

FIRST DIVISION

[G.R. No. 191271, March 13, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, GERALD PEDRO, VS. SORIANO ALIAS ACCUSED-APPELLANT.

D E C I S I O N

SERENO, C.J.:

This is a review^[1] of the Decision dated 22 October 2009^[2] 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 P75,000 and temperate damages in the amount of P25,000.

SO ORDERED.^[3]

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]

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 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 P100,000 in civil indemnity and P50,000 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 P75,000. He was also ordered to pay the heirs of AAA moral and temperate damages in the increased amounts of P75,000 and P25,000, 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.
- (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, 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