

## EN BANC

[ G.R. No. 124933, September 25, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JURRY  
ANDAL Y MERCADO RICARDO ANDAL Y MERCADO, AND EDWIN  
MENDOZA, ACCUSED-APPELLANTS.  
D E C I S I O N**

**PER CURIAM:**

By automatic review, we pass upon another imposition of the death penalty. Accused-appellants Jurry Andal, Ricardo Andal, and Edwin Mendoza seek reversal of the judgment of Branch 5 of the Regional Trial Court of the Fourth Judicial Region stationed in Lemery, Batangas, relying on the defense of denial and alibi. After taking great pains in reviewing even the minutest of the details of the case at bench, we are compelled by the evidence on record to affirm.

Accused-appellants were initially charged under two separate *Informations* docketed as Criminal Cases No. 148-94 and 149-94, for the crimes of Rape with Homicide, and Robbery, respectively, reading as follows:

**Criminal Case No. 148-94**

The undersigned Special Counsel accuses Jurry Andal y Mercado, Ricardo Andal y Mercado alias "Ric" and Edwin Mendoza of the crime of rape with Homicide, defined and penalized under Articles 335 and 249 in relation to Article 46 of the Revised Penal Code, committed as follows:

That on or about the 6<sup>th</sup> day of July, 1994, at about 7:00 o'clock in the morning, at Barangay Mahabang Parang, Municipality of San Luis, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together acting in common accord and mutually helping one another, by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously deliver fist blow on the stomach of the victim, Nancy Siscar, which render her unconscious, thereafter, with lewd and unchaste designs, wilfully, unlawfully and feloniously lie with and have carnal knowledge of her one after the other against her will and consent, and thereafter, willfully, unlawfully and feloniously strangle with her own half slip which caused her instantaneous death.

Contrary to law.

(p.7, Rollo.)

**Criminal Case No. 149-94**

The undersigned Special Counsel accuses Jurry Andal y Mercado, Ricardo Andal y Mercado alias "Ric" and Edwin Mendoza y Villanueva alias "Eddie" of the crime of Robbery, defined and penalized under Article 294 of the Revised Penal Code, committed as follows:

That on or about the 6<sup>th</sup> day of July, 1994, at about 7:00 o'clock in the morning, at Barangay Mahabang Parang, Municipality of San Luis, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, acting in common accord and mutually helping one another, with intent of gain, by means of force, violence and intimidation, did then and there willfully, and feloniously take, steal and carry away the following, to wit: wrist watch worth One Thousand Pesos (P 1,000.00); earrings worth One Thousand Pesos (P 1,000.00); and cash worth One Thousand Seven Hundred Fifty Pesos (P 1,750.00), belonging to one Nancy Siscar, with a total value of Four Thousand Seven Hundred Fifty Pesos (P4,750.00), Philippine Currency, to the damage and prejudice of the said owner thereof in the aforementioned amount.

Contrary to law.

(pp. 9-10, *Rollo.*)

Upon agreement of the prosecution and the defense, the two cases were consolidated.

Accused-appellant having denied both charges, a joint trial on the merits was undertaken, following which, a judgment of conviction was rendered, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, JURRY ANDAL Y MERCADO, RICARDO ANDAL Y MERCADO and EDWIN MENDOZA are found guilty by proof beyond reasonable doubt of the crime of RAPE WITH HOMICIDE and penalized in accordance with R.A. No. 7659 (Death Penalty Law) Sec. 11, par. A classifying this offense as one of the heinous crimes and hereby sentences each of them to suffer the penalty of DEATH; to indemnify jointly and severally the family of NANCY SISCAR the amount of P 50,000.00 for the death of NANCY SISCAR and P 74,470.50 as actual burial and incidental expenses. The incidental expenses and P 200,000.00 as moral damages. The Court finds them guilty of robbery as charged on the information and sentences them to suffer the indeterminate sentence of TEN (10) YEARS of Prison Mayor as minimum to SEVENTEEN(17) YEARS of Reclusion Temporal as Maximum.

(p. 52, *Rollo.*)

The inculpatory facts, as supported by the evidence, were synthesized by the office of the Solicitor General in this wise:

On July 4, 1994, the victim, Nancy R. Siscar, a 22- year old elementary school teacher, was scheduled to report to her new assignment at

Mahabang Parang Elementary School situated in Barangay Mahabang Parang, Municipality of San Luis, Batangas (p.36, TSN, Sept. 1, 1995). As it was Nancy's first day to report, her mother, Nenita Siscar, accompanied her to school (p. 37, *ibid.*). While the two (2) were walking on their way to Mahabang Parang Elementary School at about 8:00 to 9:00 o'clock in the morning, three (3) men standing along the Barangay road, later identified as appellants Jurry Andal, Ricardo Andal and Edwin Mendoza, whistled several times at the victim (pp. 37-38, *ibid.*). They also laughed mockingly at them (pp. 38-40, TSN, Sept. 1, 1995).

