

EN BANC

[G.R. No. 132218, July 24, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE NAVARRO, JR., APPELLANT.

DECISION

PER CURIAM:

The guilt of an accused must be proven beyond reasonable doubt. But what happens when the lips of the victim as the lone eyewitness had been silenced by her gruesome death? This case shows that circumstantial evidence, when sufficient, can be the basis of conviction for a crime punishable by death.

On automatic review is the decision^[1] of the Regional Trial Court of Urdaneta, Pangasinan (Branch 46), the decretal portion of which reads:

WHEREFORE, finding JOSE NAVARRO, JR. guilty beyond reasonable doubt of the crime of RAPE WITH HOMICIDE, the Court hereby sentences him to suffer the penalty of DEATH to be implemented in the manner prescribed by law.

The accused is also ordered to pay the heirs of the victim the sum of P50,000.00 as actual damages and P150,000.00 for moral damages.

The Branch Clerk of Court is hereby ordered to prepare the mittimus immediately and transmit the records to the honorable Supreme Court of the Philippines for automatic review.

SO ORDERED.^[2]

On December 4, 1996, an Information was filed charging Jose Navarro, Jr. of Rape with Homicide as follows:

That on or about October 6, 1996 at Poblacion Sur, municipality of Sison, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused by means of force and violence, did, then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, a minor of 7 years of age, against her will and on the occasion thereof, accused with intent to kill, did, then and there willfully, unlawfully and feloniously maul and strangle to death said AAA, to the damage and prejudice of her heirs.

CONTRARY to Art. 335, Revised Penal Code as amended by R.A. 7659.

Urdaneta, Pangasinan, December 4, 1996.^[3]

Upon being arraigned on October 13, 1997, appellant pleaded not guilty to the crime charged against him. Trial then ensued.

It is the prosecution's position that AAA, the 7 year-old daughter of private complainant [REDACTED], was sexually abused and afterwards killed by appellant Jose Navarro, Jr. by means of strangulation in a forested area located at Poblacion Sur, Sison, Pangasinan.^[4]

The prosecution presented the following witnesses: SPO2 Jovencio Fajarito, SPO1 Alfredo Palado, Ruben Dulay, Dr. Arnold Bandonill, Jeffrey Veniegas, and [REDACTED].

SPO2 JOVENCIO FAJARITO, police investigator of the PNP in Sison, Pangasinan, testified: At around 7:30 in the morning of October 7, 1996, his office received a complaint from [REDACTED] that her daughter, AAA, was missing. SPO1 Galaang and SPO1 Palado responded and at around 10:30 the same morning, said officers found AAA in a forested area at Brgy. Poblacion Sur, Sison, Pangasinan. He immediately proceeded to the place where the body of the victim was found and had the victim photographed. The victim was lying on the ground facing upwards with her two legs spread apart; her face was already swollen and had many ants especially at the eyes; her clothes were in disarray; her dress was raised while her short pants was loose. The nearest house where the victim was found was about 40-45 meters away and belonged to appellant. [REDACTED] identified the victim as her daughter. Upon questioning people in the surrounding area, he (SPO2 Fajardo) received information from Ruben Dulay that appellant was the last person seen with the victim and that he (Navarro) invited the victim to accompany him to pick some guavas. Afterwards, they tried to locate appellant but failed to find him.^[5]

On cross-examination, the witness said that while there were wounds on the neck of the victim and blood stains on her face, he did not see blood in the short pants as well as the shirt of the child.^[6] He also admitted that he no longer attempted to look for other suspects since it was related to him by Ruben Dulay and [REDACTED] that it was appellant who was the last person seen with the child.^[7]

SPO1 ALFREDO PALADO, member of the PNP in Sison, Pangasinan, testified: On October 7, 1996, he was ordered to assist [REDACTED] in finding her missing child. They questioned [REDACTED] who told them that the child was last seen with appellant in the afternoon of October 6, 1996 and that the accused and the victim went to the forested area at the back of the house of [REDACTED]. He and SPO1 Moises Galang together with about twenty persons from the barangay then proceeded to the forested area near the house of [REDACTED]. After several hours, Kgd. Ronnie Narcisa informed them through radio that they found the body of AAA. They proceeded to the place where the child was found and called SPO2 Fajarito. They saw the lifeless body of AAA lying on her back with her legs spread apart. There were already worms in her mouth and her left cheek was swollen. There were also bruises in the forehead and other parts of the body. Afterwards, they started looking for appellant with the aid of pictures provided them by appellant's live-in partner.^[8]

In his cross examination, SPO1 Palado admitted that they don't have any other suspect and that they focused on the accused based on the statement of [REDACTED].^[9]

