- 1 cm in length, 0.5 cm in width, 0.5 cm in depth.
- Slab wound #2 - above the clavicular notch.
- 2 cms in length, 0.7 cm in width, 2 cms. in depth.
- Stab wound #3 - located 6 cms above the (L) nipple lateral side.
- 3 cms in length, 3 cms in depth, 1 cm in

width.

**Upper  
Extremity**

- incised wound #2 located ant. Part of® axilla.
- 3 cms in length 2 cm in depth, 1 cm in width.
- Incised wound #5 located at the dorsal side of® wrist.
- 2 cms in length, 0.2 cms in width, 0.4 cms in depth.

**Chest**

- incised wound #3 Located at the mid anterior chest.
- 10.2 cms in length1, 1.cm in depth, 2 cms in width.

**Abdomen**

- incised wound # 4 located along the medial line of the abdomen.
- 22 cms in length, 10.5 cms in width (widest)
- part of the colon & small intestine coming out of the wound.

**Genitalia**

- nulliparous female, (+) hymenal laceration at 6 o'clock & 9 o'clock positions.
- aspirated about 2 cc of cloudy white, nucoid fluid from the vaginal canal, said fluid is *positive for sperm cells* upon microscopic examination (see attached laboratory result).

**Impression**

- Hypovolumic shock secondary to multiple stab wounds,
- Positive for sexual penetration.*

and as a direct result of all of which the said victim [AAA] died, to the damage and prejudice of the heirs of the said victim.

An act contrary to law. (Emphasis and underscoring in the original; italics supplied)

From the testimonial evidence for the prosecution consisting of the testimonies of seven witnesses, namely, Magdalena Olpos, Pepe Olpos, BBB, the father of AAA (the victim), Dr. Beverly Renacia, SP04 Ramon Sibala, Perfecto Teves and Lugen Conde, the following version is culled:

At 6:00 a.m. of July 21, 1999, while Magdalena Olpos (Magdalena) was harvesting peanuts at the upper portion of the land where her house stands, she heard someone repeatedly shout "Apia, tabang!" (Father, help!). She thus ran towards her son Pepe Olpos (Pepe), who was at that time plowing a rice field, and asked him to determine where the shouts emanated.<sup>[5]</sup>

Both mother and son at once repaired to where they sensed the shouts came from. On their way, they saw their neighbor, appellant Rubio, "walking very fast towards the sugarcane plantation," and another neighbor, appellant Amaro, "running towards the upper portion of the cliff [going] to [his] house."<sup>[6]</sup> Pepe likewise saw appellants carrying bloodied hunting knives.<sup>[7]</sup>

Perfecto Teves (Teves), who was startled by shouts of AAA's aunt CCC that her niece was already dead,<sup>[8]</sup> repaired to the crime scene in the course of which he saw appellants running toward Amaro's house.

On leaching what turned out to be the crime scene, Magdalena and Pepe saw the body of AAA bearing multiple stab wounds, her legs spread apart and her panties pulled down to knee level.<sup>[9]</sup>

Magdalena thereafter repaired to her house and related the incident to her daughter whom she instructed to report to a neighbor.<sup>[10]</sup> Her son Pepe for his part related the incident to a neighbor, Rustico Culi, who in turn echoed it to the barangay captain.<sup>[11]</sup>

BBB, father of the victim, on being informed by his neighbors Rustico Culi and Loreto Culi at around 8:00 a.m. of the day of the incident that his daughter was raped and killed,<sup>[12]</sup> went to the crime scene where he saw Magdalena and Pepe.<sup>[13]</sup>

Later in the afternoon, Magdalena went back to the crime scene and, finding SPO4 Ramon Sibala and other police officers there, she informed them what she had earlier witnessed, furnishing them the names of appellants.<sup>[14]</sup> Albeit appellant Amaro was also there, Magdalena did not point him out to the police out of fear of Amaro's uncles whom she described as "notorious characters."<sup>[15]</sup>

The day after the incident or on July 22, 1999, BBB talked to Magdalena who related to him that she saw appellant Rubio running away from the place where AAA's body was found.<sup>[16]</sup>

Dr. Beverly Renacia (Dr. Renacia), who conducted a post-mortem examination of AAA's body, came up with the findings incorporated in the earlier-quoted body of the Information.<sup>[17]</sup> She concluded that the victim was sexually abused as shown by the hymenal lacerations at 6 o'clock and 9 o'clock positions as well as the presence of cloudy white fluid from the vaginal canal<sup>[18]</sup> which was, after analysis by medical technologist Lugen Conde (Conde) of the City Health Office,<sup>[19]</sup> confirmed to be spermatozoa. Conde averred, however, that he did not know whether the spermatozoa came from one and the same person.<sup>[20]</sup>

SPO4 Ramon Sibala (SPO4 Sibala), who arrived at the crime scene' at 2:00 p.m. of the date of the incident together with two other police officers and Dr. Renacia, talked to Pepe from whom he could not elicit any response as he observed him to be "hesitant to say something."<sup>[21]</sup>

Five days after the incident or on July 26, 1999, Pepe and Magdalena went to the

office of SPO4 Sibala to give their respective statements implicating appellants.

