

## THIRD DIVISION

[ G.R. No. 128812, February 28, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
THADEOS ENGUITO, DEFENDANT-APPELLANT.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

This case was certified for review pursuant to Section 13, Rule 124 of the Rules on Criminal Procedure by the Court of Appeals<sup>[1]</sup> which found accused-appellant Thadeos Enguito guilty beyond reasonable of the crime of murder with less serious physical injuries and sentenced him to suffer the penalty of *reclusion perpetua*.

Thadeos Enguito was charged with the crime of Murder with Multiple Less Serious Physical Injuries under the following Information:

"That on September 22, 1991 at about 3:00 o'clock early dawn at Marcos Bridge, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with treachery and with evident premeditation, did then and there wilfully, unlawfully, and feloniously chased, bumped and hit the motorela which Wilfredo S. Achumbre was riding with his Ceres Kia automobile bearing Plate No. 722 and as a consequence thereof, the motorela was dragged and fell on the road causing the driver (Felipe Requerme) and its passenger Rosita Requerme to sustain serious bodily injuries while the deceased Wilfredo S. Achumbre was able to run towards the railings at Marcos Bridge but accused with intent to kill him hit instantaneously immediately rammed and hit him with his driven vehicle cutting his right leg and thereafter ran over him thereby causing mortal harm on his body which was the direct and immediate cause of his instantaneous death.

That the wrong done in the commission of the crime was deliberately augmented by causing other wrong not necessary for its commission.

Contrary to Article 248 of the Revised Penal Code in relation to paragraphs 13 and 21 of Article 14 thereof."<sup>[2]</sup>

Upon arraignment, accused, assisted by counsel, pleaded not guilty to the crime charged.<sup>[3]</sup>

Trial ensued. The prosecution presented the following witnesses: Felipe Requerme, Rosita Requerme, PO3 Ricardo Catiil, SPO1 Albert Calingasan, PO3 Virgilio Maquiling, SPO1 Franklin Alamban, Sr., Georgita Achumbre, Dr. Sofronio Sescon and Dr. Apolinar Vacalares. The defense presented Alberto Chaves, Anita Enguito and the accused himself.

In his brief, accused-appellant states that he is in conformity with the findings of facts of the court *a quo*<sup>[4]</sup> which we quote hereunder:

*"Prosecution's Evidence:*

From the testimonies of prosecution witnesses Felipe Requerme, Rosita Requerme, PO3 Ricardo Catiil, SPO1 Albert Calingasan, PO3 Virgilio Maquiling, SPO1 Franklin Alamban, Sr., complainant Georgita Achumbre, wife of the deceased, Dr. Sofronio Sescon and Dr. Apolinar Vacalares, it was established that at about 3:00 o'clock dawn of September 22, 1991, Felipe Requerme, a motorela driver who while driving his motorela with his wife on board, from Lapasan towards Poblacion, Cagayan de Oro City, picked up a passenger near the Nazareno church. The passenger was later identified as the deceased, Engr. Wilfredo Achumbre. Achumbre asked him to bring him across the Marcos bridge towards his home. After travelling a distance of 300 meters more or less and near the Sacred Heart of Jesus Montessori School, Requerme's motorela was bumped by a white motor vehicle. The vehicle kept pushing the motorela causing it to run very fast for the next 400 meters until it reached the area in front of Wheels Marketing. Because of the violent push the motorela turned around facing the direction from where it came from and fell on its right side.

Felipe Requerme screamed for help thinking that his wife was pinned underneath. A tamaraw pick-up stopped near them and he immediately informed that they were intentionally hit by the white vehicle. A short time later a police mobile patrol arrived and with the assistance of the people around, they pushed the motorela to return it to its natural position. Requerme and his wife were brought to the Operation *Kahusay ug Kalinaw* (OKK), a 24-hour police station where all victims of crimes report in Cagayan de Oro. At the OKK the driver of the white service pick-up who bumped his motorela arrived. Requerme identified the driver as Thadeos Enguito whom he pointed inside the courtroom. Later, Requerme and his wife were brought to the city hospital for medical check-up. They were also brought to the Northern Mindanao Regional Training Hospital to identify the deceased. The following day the Requerme spouses went to the police station and executed their affidavits which are attached to the record.

