

FIRST DIVISION

[G.R. No. 181119, July 31, 2013]

ARNEL ALICANDO Y BRIONES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

R E S O L U T I O N

REYES, J.:

This is a petition for review on *certiorari*^[1] from the Decision^[2] rendered by the Court of Appeals (CA) on December 14, 2007 in CA-CEB-CR-HC No. 00571 affirming with modifications the conviction by the Regional Trial Court (RTC) of Iloilo City, Branch 23, of Arnel Alicando y Briones (petitioner) for the crime of rape with homicide committed against AAA^[3], a four-year old girl. The RTC imposed on the petitioner the penalty of death and awarded to the heirs of AAA P7,000.00 as actual damages, P50,000.00 as civil indemnity, and P50,000.00 as moral damages. The CA concurred with the RTC's factual findings. However, in view of Republic Act (R.A.) No. 9346^[4] and this Court's pronouncement in *People v. Bon*,^[5] the CA modified the RTC's decision by imposing instead the penalty of *reclusion perpetua*. The CA likewise increased the award to the heirs of AAA of civil indemnity to P100,000.00 and moral damages to P75,000.00. In addition thereto, the CA awarded to AAA's heirs P25,000.00 as exemplary damages.

Antecedent Facts

The CA summed up the facts of the case, *viz*:

In the afternoon of June 12, 1994, [BBB], the father of four-year old [AAA], was having a drinking spree with a group composed of Ramil Rodriguez, Remus Montrel, Russel Autencio and the [petitioner] at his house at x x x. At about 4:45 o'clock in the afternoon, the [petitioner] left while [BBB] conducted his other companions to Lapuz. The [petitioner] was residing at his uncle's house about five (5) arm's length away from [BBB's] house.

When [BBB] arrived home at 8:00 o'clock that evening, he could not find [AAA]. He and his wife looked for her until 2:00 in the morning to no avail.

The following day, Leopoldo Santiago, a neighbor, was surprised when answering the call of nature outside his house, he chanced upon the dead body of [AAA]. It was covered by a fish basin and surrounded by ants. The child was crouched as if she was cold, with her hands on her head. Immediately, the girl's parents were informed. The small, lifeless body was brought to their house.

The matter was reported to the police at once. At this point, Luisa Rebada[,] who lived about 1-1/12 arm's length away from the house of [the petitioner,] related to the girl's distraught parents what she knew.

Luisa Rebada recounted that at about 5:30 of the afternoon before, she saw [AAA] at the window of [the petitioner's] house. She called out to her and offered her some "yemas." The [petitioner] suddenly closed the window. Later on, Luisa heard [AAA] cry and then squeal. Her curiosity aroused, she crept two steps up the house of the [petitioner], peeped through an opening between the floor and the door, and saw [the petitioner] naked on top of [AAA], his right hand choking the girl's neck. Rebada became frightened and went back to her house to gather her children. She told her compadre, Ricardo Lagrana, who was in her house at that time, of what she saw. The latter got nervous and left. That evening[,] when she heard that [AAA's] parents were looking for the child, she called out from her window and asked what time [AAA] left their house. [BBB] answered he did not know. Thus, with Luisa Rebada's revelation, [the petitioner] was arrested.

During the investigation conducted by PO3 Danilo Tan, [the petitioner] readily admitted to raping and killing [AAA]. The police were able to recover from the house of the [petitioner] [AAA's] green slippers, a pair of gold earrings placed on top of a bamboo post, a bloodied buri mat, a pillow with blood stain in the middle, and a stained T-shirt owned by the [petitioner].

An autopsy was conducted and the report of Dr. Tito Doromal, the medico-legal officer, revealed that the child was sexually violated and that the following caused her death: (a) asphyxia by strangulation; (b) fractured, 2nd cervical vertebra; and (c) hemorrhage, 2nd degree to lacerated vaginal and rectal openings.

Consequently, the [petitioner] was charged in Criminal Case No. 43663 for Rape with Homicide before Branch 38 of the [RTC] of Iloilo City. The accusatory portion of the Information reads, to quote:

"That on or about the 12th day of June, 1994 in the City of Iloilo, Philippines and within the jurisdiction of this Court, said [petitioner], did then and there wilfully, unlawfully, and feloniously and by means of force, violence and intimidation[,] to wit: by then and there pinning down one [AAA], a minor, four years of age, choking her with his right hand, succeeded in having carnal knowledge with her and as a result thereof she suffered asphyxia by strangulation, fractured cervical vertebra and lacerations of the vaginal and rectal openings causing profuse hemorrhages and other injuries which are necessarily fatal and which were the direct cause of her death thereafter.

CONTRARY TO LAW."

