

SECOND DIVISION

[G.R. No. 130335, January 18, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESSIE OLIVO, JR. ACCUSED-APPELLANT.

DECISION

MENDOZA, J.:

This is an appeal from the decision,^[1] dated February 27, 1997, of the Regional Trial Court, Branch 6, Baguio City finding accused-appellant Jessie Olivo, Jr.^[2] guilty of murder and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim Jane Lorielinda Tacyo y Balongay^[3] the sum of P50,000.00 as indemnity, P63,800.00 as actual damages, P200,000.00 as moral damages, and costs.

The information against accused-appellant alleged:

That on or about the 13th day of June, 1996 or thereabouts, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously stab JANE LORIELINDA TACYO y BALONGAY with the use of a screw driver and smash her head with the use of two big rocks, thereby inflicting upon the latter neurogenic shock due to massive head crushing injuries and multiple stab wounds in the body, which injuries directly caused her death.

That in the commission of the offense there was present the qualifying circumstances of taking advantage of superior strength in that the accused intentionally employed excessive force out of proportion to the means of defense available to the offended party, and scoffing in that the victim was left to lie completely undressed and naked.^[4]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged and so the trial of the case followed.

Fourteen (14) witnesses testified for the prosecution: Hadjie Sakiban, SPO1 Wilfredo Cabanayan, Dr. Vladimir Villaseñor, Dr. John Tinoyan, Teody Ayong,^[5] SPO4 Policarpio Cambod, Junalyn Bantasan,^[6] Richard Bong Jose, Shalimar Gadang,^[7] Richard Lewis Opiawen,^[8] Maybelle Sacliwan,^[9] Wyndell Bautista,^[10] Teodoro Incan, and Jackson Sequiel.^[11]

For its part, the defense presented two (2) witnesses: Renato Pablo, an NBI Fingerprint Expert, and Jessie Olivo, Jr., accused-appellant in this case.

The evidence of the prosecution revealed the following facts:

In the morning of June 14, 1996, the body of a young Igorot woman was found in a canal near the Athletic Bowl at Burnham Park in Baguio City. The woman was naked from the waist down, her bloody face crushed beyond recognition, her mouth open in a silent scream.^[12] Her abdomen, partially covered by a pink shirt, had several tiny stab wounds. There were also wounds on her neck. Scattered around the woman were a hairband, black shoes, white panties, and a pair of dark blue pants. The police recovered from the canal what appeared to be her personal effects, together with two (2) rough rocks stained with blood and a screwdriver about 10 inches in length with a black handle made of plastic or rubber.^[13]

The dead woman was identified by her granduncle, Teodoro Incan, as his grandniece, Jane Lorie Linda "Lorie" Tacyo.^[14] According to the police, she was seen in the morning of June 13, 1996 at the Igorot Garden, Burnham Park. She and two companions had their picture taken in the garden by a street photographer. The colored picture^[15] shows the victim smiling behind accused-appellant and Maybelle Sacliwen. Lorie wore earrings, a headband, dark blue pants, and the pink shirt which the police found on her dead body the following day.^[16]

Dr. John Tinoyan conducted an autopsy on the cadaver of the victim at the Baguio Funeral Homes on June 14, 1996 at 4:45 p.m. He found the following:^[17]

FINDINGS:

1. Contusion hematoma located at the right maxillary area measuring 3 by 4 cm. with surface abrasions;
2. Multiple abrasions scattered on the lower portion of the face with a surface area measurement of 6 cm. by 7 cm. by 5 cm. Internal findings revealed multiple crushing injuries, involving the jaws with complete fractures, 5 transversing lines. The base of the skull was completely showing comminuted fractures making the cervical vertebrae detached from the skull. The atlas and axis were unstable due to multiple fractures. There were subarachnoid hemorrhages on the posterior base of the skull involving the cerebellum and the brain stem.
3. Multiple stab wounds numbering all in all 8 on the anterior lower portion of the neck. The average size was 0.4 cm. width, an average depth of 5 to 6 cm. There were no signs of massive bleeding or reactions on the sight of the stab wounds. Both ends of the stab wounds were blunt.
4. Likewise, a group of stab wounds numbering all in all 10, were located on the hypogastrium, below the umbilicus. Stab wounds have the same size of 0.4 cm. in width, both ends blunt and average depth was around 6 to 7 cm. Internal findings revealed multiple penetration of the small intestine and the urinary bladder. There were no signs of massive bleeding in the abdominal cavity

and tissue reactions are not evident.