On July 6, 1994, between the hours of 6:00 and 7:00 o'clock in the morning, witness Olimpio Corrales was at the Barangay road of Mahabang Parang (p.9, TSN, Feb. 10, 1993). He just came from the farm he was tilling and was on his way home (p. 9, *ibid.*). While he was walking, he saw the three (3) appellants, Jurry Andal, Ricardo Andal and Edwin Mendoza, standing along the Barangay road of Mahabang Parang (pp. 5-9, *ibid.*).

The victim came along, on her way to the Mahabang Parang Elementary School (p. 9, TSN, Feb. 10, 1995). Appellants Jurry Andal hit her on the abdomen (p. 9, TSN, *ibid.*). As a result, she fell on her back (p. 10, *ibid.*). Appellant Jurry Andal then hoisted her on his shoulder and carried her to the forest (gubat) (pp. 14, 19, *ibid.*). The other appellants, Ricardo Andal and Edwin Mendoza, hurriedly picked up the bag, shoes and other personal belongings of the victim (p. 20, *ibid.*) and also proceeded to the forest (p. 20, *ibid.*).

Corrales immediately ran to his house at Barangay Banoyo (pp. 20-21, TSN, Feb. 10, 1995).

Later, on the same day, the three (3) appellants came to the residence of Corrales and threatened him not to tell anyone what he witnessed; otherwise, they would kill him (p. 24, TSN, *ibid.*).

When the Philippine National Police of San Luis, Batangas received a report about a lifeless body found in the creek at the boundary of Barangays Banoyo and Mahabang Parang, then Policy Senior Inspector Amelia Amando Madero, together with SPO2 Lolito Dinglasan, SPO2 Dante Dawis, and SPO3 Ronald Macatangay, immediately proceeded to the place (pp. 5-6, TSN, Sept. 1, 1995). Thereat, they found the lifeless and nude body of a woman who was later identified by both the Barangay Captain and the Uncle of the victim as that of Nancy Siscar (p. 7, TSN, Sept. 1, 1995; p. 4, TSN, Aug. 4, 1995). The victim was lying on the ground on her belly (p. 7, TSN, Sept. 1, 1995). When the victim was turned, her eyes were full of worms and she was already in the early stage of decomposition (p. 8, *ibid.*). Her half-slip had been twisted like a rope and tied tightly around her neck (p. 9, *ibid.*; p. 7, TSN, Aug. 4, 1995). Scattered beside her were her shoes, umbrella, bag, pack lunch and school notebooks (pp. 7-9, TSN, Sept. 1, 1995).

The police officers also discovered that a wristwatch, earrings and money amounting to P 2,000.00 were missing (p. 9, TSN, Aug. 4, 1995). The mother of the victim confirmed that her daughter was wearing her

wristwatch, earring and had cash when the crime was committed (pp. 43-46, TSN, Sept. 1, 1995). The total amount of the lost items, including the cash, was P5,000.00 (p. 10, TSN, Aug. 4, 1995). The other personal belongings found near the body of the victim were identified by the mother of the victim as belonging to her daughter (pp. 9-10, TSN, Sept. 1, 1995).

Dr. Antonio Ventido y Salcedo, NBI Medico-Legal Officer, performed the autopsy on the body of the victim (p. 28, TSN, Aug. 4, 1995). He found that the victim was sexually abused by more than one person (p. 36, TSN, Aug. 4, 1995). He confirmed the presence of spermatozoa on the vaginal canal of the victim (p. 36, TSN, Aug. 4, 1995). He issued a postmortem certificate attributing the victim's death to "asphyxia by strangulation " (Exhibit F).

On July 18, 1994, but about 11:00 o'clock in the evening, witness Corrales gave his written statements to SPO3 Romulo Mercado at Camp General Miguel C. Malvar, Batangas City, in the presence of Chief Inspector Manuel M. Kalalo (Exhibit A). In his statement, he narrated what the three (3) appellants did on the fateful day of July 6, 1994 (*ibid.*).

