

SECOND DIVISION

[G.R. No. 119308, April 18, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. CHRISTOPHER ESPANOLA Y PAQUINGAN ALIAS "LANGGA"
OR "COCOY", JIMMY PAQUINGAN Y BATILO ALIAS JIMMY" AND
JEOFFREY ABELLO Y SALADO ALIAS "BEROY, ACCUSED-
APPELLANTS.**

DECISION

PUNO, J.:

This is an appeal from the decision^[1] dated November 21, 1994, of the Regional Trial Court of Lanao Del Norte, 12th Judicial Region, Branch 5, City of Iligan, finding the accused-appellants Christopher Espanola y Paquingan, Jimmy Paquingan y Batilo and Jeffrey Abello y Salado guilty beyond reasonable doubt as principals for the murder of Jessette Tarroza in Criminal Case No. 3773. The three accused were meted a prison term of reclusion perpetua with the accessory penalties provided by law. They were ordered to indemnify jointly and severally the heirs of the victim Jessette Tarroza the amount of P50,000.00 as actual damages, P50,000.00 as compensatory damages, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

The Amended Information charging the accused-appellants with the crime of Murder and indicting another accused in the person of Joel Gonzales reads:

"AMENDED INFORMATION

The undersigned City Prosecutor of Iligan accuses CHRISTOPHER ESPANOLA y Paquingan alias "Langga", JIMMY PAQUINGAN y Batilo, JEOFFREY ABELLO y Salado alias "Beroy" and JOEL GONZALES alias "Awing" alias "Wingwing" of the crime of MURDER, committed as follows:

'That on or about November 16, 1991, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who were all under the influence of drugs (Marijuana), conspiring and confederating together and mutually helping each other with intent to kill and by means of treachery and with abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, stab and hit one Jessette Tarroza, thereby inflicting upon the said Jessette Tarroza the following physical injuries, to wit:

- Incised wound 2.5 cms in length, lateral border of (R) ala nasi
- Triangular stab wound, neck (R) side, 4 cms x 3 cms x 5.5 cms
- Incised wound, anterior neck, 6 cms x 4 cms x 3.5 cms which traversed thru

the trachea, external jugular vein and 3/4 of the esophagus

- Stab wound, anterior neck, (R) supraclavicular area, 2.5 cms x 1 cm x 4 cms
- Stab wound, (L) anterior chest, midclavicular line 1.5 cms x 1 cm x 2.5 cms
- Stab wound, (R) anterior chest, 4 cms x 2 cms with fracture of the 4th and 5th rib with lung tissue out
- Stab wound, (R) anterior chest, level of axilla, 2 cms x 1 cm x 5 cms
- Stab wound, (R) anterior chest, 3rd ICS, midclavicular line 2.5 x 1.4 cms
- C-shaped stab wound, (R) anterior chest, midclavicular line, 3.5 cms x 2 cms x 3 cms, 2nd ICS
- Stab wound, (R) anterior chest, 2nd ICS, (R) parasternal line, 2.5 cms x 1.5 cms x 4 cms
- Confluent abrasion (R) elbow joint, anteromedial aspect 3 cms in diameter
- Multiple punctured wounds (5), back, (R) side
- Confluent abrasion 10 cms by 3 cms, back, lumbar area

and as a result thereof the said Jessette Tarroza died; that immediately after inflicting fatal injuries on the said Jessette Tarroza, the herein accused took turns in having sexual intercourse with the victim.'

Contrary to and in violation of Article 248 of the Revised Penal Code with the aggravating circumstances of: (1) treachery and abuse of superior strength; (2) cruelty in all (sic) ignominy; (3) that the accused were under the influence of drugs at the time of the commission of the offense and (4) outraging or scoffing of (sic) the corpse of the victim.

City of Iligan, November 29, 1991."

The facts of the case show that Jessette Tarroza went to work at the Mercy Community Clinic, Camague, Iligan City, as a medical technologist at about 3 o'clock in the afternoon of November 16, 1991. Her tour of duty was from 3 o'clock in the afternoon to eleven o'clock in the evening.^[2] After working for eight hours, she left the clinic at about 11:15 p.m. with Claro Liquigan, a co-employee. When they reached the junction road leading to her house at about 11:30 p.m., Claro offered to escort Jessette to her house but she refused saying that she knew the people in the area. She then walked towards her house while Claro rode his bicycle and went home. When they parted ways, Claro noticed four (4) persons in the pathway leading to Jessette's house. They were about 60 to 70 meters away from him and he did not recognize whether they were male or female.^[3]

