

EN BANC

[G.R. No. 125808, September 03, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. RENE TAPALES Y SUMULONG, ACCUSED-APPELLANT

D E C I S I O N

BELLOSILLO, J.:

Circumstantial evidence, or testimony not based on actual personal knowledge or observation of the facts in the controversy but of other facts from which deductions are drawn,^[1] must be weighed and acted upon with extreme caution, particularly when the crime for which the accused stands to be convicted of is a heinous crime that carries with it the supreme penalty of *death*.^[2]

At around 6:00 in the morning of 20 January 1995 the lifeless body of Mildred Calip was found sprawled on a grassy portion of the western shoulder of Lira Street, Lores Country Homes, Antipolo, Rizal, some 110 to 120 meters away from the subdivision's water reservoir. Dr. Ma. Cristina Freyra, Medico-Legal Officer of the PNP Crime Laboratory, conducted an autopsy of the victim's cadaver at 2:00 in the afternoon. Dr. Freyra found that Mildred sustained 25 punctured wounds, 3 stab wounds, 6 contusions, 2 linear abrasions and fresh hymenal lacerations. Cause of death was hemorrhage resulting from multiple punctured wounds inflicted on her neck.^[3] For Mildred's brutal death under the circumstances as reported, Rene Tapales y Sumulong, together with two (2) *John Does*, was charged before the Regional Trial Court of Antipolo, Rizal, with the complex crime of rape with homicide.^[4]

On 22 February 1995 the prosecution filed a petition for change of venue of trial to avoid miscarriage of justice alleging that the government witness were threatened and consequently afraid to testify as the relatives of the accused were reportedly influential in Antipolo, Rizal, where the crime was committed. On 24 February 1995 a similar motion to transfer venue was also filed, this time by counsel for the accused, purportedly to safeguard the latter's interest as the father of the victim was a government prosecutor in Rizal. This Court granted the motion.^[5] and transferred the venue to the Regional Trial Court of Manila.^[6] Thereafter the case was docketed as Crim. Case No. 95-144437 and raffled to RTC-Br. 35, Manila.

Ferdinand Calip, brother of Mildred, testified that on 20 January 1995, at around 5:30 in the morning, Mildred left their house at No. 40 Santos Compound, Golden Hills, Antipolo, Rizal, to attend her classes at the Far Eastern University where she was a second year Medical Technology student. According to him, he accompanied her to the gate of the Santos Compound to board a tricycle that would take her to the bus terminal. He claimed that when they reached the gate a white tricycle with black mudguard, an antenna and a stereo stopped in front of them. There he

noticed a person, whom he later identified as Rene Tapales, already on board. After Mildred had boarded the tricycle, he returned home and slept again.^[7]

Randy Ejara, a tricycle driver, narrated that at around 5:45 that same morning he was walking along Lira Street on his way to get his tricycle from his operator when three (3) tricycles coming from the direction of the subdivision's water tank slowly overtook him. He remembered one of the tricycles distinctly as it was only about three (3) meters away on his right. It had a white sidecar with a black mudguard and an antenna. The tricycle driver was pushing his vehicle forward with his left foot. Ejara also claimed that he saw Rene Tapales on board the sidecar and the latter appeared afraid and agitated, looking at different directions, and back to the direction of the water tank. Ejara further alleged that when Tapales realized his presence, Tapales immediately faced the windshield and touched the right arm of his driver who forthwith revved his engine and sped towards Franc St. to exit from Lores Subdivision.^[8]

Fiscal Edilberto H. Calip, father of Mildred and Ferdinand, also testified that at around 6:30 in the morning of the same day, a newspaper reporter informed his family that the lifeless body of Mildred was found near the subdivision's water reservoir. The elder Calip rushed to the crime scene and found the body sprawled on the ground. He brought her immediately to the Antipolo General Hospital where she was pronounced dead on arrival.^[9]

Rogelio Adan^[10] and Nelson Baran,^[11] both *barangay tanod(s)* of Purok 14, Brgy. San Roque, claimed that early the following morning, 21 January 1995, between 3:00 and 3:30, they were patrolling the area near Gate 2 of Lores Country Homes when they saw a person pass by. They later identified him as Rene Tapales. Since it was still too early in the morning and Tapales was carrying a candle their suspicion was aroused, prompting them to follow him until they reached the very spot where the body of Mildred was found the day before. Adan and Baran asked Tapales why he was there at such an unholy hour. Tapales answered, according to

them, that he was there to light a candle for Mildred so her parents would forgive him, and when prodded to explain why he wanted to ask forgiveness, Tapales vaguely answered that he knew Mildred and the identity of her killers.