RUBEN DULAY, 48 years old, a construction worker and resident of Poblacion Sur, Sison, Pangasinan, testified: He lives 150 meters from the houses of [REDACTED] and appellant. [REDACTED]'s late husband is a friend of his while appellant was a classmate of his son. On October 6, 1996, at around 2:00 in the afternoon, he accompanied his cousin Danilo Aurea to the house of appellant because Danilo was courting appellant's sister-in-law. When they reached said house, he saw appellant outside the house drinking with Jaime Juralbal. Appellant invited him and Danilo to join them in their drinking. Later, Juralbal and Danilo asked permission from appellant to see his sister-in-law leaving him (Dulay) and the appellant in their drinking. Afterwards a small girl, AAA, came near his back and the appellant upon seeing her eating guava asked her to give him some. Appellant asked AAA where she got the guava to which she answered that it came from the western direction of their house. Appellant asked AAA if there were still guavas and she replied "No more, Kuya." Appellant then said, "I will be the one to see if there are still guavas. Come with me." Appellant held the hands of AAA and they went to the western direction where there were many guavas. This was around 3:30 to 4:00 in the afternoon. He was left alone and drank a little. At around 4:30 p.m., he together with Danilo and Juralbal left the house of Navarro and went home. Around 9:00 that evening, [REDACTED] went to his house and asked him if he saw AAA. The following morning, he joined in the search for AAA. A few hours later, someone shouted that the cadaver of AAA was already found about 60 to 70 meters from her house. AAA's body lay facing upward, the left eye was protruding with earth in her mouth, her legs were spread apart and there was blood stain in her organ.^[10]

On cross-examination, he asserted that he has no ill feelings towards appellant but admitted that he has poor eyesight and that he only saw AAA in the afternoon of October 6 for only about a minute.^[11]

DR. ARNOLD BANDONILL, a Medico Legal Officer of the National Bureau of Investigation, stationed in Baguio City, gave his testimony as follows: On October 10, 1996, he examined the body of AAA per letter request of the Chief of Police of Sison, Pangasinan. He noted cyanosis or the blueness of the skin on the lips and nail beds suggesting loss of oxygen due to asphyxia. He also found contusions on the middle of the forehead, right temple, and the right and front sides of the neck. He explained that such injuries could be caused by hard smooth instruments such as a piece of wood, a stone or a fist of a man. He also found abrasions at the right temple and the right side of the neck as well as the left upper extremity, right deltoid area, back left side of the supra scapular area, thigh, and medial aspect caused by hard rough surface that came in contact with the skin. He also found bleeding in the nose and mouth as a result of pinching in the area. While the genital area was already in an advanced state of decomposition such that the hymen has been turned into a blackish pultaceous mass which cannot be easily identified, the surrounding tissue particularly the vestibular mucosa that was inside the genital area was still inflamed and reddish indicating that there was trauma in that area caused by a hard rigid instrument like a piece of wood, finger, or an erect male organ. He finds that rape took place and that the cause of death was asphyxia by manual strangulation and traumatic intracranial hemorrhage.^[12]

During the cross-examination, Dr. Bandonill admitted that the vestibular mucosa was part of the external female genitalia and that there is a possibility that the

redness in this area was caused by having been boxed in said area.

JEFFREY VENIEGAS, 18 years old, laborer, resident of Poblacion Castro, Sison, Pangasinan, testified: He knows [REDACTED] since his father and her late husband were good friends and their houses are near each other. At around 4:30 in the afternoon of October 6, 1996, he was on his way to get his cow at the river near their house when he saw a person behind him who looked like a thief. The man was wearing a black maong pants and white t-shirt which had blood stains and the man came from the "buho" groves where there were no houses. He identified the appellant as the one he saw whose t-shirt had blood stains.^[13]

On cross-examination, he testified that he was frightened when he thought that the man at his back was a thief, thus, he immediately turned his face. Also, he said that while his house was near those of [REDACTED]'s and appellant's, he did not know the appellant.^[14]