Forthwith, or on July 20, 1994, cases of Rape with Homicide and Robbery were filed before the Municipal Trial Court of San Luis, Batangas (pp. 26-31, TSN, Feb. 10, 1995). After the preliminary investigation had been conducted, a warrant of arrest was issued against the three appellants (pp. 26-31, *ibid.*). When appellants were arrested and brought to the Police Station of San Luis, Batangas, SPO2 Lolito Dinglasan was ordered by the Police Senior Inspector to search the suspects for any dangerous weapons (pp. 21-22, TSN, Sept. 1, 1994). Found inside the pocket of appellant Jurry Andal the half of an earring (p. 22. TSN Sept. 1, 1994) which was identified by the victim's mother as the one she gave to her daughter and worn by her on July 6, 1994 (pp. 43-44, TSN, Sept 1,1995).

Witness Nenita Siscar presented the list of expenses amounting to P 74,470.50 incurred in connection with the death of her daughter (Exhibit L).

(pp. 3-8, Appellee's Brief. Ff. p. 157, *Rollo.*)

In defense, accused-appellants plead denial and alibi. All three accused-appellants denied: (a) whistling and mockingly laughing at Nancy Siscar and her mother; (b) the punching of Nancy Siscar's stomach by Jurry Andal which caused Nancy to fall on her back, the carrying off of Nancy Siscar to the forest where she was relentlessly raped and killed; and (c) threatening Olimpio Corrales, Eyewitness to the aforesaid punching incident, brother-in-law of Jurry Andal and Ricardo Andal, and barrio-mate of Edwin Mendoza.

Jurry Andal asserts that he was at his residence between 6 and 7 o'clock in the morning of July 6, 1994, and that he left his house only at 11 o'clock that morning to tend to his cow. He also argues that the earring which was taken from his right ear (not from his pocket) by SPO2 Lolito Dinglasan was given to him seven years before by his sister-in-law, Marcianita Andal. He presented three photographs to

prove that he was wearing said earring on three occasions. As regards Olimpio Corrales' testimony implicating him in the crimes charged, Jurry stated that Olimpio was angry at him. He referred three incidents to prove this: (a) Olimpio allegedly threatened him, saying "*May araw ka rin sa akin*", after Jurry blamed Olimpio for having frightened Jurry's cow; (b) Olimpio again threatening Jurry ("*May araw ka rin sa akin*") following an incident where water from Jurry's "dampa" passed through Olimpio's ampalaya garden; (c) Olimpio's resentment against Jurry for having mentioned that Olimpio's house is the nearest to the crime scene, thus impliedly referring to him as the culprit in the commission of the crimes.

Ricardo Andal argues that between 6 and 7 o'clock on the morning of July 6, 1994, he was at his residence looking after his child and waiting for the rain to stop. At 9 o'clock, he tended to his two cows in Barangay Banoyo and returned home at 10 o'clock in the morning on the same date. On Olimpio's testimony, Ricardo insist that Olimpio implicated him and the two other accused-appellants because they pointed to him as the one whose residence is nearest to the crime scene, mistaking the same as shifting to him the suspicion for commission of the crimes.

Edwin Mendoza asserts that the night before July 6, 1994, he slept at the house of one Carling Gaa, and that the following morning, he went to the construction site where he was working and did not leave said place the whole day. It is also averred that there was no grudge between him and Olimpio. Carling Gaa was, however, not presented to corroborate Edwin Mendoza's testimony.

From the evidence, the trial court deduced the following undisputed facts:

Nancy Siscar was brutally raped and killed on the morning of July 6, 1994 at Barangay Banoyo, San Luis, Batangas. Her jewelry and money were stolen by her assailants. The fact of rape is evidence by laceration found in her vagina during the medical examination, as well as the presence of human spermatozoa in her vaginal canal.

Upon observing the demeanor of prosecution witness Olimpio Corrales, the trial court was convinced that he spoke the truth-

The prosecution was able to prove that between the hours of 6:00 and 7:00 in the morning of July 6, 1994, while NANNY SISCAR was walking in Barangay Banoyo, San Luis, Batangas on her way to Mahabang Parang Elementary School, accused JURRY ANDAL, RICARDO ANDAL and EDWIN MENDOZA suddenly appeared on front of NANCY SISCAR. JURRY ANDAL immediately boxed the stomach of the victim who fell down, lifted her and carried her to the forest. RICARDO ANDAL and EDWIN MENDOZA picked up the things of the victim and followed them in the forest. After committing the gruesome crime, the three (3) accused proceeded to the residence of star witness OLIMPIO CORALES and threatened him not to tell anybody what he saw that morning or else he would be killed. (pp. 49-50, *Rollo*.)

The trial court ruled that the circumstantial evidence adduced is sufficient to prove the crimes charged taking into consideration the credibility of the prosecution's star witness Olimpio Corrales and the absence of a valid reason for him to falsely testify against accused- appellants of such grave offenses as rape with homicide and robbery.