

THIRD DIVISION

[G.R. No. 211027, June 29, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE BRONIOLA @ "ASOT", ACCUSED-APPELLANT.

DECISION

VILLARAMA, JR., J.:

On appeal is the Decision^[1] dated September 24, 2013 of the Court of Appeals (CA)-Cagayan de Oro City in CA-G.R. CR-HC No. 00805-MIN affirming with modification the Judgment^[2] dated September 30, 2009 of the Regional Trial Court (RTC) of Kidapawan City, Branch 17, in Criminal Case No. 207-2000. The RTC found appellant Jose Broniola alias "Asot" guilty beyond reasonable doubt of Rape with Homicide under Republic Act (R.A.) No. 8353^[3], Article 266-A, in relation to Article 266-B of the Revised Penal Code, as amended, and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim, AAA,^[4] the sum of P100,000.00 as civil indemnity.

Antecedent Facts

AAA, a Grade VI pupil, left her house for school in the morning of February 28, 2000. She did not return home that day. Her lifeless body was found on February 29, 2000 in a grassy lot near an uninhabited farm hut at Sitio Kabanatian, Barangay Tumanding, Arakan, Cotabato.

Assistant Provincial Prosecutor Oscar D. Bayog filed the following Information^[5] charging appellant with the crime of rape with homicide:

That on or about February 28, 2000, in the Municipality of Arakan, Province of Cotabato, Philippines, the said accused, armed with a bolo (Lagaraw), did then and there, willfully, unlawfully and feloniously and by means of force and intimidation, have a carnal knowledge with [AAA], minor, 13 years old, against her will, that after the occasion, accused with intent to kill, attack, assault, hack and use physical violence to the above-named victim, thus inflicting upon her hack wounds on the different parts of her body, which is the direct and proximate cause of her death thereafter.

CONTRARY TO LAW.

At his arraignment, appellant, duly assisted by counsel, pleaded not guilty to the charge. After pre-trial, trial on the merits ensued.

Version of the Prosecution

On February 28, 2000, at around 5:30 in the afternoon, Alfredo Abag^[6] (Abag), a resident of Sitio Kabanatian,^[7] Bgy. Tumanding, was on his way home bringing some "Taiwan" fish to sell when he met the appellant at a shortcut road passable only to people and animals. He noticed that appellant had scratches on his face and his hand was holding a *lagaraw*^[8] (bolo) with blood on it. Appellant asked for the price of the fish but he did not buy and just left. From what he had observed, appellant was restless and uneasy.^[9]

Meanwhile, AAA's father, BBB, reported to the barangay authorities that his daughter was missing. In the morning of February 29, 2000, he, together with Abag and two barangay officials, began to search for AAA. They found her already dead, lying on a grassy area near a farm hut owned by Jhonefer Q. Darantinao^[10]. AAA's body bore several hack wounds, blood oozed from her mouth, her one hand and one finger were cut off. He knows appellant because they are neighbors. Their families had a rift because appellant's father was killed by his son-in-law, Lito Miguel.^[11]

Dr. Sofronio T. Edu, Jr., Municipal Health Officer of Arakan, conducted a post-mortem examination on the cadaver of AAA. He submitted a Post-Mortem Report^[12] with the following findings:

Multiple hacked wounds:

- Left face mandibular area, partial transection
- Left neck area lateral and anterior area, partial transection extending into the vertebra
- Left hand completely transected at the midpalmar area
- Right thumb completely transected
- Right hand partially transected at the palmar area, medial
- Right wrist, partially transected anterior

Perineal and internal examination:

- Blood stained white underwear
- Lacerated hymen at 3, 9 and 11 o'clock position
- Whitish discharge sent to Arakan, Valley District Hospital Antipas, Cotabato for sperm analysis

CAUSE OF DEATH:

- Cardio-Respiratory Arrest secondary to hemorrhage secondary to multiple hacked wounds

According to Dr. Edu, the probable cause of death was loss of blood due to the hack wounds. He also opined that the genital injury could have been caused by a penetrating penis or any blunt object.^[13]

Version of the Defense

In the morning of February 28, 2000, appellant was plowing his farm located adjacent to their house. After having lunch, he worked in the fishpond just beside their house until 3:00 o'clock in the afternoon. Thereafter, he stayed inside their

house together with his mother, wife and children. Pelita^[14] Antac, who is a niece of her mother, and Jessie Panesales who is the husband of his younger sister, were also there in the house. He denied having left the house at that time and meeting Abag at Sitio Kabanatian.^[15]