5. The external genitalia was intact with no signs of abrasions or lacerations. The vagina admits 2 fingers with ease, intact vagina lining. No fluids were recovered on the posterior vaginal pouch.

CAUSE OF DEATH:

NEUROGENIC SHOCK DUE TO MASSIVE CRUSHING INJURIES OF THE HEAD.

Multiple stab wounds of the body.

Analyzing the abrasions on the face, bone fractures, and hemorrhages in the brain, Dr. Tinoyan concluded that Lorie was probably lying down, with the back of her head on a rough surface, when a piece of rock struck the lower portion of her face. The injuries she sustained when her face was hit were fatal and could have caused her instantaneous death.^[18]

As regards the stab wounds, Dr. Tinoyan said it could have been caused by a thin instrument with a blunt end, like a screwdriver. The victim's body was probably stabbed after she had already died, since there was no massive internal bleeding or tissue reaction. The hair had maggots, indicating that the victim had been dead for about 16 to 24 hours prior to the autopsy.^[19]

Shalimar Gaddang, a former girlfriend of accused-appellant, was interviewed by the police. She said she hung out with Jane at the Mountain Rock Disco, near the Burnham Park, on June 14, 1996, from midnight to 1 a.m. Accused-appellant arrived at the establishment at around 2:00 a.m. Half-an-hour later, Lorie invited Shalimar to take a walk with her and accused-appellant. Shalimar declined the invitation and Lorie left the disco accompanied by accused-appellant. It was the last time Shalimar saw Lorie alive.^[20]

Several friends of accused-appellant said that the screwdriver found near Lorie's body looked very much like the one he usually carried in his back pocket. It was like an icepick and had a handle made of black rubber, like the handle bars of a bike.^[21]

On June 16, 1996, accused-appellant left for Metro Manila. At the Farmers Market in Cubao, Quezon City, he bumped into Jackson Sequiel, a friend of his who worked at the Sphinx Massage Parlor on Aurora Boulevard. Accused-appellant accompanied Jackson to the establishment and found work as a masseur.

Another acquaintance of accused-appellant was Teddy Amyong, the cashier of Sphinx. According to Teddy, one day, accused-appellant told him about an "incident" which happened in Baguio in the first or second week of June. He left Baguio because someone named Lorie had been killed, and he might be implicated in the death of the woman.^[22] Accused-appellant told Jackson that if he was arrested in connection with the killing, he would tell on his companions.

When Teddy and Jackson returned to Baguio, they reported the matter to the police, as a result of which the police arrested accused-appellant in Cubao and brought him back to Baguio City.^[23]

To prove damages, the prosecution presented Teodoro Incan, the granduncle of the victim. According to Teodoro, the family of the victim felt great pain and had already spent P63,800.00 in connection with Lorie's death: P3,500.00 for embalming services; P8,000.00 for transportation of the body to Natonin, Mt. Province; P1,200.00 for a coffin; P400.00 for the funeral services; and P50,000.00 for the wake and several pigs that had been butchered in accordance with indigenous custom.^[24]

Testifying in his behalf, accused-appellant, who was then 18 years old, denied any involvement in the killing. He said that Maybelle Sacliwan introduced him to Lorie at the Mountain Rock Disco a week before she died. He claimed that Lorie remained a mere acquaintance as he already had a relationship with Shalimar Gaddang.^[25] According to accused-appellant, the last time he saw Lorie alive was in the morning of June 13, 1996, when the latter and Maybelle invited him to a picture-taking session at the Igorot Garden.^[26] On the night of June 13, accused-appellant went dancing and drinking at the Mountain Rock Disco with Maybelle Sacliwan, the latter's boyfriend, Ruben Pasiwen, and three friends of Ruben. Lorie was not with them. The group stayed at the disco until the following morning. At around 6 a.m. of June 14, 1996, the friends went to the Igorot Garden and parted ways afterwards. Without sleep, accused-appellant got a can or bucket of water from the house of a friend and went straight to Burnham Park to wash cars with a certain "Jim Boy." At around 4:30 in the afternoon, he went again to the Mountain Rock Disco. He slept from 5:00 p.m. to 8 p.m. in a room below the disco. Then he joined his friends Tammy, Jack, and Chris in the disco. According to accused-appellant, that was when he heard that an unidentified person had been found dead at the Athletic Bowl.^[27]

