

## THIRD DIVISION

[ G.R. No. 142532, November 18, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOHNNY M. QUIZON, APPELLANT.**

### D E C I S I O N

**VITUG, J.:**

A decision, dated 27 March 2000, of the Regional Trial Court of Angeles City, Branch 29, found appellant Johnny M. Quizon guilty beyond reasonable doubt of the crime of Robbery with Homicide under Article 294 of the Revised Penal Code. He was sentenced by the trial court to suffer the penalty of *reclusion perpetua*. The Information charging him with the offense, to which he pled "not guilty," read:

"That on or about the 5th day of September, 1997, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above- named accused, with grave abuse of confidence, with intent of gain, and by means of violence, did then and there willfully, unlawfully and feloniously take and carry away, against the consent of the owners thereof, a cash money amounting to P17,000.00 and assorted jewelry, belonging to the Suarez Travel Agency and/or Conchita M. Pasquin, with a total value of no less than P17,000.00, to the damage and prejudice of the owners thereof in the said total sum; that on the occasion of the said robbery and for the purpose of enabling him to take, steal and carry away the said articles and money, the herein accused did then and there willfully, unlawfully and feloniously, with evident premeditation and taking advantage of his superior strength, and with intent to kill, treacherously attack, assault, and with the use of personal violence upon said Conchita M. Pasquin, thereby inflicting upon the latter mortal injuries after accused stuffed her mouth with a clothing an outcry, and as a direct result of which, said Conchita Pasquin died."<sup>[1]</sup>

The case for the prosecution was pieced together by the trial court from the testimony of a number of witnesses.

Conchita Magpantay Pasquin was associated with Suarez Travel Services in Angeles City. She used the offices of the travel agency as also her residence. Although she was separated from her husband, Bonifacio Pasquin, her relationship with him, nevertheless, remained cordial. On 05 September 1997, around nine o' clock in the morning, Conchita went to the adjacent Quitalig Law Office and lent a magazine to a friend, Rowena Abril, a secretary in the law firm. In the afternoon of that day, between one and two o'clock, Rowena heard loud noises coming from Conchita's office, but she did not pay too much attention to the incident. Twenty-five minutes later, a man passed by Rowena as she was leaving her office to go to a nearby store. Rowena had the impression that the man, who was walking hurriedly, came from the office of Suarez Travel Services. At about four-fifty in the afternoon,

Rowena went to see Conchita to return the magazine. She noticed that the door leading to Conchita's office was open but the main door was closed. Since nobody opened the door for her, Rowena decided to leave.

At lunch time on 05 September 1997, Myla Miclat and her live-in partner Roel Sicangco went to see Conchita to hand over the amount of P17,000.00 in payment for Myla's round trip plane fare to Guam. While they were inside Conchita's office, Johnny Quizon, whom Conchita introduced as her nephew, came in. Conchita asked her nephew if he already had taken his lunch. Conchita told Myla that her nephew was a former drug addict, and that she was helping him mend his ways. Quizon was present when Myla gave the money to Conchita. Conchita told Myla that she was going to purchase the ticket and instructed her to return later that day to pick it up. It was approximately seven o'clock in the evening when Myla, accompanied by a friend, returned to Suarez Travel Services. She knocked at the door but nobody answered although she could see that there was still light inside the work place. Myla tried calling up Conchita but the telephone just kept on ringing. The following day of 06 September 1997, around five-thirty in the morning, Myla returned to Conchita's office. Again, nobody was in sight. Myla went to the agency's neighbor to inquire if there was someone inside the office. The neighbor climbed, peeped inside and saw a body covered with a blanket.

Marietta Suarez, the owner of Suarez Travel Services, received a call at six-thirty in the morning of 06 September 1997 to inform her that something bad had happened to Conchita. She did not go to the office the day previous as she had to accompany her husband to a social function. Marietta and her husband forthwith proceeded to the agency. A number of police officers and some people were by then at the scene. Apparently, the policemen forced open the door and found the body of Conchita wrapped with a white blanket. Conchita's jewelry box and the money paid by Myla were missing.

On the evening of 06 September 1997, Conchita's husband, Bonifacio Pasquin, who was then in Bataan received a call from his brother-in-law Jose Servidal informing him of Conchita's death. The following morning, on his way to Angeles City, Pasquin chanced upon Conchita's eldest brother, Jose Magpantay, who was also bound for the city. Magpantay informed Pasquin that on 05 September 1997, he received a call from Conchita who told him that she was going to Manila to bring an undetermined sum of money. Conchita happened to mention that her nephew, Johnny Quizon, was in her office at that time. Later, during the investigation, Pasquin showed Rowena a picture of Quizon and she identified him to be the same person who passed by her in haste that afternoon of 05 September 1997.

Dr. Proceso Mejia, a City Health Officer of Angeles City, conducted an autopsy on the remains of Conchita at half past noon on 06 September 1997. The body showed discoloration on the face, neck, back and upper extremities, contusion on the right side of the face and abrasions on her right and left side of the neck, right elbow, right forearm and the palm. Dr. Mejia concluded that at the time of his examination, Conchita must have been dead for more than twelve, but not beyond twenty-four, hours. Dr. Mejia did not find any abnormalities on the body of the victim and decided to send the vital organs to the Medico-Legal Officer of the National Bureau of Investigation (NBI) for toxicological and histopath examination.

Dr. Noel Minay, a medical specialist of the National Bureau of Investigation,

conducted a pathological examination on the vital organs of Conchita, particularly, her brain, heart, lungs and pancreas. He concluded that Conchita could have died of cardiac arrest, asphyxiation or ingestion of a considerable amount of poisonous substance.

The case was referred for investigation to SPO2 Danilo Cruz of the Angeles City Detective Group. After reading the initial report, SPO2 Cruz, accompanied by SPO2 Alfredo Quiambao and a brother of Conchita, went to Quizon's house at 174 Isarog St., La Loma, Quezon City. Johnny's relatives were not aware of his whereabouts but could only say that on the morning of 06 September 1997, Johnny and his live-in partner Fe Coronel went to Tondo, Manila. The trio decided to go to Fe's house in Parañaque City, arriving thereat at around ten o'clock in the evening. Fe's mother told them that Fe had left on 05 September 1997 and had not returned since. In the course of their investigation, SPO2 Cruz interviewed one Rodolfo Cueva, a mailman at the Angeles City Post Office, who told him that he (Cueva) went to Conchita's office between two and two-thirty in the afternoon of 05 September 1997 to deliver an express mail. Cueva left when nobody would open the door. Returning in the morning, he learned that the addressee was already dead.

Johnny Quizon was arrested at his house in Quezon City by police operatives a week after Conchita's burial.

The defense gave its version of the incident.

Nimfa Quizon married the father of Johnny Quizon in 1980, three years following the death of his first wife, Imelda, a sister of Nimfa. Nimfa took care of Johnny since he was barely five years old. On the evening of 04 September 1997, Nimfa asked Johnny to go and visit his aunt Conchita in Angeles City whose television set needed repair. Johnny left La Loma, Quezon City, at about ten o'clock the following morning of 05 September 1997. He arrived in Angeles City between twelve-thirty and one o'clock in the afternoon. At the offices of Suarez Travel Services, he found his aunt Conchita talking with Roel Sicangco and Myla Miclat. He waited. After Roel and Myla had left, Conchita told him that he could not work as yet on the television set as she had a lot of other things to attend to first in Manila. He asked Conchita if she wanted company but she told him to go ahead as she still had to entertain a woman who just came in. He left Conchita's office and saw Roel and Myla waiting for a passenger jeepney. Johnny noticed a man on board a parked vehicle who was holding a clutch bag. He saw the man enter his aunt's office. Meanwhile, he boarded a passenger jeepney and went to the terminal of the Philippine Rabbit bus line. Johnny reached La Loma at four o'clock in the afternoon. He informed Nimfa that he was unable to repair Conchita's television set. Between four-thirty and five o'clock in the afternoon, Nimfa received a call from Conchita who informed him that she sent Johnny home since she had as yet a lot of paper work to do. The following morning, Nimfa was informed of Conchita's death. Johnny was advised by Nimfa not to go to the wake because Conchita's brothers suspected him of being responsible for the killing of their sister. Johnny stayed at the house of his live-in partner and came home only after the burial.

