

EN BANC

[G.R. No. 139906, March 05, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTHONY MANGUERA Y ALINGASTRE, ACCUSED-APPELLANT.**

DECISION

VITUG, J.:

Anthony Manguera was sentenced to suffer the extreme penalty of death by the Regional Trial Court, Branch 6, of Tanauan, Batangas, for raping and killing AAA. The conviction of Manguera rested largely on the declaration made by the victim shortly before she died.

Anthony Manguera was charged with the crime of rape with homicide before the Regional Trial Court, Branch 6, of Tanauan, Batangas, in an information that read:

"That on or about the 25th day of February 1996, at about 6:30 o'clock in the evening, at Barangay [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA against her will and consent and by reason or on the occasion of the said rape, accused, armed with a bladed instrument, with intent to kill, willfully, unlawfully and feloniously stabbed the said AAA with the said instrument, thereby inflicting upon the latter stab wounds on the different parts of her body which directly caused her death."^[1]

When arraigned, Anthony Manguera entered a plea of not guilty.

The prosecution presented its evidence, hereunder narrated, following Manguera's plea of innocence.

On 25 February 1996, just after sunset, a neighbor of AAA, while walking on her way home in Barangay San Miguel, Sto. Tomas, Batangas, thought that she heard AAA screaming, "Inay, Inay," from a nearby coconut plantation. Worried, the neighbor, Josephine Managa, proceeded to the [REDACTED] residence to inquire if AAA was already home. When [REDACTED], AAA's older brother, informed her that AAA had not as yet arrived, Josephine told him of what she had heard from the nearby plantation. [REDACTED], accompanied by Josephine, along with his mother, his sister, and his wife rushed to the place where AAA's voice was said to have been heard. Upon reaching the site, [REDACTED] asked Josephine to point to the exact location where she had heard the cries. Suddenly, [REDACTED] heard AAA call, "*Kuya, kuya, tulungan mo ako.*"^[2] He ran towards the spot where the voice was emanating from and found AAA lying naked, her panties and shorts pulled down to her left ankle.

█████ inquired from his sister what had happened. AAA replied "*Kuya, ginahasa ako.*"^[3] When asked who was responsible for it, AAA replied "*Si Nognog, si Nognog.*"^[4] "Nognog who," █████ pressed on, and AAA answered, "Anthony Manguera." Moments later, AAA, visibly weak, told her brother "*Kuya, parang hindi ko na kaya. May saksak ako sa likod.*"^[5] █████ turned her sister's back and saw that it was bloodied with stab wounds. He covered her with her torn clothes and brought her to a vehicle brought by their father who meanwhile followed them to the plantation. When queried whether Anthony Manguera was with her on her way home, she answered, "No, he was waiting for me ("*inaabangan*") and raped me and stabbed me."^[6] AAA died on the way to the Municipal Health Office in Sto. Tomas, Batangas. The *post mortem* report disclosed:

"FINDINGS: HEAD - contusion hematoma, 2 x 1.5 cm., chin
NECK - linear superficial lacerated wound, anterior aspect extending from left to right.
BACK - multiple stab wounds #10, sizes ranging from .5 cm. to 2 cm., 4 to 8 cm. deep

PELVIC EXAM'N: IE - admits 2 fingers with ease

Hymen – with multiple lacerations at 1, 3, 6 and 10 o'clock position.

Note - vaginal swab obtained, specimen sent to PCCL.
"CAUSE OF DEATH - Cardio-pulmonary arrest secondary to multiple stab wounds."^[7]

After an investigation at the police headquarters in Sto. Tomas, Batangas, police officers, accompanied by █████, apprehended Anthony Manguera that same evening at his residence in Barangay San Miguel, Sto. Tomas, Batangas. Manguera was only fifteen (15) years old at the time.

In his defense, Manguera interposed denial and *alibi*. He claimed that at around six o'clock on the late afternoon of 25 February 1996 until about eight o'clock that evening, he was at their house in Barangay San Miguel, attending to his father's guests that included a number of barangay officials and policemen. Among them was Brgy. Capt. Fabio Leycano of San Bartolome, Sto. Tomas, Batangas, who testified that at approximately five o'clock that afternoon, he was with Manguera who served the group "pulutan". Diosdado Ilagan, a barangay tanod of San Miguel, stated that on the late afternoon and early evening of 25 February 1996, he was at the house of the Mangueras. He learned about the crime only the following morning, and that he knew of another suspect in the crime, a certain Orlando Millar, a.k.a. "Nognog," who was arrested but later released by the police. Ilagan claimed that Millar used to go to his store and at one time Millar happened to mention that he was courting AAA. At a little past five o'clock on the afternoon of 25 February 1996, he saw Millar in Barangay San Miguel. Tomas Manguera, an uncle of Anthony Manguera, testified that he arrived at the house of the accused at about half past six o'clock in the afternoon. At eight o'clock that evening, policemen arrived at the house and invited his nephew Anthony Manguera for questioning at the police station.

