

EN BANC

[G.R. No. 137457, November 21, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSAURO SIA Y DICHOSO, JOHNNY BALALIO Y DEZA, JIMMY
PONCE Y TOL AND JOHN DOE @ PEDRO MUÑOZ (AT LARGE),
ACCUSED-APPELLANTS.**

DECISION

YNARES-SANTIAGO, J.:

Christian Bermudez was beaten to death and the taxicab he was driving was taken by the assailants. His lifeless body, wrapped in a carton box, was recovered several days later in a fishpond in Meycauayan, Bulacan. For the felonies, the above-named accused were indicted for violation of R.A. 6539, otherwise known as the Anti-Carnapping Law, and Murder in two (2) separate Informations, to wit:

Criminal Case No. Q-95-63962 for Violation of the Anti-Carnapping Law:

That on or about August 23, 1995, in the City of Quezon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, herein accused, conspiring, confederating and mutually helping one another did then and there willfully, unlawfully and feloniously take, steal, and carry away one (1) motor vehicle described as Toyota Tamaraw FX; Motor No. 2C-2983302; Chassis No. CF50-0014375; Plate No. NYT-243, owned by BIENVENIDO CRUZ, killing the driver Christian Bermudez in the process, to the damage and prejudice of the registered owner thereof and the heirs of Christian Bermudez.

CONTRARY TO LAW.^[1]

Criminal Case No. Q-95-63963 for Murder:

That on or about 23 August 1995, in the City of Quezon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill qualified by treachery, evident premeditation, taking advantage of superior strength, employing means to weaken the defense or of means of persons to insure or afford impunity, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and use violence upon the person of CHRISTIAN BERMUDEZ by beating him on the head and other parts of the body, thereby causing his death.

CONTRARY TO LAW.^[2]

At the arraignment, only Johnny Balalio y Deza and Jimmy Ponce y Tol appeared and pleaded "Not Guilty."^[3] The third accused, Rosauro Sia y Dichoso, escaped from police custody while on the way to the hospital for treatment.^[4] As a consequence, the two (2) cases were subsequently consolidated and jointly tried against accused Johnny Balalio and Jimmy Ponce only.

After trial, the court *a quo* rendered judgment against both accused imposing upon them the supreme penalty of Death, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Johnny Balalio and Jimmy Ponce GUILTY beyond reasonable doubt as principals by conspiracy of violation of R.A. No. 6539, as amended and hereby sentences them to suffer the penalty of DEATH.

Accused are likewise adjudged jointly and severally [liable] to pay to Agripina Bermudez, the mother of the deceased Christian Bermudez the sums of:

- a. P50,000.00 as compensatory damages for the death of Christian Bermudez;
- b. P200,000.00 as burial and other expenses incurred in connection with the death of Christian; and
- c. P3,307,199.60 ($2/3 \times [80-27] \times 300$ per day $\times 26$ days (excluding Sundays) $\times 12$ months) representing the loss of earning capacity of Christian Bermudez as taxi driver.

Costs against accused.

The cases of accused Rosauro Sia who escaped from custody before he was arraigned and as against Peter Doe who was never apprehended and whose identity has never been known are hereby ordered ARCHIVED, subject to activation when they are arrested and brought before the bar of justice.

SO ORDERED.^[5]

On automatic review before this Court, accused-appellants raised the lone assigned error that:

THE COURT A *QUO* ERRED IN CONVICTING THE ACCUSED-APPELLANTS FOR VIOLATION OF RA 6539 (ANTI-CARNAPPING LAW) SOLELY ON THE BASIS OF THE EXTRA-JUDICIAL CONFESSIONS OF ACCUSED ROSAURO SIA AND JIMMY PONCE (EXHIBITS C AND D, RESPECTIVELY) WHICH ARE INADMISSIBLE IN EVIDENCE.^[6]

The facts as summed up by the trial court are as follows:

The vehicle claimed as carnapped is registered in the name of complainant Bienvenido C. Cruz of No. 1125 Primero de Mayo Street, Tondo, Manila^[7] and operated as a taxi being Unit 2 of KIRBEE TAXI and bearing the following description:

