

EN BANC

[G.R. No. 147200, December 17, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOSEPHRE TAJADA @ TATA, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

This is an automatic review of the decision^[1] of the Regional Trial Court of Sindangan, Zamboanga del Norte, Branch 11, finding accused-appellant Josephere Tajada @ Tata guilty of the crime of Rape with Homicide, and sentencing him to suffer the penalty of death and to pay the heirs of the victim, Sabina Ejalon, the amounts of P100,000.00 as civil indemnity and P50,000.00 as moral damages.

The Information charging accused-appellant of the crime of Rape with Homicide, reads:

That, in the afternoon on or about the 15th day of September, 1997, in the municipality of Leon B. Postigo, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste design, did then and there willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge with one SABINA EJALON, a 13 year old child, against her will and without her consent; that in pursuance of his evil motive and to better accomplish his evil purpose the said accused, did then and there attack, assault, box, drag and beat one said SABINA EJALON, thereby inflicting upon her injuries on the vital parts of her body which caused her instantaneous death; that as a result of the crime the heirs of herein victim suffered the following damages, viz:

a) Indemnity for victim's death..... P50,000.00

b) Loss of earning capacity..... P20,000.00

CONTRARY TO LAW.^[2]

Upon arraignment on May 8, 1998, accused-appellant pleaded not guilty.^[3] Trial on the merits ensued.

The facts as presented by the prosecution are as follows:

At around 5:00 in the afternoon of September 15, 1997, accused-appellant Josephere Tajada @ Tata, who appeared intoxicated, went to the store of Lydia Lapuag Arenda in Barangay Manil, Leon Postigo, Zamboanga de Norte. Lydia noticed that accused-appellant was carrying two bundles of string beans and a plastic bag containing 6 pieces of blue laundry soap. Accused-appellant asked Lydia if he can

barter his string beans and laundry soap for some cigarettes, but the latter refused and told accused-appellant to go home.^[4]

At about the same time, Benedicto Casipong (Benedicto) met the victim, 13 year old Sabina Ejalon, along the Barangay Manil Road, Leon Postigo, Zamboanga del Norte. Benedicto was then headed to the beach and carrying a sack of copra, while the victim, who was wearing a green girl scout uniform, green hat, and slippers, was on her way home from school.^[5]

Benedicto continued walking on the same road. Fifty meters from where he chanced upon the victim, Benedicto met accused-appellant. He saw the latter carrying string beans and a plastic bag containing blue laundry soap.^[6]

The following day, September 16, 1997, Sherlita Ejalon went looking for her daughter, Sabina, who had not come home. She met Benedicto, who told her that he saw the victim the previous day on her way home from school.^[7]

On September 17, 1997, at around 8:00 in the morning, Benedicto and his companion were on their way back to the farm and traversing the same Barangay Manil Road when Benedicto saw the victim's green girl scout hat near the place where he met her two days ago. Benedicto immediately ordered his companion to fetch Barangay Captain Mario Langan.^[8] Mario and others came and searched the area. They started to walk downhill and about 15 meters from the place where the green hat was found, they discovered the bruised lifeless body of the victim on a dry creek, lying face up with a back pack on her back.^[9] She was wearing a school uniform consisting of a white polo-blouse and a sky blue skirt raised to her waist, exposing her panties which were lowered to her thighs.^[10] Likewise found at the crime scene were the slippers of the victim, 2 pieces of blue laundry soap, and string beans scattered on the ground.^[11]

Dr. Jane L. Jaug came and examined the cadaver of the victim right at the crime scene. Her examination yielded the following results:

* Examined the dead body with her left arm at the back with plenty of flies.

HEAD AND NECK : Hematoma with contusion about a fist in size of the Right eye.
: Lacerated wound about an inch in length just below the Right eye.
: Contusion of the Right face about 4 cm. in width x 5 cm. in length with hematoma at the zygomatic area of the Right face about a fist in size.
: Fracture of the nasal bone, with blood clots on both nostrils.
: Multiple abrasions at the surrounding area of the mouth, swollen and contuded.
: Lacerated wound about an inch in length at the upper lip.

CHEST & BACK : Multiple contusions variable in sizes reddish to greenish in color.