On the basis of Tapales' response, Adan and Baran arrested him and then handcuffed him. Then they looked for a vehicle to take them to Antipolo Police Headquarters. On their way to the headquarters they passed the house of Fiscal Calip. After Fiscal Calip saw Rene Tapales in the company of Adan and Baran, the fiscal advised them to proceed to the police headquarters. Both *barangay tanod(s)* maintained that Fiscal Calip identified Tapales while he was with them on board their vehicle. Adan and Baran claimed that before reaching the police station Tapales attempted to jump out of the vehicle but failed. Over at the police station, Tapales was found to have abrasions and hematomas on his right elbow, contusions on his right lower knee and several scratches on both arms and neck, but did not explain how he sustained them. His briefs were said to be inverted and stained with blood.

Rene Tapales denied having anything to do with what befell Mildred Calip. He claimed that he was busy working for his uncle Tony Gloria the whole day of 19 January 1995 so that after he finished his task for the day he and his uncle took

their supper in the house of his *Inang Lucing*. After dinner he spent some moments with his friends at the *Tambayan Lechonan*. He went home at 9:00 that evening and fell asleep fifteen minutes later. He woke up at 7:30 the following morning.^[12]

Tapales admitted that he went to the crime scene at 3:00 in the morning of 21 January 1995 but denied having told *barangay tanod(s)* Adan and Baran that he (Tapales) was going to light a candle to ask forgiveness from Mildred's parents. Instead, he clarified that he only wanted to light a candle for the eternal repose of Mildred's soul as it was his practice to pray for the souls of the dead. He also denied having been told to undress at the police station, to refute the claim of the prosecution that he was wearing an inverted brief that was stained with blood.

But his explanation, clarification, and even denial notwithstanding, the trial court found Rene Tapales guilty of rape with homicide and imposed upon him the supreme penalty of death. According to the trial court, the following circumstances demonstrated the guilt of the accused:

(1) that some 30 minutes before she was found dead at about 6:00 o'clock in the morning of 20 January 1995, Mildred Calip was last seen alive in the company of the accused as a co-passenger in a tricycle;

(2) that minutes before the corpse of Mildred was discovered, the accused was seen fleeing on Lira Street away from the general direction of the water tank of Lores Country Homes towards the exit road of the subdivision;

(3) that shortly after the accused ha[d] gone, the lifeless body of Mildred was discovered sprawled on a grassy and cogonal spot, more or less one and one-half meters from the cemented edge of Lira Street, and about 110 to 120 meters away from the said water tank;

(4) that on January 21, 1995, between 3:00 and 3:30 in the morning, the accused was again seen in the vicinity of the scene of the crime, visibly remorseful and intensely disturbed by his conscience; and

(5) that when he was physically examined, the accused was found with extensive physical injuries consisting of scratches, lacerations, hematomas and contusions mostly sustained on the arms, neck and legs, which he failed to account how he sustained them x x x^[13]

Apparently, the trial court disregarded the defense of alibi. It observed that it was not physically impossible for Tapales to be at the *locus criminis* at the time the crime was perpetrated as it could easily be reached in 30 to 40 minutes from his house. Likewise, the trial court found the reason of Tapales for going to the crime scene, i.e., to pray for the soul of the dead, preposterous if not absurd as he did not offer any plausible explanation for choosing such an unusual hour to perform his ritual. The trial court interpreted his actuation as that of someone who, although wistful at appeasing his troubled conscience, wanted to avoid culpability.

On the other hand, the court *a quo* accorded full faith and credence to the testimonies of Ferdinand Calip, Fiscal Edilberto H. Calip, Randy Ejara, Rogelio Adan and Nelson Baran, the first two (2) having a natural interest in securing the

conviction of Rene Tapales, and the other three (3) being disinterested witnesses who were not related in any way to the victim and without any ill motive to testify against the accused.

The trial court, in convicting the accused under Art. 335 of the Revised Penal Code as amended by Sec. 11, RA No. 7659, considered the extensive scratches on his arms, neck and other parts of his body, the abrasions, hematomas and contusions found in his arms and legs, as well as the contusions and abrasions on the different parts of Mildred's body, as indications of the fierce resistance she put up to repel his loathsome assault on her virtue. The court *a quo* theorized that to overcome the furious struggle of the offended party to defend her honor, if not her life, the perpetrator savagely hit his hapless victim on different parts of her body, mostly her neck, which ended her life.