Dismissing the defense of denial and of *alibi*, the court *a quo* found Anthony

Manguera guilty beyond reasonable doubt of the crime of rape with homicide and imposed upon him the death penalty. Manguera was also ordered to indemnify the heirs of AAA P100,000.00 by way of moral damages and P39,613.35 for funeral expenses. The trial court, relying heavily on the dying declaration of AAA, narrated by his brother [REDACTED], said -

"There can be no dispute that from the testimony of Dr. Gloria Andaya, AAA was bumped on her head causing hematoma and was raped. She died later from the multiple stab wounds she sustained in the early evening of 25 February 1996.

"The author of the rape and the multiple stab wounds sustained by AAA was identified by her to be a person nicknamed Nognog. Nognog, according to her, was Anthony Manguera, the son of Tonio from the East with a tricycle. The accused, Anthony Manguera, admits that he was called Nognog since his childhood.

"Under Article 335 (1) of the Revised Penal Code, having carnal knowledge of a woman by the use of force and intimidation constitutes the crime of rape.

"AAA's revelation to her brother, [REDACTED], as to the identity of her sexual attacker and assailant is admissible in evidence as a dying declaration. Section 31, Rule 30, of the Revised Rules of Court provides that the declaration of a dying person, made under a consciousness of an impending death, may be received in a criminal case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death. Very early decisions of the Supreme Court on the evidentiary weight and admissibility of dying declarations propound:

"The reasons for the admissibility of dying declarations as an exception to the hearsay rule are (a) necessity and (b) trustworthiness. Necessity, because the declarant's death renders impossible his taking the witness stand; and it often happens that there is no other equally satisfactory proof of the crime. Hence, it is allowed to prevent a failure of justice. And trustworthiness for in the language of Lord Baron Eyre, the declaration is 'made in extremity, when the party is at the point of death and every hope of this world is gone; when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth. A situation so solemn and awful is considered by the law as creating an obligation equal to that which is imposed by an oath administered in court' (U.S. vs. Gil, 13 Phil 549).

"A man at the point of death who is convinced that he is going to die is not in a condition to invent a story to prejudice the accused (People vs. Alfaro, 83 Phil 85).

"The statements made by an individual who is seriously wounded, at a moment when he was dying, being convinced

that there was no hope of recovery, constitute per se at least a grave conclusive and decisive indication of the culpability of the persons designated by the dying man, inasmuch as it must be assumed that he, being in so precarious a condition, spoke truthfully, and that he was not induced by a desire to tell a lie and to injure an innocent person (U.S. vs. Castellon, et al., 12 Phil 160).'

"AAA sustained a head blow as if hit by a hard object and multiple stab wounds at her back. Her statement to her brother, [REDACTED]: 'Kuya parang hindi ko na kaya. May saksak ako sa likod' cannot be given any other meaning than that she was conscious that her death was imminent. Her meaning was clear to [REDACTED] who told her to hold on 'lakasan mo ang loob mo,' and she asked for water. She was declared dead upon her arrival at the hospital. She made the revelation identifying her attacker and assailant when, upon her cries of 'Kuya, tulungan mo ako,' [REDACTED] came upon her lying naked with blood on the grass underneath her. She added that the accused had lain in wait for her (inabangan) and raped her and stabbed her. AAA was a sixteen-year old, fourth year high school student. Clearly, all the conditions for the admissibility of her dying declaration are present:

"Conditions on which the admissibility of dying declarations depend:

- (a) That death be imminent and that declarant be conscious of that fact;
- (b) That the preliminary facts which bring the declaration within its scope be made to appear;
- (c) That the declaration relate to the facts or circumstances pertaining to the fatal injury or death;
- (d) That the declarant would have been competent to testify had he survived (31 C.J.S., 987-988)."^[8]

In this appeal, Anthony Manguera assails the dying declaration of the victim identifying him to be the author of the dastardly crime and blames the trial court for ignoring the defense of *alibi*.

The Court, quite unfortunately for appellant, sees no sufficient justification for a reversal of the factual findings and judgment of conviction made by the trial court. Nor can it be faulted for accepting the *ante mortem* declaration of AAA testified to by [REDACTED]. On direct-examination, the latter testified:

"Q *What was her position, except seeing her naked?*

"A *She was lying down on top of banana leaves, sir.*

"Q: *After seeing her in that position, what step did you and/or your group do?*

"A: *I asked her who did this to her.*

"Q: *What was her answer?*

"A: *She answered, 'Si Nognog, si Nognog,' sir.*

"Q: *What else happened after she answered 'si Nognog'?*