ABDOMEN : Distended with contusions at the Epigastric area about 2 cm x 2 cm. in size.

GENITALIA : presence of white underwear worn invertedly.
: Absence of pubic hair.
: Presence of grayish-white to yellowish in color seminal fluids at the labia, no laceration nor blood was noted at the perineum.

ANUS : Presence of hard to soft yellowish stools.

Extremities : Fracture of the left arm with multiple linear abrasions.
: Abrasions at the left lower extremity, multilinear.^[12]

In the meantime, Benedicto informed the Barangay Captain that he saw accused-appellant carrying string beans and a plastic bag of blue laundry soap while following the victim at around 5:00 pm of September 15, 1997. Hence, accused-appellant was arrested and, on the basis of the medical findings, charged of the crime of rape with homicide.^[13]

Accused-appellant, on the other hand, vehemently denied the accusation against him. He claimed that at around 12:00 noon of September 15, 1997, he and his wife, Mercy Tajada, together with their child, Jomar, were selling chicken at the public market of Sindangan, Zamboanga del Norte. At about 4:00 pm of the same day, they went home and arrived at Manil, Leon Postigo, Zamboanga del Norte at 5:00 in the afternoon. While walking along the barangay road, they met Benedicto Casipong who was carrying a basket containing string beans. He greeted him but was ignored. On September 17, 1997, Domingo Egot, a member of *Bantaybayan* together with two others, arrested accused-appellant for raping and killing Sabina Ejalon.^[14]

Accused-appellant's testimony was corroborated by his wife Mercy Tajada, who testified that they did not meet the victim on their way home from the public market.^[15]

On November 24, 2000, the trial court found accused-appellant guilty beyond reasonable doubt of Rape with Homicide, the dispositive portion of which states:

WHEREFORE, in view of all the foregoing facts and consideration, the Court hereby finds the herein accused, Josephere Tajada guilty beyond reasonable doubt of the crime of Rape with Homicide charged in the above-entitled case as defined and penalized under Article 335 of the Revised Penal Code in relation to and as amended by Republic Act No. 7659 and accordingly, he is hereby sentenced to suffer the penalty of death and ordered to indemnify the heirs of the victim P100,000.00 plus moral damages of P50,000.00 (People vs. Payot, G.R. No. 119352, June 8, 1999)

COSTS de officio.

SO ORDERED.^[16]

In view of the imposition of the death penalty, the case is before us on automatic review, pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659.

Accused-appellant raises the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE WITH HOMICIDE DESPITE THE INSUFFICIENCY OF EVIDENCE FOR THE PROSECUTION.

II

THE TRIAL COURT GRAVELY ERRED IN REJECTING THE DEFENSE OF ALIBI INTERPOSED BY APPELLANT DESPITE THE WEAKNESS OF THE PROSECUTION'S ALLEGED 'CIRCUMSTANTIAL' EVIDENCE.^[17]

A judgment of conviction based on circumstantial evidence may be upheld only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person; *i.e.*, the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty.^[18]

In the case at bar, the prosecution was able to establish the following circumstantial evidence:

(1) In the afternoon of September 15, 1997, accused-appellant was carrying two bundles of string beans and a plastic bag containing 6 pieces of blue colored laundry soaps.

(2) At around 5:00 pm of September 15, 1997, Benedicto Casipong met the victim at the Barangay Manil road, Leon Postigo, Zamboanga del Norte. She was wearing a green hat, green girl scout uniform and a pair of slippers.

(3) Benedicto Casipong continued walking and met accused-appellant more or less 50 meters from where he met the victim. Accused-appellant was carrying string beans and a plastic bag containing blue colored laundry soaps.

(4) The next day, Benedicto Casipong met Sherlita Ejalon the mother of the victim who was looking for the latter.

(5) At around 8:00 in the morning of September 17, 1997, Benedicto Casipong found the green hat of the victim near the place where he met her 2 days ago.

(6) Minutes latter, the searching team discovered the lifeless body of the victim downhill in a dry creek about 15 meters from the place where her green hat was found. She was wearing a school uniform consisting of a white polo-blouse and a sky blue skirt raised to her waist, thus, exposing