Make/Type : Toyota Tamaraw FX Wagon
Motor
Number : 2-C 2983302
Chassis
No. : CF 50-0014375
Plate No. : NYT-243
Color : Maroon

The said taxi was taken from the garage and driven by its regular driver, Christian Bermudez, the alleged murder victim at about 6:00 a.m. on August 23, 1995. The taxi was last seen at the vicinity of the Pegasus Night Club in Quezon City at about 10:30 p.m. on the said date with an unidentified passenger who surfaced later as the accused Rosauro Sia, whose true name is allegedly Antonio Labrador (Mang Tony) and who resides at San Francisco Del Monte. Accused Rosauro Sia appears to have gypped driver Christian Bermudez to service him the following day (August 24, 1995) in the morning and to be paid P150.00 per hour which was apparently accepted because Rosauro gave instructions to accused Johnny Balalio and Jimmy Ponce to wait for him (Christian) that following morning. When Christian returned to Sia's residence in San Francisco Del Monte that morning, he was told to come back in the afternoon because that was the instruction given him by accused Rosauro Sia. When Christian returned in the afternoon in the Sia residence, he was asked to get inside. As soon as he alighted from the Tamaraw FX taxi he was driving, his hands were tied by Johnny Balalio and was handed to a certain "Pedro", the accused Peter Doe who has not been arrested and who told Johnny Balalio and Johnny (sic) Ponce "Ako na'ng bahala dito". Christian was taken to accused Rosauro and shortly afterwards, the latter was seen lugging with him a big carton box from which blood was dripping. Accused Jimmy Ponce saw Rosauro hand the carton-wrapped lifeless body of Christian inside the carnapped FX taxi. Before leaving with the lifeless body of Christian loaded in the taxi, accused Sia gave P3,000.00 each to Jimmy Ponce, Johnny Balalio and "Pedro" and admonished them not to say anything about what happened. The ring taken from Christian^[8] was given to accused Jimmy Ponce by Rosauro Sia.

On August 26, 1995, the lifeless body of Christian Bermudez was found and retrieved from a fishpond in Meycauayan, Bulacan. This fact was broadcast over the radio and, after hearing the same, Agripina Bermudez went to see the lifeless body retrieved from the fishpond and confirmed it to be that of Christian, whom she claims is her eldest son who was earning about P650.00 a day as a taxi driver.

Photographs were taken on the carton-wrapped body of Christian including one position which shows the latter's body.^[9]

Dr. Benito Caballero, Medico Legal Officer of Bulacan, conducted a postmortem examination of the deceased body of Christian and found that the latter's death was due to shock caused by massive external and intracranial hemorrhage on account of multiple lacerations on the head and fracture of the skull due to use of hard object, possibly iron, for

which he issued certificates of death and postmortem death certificate.
[10]

In the meantime, Bienvenido Cruz, the owner of the carnapped vehicle, reported to the police authorities in Camp Crame the loss of his taxi.^[11] On September 21, 1995, at about 10:30 p.m., the carnapped taxi was intercepted being driven by accused Rosauro Sia, who was immediately placed in custody of the anti-carnapping authorities. While in custody, Rosauro Sia managed to escape but he was recaptured on November 15, 1995 by the manhunt team created for that purpose. As accused Rosauro Sia claimed that he bought the hot car from his co-accused Johnny Balalio and Jimmy Ponce, the latter were picked up from their residence in Baseco, Isla Tawid, Port Area, Tondo, Manila and investigated. Sworn Statement of the accused Rosauro Sia and Jimmy Ponce were taken^[12] narrating their respective participations such as Sia's instruction to Jimmy to guard his (Sia's) gate to deter passersby from snooping around and describing what transpired inside Sia's residence at San Francisco Del Monte when Christian was tied and killed. The Sworn Statement of Bienvenido Cruz, owner of the missing vehicle, was likewise taken. On the basis of the sworn statements of accused Rosauro Sia and Jimmy Ponce, Dr. Benito Caballero, Provincial Health Officer of Bulacan, together with the Certificate of Registration of the FX Taxi and the Death and Postmortem Certificates mentioned heretofore, the Special Operations Unit, Traffic Management Command, PNP, Camp Crame, referred the matter to the authorities of the Department of Justice who, after finding probable cause in the preliminary investigation, filed these cases of Violation of R.A. 6539, as amended, and of Murder against the above-named accused which were consolidated together in this Branch for joint trial.^[13]

