

## SECOND DIVISION

[ G.R. No. 149538, July 26, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. VINCENT HENRY CHUA, APPELLANT.**

### D E C I S I O N

**CALLEJO, SR., J.:**

Alegria Marie Antonette L. Luciano filed a petition with the Regional Trial Court in Angeles City, Pampanga for the confinement of her son, appellant Vincent Henry Chua, in a drug rehabilitation center for drug dependents. On May 20, 1994, the trial court issued an Order granting the petition and ordering the confinement of the dependent at the Gabay Diwa Drug Rehabilitation Center in Angeles City.<sup>[1]</sup> However, on June 18, 1994, the appellant escaped from the center. The trial court, thereafter, issued an Order recommitting him to the center on June 24, 1994,<sup>[2]</sup> but he again escaped.

On August 24, 1994, Magalang, Pampanga celebrated its town fiesta and there was a carnival in Barangay San Nicolas II, Magalang. A closed structure called "Wall of Danger"<sup>[3]</sup> was constructed inside the carnival grounds where stunts were performed.<sup>[4]</sup> The operator of the carnival, Alfonso Verances, had a tent inside the grounds where he and the following helpers slept: Francis Ryan Manabat, who was about twelve years old, Rodelio Santos, Michael (Vandolph) Santiago, Romeo Ignacio (Verances) and Jun Estanislao. Danilo Bondoc, who was then about eleven years old, would go to the carnival grounds and would even run errands for the helpers.

At about 1:00 a.m. on August 28, 1994, Manabat was awakened when he heard a woman shouting, "*Magnanakaw! Magnanakaw!*" Santiago, Ignacio and Estanislao were also roused from their sleep. They asked who the robber was and the woman replied that the culprit was a boy. Santiago, Estanislao and Ignacio found Bondoc hiding in the ticket booth. They tied his feet and hands with a rope and forced him to confess, but Bondoc did not relent.

Momentarily, the appellant arrived and brought Bondoc to a covered structure where he was kept hanging from the top of the ladder. He placed a live electric wire on Bondoc's palms and forced the latter to confess to stealing from the woman. The boy still refused to confess. The appellant untied Bondoc and brought him to a booth where darts are thrown at balloons. He then ordered Ignacio, Santiago and Estanislao to guard Bondoc. The appellant then got a shovel and dug a knee-deep pit near the wall of their house which abutted the carnival grounds. Bondoc was able to flee, but stepped on a G.I. sheet which created noise. The appellant ran after him and brought the boy back to the covered structure. The appellant then repeatedly boxed the boy and hit the latter with a piece of wood (*dos por dos*) on the neck and jaw. Bondoc fell, barely conscious.

Santos, who by then, had also been awakened by the commotion, saw the appellant hitting Bondoc with the piece of wood. The appellant then brought the boy to the pit and buried him alive. The appellant then ordered Manabat, Ignacio, Santiago, Estanislao and Santos to disperse, and warned them not to divulge the incident to anyone; otherwise, they would be his next victim. The five helpers went back to sleep.

In the meantime, on August 29, 1994, the RTC issued an Order for the recommitment of the appellant to the rehabilitation center.<sup>[5]</sup> A warrant for his arrest for robbery was also issued by the RTC in "*People vs. Henry Chua*," Criminal Case No. 94-08-58.<sup>[6]</sup>

On September 1, 1994, Ignacio reported the death of Bondoc, at the hands of the appellant, to Jun Sia, a radio commentator and a reporter of the Central Luzon Times, and the latter's co-worker, Bernie Chavit. He also reported the killing to the policemen of Police Station No. 1 in Angeles City. Sia, Chavit and SPO2 Celso de Castro and some policemen of the Magalang police station rushed to the carnival grounds and had the cadaver of Bondoc exhumed. Photographs of the exhumation and the cadaver were taken.<sup>[7]</sup> The policemen then arrested the appellant and brought him to the police station where Ignacio gave a sworn statement to SPO4 Leonardo C. de Leon identifying and pointing to the appellant as the assailant.<sup>[8]</sup>

Dr. Suzette Yalung, the Municipal Health Officer, performed an autopsy of the cadaver of Bondoc and signed her Report containing her findings, viz:

GENERAL APPEARANCE: Body in a state of decomposition.

