

FOURTH DIVISION

[CA-G.R. CR-HC No. 05521, November 19, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PHILIPPE MARCELO Y ANICETO AND BEBS REYES, ACCUSED,**

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PHILIPPE MARCELO Y ANICETO, ACCUSED-APPELLANT.

DECISION

CARANDANG, J.:

Assailed in this appeal is the Decision^[1] dated July 6, 2010 of the Regional Trial Court (RTC) of Manila, Branch 53, finding accused-appellant Philippe Marcelo y Aniceto ("accused-appellant") guilty beyond reasonable doubt of the crime of rape with homicide, the dispositive portion of which states:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused PHILIPPE MARCELO y ANICETO GUILTY beyond reasonable doubt of the crime of Rape with Homicide and is hereby sentenced to **Reclusion Perpetua** and ordered to pay the heirs of Candice Castro the following amounts: **PHP100,000.00** as indemnity ex-delicto; **PHP2,663,250.00** as unearned income; actual damages in the following amounts – **PHP155,000.00** for funeral services; **PHP300,000.00** for the wake, transportation and incidental expenses; as well as **PHP2,325,700.00** as reimbursement for attorney's fees; **PHP 75,000.00** as moral damages; and **PHP100,000.00** as exemplary damages.

Costs against the accused.

SO ORDERED."

Accused-appellant and accused Bebs Reyes were charged with the complex crime of rape with homicide under the following Information:

"That on or about May 12, 2004, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, taking advantage of their superior strength and by means of force or intimidation employed upon the person of one AAA, did then and there willfully, unlawfully and feloniously have carnal knowledge of her, against her will.

That on the occasion of said rape, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon AAA by then and there stabbing the latter several

times thereby inflicting upon the said AAA multiple stab wounds which were direct and immediate cause of her death thereafter.

Contrary to law.”

During his arraignment on August 10, 2004, accused-appellant entered a plea of “not guilty”. Accused Bebs Reyes remained at large. Trial on the merits ensued.

The prosecution presented the following witnesses: **Anthony Carlos Que**, a Teller and co-employee of AAA at the MetroBank Leon Guinto Branch, who received the suspicious text messages from the cellphone number of AAA and who went to the latter's condominium unit and discovered the lifeless body of AAA; **SPO1 David D. Tuazon**, **SPO4 Alfredo C. Salazar** and **PO2 Rommel Del Rosario**, who were dispatched by the District Tactical Operation Center of the Western Police District (WPD), Homicide Division, to investigate a crime committed in Unit 1103, Vellagio Tower located at 2011 Leon Guinto Street corner Quiriono Avenue, Malate, Manila; **PSI Edmar Dela Torre**, a Forensic Chemist at the Medico-Legal Division of the PNP National Headquarters, Camp Crame, who conducted the Luminol Test which disclosed a blood trail from Unit 1103 to the hallway, through the second elevator and going out of said elevator to the hallway of the 6th floor leading to Room 604, which was occupied by accused-appellant; **Dr. Francisco Supe**, Chief of the PNP Forensic DNA Laboratory Section, who conducted the DNA test on the blood obtained from the sandals of accused-appellant with the finding that the DNA obtained from the sandals of accused-appellant matched the DNA of AAA taken from her muscle tissue; **PSI Reynaldo T. Calaoa**, Evidence Custodian and a DNA Analyst of the PNP-DNA Section in Camp Crame; **PSI Judycel Macapagal**, Forensic Chemist of the DNA Section of the PNP Camp Crame; who examined the urine sample of accused-appellant which yielded a positive result for Methylamphetamine Hydrochloride (“shabu”); **PSI Sonia Cayrel**, Chief of the WPD-SOCO Fingerprint Section, whose examination revealed that the latent fingerprint found on the shower head is identical to the right middle finger of accused-appellant; **PSI Melvin Tamaca**, of the PNP Crime Laboratory, who conducted fingerprint dusting inside Room 1103; **Mary Ann Gonzaga**, the Building Administrator of Vellagio Tower; **SPO1 Arnel Virtudazo**, Fingerprint Technician of the Crime Laboratory of SOCO, WPD, who took standard fingerprints, foot prints and palm prints of accused-appellant; **Dr. Cesar Bisquerra**, Medico-Legal Officer at the NBI, who conducted the autopsy on the cadaver of AAA; and BBB, mother of AAA, who testified on the civil aspect of the case.

In addition to accused-appellant's testimony, the defense presented the following witnesses: **Dr. Elia Paulino Cabrera**, a Physician-Pathologist and the head of the Clinical Microscopy Section, Department of Laboratories of the Philippine General Hospital (PGH), who affirmed the correctness of the laboratory result dated June 2, 2004; **Myrna Flamenco**, a Medical Technologist of the PGH, who conducted an examination of the urine of accused-appellant which gave a negative result for the presence of shabu; **Felipe Marcelo**, father of accused-appellant, testifying that it was he who took the urine sample from his son; **Edmar dela Torre**, who conducted a Luminol test on the sandals of accused-appellant given by the SOCO-WPD; **Teresita Modar**, the nephew of accused-appellant; and **Genevie Evardon**, accused-appellant's cousin.

From the evidence adduced by both parties, the trial court found the following facts, which We find complete and worthy to quote, to wit:

"At the time when the crime subject matter of this case was committed, the accused as well as the victim were residents of Vellagio Tower, a multi-storey condominium situated at 2011 Leon Guinto St., Malate, Manila. Accused Phillippe Marcelo occupied Unit 604 at the 6th floor together with his live-in partner Rosalinda Dilambuti. Having been a resident of the studio-type unit since 2002, accused Marcelo was familiar with residents and maintenance personnel of the tower, including the security guards. Accused Marcelo claims that although he had seen Bebs Reyes sometime in March or April 2004 at Vellagio Tower, it was only on May 11, 2004 that he had the occasion to talk to Bebs during the drinking session that night. Accused-Beb Reyes' parents owned Unit 1105 at the 11th floor which was occupied at the time of incident by Bebs Reyes. Not far from Unit 1105, AAA Castro resided alone in Unit 1103 on the same floor. Her parents had chosen a place for their daughter that would spare them from worrying about her safety in going to and coming from her work in Manila. For AAA, the Vellagio Tower was a very convenient place for her because she was then employed as Loans Clerk of the Metrobank Leon Guinto corner Quirino Ave. Branch which is located just across the street. AAA's job in the bank required her to stay late in the evening after regular banking hours and for her to report early in the morning before the bank opened for the day. The location of her city residence was perfect for her. She did not have to face the traffic woes of a commuter and did not have to unnecessarily expose herself to the lurking danger of being victimized by criminal roaming the streets specially at night. At twenty-three, she was an attractive woman who had a bright future ahead of her. Apparently, she was friendly and very popular with her co-workers in the bank; hence, it was not unusual for her co-employees to visit her at Unit 1103 even after office hours.

On May 11, 2004, AAA arrived at Vellagio Tower late at night accompanied by friends who went up with her to Unit 1103. Phillippe Marcelo, who was with Bebs Reyes, Jonas Santiago and Raymond Ruiz having a drinking session at the ground floor, saw AAA Castro arrive with her friends. After about thirty (30) minutes, accused Marcelo and his companions saw AAA and her friends again at the lobby. After seeing her friends leave, AAA walked to the elevator alone and returned to her unit. In the meantime, the drinking session continued at the ground floor until about 2:00 a.m. of May 12, 2004.

When the Metrobank Branch at Leon Guinto corner Quirino Ave. opened on May 12, 2004, AAA was not able to report for work. Her co-employees who wanted to know why she did not report early for work, discovered the lifeless body of AAA smeared in her own blood, with multiple stab wounds, hematomas, lacerations, and a floor mop handle plunged into her vagina inside Unit 1103. The crime scene was immediately secured by responding policemen from the WPD Homicide. SPO1 David Tuazon and PO2 Rommel Del Rosario were immediately dispatched by the District Tactical Operation Center of the WPD, Homicide Division to investigate. When SPO1 Tuazon and PO2 Del Rosario arrived at the crime scene at

around 11:45 a.m., PO1 Pol Dispues, SPO2 Magadya and PO3 Garay from Police Station 5 were already there.

At around 12:45 p.m., PCI Melvin Tamaca, photographer PO2 Elena Ulit and fingerprint technician Rex Maningsin, all personnel from WPD SOCO arrived and processed the crime scene. PCI Tamaca conducted an ocular inspection of the crime scene. Then, under his supervision, PO2 Elena Ulit took picture of the victim lying on her back (Exhibit "NN")^[2], set of footprints (Exhibit "NN-1")^[3], disarrayed dresser of the victim (Exhibit "NN-4")^[4], disarrayed clothing on the floor (Exhibit "NN-5")^[5], bed with blood on the bed linen (Exhibit "NN-6")^[6], bags ascattered all around (Exhibit "NN-7")^[7], the victim lying face down with a mop handle inserted into her vagina (Exhibts "NN-8, NN-9")^[8], the victim when she was turned over (Exhibt "NN-11"), a closer view of the victim's face and body full of blood (Exhibit "NN-12")^[9], and a kitchen knife with blue handle found on the bed (Exhibit "NN-13")^[10]. At around 1:00 p.m., PCI Romeo T. Salen, PCI Francisco Supe and PSI Edmar Dela Torre from the PNP-DNA, Camp Crame Headquarters arrived to assist in the investigation. PCI Salen and PCI Supe processed the crime scene and collected DNA specimen. They gathered and collected chest muscle tissue of the victim and swabs. PCI Tamaca and his team did fingerprint-dusting in Unit 1103 for the purpose of detecting latent fingerprints. He took a picture of the bath tub because he suspected that the shower head might have been used since it was not on its right place. He observed that the shower head was placed inside the basin in the bathtub instead of its receptacle. He detached the shower head from the hose and placed this inside a paper bag. Later, he gave the evidence to PCI Sonia Cayrel, the fingerprint technician of the WPD, Dactyloscopy Division for fingerprint examination.

Between 1:00 and 2:00 p.m. of May 12, 2004, SPO2 Alfredo Salazar, an investigator of the WPD Homicide Section arrived at the Vellagio Tower after he was also dispatched by P/Supt. Dominador Arevalo, Jr. to help in the investigation. That same afternoon of May 12, 2004, he saw accused Marcelo on the ground floor of the Vellagio Tower and noticed that Marcelo had scratches all over his face which appeared to be fresh lacerations or abrasions. SPO2 Salazar asked Marcelo about this and later explained that he had a quarrel with his wife, and that his wife scratched his face. SPO2 Salazar accompanied Marcelo to the Ospital ng Maynila where a doctor examined his scratches. Marcelo was also examined for alcoholic breath and subjected to a drug test. He was found positive for methamphetamine. From the hospital, he brought accused Marcelo to the Homicide Section for investigation.

Dr. Cesar Bisquera of the NBI performed the Autopsy and Post-Mortem Examination on the cadaver of AAA at the morgue of La Funeraria Paz in Quezon City. The parents of AAA had requested NBI to conduct the Autopsy and Post-Mortem Examination on the cadaver of their daughter. The parents of AAA had taken a plane from Legaspi City to Manila on May 12, 2004 and arrived at around 5:30 p.m.. After the father of the victim

identified the body of AAA (Exhibit "ZZ"), Dr. Bisquera performed the autopsy and post-mortem examination. Dr. Bisquera reduced into writing the findings and conclusions of the post mortem examination and autopsy that he performed on AAA in the Post-Mortem Examination (Exhibit "AAA")^[11] and in Autopsy Report No. 04-26 (Exhibit "BBB")^[12].

On May 13, 2004, at around 3:00 p.m., PSI Edmar Dela Torre returned to the crime scene with Major Tamaca and the SOCO Team to collect more specimen and to conduct additional tests. They conducted Micro Blue and Luminol Test to detect traces of blood or blood patches from Unit 1103 to areas in the building. The Luminol test he conducted disclosed a blood trail from unit 1103 to the hallway through the second elevator and going out of the said elevator to the hallway of the 6th floor that ended at the door of room 604. After conducting Luminol Test, he swabbed and collected blood from the areas from Unit 1103 up to its hallway and from the hallway of 6th Floor to Unit 604 and turned over the blood swabs to the evidence custodian for DNA examination. The result of the DNA Test conducted by PCI Francisco Supe on the swabs of blood collected by PSI Edmar Dela Torre from Unit 1103, the hallway of the 11th floor, the elevator, the hallway of 6th Floor, and at the front door of Unit 604 disclosed "*that the DNA profile was found, the collected swabs matched to that of the DNA profile of the victim*" (Exhibit "R-5")^[13]. The result as reflected in the PNP DNA Lab. Report No. DNA-017-04 (Exhibit "R")^[14] showed that the traces of blood and blod patches came from AAA. PSI Edmar Dela Torre requested PO2 Rommel Del Rosario to take the sandals of accused Marcelo so he (Dela Torre) could also subject the sandals to Luminol testing. PO2 Del Rosario complied by going to the WPD jail and asked accused Marcelo for the sandals that the latter wore at that time. PO2 Del Rosario placed the sandals into evidence bags which he sealed and marked with his initials (Exhibits Y and Z) and thereafter he gave them to Manuela Osoro, the evidence custodian of WPD SOCO, for delivery to PCI Dela Torre.

On the same day, May 13, 2004, at around 5:30 p.m., SPO1 Arnel Virtudazo took standard fingerprints, footprints and palm prints of accused Marcelo, in compliance with the instructions given by PSI Sonia Cayrel. SPO3 David Tuazon coordinated with the Jail Warden and requested that accused Marcelo be brought out from the cell for said purpose. When informed that fingerprints, foot prints and palm prints would be taken from him, accused Marcelo did not object and replied "*ok lang*". The Standard Operating Procedure of the WPD Crime Lab in getting standard prints was performed by SPO1 Arnel Virtudazo in the presence of police officers Tuazon, De Quiroz and Mola. Thereafter, they immediately returned to their office and handed to PSI Cayrel Fingerprint Card Number N-188-04 which contained the standard fingerprints, footprints and palm prints of accused Marcelo.

PSI Sonia Cayrel performed Dactyloscopy tests on latent prints found inside the crime scene including the shower head that was turned over to him by PSI Dela Torre. She reduced into writing her findings in Dactyloscopy Report No. F-188-04 and among her findings, it was