In their lone assigned error, accused-appellants contend in sum that the extra-judicial confessions of accused Rosauro Sia and Johnny Balalio, which the trial court heavily relied upon, are inadmissible in evidence since they were executed in violation of their right to counsel. Specifically, accused-appellants argue that the said extra-judicial statements are inadmissible because they were obtained without compliance with the requirements of the law for their admissibility.^[14]

The Solicitor General agrees, stating that during the custodial investigation, Ponce and Sia were not assisted by counsel as required by the Constitution. The trial court's finding that Sia and Ponce were assisted by Prosecutor Pormento when they executed their extrajudicial confessions did not meet the requirement of the law. The Solicitor General further contends that, during his testimony, Ponce vehemently denied having voluntarily executed his alleged statement; rather, he maintained that he was coerced to sign the same and that he did not even know its contents.

Extrajudicial confessions must conform to the requirements of the Constitution.^[15] Indeed, a suspect's confession, whether verbal or non-verbal when taken without the assistance of counsel without a valid waiver of such assistance regardless of the absence of such coercion or the fact that it had been voluntarily given,^[16] is inadmissible in evidence,^[17] *even if appellant's confession were gospel truth.*^[18]

Be that as it may, the inadmissibility of the extra-judicial statements of Sia and Ponce will not absolve accused-appellants from criminal liability because, as pointed out by the Solicitor General, there still is independent evidence to establish their authorship of the victim's killing on the occasion of the carnapping. The Solicitor General asserts that while there was no prosecution witness who positively identified accused-appellants as *particeps criminis*, their culpability was nonetheless proven through circumstantial evidence.

We agree.

Direct evidence of the commission of the crime is not the only matrix wherefrom a court may draw its conclusions and findings of guilt.^[19] The rules on evidence^[20] and case law sustain the conviction of the accused through circumstantial evidence when the following requisites concur: (1) there must be more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt of the guilt of the accused.^[21]

A circumspect scrutiny of the testimonies of the witnesses of both prosecution and defense shows adequate evidentiary bases to establish the aforementioned circumstances.

First, when the police apprehended accused Rosauro Sia while he was in possession of the carnapped vehicle, he immediately pointed to accused-appellants as his accomplices in taking away the victim's vehicle.^[22] Notably, accused-appellants claimed to have met Sia for the first time on August 24, 1995, when Sia supposedly passed by them looking for a certain person. They saw Sia for the second time on November 15, 1995, when Sia and some policemen came to their place to arrest them. If accused-appellants did not actually participate in the perpetration of the crime, it certainly defies reason why Sia would implicate them in so serious an offense when they were practically strangers to him. In this regard, it must be borne in mind that the fact that a witness may have been a co-conspirator in the commission of the offense is not in itself sufficient to dilute the credibility of or, much less, be a ground to disregard altogether his testimony.^[23] Indeed:

By way of exception, the testimony of a co-conspirator may, even if uncorroborated, be sufficient as when it is shown to be sincere in itself, because given unhesitatingly and in a straightforward manner, and is full of details which by their nature could not have been the result of deliberate afterthought.^[24]

Second, defense witness Porferio Fernando testified that accused-appellants were with Rosauro Sia from August 25-28, 1995.^[25] When accused-appellants came back on August 28, 1995, they informed him that they were to guard a *bodega* owned by Sia, which contained a carnapped vehicle.^[26] This testimony of Fernando confirms the fact that accused-appellants were in the company of Rosauro Sia during that critical period when the crime was perpetrated.

Third, upon his arrest, accused-appellant Jimmy Ponce voluntarily surrendered to the police authorities a ring,^[27] admittedly belonging to the victim.^[28] It is a well-settled rule that when a person is found in possession of a thing taken in the doing