Appellants, denying the charge, interposed alibi.

Rubio gave the following tale:

At 6 a.m. of July 21, 1999, he went to the house of the parents of his cousin-co-accused-appellant Amaro from whom he successfully sought permission to allow Joraar Amaro (Jomar), Amaro's younger brother, to help him gather *cassava* root crops in barangay Alangilan. Before proceeding to Alangilan with Jomar, he passed by the house of his aunt Mantes Papasin from whom they borrowed a carabao which earned them to Alangilan. They arrived at Alangilan at 11:00 a.m.<sup>[22]</sup> He and Jomar could not return home in the afternoon because it was then raining and the flood rendered the river they had to pass through impassable. They thus spent the night in Alangilan and went home the next morning.<sup>[23]</sup>

For his part, Amaro claimed as follows:

His brother Jomar and co-appellant Rubio passed by his house at 6:30 a.m. of the day of the incident to inform him that Jomar had been allowed to go with him to gather *cassava*.<sup>[24]</sup> As he was waiting for the drizzle to subside, he saw two of his neighbors running. When he asked them what the commotion was about, they told him that AAA had been killed. He thereupon followed his neighbors to the crime scene and there saw the body of AAA. He waited for the police to arrive, and when they did arrive at 2:00 p.m.,<sup>[25]</sup> they conducted an investigation. He was not interrogated, however. More than two weeks later, he learned that he was being implicated in the crime.<sup>[26]</sup>

Jomar corroborated Rubio's testimony, adding that Rubio had a bolo with him when they went to gather *cassava*.<sup>[27]</sup>

Cristuta Cabugnason likewise corroborated the testimonies of her nephews Amaro and Jomar.<sup>[28]</sup> As for carabao owner Mantes Papasin, she declared that after Rubio and Jomar had left, she heard people shouting and was soon informed by Teves that AAA had been killed. She thus went to the crime scene with Amaro.<sup>[29]</sup>

Finding for the prosecution, the trial court convicted appellants by Decision of April 12, 2002, the dispositive portion of which reads

**WHEREFORE**, premises considered, this court finds both accused, **FEBLONELYBIRTH RUBIO Y TALARIOM and JOAN AMARO Y TALARIOM**, guilty beyond reasonable doubt as principals for the crime of **RAPE WITH HOMICIDE**, and pursuant to the provisions of Article 266-A in relation to Article 266-B of the Revised Penal Code (as amended by Republic Act No. 8353), are hereby sentenced to suffer the **penalty of DEATH** with all its accessories (sic) penalties under Article 40 of the same Code, and **ordered to pay the heirs of the victim** the following: **P150,000.00** for actual and moral damages; and **P100,000.00** civil indemnity for the victim's death, **without subsidiary imprisonment in**

**case of insolvency**, and to pay costs.

Pursuant to Section 10, Rule 122 of the Revised Rules of Criminal Procedure, let the whole records of this case be forwarded to the Honorable Supreme Court for automatic review and judgment.

SO ORDERED.<sup>[30]</sup> (Emphasis in the original)

On appellants' appeal before this Court, it referred the same to the Court of Appeals for disposition<sup>[31]</sup> pursuant to *People v. Mateo*.<sup>[32]</sup>

By Decision of August 17, 2006, the appellate court dismissed the appeal and affirmed with modification the trial court's decision by reducing the penalty to *reclusion perpetua* in view of the passage, in the meantime, of Republic Act No. 9346,<sup>[33]</sup> without eligibility for parole. It likewise modified the monetary awards by additionally awarding P100,000 as civil indemnity. Thus the appellate court disposed:

**WHEREFORE**, premises considered, judgment is hereby rendered DISMISSING instant appeal and the assailed Decision of Regional Trial Court (RTC), 7th Judicial Region, Branch 45, Bais City, in CRIM. CASE NO. F-99-141-B is **AFFIRMED**. The supreme penalty of death provided for under 266-A in relation to the 4th paragraph of 266-B of the Revised Penal Code as amended by RA no. 8353 is reduced to *reclusion perpetua* by virtue of RA No. 9346 and that, accused-appellants are not eligible to parole.

The monetary award is **MODIFIED** in that, in addition to the P100,000.00 as civil indemnification, the appellants are ordered to pay P50,000.00 as moral damages and P25,000.00 as temperate damages.

Consistent with the ruling of the Supreme Court in the case of **Pp. vs. Mateo** let the entire records of the case be forwarded to the Supreme Court for final disposition of the case.

SO ORDERED.<sup>[34]</sup>

In convicting appellants, both the trial and the appellate courts found that circumstantial evidence sufficed to hold appellants liable.

Hence, the present appeal, appellants positing that the evidence for the prosecution failed to prove with moral certainty that they were the perpetrators of the crime charged."<sup>[35]</sup>

Under the Rules on Evidence, circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstance;