

THIRD DIVISION

[G.R. No. 113791, February 22, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO MENDOZA, ACCUSED-APPELLANT.**

DECISION

DAVIDE, JR., J.:

Maria Gina Avila Mendoza, a mother of three young children, was put to fire in her home in Balasing, Sta. Maria, Bulacan, on 22 November 1989. She suffered extensive second to fourth degree burns and died of hypostatic pneumonia and infected fourth degree burns on 30 November 1989. Her husband, accused-appellant Rolando Mendoza, was charged with the crime of parricide in an information filed on 29 June 1990 with Branch 8 of the Regional Trial Court (RTC) of Malolos, Bulacan. The accusatory portion thereof read:

That on or about the 22nd day of November, 1989, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rolando Mendoza, armed with a kerosene gas [sic] and with intent to kill his wife Maria Gina Mendoza, with whom he was united in lawful wedlock, did then and there wilfully, unlawfully and feloniously attack, assault and burn with the kerosene gas he was then provided, the said Maria Gina Mendoza which directly caused her death.

Contrary to law.^[1]

Trial on the merits was had after accused-appellant entered a plea of not guilty at his arraignment.^[2]

The prosecution presented as its witnesses Paul Michael Mendoza, a five-year old child of the victim and the accused-appellant; Jhun Avila, Teofisto Avila, and Rodora Avila, the victim's brother, father, and sister, respectively; and Dr. Nieto M. Salvador, the Medico-Legal Officer of the National Bureau of Investigation (NBI). On its part, the defense presented the accused-appellant himself and Erlinda Porciuncula, a childhood friend.

The testimonies of the witnesses for the prosecution established the following facts:

The accused-appellant and the victim were married on 30 January 1985 at the Sto. Cristo Parish Church in Bocaue, Bulacan and lived in Balasing, Sta. Maria, Bulacan.^[3] Their union bore three children: Paul Michael, the eldest, who was born on 7 June 1985,^[4] John-John, and Paula, the youngest.^[5]

In the evening of 22 November 1989, the accused-appellant and his wife were in their residence with their children. At around 4:00 a.m. the next morning, relatives of the accused-appellant went to the house of Jhun Avila (the victim's brother) in Wawa, Balagtas, Bulacan, and informed him that his sister Gina "got burned." Two hours later, Jhun and his father Teofisto Avila went to the house of Gina and her husband, only to discover that the latter were not there. They found the things inside the house in disarray; saw a Coke bottle which smelled of kerosene, hair strands and burned human flesh in the comfort room; and the burned clothes of Gina outside the house. They also noticed that the branches and leaves of the atienza tree in front of the house were likewise somewhat burned. They proceeded to a neighbor's house where Paul Michael, John-John, and Paula were temporarily sheltered. Paul Michael was sitting in a corner and somewhat "tulala," while Paula was sleeping. Jhun then brought the children to his house.^[6]

As Erlinda Porciuncula informed the Avila family that Gina had been brought to the Manila Sanitarium Hospital in Pasay City, Teofisto, Jhun, and Rodora proceeded there.⁷ According to Jhun, however, they were not able to talk to Gina that day as she was inside the operating room. It was only after two days that Jhun was able to see Gina, who lay "naked with all the hospital gadget[s] in the mouth and at the head and she was completely bald and her body was burned."^[8] Jhun likewise testified that Gina was unable to talk to her sister Rodora nor her father Teofisto.^[9]

Gina died on 30 November 1989. Dr. Noel Minay, Medico-Legal Officer of the NBI,, conducted the autopsy and determined the cause of death to be "hypostatic pneumonia; infected 4th degree burns",^[10] and in his Autopsy Report,^[11] he entered the following post-mortem findings:

Burns, extensive, second to fourth degree, with skin grafts, excepting the back of the neck and head, pelvic area, buttocks, whole of the back, posterior aspect of the right leg, and lower anterior third of the leg and foot, left side.

Lungs, with foci of consolidations at the bases; transections shows (sic) yellowish mucoid material in the lower part of the tracheo-bronchial tree.

Brain and other visceral organs, marked congestion.

Stomach contains small amount of yellowish fluid material.

This report also indicated that the cause of death was **"HYPOSTATIC PNEUMONIA; INFECTED FOURTH DEGREE BURNS."**

Dr. Nieto M. Salvador testified on the certification and autopsy report, in view of Dr. Minay's resignation from the NBI sometime after he examined the cadaver of the victim.^[12]

In the evening of 30 November 1989, Jhun told Paul Michael that his mother Gina had died. Paul Michael then narrated to him what actually happened to his mother that fateful evening. Because of these revelations and the findings of the doctor, Jhun reported the matter to the police authorities in Sta. Maria, Bulacan.^[13]

Jhun Avila had gone five times to the residence of Gina and the accused-appellant from 23 November 1989 to 30 November 1989, yet he did not see the accused-appellant; in fact, the latter never showed up during the wake nor burial of Gina. It was only when the accused-appellant was arrested in the house of a woman in Longos, Balagtas, Bulacan,^[14] that Jhun saw him for the first time after the incident.

The medical expenses incurred for the hospitalization of Gina amounted to P88,750.00, of which, her parents were able to pay only P18,000.00. For the balance, Teofisto had to sign a promissory note to be paid on installments.^[15]

As to how Gina was burned, only five-year old Paul Michael could testify thereon.

In his testimony during the presentation of the evidence in chief on 18 February 1991, Paul Michael declared that one evening inside their house, his father boxed his mother on her mouth and then tied her up. However, the witness did not answer succeeding questions which sought to elicit what happened thereafter, although he kept on looking at his father throughout this period. He later revealed that he saw matches and kerosene in their house. He likewise declared that his mother was now in heaven because she was dead.^[16] During his rebuttal testimony on 12 October 1992, Paul Michael categorically declared that it was his father who "burned" his mother. The accused-appellant, who was drunk at that time, first tied the victim's hands behind her back, then "poured kerosene" on the front of her body and set her aflame. Paul Michael further declared that his father tied-up his mother because they quarreled when his mother wanted him (Paul Michael) to go with the accused-appellant to the street corner, but his father refused. Finally, many times before, his parents quarreled because his father was always drunk.^[17] Pertinent portions of Paul Michael's testimony on rebuttal are as follows:

Q When your father Rolando Mendoza testified on direct examination, he stated that when he returned to your house in Balasing, Sta. Maria, Bulacan on November 22, 1989, he saw your mother was jumping up and down while her dress was already burning. What can you say about that?

A It is not true, Sir.

Q Why do you say that it is not true?

A Because it was he who burned my mother, Sir.

COURT:

How did he burn your mother?

A At first he tied up my mother, then he poured kerosine [sic] upon my mother, Sir.

Q What was tied, the hands or the feet of your mother? -

A The hands, Your Honor.

Q How was it tied?

A At the back, Your Honor.

Q Do you know the reason why she was tied up?

A Yes Your Honor. They were quarreling because my mother wanted me to go with my father to [sic] street

corner.

Q Then what happened next?

A Because of that they quarreled already.

Q What you mean is that your mother was objecting you to go [sic] with your father?

A My mother wanted me to go with my father but my father refused me [sic] to go with him, Your Hon or.

Q What would you do at the street corner with your father?

A She just wanted me to accompany my father.

Q And because of that quarrel, your father tied the hands of your mother?

A Yes, Your Honor.

Q Then he put kerosine [sic] at the front body [sic] of your mother?

A Yes, Your Honor.

Q And after putting kerosine [sic], what did he do next?

A He lighted it, Your Honor.

Q Was that the first time that you[r] mother and your father quarreled?

A Many times, Your Honor.

Q What was the cause of their quarrel?

A Because my father was always drunk, Your Honor.

Q At the time when your mother was tied and then kerosine [sic] was poured upon her dress, was your father drunk?