Appellant claimed he does not know Abag, AAA or BBB. He admitted that his family has a land in Sitio Kabanatian but after the death of his father, he does not go there anymore. When BBB testified in this case, it was only then he learned that BBB is the father-in-law of Lito Miguel who reportedly killed his (appellant) father. He denied having grudges with the family of BBB and he does not have any knowledge regarding the amicable settlement between their families in connection with the killing of his father. At present, Lito Miguel is now his co-inmate at the provincial jail and they are now friends. Lito Miguel told him that Lito killed his father because they had a quarrel. When Lito Miguel asked him about this case of rape with homicide, he told Lito Miguel that he did not do it.^[16]

Pelita Antac stayed in appellant's house from February 23, 2000 until the second week of March, because it was planting season. She corroborated the testimony of appellant, who is her cousin, that he never left the house on February 28, 2000 and just worked in his farm in Bgy. Tumanding.^[17]

Ruling of the RTC

The trial court found the testimony of Abag to be straightforward, categorical and convincing, which established that appellant went to Sitio Kabanatian where Abag met him coming from the shortcut road in the afternoon of February 28, 2000 carrying a blood-stained *lagaraw*. Said court gave no credence to appellant's defense of denial and alibi as it failed to show the impossibility of his presence at the scene of the crime and to rebut the prosecution's circumstantial evidence proving that he committed the rape and killing of AAA.

Ruling of the CA

The CA found no merit in appellant's argument that the circumstantial evidence failed to prove he was guilty beyond reasonable doubt of rape with homicide. It noted that the timing of witness Abag's encounter with appellant who was then holding a *lagaraw* stained with blood, restless and with scratches on his face, coincides with the time when the victim was missing, and the place was near the spot where the dead victim was found the next day. As to appellant's alibi, the CA also was not convinced and held that the rule that alibi and denial are weak defenses applies even where the conviction is based on circumstantial evidence.

The *fallo* of the CA Decision reads as follows:

WHEREFORE, the appeal is DENIED. The Decision dated September 30, 2009 of the Regional Trial Court, 12th Judicial Region, Branch 17 of Kidapawan City in Criminal Case No. 207-2000 is AFFIRMED with MODIFICATIONS that the penalty of RECLUSION PERPETUA is imposed without the possibility of parole. In addition to the P100,000.00 civil indemnity, moral and exemplary damages shall also be awarded in the amount of SEVENTY-FIVE THOUSAND (P75,000.00) PESOS and THIRTY

THOUSAND (P30,000.00) PESOS, respectively. An interest at the rate of six percent (6%) period shall be applied to the award of civil indemnity, moral and exemplary damages from the finality of the judgment until fully paid.

SO ORDERED.^[18]

Our Ruling

The appeal is without merit.

Appellant was charged and convicted of rape with homicide. The felony of rape with homicide is a special complex crime that is, two or more crimes that the law treats as a single indivisible and unique offense for being the product of a single criminal impulse.^[19] In rape with homicide, the following elements must concur: (1) the appellant had carnal knowledge of a woman; (2) carnal knowledge of a woman was achieved by means of force, threat or intimidation; and (3) by reason or on occasion of such carnal knowledge by means of force, threat or intimidation, the appellant killed a woman.^[20]

In this case, nobody witnessed the actual rape and killing of AAA. Appellant, however, may still be proven as the culprit despite the absence of eyewitnesses. Direct evidence is not a condition *sine qua non* to prove the guilt of an accused beyond reasonable doubt. For in the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden.^[21] As we held in *People v. Pascual*^[22]:

It is settled that in the special complex crime of rape with homicide, both the rape and the homicide must be established beyond reasonable doubt. In this regard, we have held that the crime of rape is difficult to prove because it is generally unwitnessed and very often only the victim is left to testify for herself. It becomes even more difficult when the complex crime of rape with homicide is committed because the victim could no longer testify. Thus, in crimes of rape with homicide, as here, resort to circumstantial evidence is usually unavoidable.^[23]

Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience.^[24] Section 4, Rule 133, of the Revised Rules of Evidence, as amended, sets forth the requirements of circumstantial evidence that is sufficient for conviction, viz:

SEC. 4. *Circumstantial evidence, when sufficient.* - Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.