When arraigned, [the petitioner] entered a plea of guilty. In compliance with law and jurisprudence, the prosecution presented its evidence. It presented (1) Luisa Rebada; (2) Dr. Tito Doromal, the medico-legal officer; (3) SPO1 Manuel Artuz, the exhibit custodian of Iloilo City Police Station; (4) PO3 Danilo Tan; (5) SPO3 Rollie Luz, police investigator; and (6) [BBB], the victim's father. The defense, for its part, merely presented the autopsy report of Dr. Tito Doromal to show that the proximate cause of death was asphyxia by strangulation. Hearings on the merits were successively conducted from June to July in the year 1994.

On July 20, 1994, the trial court rendered a Decision convicting the [petitioner] of the crime of rape with homicide. He was accordingly meted out the penalty of death by electrocution.

On automatic appeal to the Supreme Court, the case was remanded to the trial court for further proceedings. The Supreme Court found that the proceedings before the lower court were tainted with procedural infirmities, namely: (a) an invalid arraignment; and, (b) admission of inadmissible evidence.

Thus, on August 13, 1996, [the petitioner] was arraigned anew whereby he entered a plea of not guilty. The defense filed a motion for inhibition against the Hon. David A. Alfeche, Jr. The motion was granted and the case was re-raffled to Branch 23 of the [RTC] in Iloilo [C]ity presided over by the Hon. Tito G. Gustilo.

Trial on the merits was again conducted. During the hearings, counsel for the defense refused to cross-examine the witnesses who had been presented in the first trial as he interposed a continuing objection to their presentation again as witnesses since their testimonies had already been ruled upon by the Supreme Court as incredible and inadmissible in case G.R. No. 117487^[6].

When the prosecution had finished presenting its evidence, the [petitioner] filed a demurrer to evidence, which was subsequently denied. Instead of presenting evidence, the [petitioner] manifested that he was submitting the case for judgment without presentation of evidence for the defense.

On May 2, 1997, the trial court rendered a decision against the [petitioner], x x x:

x x x x.^[7] (Citations omitted)

The petitioner, through the Free Legal Assistance Group, filed an appeal before the CA claiming that: (a) the pieces of evidence relied upon by the RTC in convicting him were all derived from his uncounselled confession, thus, they should be excluded as they were fruits of the poisonous tree; (b) he was denied due process as his previous counsel had committed gross mistakes and had ineffectively represented him; and (c) his guilt was not proven beyond reasonable doubt.^[8]

The CA concurred with the RTC's factual findings, affirmed the conviction of the petitioner, but modified the penalty and the damages imposed upon him. The CA declared that:

After a careful scrutiny of the Decision rendered by the Supreme Court on automatic review of the judgment issued by the trial court remanding the instant case to the lower court for further proceedings, this Court found out that although the Highest Tribunal did say that "the conviction is based on an amalgam of inadmissible and incredible evidence and supported by sciotic logic", the same did not refer to the testimony of witness Luisa Rebada. In fact, the Supreme Court came to mention witness Luisa Rebada only in reference to the trial court's conclusion that the physical evidence excluded by the Supreme Court "strongly corroborate the testimony of Luisa Rebada that the victim was raped." When the Highest Tribunal annulled and set aside the order of conviction of the [petitioner] on grounds that the Decision was shot full of errors, both substantive and procedural, it enumerated the errors committed by the [RTC], to wit:

x x x x

We note that the testimony of Luisa Rebada was not among those errors named by the Supreme Court. Hence, the observation of the Office of the Solicitor General that "the refusal to cross-examine was a strategy deliberately adopted by the defense. Xxx And other than the deliberate refusal on the part of the [petitioner's] trial attorney to cross-examine Rebada, [the petitioner] has not shown any other act or omission on the part of his former counsel to show 'gross mistake and ineffective assistance' resulting to the denial of due process", is correct.

Moreover, when the case was remanded for trial anew before the lower court, the physical evidence previously ruled upon by the Supreme Court as inadmissible, namely: the pillow and the bloodstained T-shirt of the [petitioner], were no longer offered as part of the evidence for the plaintiff-appellee. Hence, the claim of [the petitioner] that the judgment by the trial court was based on evidence derived from [the petitioner's] uncounselled confession is unfounded. Instead, the trial court relied on the testimony of eyewitness Luisa Rebada, which it found credible, trustworthy and sufficient to sustain a conviction.

x x x x

We note that the worthiness of Rebada's testimony and her credibility as a witness had been passed upon not once, but twice by the trial court Judges David A. Alfeche, Jr. and Tito G. Gustilo. Both judges found the declarations of the eyewitness credible, trustworthy and free from serious and material contradictions.

Further, witness Rebada's testimony is confirmed by the physical