A Yes, Your Honor.

Q Your father always went out and when he returned he was always drunk?

A Yes, Your Honor. ^[18]

The defense, of course, had a different story to tell.

Erlinda Porciuncula, who grew up with the accused-appellant and was like a sister to him, testified that at around 8:30 p.m. of 22 November 1989, Rolando Mendoza came to her house asking for help because his wife burned herself. Together with the accused-appellant, she borrowed the owner-type jeep of her neighbor so they could bring his wife to the hospital. They proceeded to St. Mary's Hospital, but the attending physician advised them to bring the victim to the Philippine General Hospital (PGH). At the hospital, the staff could not admit the victim due to the unavailability of rooms. On the way to the PGH, the victim, who was lying in the front seat of the jeep, told Porciuncula that she was fed up with her life and was entrusting her children to her. They then went to the Manila Sanitarium Hospital where the victim was immediately given first aid and transferred to "the isolated Room No. 328." The accused-appellant requested the witness to buy medicine and inform the relatives of the victim of what had happened, which she acceded to. She was able to visit the victim three more times before the victim died on 30 November 1989, and on two of these occasions, she saw the accused-appellant at the hospital.

Accused-appellant Rolando Mendoza testified that on 22 November 1989, between 5:00 to 6:00 p.m., three persons who wanted to befriend him visited him in his house. These three persons, of whom the accused-appellant could only name one, brought a bottle of liquor and had a drinking session with him, which lasted about an hour or two. As these three persons were leaving, the accused-appellant offered to accompany them to the road. After doing so, he returned home, whereupon he saw his wife jumping up and down and removing her burning clothes. He saw a pail of water which he then used to douse out the flames. At this time, his wife cursed him and said: *"Putang-ina mo, sawang-sawa na ako sa buhay na ito,"* and *"Huwal mo akong pakialaman."*^[20] The accused-appellant did not mind her, merely proceeded to remove her dress and cried for help. The neighbors came over and he entrusted the children to them. Several others arrived and he asked one of them who owned a vehicle to help him bring his wife to the hospital. They were able to bring her to St. Mary's Hospital, but since the hospital did not have a burns specialist, they were advised to bring the victim to a hospital in Manila. The driver of the jeep, however, refused to bring them to Manila as he had neither a driver's license nor gas. The accused-appellant was instead brought to Bocaue, Bulacan, and there he was able to procure another vehicle and borrow some money. Eventually, his wife was brought to the Manila Sanitarium Hospital after the PGH refused to admit the victim. He stayed with his wife from the time she was admitted up to the time she died, and even bought the needed medicines. He did not attend her wake nor burial because of the threats his brother-in-law made. When asked if he knew why his wife burned herself, he surmised that she was *"aburido"*^[21] from all their financial difficulties.^[22]

In giving full credence to the testimony of eyewitness Paul Michael,^[23] the trial court observed that:

As provided by Section 20, Rule 130 of the Rules of Court, a person who can perceive, and perceiving, can make known his perception to others, may be a witness. A four-year old boy can already speak clearly, can understand things happening around him, and ready to study, to read and to write. For families who can afford, a four-year old child is already sent to the nursery to begin his/her studies. An intelligent boy is undoubtedly the best observer to be found. He is little influenced by the suggestion of others and describes objects and occurrences as he has really seen them (Pp. vs. Bustos, 45 Phil. 9). Paul Michael was five months over four years when the incident happened. He could perceive things happening around him. This was the reason why when his grandfather and an uncle found him in the house of a neighbor, he was in a state of shock, or at least dumbfounded (tulala). Because he knew the implication of what had happened to his mother. He knew that the burning of his mother might cause her death. If, indeed, he could not yet perceive things, such happening would pass unnoticed and without impact on him. Unless a child's testimony is punctured with serious inconsistencies as to lead one to believe that he was coached, if he can perceive and make known his perception, he is considered a competent witness (Pp. vs. Cidro, et al., 56 O.G. 3547).