

## **FIRST DIVISION**

**[ G.R. No. 96176, August 21, 1997 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE, VS.  
ZENAIDA ISLA, ACCUSED-APPELLANT.**

### **D E C I S I O N**

**HERMOSISIMA, JR., J.:**

In an information filed by Asst. Fiscal Leoncia Dimagiba on April 4, 1987, Zenaida Isla was charged with crime of Kidnapping, the accusatory portion of which reads:

"That on or about April 4, 1987, in the City of Manila, Philippines, the said accused, being a private individual, conspiring and confederating together with another whose true name, identity and present whereabouts are still unknown and mutually helping each other, did then and there willfully, unlawfully and feloniously kidnap one MARITES ORGANEZ, a minor female child, six and one half years of age, daughter of Amador Organez y Republica, for the purpose of selling her to another, and, thus depriving the said minor child of her liberty."<sup>[1]</sup>

The case was docketed as Criminal Case No. 96176 and was raffled off to Branch 5 of the Regional Trial Court of Manila.

At her arraignment on January 14, 1988, appellant entered a plea of not guilty. Trial on the merits commenced and on December 20, 1989, the court a quo promulgated its decision finding her guilty as charged. The adjudicatory portion thereof reads:

"WHEREFORE, the prosecution having proven beyond reasonable doubt the guilt of the accused, ZENAIDA ISLA Y ARCEO (sic) is sentenced to suffer the penalty of LIFE IMPRISONMENT, to pay the heirs of Maritess Organez the sum of THIRTY THOUSAND (P30,000.) PESOS and to pay the costs."<sup>[2]</sup>

The factual antecedents of this case, as culled from the records, are as follows:

Arriving home one late afternoon of April 4, 1987, Amador Organez was informed by his wife that their six (6) year old daughter, Maritess, was missing. Upon inquiry, Cristy Manalastas, one of his neighbors, told Amador that a pregnant woman was seen near the vicinity of his house. This was corroborated by two other neighbors, namely, Julie and Baby Wycoco. Amador searched for the pregnant woman at Tondo. She chanced upon Shirley Martinez whose child was also missing. Shirley related to Amador that, after one, Zenaida Isla, who was her former classmate, visited her at her house, her child disappeared. Amador, continued his search in Caloocan and met Lola Danding whose grandchild was also missing. She told Amador that it was appellant who took her granddaughter when the latter went to her house.

On July 18, 1987, the police authorities from Malabon went to Amador's house and

informed him that appellant had been arrested. Amador then went to the Malabon Police Headquarters where appellant told him to proceed to San Simon, Pampanga to fetch his child. On that same day, Amador went to Pampanga together with six Malabon policemen, Lola Danding, appellant, and Mrs. Loring whose child was also missing. After coordinating with the police authorities of Pampanga, they proceeded to the town of Sta. Monica, to meet Maura "Orang" Mabalot.

Upon reaching the house of Maura, the police authorities showed her a picture of Maritess and she identified the child in the picture as the same child who was with appellant when the latter went to her house in April, 1987. She also related that during the said visit, appellant told her that she was looking for someone to adopt the child known as Maritess. Appellant, upon hearing Maura's statement reacted by telling the group that she sold the child at Angeles City. Thereafter, the same group went to a dry goods store at the Angeles City Market. The owner of the said store answered positively when the policemen inquired if a child was sold to her but, upon verification, the child was not Maritess. Then the group checked on another child, who was sold but again upon verification, did not turn out to be Maritess.

Subsequently, appellant was brought back to the Malabon Police Department but was transferred to the Western Police District of Manila. On July 21, 1987, appellant was investigated before P/Cpl. Pablito Marasigan, an investigator at the WPD General Assignment Section. Thereafter, she executed an extrajudicial statement wherein she admitted that she took Maritess Organez and brought her to Teofilo Ablaza for adoption. Said extrajudicial statement was executed with Atty. Domingo Joaquin of the Citizen's Legal Assistance Office (CLAO), Department of Justice, beside her.

Appellant on the other hand, denied the charges hurled against her. She claimed that she has no knowledge of the contents of the sworn statement attributed to her which is marked as Exhibit "B" nor had she read it. She alleged that she was lured into signing the said document when Marasigan promised to release her after affixing her signature thereat. More so, she alleged that when she affixed her signature in the document, she was not assisted by a counsel as Atty. Domingo Joaquin of CLAO arrived at the police station after the document was already prepared and finished.<sup>[3]</sup>

In this appeal, appellant interposes the following as errors of the court a quo:

"The trial court gravely erred in finding the accused guilty of kidnapping, inasmuch as:

1. The decision was basically based on hearsay evidence;
2. The findings of the trial court(sic) heavily speculations(sic), surmises and irrelevant or immaterial matters;
3. The alleged extra-judicial confession is inadmissible in evidence, being extracted in violation of the constitutional rights of the accused(sic)."<sup>[4]</sup>

As the errors are interrelated, we shall refute them jointly.