[REDACTED], mother of the victim, is a 43 year-old balut vendor and resident of Poblacion Sur, Sison, Pangasinan. She testified: Her daughter AAA died on October 6, 1996 at the age of seven.^[15] At around 3:30 in the afternoon that day, she noticed that AAA was nowhere to be found. She first looked for AAA in school, then at her friends' house. Later, upon talking to Ruben Dulay, she found that AAA was brought by appellant who is a nephew of her husband to the "buho" or bamboo groves. At 12:00 o'clock midnight, she went to San Fernando, La Union because appellant also lived there. Upon reaching San Fernando, she was told by her mother-in-law that appellant was not there thus she went back to Sison and arrived around 5:00 in the morning of October 7, 1996. She went to Brgy. Captain Padua to report that her child was missing. The barangay captain together with other persons started looking for AAA. Then, she went to the PNP station to report her daughter's absence. Policemen Palado and Galang responded. One of her neighbors, Jeffrey Veniegas, told them that he saw a man with bloodied t-shirt at the vicinity of the "buho" groves at about 4:30-5:00 in the afternoon of October 6. Later, she was informed that the body of her daughter was found and she lost consciousness. She suffered from the death of her daughter, who at the time was an honor student. She incurred expenses in the amount of P50,000.00 for her wake and burial.^[16]

On cross-examination, [REDACTED] denied that prior to the incident, her relationship with the appellant and his mother was estranged.^[17] [REDACTED] averred that while there were receipts for the expenses she incurred, these are no longer in her possession, hence her failure to present them in court.^[18]

For its part, the defense claims that appellant left Poblacion Sur, Sison, Pangasinan, at around 11:00 o'clock in the morning of October 6, 1996 and went to the house of his live-in partner, Myla Gadang, in Lower Quirino Hills, Baguio City, where he stayed until October 2, 1997. Appellant and his mother testified in support of this claim.

Appellant JOSE NAVARRO, JR., 23 years old, driver and a resident of Baguio City, testified as follows: He knows [REDACTED] since she is the wife of his uncle Ricardo. On October 6, 1996, between 9:30 to 10:00 in the morning, he was in their house at Poblacion Sur, Sison, Pangasinan which was around 100 meters away from the house of [REDACTED]. He woke up with a hang-over because of drinking the night before. His brother-in-law arrived from Baguio and invited him to drink again which

made his wife angry. He and his wife quarreled which drove his wife to go to the house of their neighbor. There he followed, but when he reached their neighbor's house, his wife had already boarded a tricycle. He then went home and invited his brother-in-law to go to Baguio City with him but his brother-in-law declined. This was at around 11:00 in the morning. He arrived at Lower Quirino Hills, Baguio City at around 12:30 in the afternoon. His mother, Francisca, and wife, Myla, were already there. He and his wife continued their exchange of words. The following day, his wife went back to Sison by herself and returned to Baguio City that same evening, informing him that his cousin, AAA died and that he is a suspect in the killing. He did not go back to Sison because there was a "shoot to kill" order against him.^[19]

Appellant also testified that Ruben Dulay had ill-feelings towards him because he did not help Dulay's son when the latter got jailed and that [REDACTED] may have ill-feelings towards him since he told her to vacate the place where their house is erected as the land is owned by his mother.^[20]

On cross examination, appellant testified that when he left Sison, Pangasinan for Baguio on October 6, 1996, he did not bring any Personal belongings with him and stayed in Baguio until he was apprehended by the Baguio police on October 2, 1997 for a different offense.^[21]

FRANCISCA NAVARRO, mother of the appellant, is 51 years old, a laundry woman and a resident of Baguio City.^[22] She testified: Around noon of October 6, 1996, she was in Quirino Hills, Baguio City in the house of Myla Gadang, taking a rest after washing clothes. Soon Myla arrived and told her that she had a quarrel with appellant. At around 1:00 in the afternoon, appellant arrived. The two continued their quarrel. Her son did not leave the house until the following morning or on October 7 when appellant accompanied Myla to the bus station going to Sison. Myla went to Sison in the morning of October 7 and returned at around 7:00 p.m. of the same day telling them that the daughter of [REDACTED] died and that appellant was a suspect. Appellant denied that he killed AAA because he was in Baguio City. She told her son to surrender but her son answered "Why should I report to the police when I did nothing?" From October 6, 1996 to October 2, 1997, appellant was in Baguio driving.^[23] Francisca claims that Ruben Dulay had ill-feelings towards them because her son refused to help Dulay's son when the latter was imprisoned.^[24]

The trial court enumerated in its decision dated January 5, 1998, the facts established by the evidence presented, to wit:

- (1) Ruben Dulay, Juralbal, Danilo Aurea and Jose Navarro, Jr., were drinking in the house of the latter, located at Poblacion Sur, Sison, Pangasinan at about 2:00 o'clock in the afternoon of October 6, 1996;
- (2) That while Navarro and Ruben Dulay were drinking, AAA approached them. Jose Navarro saw AAA eating guava. Navarro asked AAA to give him some guavas. AAA gave the guava to Navarro. Later, Navarro asked AAA where she got the guava. AAA told him, she got the guava from the western direction in relation to the house of Jose Navarro.