Felipe Requerme presented a medical certificate issued by the examining physician to establish the injuries he suffered (Exh. "A"). Likewise, he presented prescription for medicines and he said that he spent a total amount of P1,000.00 (Exhs. "B", "B-1", "B-2", "B-3").

Rosita Requerme was riding along with her husband and she noticed that when they were near the Sacred Heart of Jesus Montessori School their motorela was bumped by a white motor vehicle. She observed that the face of the driver of the vehicle bumping them was bloody. Mrs. Requerme shouted and waved her hand signalling the driver to stop but the driver kept pushing the motorela violently. The push was so fast and strong that the motorela was already uncontrolled and running very fast. Their passenger jumped out when they were already at the Marcos bridge near the Wheels Marketing. Then the motorela made a 180 degrees turn facing the direction where they came from and fell on its right side. Struggling out of the motorela she noticed that the white vehicle went up the elevated catwalk or pathway pursuing Achumbre who was hit when he was already at the railing (*barandilla*). Then she

observed that the white vehicle drove across the bridge towards Iligan City. At the OKK she saw the accused brought by policemen and she asked him why he bumped them and the accused answered "I have to do it *Manang* because look at me now" (TSN, Dec. 16, 1991). She also observed that the face of the accused was bleeding. She identified the accused in court, as the same person she saw at the OKK. She was treated at the hospital and was issued a medical certificate (Exh. "C"). Together with her husband, they spent P1,000.00 for medicines.

PO3 Ricardo Catiil was assigned as driver of the mobile division patrol no. 07 on September 22, 1991 together with SPO1 Albert Calingasan and Armando Mana. They parked the mobile car at the other end of the Marcos bridge along C. M. Recto Avenue at about 2:30 in the morning. Shortly thereafter, he saw a car coming from Cagayan de Oro poblacion crossing the bridge running fast with a damage on its right portion. He estimated the speed at 80 kph. Observing something unusual they pursued the vehicle, switched on their siren and caught up with the vehicle at Km. 3, 2.6 kilometers from the place of incident. Catiil and the other two policemen alighted from the car and accosted the driver and brought him to the OKK. He noticed that the face of the driver was bleeding which he believed may have been caused by the splintered windshield. Examining the vehicle, they noticed that in addition to the broken windshield, the right portion of the signal light and the head light were also damaged. The right front tire was flat. When asked, the driver admitted that he bumped someone at the Marcos bridge.

SPO1 Albert Calingasan, supporting the testimony of Ricardo Catiil who was the driver of the mobile patrol car 07, declared that they were at the middle of the Marcos bridge when they saw a Ceres Kia car running fast and they pursued it until it stopped at Km. 3. After delivering the accused at the OKK, Calingasan together with his two companions drove back to the place of incident. They saw blood on the street. There were also bits of human flesh found on the cemented road and the right leg was completely severed. Calingasan explained that when they followed at the hospital and viewed the body of the victim, they saw that the right leg was severed from the body.

PO3 Virgilio Maquiling was assigned with mobile patrol 05 of the Cagayan de Oro Police Station at about 2:00 o'clock dawn of September 22, 1991. They were on patrol near the Golez residence almost near the foot of the Marcos bridge facing Iligan City. Maquiling and his companions saw a Ceres Kia coming from Liceo de Cagayan and turned right at the bridge and went towards the place where the incident occurred. Maquiling observed that the way the vehicle was driven, the driver may have been drunk. Twenty minutes later, the same vehicle came back with its right portion damaged. Suspecting that something untoward may have occurred, he called mobile patrol 101 to intercept the vehicle. Not long after a PU driver informed Maquiling and his companions that a motorela was involved in a traffic accident at the other end of the bridge near Licoan Bakery and Restaurant. Proceeding to the place of incident, he saw a body of a person at Abellanos Street which is located immediately below the bridge about 10 feet high. He also saw that the right leg of the person was hanging at the Marcos bridge railing about seven meters away from the body. Maquiling, using his radio, called the paramedic. They immediately brought the body of the victim to the NMRT. Maquiling inspected the crime scene and he observed that the latex paint of the railing was scraped and the trailing was dented.