HEENT: Caved-in fracture of (L) fronto-parietal area of the skull, caved-in fracture of left lower jaw (+) 6-inch curvilinear abrasion, (longitudinal) on (L) anterior neck, (+) fracture of cervical vertebrae.

CHEST/ABDOMEN: (+) discoloration & bloaching (*sic*) all over, body in a state of decomposition.

EXTREMITIES: No fracture, all extremities in flexed position.

CAUSE OF DEATH: Cardio-respiratory arrest due to asphyxiation and severe hemorrhage [Fracture of cervical vertebrae, (L) lower jaw & (L) fronto-parietal area of the skull.]<sup>[9]</sup>

On September 8, 1994, an Information was filed with the Regional Trial Court of Pampanga, Branch 57, charging Chua with murder. The accusatory portion of the Information reads:

That on or about the 28<sup>th</sup> day of August 1994, in Brgy. San Nicolas II, Municipality of Magalang, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, qualified by treachery, abuse of superior strength and cruelty, did then and there, willfully, unlawfully and feloniously assault, attack, box and hit with a piece of wood, a 12-year-old minor Danilo

Bondoc y Ponay, without justifiable reason therefor and as a result of the continuous assault on the person of Danilo Bondoc y Ponay by the accused, said Danilo Bondoc y Ponay sustained fatal and serious physical injuries all over his body and accused, thereafter, threw the body of said Danilo Bondoc y Ponay into a hole dug by the accused and covered the same, resulting to the death of said Danilo Bondoc y Ponay shortly thereafter, to the damage and prejudice of the heirs of Danilo Bondoc y Ponay.

Contrary to law.<sup>[10]</sup>

The appellant, assisted by counsel, was duly arraigned and entered a plea of not guilty.

### **The Case for the Appellant**

The appellant admitted to being at the scene of the crime, but claimed that Bondoc's assailants were Ignacio, Santiago and Estanislao. He testified that at about past midnight of August 28, 1994, he was in the office of the manager at the carnival grounds at Marves Subdivision, where he and his parents and the Chief of Police of Magalang, resided. He was playing *tongking* with the helpers of the carnival. He left for a while and when he returned, saw his cousin, Jomar Basa, and Romeo Ignacio, inside the covered structure talking about Bondoc who was hanging at the top of the ladder. He wanted the boy released, but Ignacio refused and assured him that nothing would happen to the boy. Ignacio tied up Bondoc and brought him to the "dart balloon" booth. Ignacio also kicked Bondoc and ordered Santiago and Estanislao to tie up Bondoc. Santiago and Estanislao did as they were told, and forced him to lie down on his stomach. When he remonstrated to Ignacio, the latter went out to the covered structure and took a .45 caliber gun. Ignacio warned him not to interfere with the carnival helpers. He told Santiago to give biscuits to the boy, but Estanislao objected and even warned him that he was a police officer.

The appellant then left, hearing Bondoc's cries as he walked away. When he returned to the place, he saw the boy being kicked on his feet and palms by Estanislao and Santiago. He asked that Bondoc be released, but his request went unheeded. On orders of Ignacio, Estanislao got a shovel, and dug a hole with Santiago's help, while Ignacio watched over Bondoc. Bondoc was able to run away, but stepped on a G.I. sheet which created noise and alerted the three. Ignacio, Santiago and Estanislao ran after the boy, collared him and brought him to the covered structure where he was electrocuted by Ignacio with a wire that Santiago produced. The appellant protested to this, but Ignacio told him that even if he protested, he would still be implicated anyway.

By this time, the commotion had attracted several bystanders, male and female. Ignacio covered Bondoc's mouth with a handkerchief which was supplied by Santiago. The boy was then brought to a hole where Ignacio hit him with a piece of wood. Bondoc fell into the hole, whereupon Ignacio buried him. On orders of Ignacio, Santiago and Estanislao placed garbage on top of the boy's grave. Ignacio warned the appellant that if he revealed the incident to others, he would be implicated. The appellant then went home and slept. He was awakened by his uncle, Jerry Luciano, who told him that policemen were looking for him. He was brought to the police station where he was detained and charged for the death of

Bondoc.

