

EN BANC

[G.R. No. 135562, November 22, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENITO BRAVO, ACCUSED-APPELLANT.**

D E C I S I O N

GONZAGA-REYES, J.:

On January 15, 1994 the decomposing body of a child was found in a vacant lot along the road leading to Patul, Rosario Santiago City.^[1] Her body was found between two concrete fences half naked, shirtless and skirt pulled up, her panty stuffed in her mouth.^[2] The body was identified to be that of a nine year old girl named Juanita Antolin, a resident of Rosario, Santiago City and known in her neighborhood as Len-len. Her body was found about 700 meters from her house putrid and in rigor mortis.^[3] The scalp on the left side of her head was detached exposing a fracture on the left temporal lobe of her skull. Vaginal examination showed fresh laceration at 2:30 o'clock and old lacerations at 5:00 and 7:00 o'clock and easily accepts two fingers. The cause of death was cerebral hemorrhage.^[4]

On May 25, 1994 an Information for rape with homicide^[5] was filed against herein accused-appellant which states:

"That on or about the 12th day of January 1994, in the municipality of Santiago, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and feloniously, with lewd design and by means of violence and intimidation, have carnal knowledge with one Juanita Antolin y Jandoc, a nine year old girl, against her will and consent; that on the occasion and by reason of the said rape, the said accused, did then and there, willfully, unlawfully and feloniously, assault, attack and hit with a blunt instrument the said Juanita Antolin y Jandoc, inflicting upon her, a fracture on the skull, which directly caused her death.

CONTRARY TO LAW."

On September 26, 1994 the accused was arraigned and pleaded not guilty to the crime charged.^[6]

Evelyn San Mateo an eight year old second grader from Rosario, Santiago City neighbor and cousin of the victim testified that she was with the deceased the night before she disappeared. She stated that while they stood on the roadside watching "Home Along Da Riles" from an open window of a neighbor's house the appellant approached them and asked Len-Len to come with him to a birthday party and then

he will buy her Coke and balut. Len-Len asked her to go with them but she did not want to because she was watching television. Len-Len went alone with the accused. The following morning Len-Len's mother told Evelyn and her mother that Len-Len was missing. In court, Evelyn positively identified the appellant as the person last seen with Len-len before she was found dead.^[7]

The owner of the house where Len-len and Evelyn watched television, Gracia Monahan, corroborated Evelyn's testimony that on the evening of January 12, 1994 she saw the appellant talking to Len-len while the two girls were watching television from her open window and that when she looked again towards the end of the program to the direction where the girls were situated, only Evelyn was left watching television. Monahan testified that she is familiar with the appellant and the two children because they are neighbors.^[8]

The Chief of the Intelligence Section of the Santiago Police Department, Alexander Mico, testified that on January 15, 1994 his office received a report that a dead body was found in a vacant lot. The body was later identified as Juanita Antolin. Mico stated that he interviewed San Mateo who pointed to the appellant as the man last seen with the deceased. Mico found the appellant at his place of work at the Spring Garden Resort at Sinsayon, Santiago City. Upon seeing Bravo, Mico informed him that he is a suspect in the killing of a girl in Rosario, Santiago City and asked him to come with him for questioning. The appellant agreed. Mico further narrated in court that at the police station the appellant admitted he was with the girl and he carried her on his shoulder but he was so drunk that night that he does not remember what he did to her.^[9] On cross-examination Mico admitted that he did not inform the appellant of his constitutional rights to remain silent, to counsel and of his right against self-incrimination before the appellant made the said admission because according to Mico he was only informally interviewing the accused when he made the admission and that custodial interrogation proper was conducted by the assigned investigator.^[10]

The appellant Benito Bravo testified in court that on his way home after work at around five o'clock in the afternoon of January 12, 1994 he was invited to go on a drinking spree at Purok 1, Rosario, Santiago City where he and four other men consumed five round bottles of gin until 7:30 that evening. He then headed for home. Appellant admitted in court that he passed by the house of Gracia Monahan but stated that he did not see the two girls watching television along the road. At home, he found his mother very sick and so he decided to stay home all night. He woke up the following morning at around 4:30 a.m. and prepared to go to work. On January 15, 1994 a policeman came to his place of work and apprehended him without a warrant of arrest and at the police station he was forced to admit commission of the crime of rape with homicide of Juanita Antolin. The appellant denied the accusation and stated that the deceased was his godchild and that he has known Fely Handoc, the mother of the child, for three years prior to this proceedings.^[11]