Jessette Tarroza failed to come home that fateful evening. She was found dead. Her father, Romeo Tarroza, rushed to the place where her body was discovered.^[4] He was shocked to see Jessette lying in a grassy area more or less fifty (50) meters

from their home and only fifteen (15) meters from the pathway. Her body bore stab wounds. Her red blouse was wide open and her pants removed. Her panty was likewise removed while her bra^[5] was cut. The red blouse^[6] was torn with three (3) holes at the back, ten (10) holes on the front and six (6) holes on the left sleeve. Her blouse, bra and shoes were stained with blood. Her panty, found about two (2) feet away from her cadaver, had blood on the front portion. A light green T-shirt with the print "Midwifery" at the back and "ICC" on the front^[7] was also found near the shoes of the victim. The T-shirt was not hers.^[8]

The law enforcement officers of Iligan City immediately conducted an investigation. They found blood stains along the pathway which was approximately fifteen (15) meters away from the place where the victim was found. There was a sign of struggle as the plants and bushes at the scene of the crime were destroyed and flattened. They extended their investigation to the neighboring sitios and purok of Kilumco but found no lead as to the perpetrators of the crime.^[9]

In the morning of November 19, 1991, SPO 4 Ruperto Neri received an anonymous telephone call suggesting that a certain "Wing-wing"^[10] be investigated as he has knowledge of the crime. Antonio Lubang, Chief of the Homicide Section, Intelligence and Investigation Division of the Iligan City Police Station, and his men looked for "Wing-wing". Lubang knew "Wing-wing" as the latter frequently roamed around the public plaza. They learned that the real name of "Wing-wing" is Joel Gonzales. They then saw Gonzales at his house and invited him to the police station. At the police station, Gonzales confessed that he was present when the crime was committed and that he knew its perpetrators. He identified them as "Beroy", "Langga" and "Jimmy". He informed that the three stabbed and raped Jessette Tarroza. Gonzales, however, did not give the surnames of the three suspects. The policemen asked Romeo Tarroza whether he knew the suspects. Romeo Tarroza declared that they were his neighbors. He identified "Jimmy" as Jimmy Paquingan, "Langga" as Christopher Espanola and "Beroy" as Jeffrey Abello.^[11] On the same day, Gonzales was detained at the police station.

In the early morning of November 21, 1991, Chief Lubang invited Jimmy Paquingan, Christopher Espanola and Jeffrey Abello to the police station where they were investigated. All denied the story of Gonzales. A police line-up of twelve (12) persons which included the three accused-appellants was then made in the police station. Gonzales was called and he pointed to Paquingan, Espanola and Abello as his companions in the killing and rape of Jessette Tarroza. After the line-up, the three suspects were brought to the City Health Office for check-up because the policemen saw that they had bruises and scratches on their faces, foreheads and breasts.^[12] They were examined by Dr. Livey J. Villarin. With respect to Paquingan, the medical certificate (Exhibit "I") showed that he had scratch abrasions on the right mandibular area (jaw), on the left side of the neck and on the right mid-axillary (chest). Dr. Villarin testified that the abrasions could have been caused by any sharp object or possibly fingernails. The medical certificate issued to Espanola (Exhibit "J") showed that he had contusions on the right shoulder and hematoma. Dr. Villarin testified that the injuries could have been effected by a jab or sharp blow. The medical certificate issued to Abello (Exhibit "K") showed that he sustained abrasion and contusion at the right deltoid area which according to Dr. Villarin, could have been caused by a sharp or hard object or a fist blow that hit that particular

area of the body.^[13]

On the same day, an information for rape with homicide^[14] was filed against Paquingan, Espanola and Abello. They were committed to the city jail after their warrant of arrest was issued by Executive Judge Federico V. Noel.^[15]

In the afternoon of November 25, 1991, Chief Lubang brought Jimmy Paquingan to the City Prosecutor's Office for the taking of his confession after he manifested to the jail warden his intention to confess. City Prosecutor Ulysses V. Lagcao asked Paquingan if he would avail the services of counsel and he answered in the affirmative. When asked if he had a counsel of his own choice, he answered in the negative. He was provided with the services of Atty. Leo Cahanap, the legal counsel of the City Mayor's Office, and Atty. Susan Echavez, a representative of the IBP Legal Aid, Iligan City Chapter. They were given time to confer with him.^[16] Paquingan then confessed. However, when asked to sign the stenographic notes, Paquingan refused saying he would wait for his mother first.^[17] The sworn statement of Paquingan (Exhibit "L") was transcribed on November 29, 1991, but signed only by the two lawyers. According to the statement, Abello slashed the neck of Jesette. Jesette fell down and was brought to a bushy area where she was sexually abused. The first to have sexual intercourse with the victim was Abello. Paquingan then followed him. Espanola had his turn next; and Gonzales was the last.^[18]