In convicting Quizon of the crime with which he was indicted, the trial court held:

"The fact of death of victim Conchita Pasquin is beyond dispute. Her cadaver was found in her bedroom wrapped with a white blanket. There

was also a contusion on the right side of the face and abrasions on the victim's right and left side of the neck, right elbow, right forearm and at the palm. Accused likewise admitted that he went to the office of the victim in the afternoon of September 5, 1997 and saw thereat Myla Miclat and Roel Sicangco who left ahead of him.

"xxx xxx xxx

"Nobody actually saw how the victim was killed and how the robbery was committed. The Prosecution is relying only on circumstantial evidence to secure the conviction of the accused Johnny Quizon. Under our rules on evidence, 'an accused can still be convicted even if no eyewitness is available provided that enough circumstantial evidence has been established by the prosecution to prove beyond reasonable doubt that the accused committed the crime' (People vs. Lagao, Jr., 271 SCRA 51.)

"xxx xxx xxx

"No direct evidence was presented by the prosecution to establish the guilt of the accused. We are constrained to consider the circumstantial evidence introduced by the prosecution to determine whether the same would be sufficient to convict the accused:

"1. Conchita Pasquin was a victim of foul play. There were contusions and abrasions on the upper part of the body. The steel door of the office was left open the whole night of the September 5 up to the early morning of September 6, when the victim's body was discovered. The light of the office was also on and her body was wrapped in a white blanket when discovered. Definitely she could not have died a natural death.

"2. The accused was at the victim's office in the afternoon of September 5, 1997 when Myla Miclat gave the sum of P17,000.00 for the purchase of her plane ticket in Manila.

"3. The victim was in a hurry to leave for Manila to purchase Myla Miclat's plane ticket. In fact, Myla Miclat was told by the victim to return that evening to the office to get her ticket.

"4. When Myla Miclat and her boyfriend left the victim's office, there were no other person inside the office except the accused and the victim at around 2:00 o'clock in the afternoon.

"5. At around 2:00 o'clock of that same afternoon, Rowena Abril, a secretary of the law office adjacent to the Suarez' office, heard three very loud noises coming from the victim's office. When Rowena went out after around 25 minutes to buy something at a nearby store, she saw the accused hurriedly leaving the said office. The accused hurriedly left for Manila that same afternoon leaving the victim behind who was also in a hurry to go to Manila to purchase the plane ticket of Myla Miclat.

"6. At around 2:00 o'clock of that same afternoon, Rowena Abril heard several knockings at the victim's office but nobody opened the door.

"7. At around 10 minutes before 5:00 p.m., Rowena Abril went to the office of the victim to return the magazine the victim lent to her earlier, but nobody answered her, so she just left.

"8. Myla Miclat returned that evening at around 7:00 p.m. but nobody opened the door of the victim's office.

"9. On September 7, 1997, the body of the victim was brought to the house of the accused but the latter never showed up during the entire wake for the victim.

"10. The police were not able to find him at his girlfriend's house.

"11. The accused also did not attend the burial.

"12. The alibi given by the accused for not attending the wake and the burial of his aunt was that he was trying to avoid his uncles who were mad at him because he was being suspected of killing his aunt. The accused was arrested by the police at their house where the wake was held one week after the burial hence, he was not really afraid of his uncles.

"13. Instead of helping the police in solving the crime and apprehending the killer of his aunt (as he claims to be innocent) the accused went into hiding immediately after the killing.

"14. The victim was not able to leave for Manila to buy the plane ticket for Myla Miclat but the said amount of P17,000.00 for the plane ticket was never recovered.

"The abovesited circumstances clearly made an unbroken chain which leads to one fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the perpetrator of the crime.

"xxx xxx xxx

"WHEREFORE, premises considered, accused Johnny Quizon is hereby found GUILTY beyond reasonable doubt of the crime of Robbery with Homicide and is hereby sentenced to suffer the penalty of *reclusion perpetua*.

"Accused Johnny Quizon is further ordered to pay the heirs of Mrs. Marietta Suarez the sum of P34,133.10 as actual damages and to pay the heirs of Conchita M. Pasquin the amount of P50,000.00 as death indemnity."<sup>[2]</sup>

In his appeal to this Court, Johnny M. Quizon raised the lone assignment of error that -

"THE LOWER COURT ERRED IN FINDING THE ACCUSED- APPELLANT GUILTY OF ROBBERY WITH HOMICIDE WITHOUT HIS GUILT HAVING