Juanito Bravo, the brother of the appellant testified that the appellant stayed home on the night of January 12, 1994 to take care of their sick mother who died a few days thereafter.^[12]

Ernesto Pastor, the foreman at the Spring Garden Resort where the appellant was

employed, testified that he has known the appellant for a long time and that he knows him to be hardworking and of good moral character. Pastor corroborated the appellant's testimony that police investigator Mico came to the Spring Garden Resort and arrested Bravo without a warrant.^[13]

The testimony of the Municipal Health Officer who conducted the autopsy was dispensed with by the prosecution as the handwritten Autopsy Report made by the Municipal Health Officer of Santiago, Isabela, marked as Exhibit B, was admitted by both parties.^[14] The Report reads:

AUTOPSY REPORT

ABEL MEMORIAL
HOMES
PUROK 2,
ROSARIO,
SANTIAGO,
ISABELA
JANUARY 15, 1994
2:30 P.M.

JUANITA ANTOLIN
PUROK 1, BARANGAY ROSARIO
AGE: 9
FATHER: ANTONIO
MOTHER: OFELIA JANDOC

Was investigated under the mango tree where the crime was committed and left side of the face is covered by sand (done by anay) with rigor mortis and with putrification, easy pulling of the skin and plenty of small worms coming out from the ears, nose, eyes and mouth (without panty), the whole body is edematous.

After complete washing, coming out of small worms on both eyes and ears and mouth, scalp on the left side was detached and skull exposed.

-Fracture of the skull with left temporal

-Edematous

-Abdomen, extremities has no pertinent findings except easy pulling of skin and all are edematous

Vaginal examination- shows fresh laceration at 2:30 o'clock, old lacerations at 5:00 and 7:00 o'clock-could easily accept two fingers.

Cause of death- cerebral hemorrhage (fracture of skull temporal region, left).^[15]

On August 25, 1998 the trial court rendered judgment finding the accused guilty of the crime charged as follows:

Wherefore, finding the accused BENITO BRAVO "GUILTY" beyond reasonable doubt of the crime of RAPE WITH HOMICIDE punishable under Art. 335 of the Revised Penal Code, as amended by Republic Act 7659, the court sentences him the penalty of DEATH and ordering him to pay the heirs of Juanita Antolin y Jandoc the amount of one hundred thousand pesos (P100,000.00) as indemnity and three hundred thousand pesos (P300,000.00) as exemplary damages.

SO ORDERED.^[16]

and held that abuse of confidence and treachery attended the commission of the crime.

This case is before us on automatic review in view of the penalty imposed by the trial court.

Both counsels for the accused-appellant and the appellee plead for the acquittal of the accused. Both the accused-appellant and the appellee invoke the constitutionally guarded presumption of innocence in favor of the accused and the latter's right to remain silent and to counsel. The testimony of the policeman that the accused admitted he was with the victim on the evening of January 12, 1994 but the latter was too drunk to remember what happened should have been held inadmissible by the trial court in view of the policeman's own admission in court that although he informed the accused that he is a suspect in the rape and killing of one Juanita Antolin he did not inform the accused of his constitutional rights before he asked him of his participation in the crime under investigation. Both the appellant and the appellee are in agreement that the trial court grievously erred in finding the accused guilty beyond reasonable doubt based on the sole circumstantial evidence that the victim was last seen by her cousin in the company of the accused whereas the Rules of Court clearly requires the presence of at least two proven circumstances the combination of which creates an unbroken link between the commission of the crime charged and the guilt of the accused beyond reasonable doubt. The single circumstance proven by the prosecution that the victim was last seen conversing with the accused two days before she was found dead cannot serve as basis for any conclusion leading to the guilt of the accused of the crime charged. The evidence for the prosecution falls short of the quantum of evidence required by the Rules to establish guilt of the accused beyond reasonable doubt. In sum, both the appellant and the appellee profess that the presumption of innocence of the accused was not successfully overturned by the prosecution.

We resolve to acquit Benito Bravo.

Section 12 of Article III of the 1987 Constitution embodies the mandatory protection afforded a person under investigation for the commission of a crime and the correlative duty of the State and its agencies to enforce such mandate. It states:

Sec. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be