Death now lurks upon accused Rene Tapeales on the basis of circumstantial evidence put together by the court a quo. Admittedly, no direct evidence links the accused to the crime; only mere strands and splintered pieces to tag him as the culprit. For sure, none of those presented in court witnessed the commission of the crime.

Our task then is to discover whether the circumstances when assembled together could form a pattern that would clearly and positively implicate the accused to the victim's tragedy.

Circumstantial evidence to be sufficient for purposes of conviction must have the following elements: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proved; and, (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.^[14] The circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person. From all the circumstances, there should be a combination of evidence which in the ordinary and natural course of things leaves no room for reasonable doubt as to his guilt.

As we review and evaluate the circumstances considered by the trial court in arriving at its decision, we find ourselves unable to justify a finding of guilt beyond reasonable doubt.

First. The trial court overlooked the significance of the un rebutted testimony of one of the defense witnesses, Venancio Medina, who first discovered the body of the victim at around 5:30 in the morning on 20 January 1995, in relation to the testimonies of the prosecution witnesses, Medina was a taxi driver who managed the taxicab business of a niece who lived along Lira St. He claimed that on 20 January 1995, while he was cleaning the taxis and waiting for their drivers to arrive, a young jogger approached him and informed him that he saw a white object lying near the street.

Together they went to the place where the curious-looking object was, and because it was still dark at 5:30 in the morning he used the headlights of his car to illumine the white object. It was then that they saw a woman lying on the ground.

Medina reported the incident first to the *barangay tanod* stationed at the

guardhouse and then to the police authorities. According to him he also related the incident to a newspaper reporter then present at the police headquarters.^[15] His testimony coincides with that of *barangay tanod* Nelson Baran who also said that on 20 January 1995, at around 5:45 in the morning, a person reported to him at the guardhouse that a dead woman was found near the water tank of the subdivision. This confirms the claim of Ferdinand and Fiscal Calip that they came to know about the fate of Mildred through a newspaper reporter. As full weight and credence must be given to the testimony of Venancio Medina since it was undisputed, reasonable doubt is at once cast on Ferdinand Calip's testimony that he saw his sister Mildred last in the company of the accused as a co-passenger in a tricycle at around 5:30 in the morning on 20 January 1995. It can hardly be believed that at 5:30 in the morning of that day two (2) persons saw Mildred: Ferdinand Calip, while she was still alive, and Venancio Medina, when she was already dead.

Worth noting, likewise, was Ferdinand Calip's admitted failure to tell anyone immediately after he found out that his sister was raped and killed that he saw a person resembling Rene Tapales on board the tricycle which she took.^[16] Even assuming *arguendo* that he really saw the accused in that tricycle, it baffles us no end that he was unable to determine the reason why the accused was presented to him the very next morning following his sister's gruesome death.^[17]

As earlier intimated, we cannot help viewing with unabated distrust Ferdinand's narration that he saw his sister off at 5:30 that morning of 20 January 1995. Certainly, we can fairly assume that the reason why he walked his sister to the gate of their compound was to ensure that her tricycle ride would be safe for her or that she would be in safe company. If it was true that Ferdinand saw his sister off that morning, would he have allowed her to take the tricycle with a driver and a male passenger both unknown to him? Would Ferdinand entrust the safety of his sister to males who were total strangers? At the very least, he would have seen to it that his sister took a tricycle with another female passenger on board or, may be, without any other passenger; otherwise, he did not have to accompany her to the gate until she could take a tricycle if, after all, she could just take any tricycle even with complete strangers on board. Was not her security his primordial concern?

All these make it difficult to give full faith and credence to Ferdinand's testimony. They inevitably lead us to believe that his identification at their residence of Rene Tapales could only have been concocted, if not devised, to conform with the prosecution's "evidence" then on hand, i.e., a suspect in the person of Rene Tapales and merely because of his presence that early morning near the place where Mildred's body was found.

Second. Prosecution witness Randy Ejara testified that minutes before the corpse of Mildred was discovered, the accused was seen fleeing on Lira Street away from the general direction of the water tank of Lores Country Homes, towards the exit road of the subdivision. This was put to doubt during an ocular inspection on the premises exactly on the same date a year after. It was stipulated by the parties during the ocular inspection that at around 5:30 in the morning the skies were still dark and the sun had not yet risen.^[18] It was also observed by the defense counsel that the place where the tricycle, its driver as well as its passenger were seen was against the light coming from the lamppost on the street making it almost impossible for any person facing the right side of the light to be recognized.^[19] While the