Accused-appellant said that at 9:30 p.m., Hadjie Sakiban came and invited him and other people to go with him to the morgue to identify the body. Accused-appellant, in turn, invited Ruben to accompany him to the morgue. The group did not recognize the dead person as her face already looked different.^[28]

Hadjie told accused-appellant that the police found the screwdriver which had been used to stab the victim. When the group went to the police station, accused-appellant recognized the screwdriver as the one owned by Wyndell Bautista, a member of the Bukas Kotse gang. Wyndell used it to open cars. He first saw Wyndell carrying the screwdriver on June 8 at the Malcolm Square, where the latter used it to strike cement. Wyndell kept the screwdriver in a bag. Once, while accused-appellant was washing a car, he saw Wyndell steal the car stereo inside by opening the door using the said screwdriver. Accused-appellant also saw Wyndell with the screwdriver on June 13, 1996, the day before Lorie died.^[29]

On June 15, 1996, Maybelle met accused-appellant at the Burnham Park, while he was washing cars. She told him that it was Lorie who had been found dead near the Athletic Bowl.^[30]

On June 21, 1996, accused-appellant met Jackson Sequiel in Baguio City. Jackson invited him to work as a masseur at the Sphinx Massage Parlor in Cubao, Metro Manila. They left Baguio the same day, together with a security guard named "Saldo" or "Zaldy," whom accused-appellant believed was Teddy Amyong. One day, Zaldy told accused-appellant about "a killing" at the Athletic Bowl in Baguio City and

asked him if he was involved. Accused-appellant said he had nothing to do with the crime. Zaldy also asked him if he knew who owned the screwdriver that had been found near the body of the victim. He replied, "No, that is the screwdriver of Wyndell Bautista." After three weeks of working at the Sphinx, a policeman named Robert Fangki arrested accused-appellant and took him back to Baguio City.^[31]

On the basis of the foregoing evidence the trial court rendered its decision on February 27, 1997, the dispositive portion of which states:

WHEREFORE, the court finds the accused, JESSIE OLIVO, JR. guilty beyond reasonable doubt of MURDER as defined and penalized under Article 248 of the Revised Penal Code, as amended by Section 6 of Republic Act 7659 as charged, and hereby sentences him to suffer the penalty of *reclusion perpetua*; to indemnify the heirs of the victim Jane Lorielinda Tacyo the sum of P50,000.00 as indemnity for her death; P63,800.00 as actual damages incurred in connection with her death; and P200,000.00 as moral damages all indemnifications are without subsidiary imprisonment in case of insolvency; and to pay the costs.

In the service of his sentence, the accused Jessie Olivo, Jr., being a detention prisoner is entitled to be credited 4/5 of his preventive imprisonment under Article 29 of the Revised Penal Code.^[32]

Hence, this appeal. Accused-appellant alleges that the evidence on record does not satisfy the test of moral certainty to warrant his conviction for the crime of murder.

After reviewing the records of this case, we are of the opinion that the decision of the trial court finding accused-appellant guilty of murder should be affirmed.

While no eyewitness testified as to the killing of Lorie, there is sufficient circumstantial evidence to warrant the conclusion that accused-appellant committed the crime. To begin with, circumstantial evidence is sufficient to prove the elements of the crime if the following requisites are present: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.^[33]

It has been held that the circumstances or a combination thereof should point to overt acts of the accused, which would then lead to only one conclusion, that is, that the accused is guilty of the crime charged. They should be inconsistent with the theory that the accused is innocent.^[34] In this case, the following circumstances, taken together, sufficiently establish the guilt of accused-appellant beyond reasonable doubt:

1. Two rocks^[35] and a screwdriver^[36] all stained with blood were recovered from the place where Lorie's dead body was found. Dr. Vladimir Villaseñor of the PNP Crime Laboratory found the two rocks and the screwdriver positive for human blood. He also said that the hairstrands found on the rocks belonged to the victim.^[37]