Upon review of the records of the case, Fiscal Lagcao discovered that the victim was sexually abused after she was murdered. Thus, he filed an Amended Information on November 29, 1991, charging the three accused with the crime of murder and indicting Joel Gonzales as the fourth accused.^[19] A warrant for the arrest of Gonzales was issued on the same date by Executive Judge Federico V. Noel.^[20]

All the accused pleaded "not guilty" when arraigned. After presenting several witnesses, the prosecution filed on June 17, 1992, a motion to discharge accused Joel Gonzales as a state witness^[21] in accordance with Section 9, Rule 119 of the Rules of Court, alleging:

- "1. That accused Joel Gonzales has intimated to the undersigned City Prosecutor that he is willing to testify for the prosecution as state witness;
- "2. That there is absolute necessity for the testimony of accused Joel Gonzales considering that the evidence for the prosecution in this case is mainly circumstantial;
- "3. That the testimony of accused Joel Gonzales can be substantially corroborated in its material points;
- "4. That the said accused does not appear to be the most guilty; and
- "5. That he has not at any time been convicted of any offense involving moral turpitude."

In traversing the motion, the defense asserted:

"1. That there is no showing in the face of said motion that Joel Gonzales agrees to be utilized as state witness;

"2. That Joel Gonzales appears to be the most guilty as he alone among the accused has executed a confession regarding the killing of Jessette Tarroza."

In an Order^[22] dated June 26, 1992, the trial court discharged Gonzales as a state witness.

In the course of the trial, Dr. Chito Rey Gomez, Medico-Legal Officer of the Iligan City Health Office, testified that he conducted a post mortem examination on the cadaver of Jessette Tarroza. He issued a Death Certificate (Exhibit "E") which indicated that the cause of death was cardio respiratory arrest due to pneumohemothorax of the right chest. He also prepared a Necropsy Report (Exhibit "F") after the examination. He found five (5) stab wounds at the back of the victim and ten (10) stab wounds at the front, consisting of an incised wound at the lateral border of the ala nasi, right; triangular stab wounds on the right side of the neck and lower neck; an incised wound which traversed through the trachea external jugular vein and three-fourths (3/4) of the esophagus; a C-shaped stab wound that penetrated the thorax cavity and a stab wound above the breast near the axilla. He testified further that the wounds inflicted must have reached some vital organs of the body, possibly the lungs and blood vessels, and that the wounds were probably caused by three (3) different instruments. He likewise conducted a vaginal examination on the victim and noted that there was a fresh complete hymenal laceration at 3 o'clock and fresh complete lacerations at 7 o'clock and 8 o'clock, which could have been caused by a finger or a sex organ inserted into the vagina. When asked if the victim was sexually molested, he answered in the affirmative.^[23]

Another witness for the prosecution was Dr. Tomas P. Refe, Medico-Legal Officer III of the National Bureau of Investigation, Central Visayas Regional Office. He testified that he conducted an autopsy examination on the cadaver of Jessette Tarroza and prepared Autopsy Report No. 91-27 (Exhibit "H"). He found abrasions and thirteen (13) stab wounds on the front part of the chest, right side, and at the back of the victim's chest. He also found an incised wound at the region of the nose involving the upper portion of the right side of the mouth, an incised wound on the front part of the neck cutting the trachea and partially the esophagus and an incised wound at the anterior aspect right side of the neck.^[24] He declared that death was caused by the incised wounds and multiple stab wounds. The fatal wounds were wound nos. 2, 3, 4, 5, 7, 9 and 10 (Exhibits "H", "H-1"). He likewise examined the vagina of the victim and found the hymen moderately thick and narrow with lacerations complete at 3 o'clock and 6 o'clock, deep at 7 o'clock, 9 o'clock, 10 o'clock and 11 o'clock, and the edges of the lacerations were sharp and coaptable. He opined that there could have been a sexual intercourse committed after the death of the victim considering that the lacerations did not show any evidence of vital reaction which is commonly found in lacerations during lifetime.^[25]

The prosecution also presented Joel Gonzales who turned state witness. On the basis of the demeanor of Gonzales and the manner he answered the questions, the