Appellant seeks the reversal of the decision of the trial court on the ground that it is based on hearsay, speculations, surmises and irrelevant matters; and that the extrajudicial confession of the accused is inadmissible in evidence against her.

It is a well-settled tenet that the presumption of innocence is founded upon the basic principles of justice and is a substantial part of the law. Thus, it cannot be overcome by mere suspicion or conjecture i.e. a probability that the accused committed the crime or that he had the opportunity to do so.<sup>[5]</sup> More so, to overcome the presumption of innocence, nothing but proof beyond reasonable doubt of every fact essential to constitute the offense with which the accused is charged must be established by the prosecution.<sup>[6]</sup>

Indeed, in the case at bench, the evidence presented dismally failed to pierce the shield of presumptive innocence, as the prosecution merely relied on hearsay evidence. As can be gleaned from the facts the testimony of the father of the victim and that of the other prosecution witnesses were merely hearsay as they were not personally aware of the facts surrounding the alleged kidnapping of Maritess Organez. They all just averred that they were informed or matters were merely related to them, which, taken as a whole, could not legally sustain a conviction. Consider that only the following circumstances were relied upon by the trial court in convicting herein appellant, viz:

- a) that aside from Maritess Organez, three (3) other children were allegedly taken by the appellant;<sup>[7]</sup>
- b) that the appellant was allegedly the pregnant woman who was seen in the vicinity of the house of Amador Organez, as she was identified by parents and grandparents of the other missing children;<sup>[8]</sup>
- c) the notoriety of appellant among her classmates and friends;<sup>[9]</sup>
- d) the loss of the child, Maritess was testified to by her father, Amador Organez;<sup>[10]</sup>
- e) the admission of appellant of having allegedly found and sold Marites for adoption;<sup>[11]</sup>
- f) the notoriety of appellant as a snatcher of young children as against her mere denial and her claim that she did not read her admission Exhibit "B";<sup>[12]</sup>
- g) the denial of appellant was merely considered as a last ditch effort to escape the possible consequences of her act.<sup>[13]</sup>

As correctly pointed out by the appellant in her brief, the first point of the trial court in regarding the involvement of appellant in three other kidnapping cases, marks a grave inconsistency of the said court. While considering the three other cases of kidnapping as relevant and material to this case, the trial court, during the hearings, declared the same to be immaterial, as can be seen from the records, viz:

"FISCAL PATAG (to witness):

Q: After she was turned over to you, you mentioned that you investigated her in connection with three cases and one of them, (sic) what is the second case?

COURT: Why don't you just go to this case?

FISCAL PATAG: Because it has a relationship.

COURT: That is immaterial and beside the point."<sup>[14]</sup>

Needless to say, these three other kidnapping cases has no relationship whatsoever to the case at bar, nor does the existence thereof, prove the guilt or the innocence of appellant. Suffice it to say, no evidence was presented to establish these three other cases or its relevance to the present case, except the brief testimony of P/Cpl. Marasigan, which in itself, does not establish the culpability of appellant in those three other cases. Thus, the issues involved in the three other cases are irrelevant collateral matters which are inadmissible in evidence. More so, the trial court resorted to speculations when it assumed that appellant was involved in these other cases.

With regard to the identity of the pregnant woman seen in the vicinity of the victim's residence, it must be remembered that the only witness who testified on this matter was Amador Organez. His testimony can be considered as merely based on hearsay as he admitted that this information was merely relayed to him by his neighbors, namely: Cristy Manalastas, Julie and baby Wycoco. Obviously, Amador Organez was not personally aware of the presence of the pregnant woman.

While it may be true that the prosecution may not be compelled to present a witness or witnesses, it is undeniable that the non-presentation of a witness is tantamount to suppression of evidence,<sup>[15]</sup> especially if the prosecution witnesses already presented, have no personal knowledge of the facts which could establish the elements of the crime charged.

Hence, the non-presentation of witnesses, Cristy Manalastas, Julie and Baby Wycoco who allegedly saw the pregnant woman, raises serious doubt as to the truthfulness of the testimony of Mr. Organez.

It is also noteworthy that the alleged victim, Maritess Organez, was neither presented by the prosecution, although it appears that she has been recovered. This can be gleaned from the records which reads:

"FISCAL: As of this date do you know whether this Maritess was recovered by her father?

xxx xxx

xxx

WITNESS; I heard that Maritess was returned to the parents, sir.

FISCAL: From whom did you received that information that Maritess Organez was recovered by her father?

xxx xxx

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