Jomar Basa corroborated, in part, the appellant's testimony, but testified that the helpers in the carnival grounds, aside from Ignacio, Santiago and Estanislao, as well as Darwin David and Oliver Santos, witnessed the crime. He also saw Bondoc being tied and kicked. He asked Ignacio to turn over custody of Bondoc to him, but Ignacio refused. He left the carnival grounds along with Santos and David. When they returned, they saw Lovely Ignacio, Romeo Ignacio's wife, and asked where the boy's body was, and the latter replied that Bondoc had gone home already.

The appellant presented Rodolfo La Madrid, Geoffrey Alegre, Oliver Santos, Macario Paulino, Jocelyn Roberto and Rufino Ang, to corroborate his testimony and fortify his defense.

After trial, the court rendered judgment convicting the appellant of the crime charged. The court declared that the appellant was a minor when the crime was committed; hence, was entitled to the privileged mitigating circumstance of minority under Article 68 of the Revised Penal Code. The decretal portion of the decision reads:

WHEREFORE, finding the accused Vincent Henry Chua guilty beyond reasonable doubt of the crime of Murder, the Court hereby sentences him to suffer the penalty of 17 YEARS, 4 MONTHS and 1 DAY OF *RECLUSION TEMPORAL*, as minimum, to *RECLUSION PERPETUA*, as maximum, with full credit of his preventive imprisonment.

As to the civil liability, the accused will indemnify the family of the victim as follows:

- A. Actual damages in the amount of FIFTY THOUSAND PESOS (P50,000.00);
- B. Moral damages in the amount of FIFTY THOUSAND PESOS (P50,000.00);
- C. Exemplary damages under Art. 2230 of the Civil Code of an appropriate amount of TWENTY THOUSAND PESOS (P20,000.00); and
- D. Attorney's fees in the amount of FIFTEEN THOUSAND PESOS (P15,000.00).<sup>[11]</sup>

On appeal, the Court of Appeals rendered judgment affirming the judgment of the trial court, but applied Article 63 of the Revised Penal Code and increased the penalty to *reclusion perpetua*. The appellate court considered the minority of the appellant merely as a generic mitigating circumstance, and concluded that such minority could not be considered a generic and a privileged mitigating circumstance at the same time. The appellate court certified the case to this Court for review, conformably to Rule 124, Section 13 of the Revised Rules of Criminal Procedure.

### **The Present Appeal**

The appellant did not file any supplemental brief with this Court; neither did the appellee.

In his brief with the Court of Appeals, the appellant averred as follows:

**I**

THE TRIAL COURT ERRED IN DISREGARDING THE FACT THAT THERE WAS A COVER-UP DONE BY THE POLICE AUTHORITIES OF MAGALANG, PAMPANGA, AS TO THE REAL IDENTITIES OF THE CULPRITS.

**II**

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE VERSION OF THE PROSECUTION AS TO THE ALLEGED INCIDENT IS REplete WITH IMPROBABILITIES AND CONTRARY TO HUMAN EXPERIENCE.

**III**

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE PROSECUTION EYEWITNESSES ARE ACTUATED WITH BAD MOTIVE IN IMPLICATING THE ACCUSED-APPELLANT AS THE PERPETRATOR OF THE CRIME AND IN NOT DISCREDITING THE EYEWITNESSES OF THE COMMISSION OF THE CRIME.

**IV**

THE TRIAL COURT ERRED IN DISREGARDING THE TESTIMONY OF DEFENSE WITNESS RODOLFO LA MADRID.

**V**

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF MURDER.

**VI**

THE TRIAL COURT ERRED IN NOT CONSIDERING THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER IN FAVOR OF THE ACCUSED-APPELLANT.

**VII**

THE COURT *A QUO* ERRED IN ORDERING THE ACCUSED-APPELLANT TO PAY ₱50,000.00 AS ACTUAL DAMAGES, ₱50,000.00 AS MORAL DAMAGES, ₱20,000.00 AS EXEMPLARY DAMAGES AND ₱15,000.00 AS ATTORNEY'S FEES.<sup>[12]</sup>

The appellant asserts that the testimonies of Manabat and Sia are incredible. He contends that he was only seventeen years old when the crime was committed and, as such, he could not have committed the crime alone. He insists that there must