Dr. Sofronio Sescon identified the medical certificate and he described his findings as follows:

"October 19, 1991

*MEDICAL CERTIFICATE*

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that MR. FELIPE REQU(I)ERME, 42 years old, of Consolacion, Cagayan de Oro City was examined by the undersigned in this hospital on September 22, 1991 at about 3:12 A.M. for:

"Abrasions, about 2 x 4 cm. and 0.5 x 2 cm., with hematoma, Right lumbar area."

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= = = = =

Healing Period: Two (2) weeks barring complications.

This certificate is issued for whatever purpose it may serve.

(SGD.) SOFRONIO C. SESCON, M.D.  
Medical Officer"

Dr. Rogelio Gannaban examined Rosita Requerme at about 3:00 o'clock dawn of Sept. 22, 1991 and he issued a medical certificate (Exh. "C") indicating the following injuries:

"October 19, 1991

*MEDICAL CERTIFICATE*

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that MRS. ROSITA REQU(I) ERME, 41 years old, of Consolacion, Cagayan de Oro City was examined by the undersigned in this hospital on September 22, 1991 at about 3:12 a.m. for:

- Contusion 2.0 x 6.0 cm. Right arm, M/3, medial;
- Contusion 3.0 x 4.0 cm. Right leg, P/3, anterior

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HEALING PERIOD: Three to Five (3-5) days barring complications.

This certificate is issued for whatever purpose it may serve.

(SGD.) ROGELIO R. GANNABAN, M. D.  
Medical Officer IV"

Dr. Apolinar Vacalares, chief of the Pathology Department of the NMRTTH identified the death certificate of Wilfredo Achumbre (Exh. "D", "D-1"). He conducted an autopsy on the cadaver of Wilfredo Achumbre and the following are his external findings:

"x x x

Prosecutor Gamotin:

Q: Now, you made mention that you were the one who conducted on the cause of death of the victim on this particular case - will you please tell the honorable court what was your findings on the victim?

A: On the autopsy table the external findings are - 1) There was a laceration of the forehead and contusions on the left forehead, and 2) Multiple injuries on the head and right extremity, traumatic." (TSN, Dec. 19, 1991, p.9)

x x x"

He also presented an autopsy table showing a diagram of the human body showing therein the injuries suffered by the victim (Exh. "E", "E-1", "E-2"). In examining the body he saw that the right leg was cut at the upper third just below the knee. In the diagram of the human body he identified the injuries on the brain (Exh. "E-5", "E-6", "E-7", "E-8"). The complete findings of Dr. Vacalares are as follow:

"x x x

Prosecutor Gamotin:

Q: Now, what was your findings on the brain of the victim in this case?

A: In opening the brain or the skull, there were blood clots on the external portion of the covering portion and below the distal portion or surface, again there was a blood clot and then the thin membrane that covers the brain is also covered with blood.

Q: You mean to tell this honorable court hemorrhage on the brain?

A: There was a massive hemorrhage." (TSN, Dec. 19, 1991, p. 12)

When asked by the defense counsel regarding a fall from a certain height which would result to a damage of the brain, Dr. Vacalares answered:

"x x x

A: With this drawing with multiple injuries on the leg, it could have fall from a certain height fifty feet or twenty feet but not from five feet height or even ten feet height." (TSN, Dec. 19, 1991, p. 21)

Dr. Vacalares declared that the victim suffered massive hemorrhage and, in fact, it was impossible for the victim to survive even with the most modern medical attendance. There was massive accumulation of clot and no amount of surgery could have saved the victim. Death was almost instantaneous.