

## SECOND DIVISION

[ G.R. No. 207950, September 22, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARK  
JASON CHAVEZ Y BITANCOR ALIAS "NOY", ACCUSED-  
APPELLANT.**

### D E C I S I O N

**LEONEN, J.:**

Every conviction for any crime must be accompanied by the required moral certainty that the accused has committed the offense charged beyond reasonable doubt. The prosecution must prove "the offender's *intent* to take personal property *before* the killing, regardless of the time when the homicide [was] actually carried out"<sup>[1]</sup> in order to convict for the crime of robbery with homicide. The accused may nevertheless be convicted of the separate crime of homicide once the prosecution establishes beyond reasonable doubt the accused's culpability for the victim's death.

In the information dated November 8, 2006, Mark Jason Chavez y Bitancor (Chavez) was charged with the crime of robbery with homicide:

That on or about October 28, 2006, in the City of Manila, Philippines, the said accused, did then and there wilfully, unlawfully and feloniously, with intent of gain and means of force, violence and intimidation upon the person of ELMER DUQUE y OROS, by then and there, with intent to kill, stabbing the latter repeatedly with a kitchen knife, thereby inflicting upon him mortal stab wounds which were the direct and immediate cause of his death thereafter, and on the said occasion or by reason thereof, accused took, robbed and carried away the following:

One (1) Unit Nokia Cellphone  
One (1) Unit Motorola Cellphone  
Six (6) pcs. Ladies Ring  
Two (2) pcs. Necklace  
One (1) pc. Bracelet

All of undetermined value and undetermined amount of money, all belonging to said ELMER DUQUE y OROS @ BARBIE to the damage and prejudice of the said owner/or his heirs, in the said undetermined amount in Philippines currency.

Contrary to law.<sup>[2]</sup>

Chavez pleaded not guilty during his arraignment on December 4, 2006. The court proceeded to trial. The prosecution presented Angelo Peñamante (Peñamante),

P/Chief Inspector Sonia Cayrel (PCI Cayrel), SPO3 Steve Casimiro (SPO3 Casimiro), Dr. Romeo T. Salen (Dr. Salen), and Raymund Senofa as witnesses. On the other hand, the defense presented Chavez as its sole witness.<sup>[3]</sup>

The facts as found by the lower court are as follows.

On October 28, 2006, Peñamante arrived home at around 2:45 a.m., coming from work as a janitor in Eastwood City.<sup>[4]</sup> When he was about to go inside his house at 1326 Tuazon Street, Sampaloc, Manila, he saw a person wearing a black, long-sleeved shirt and black pants and holding something while leaving the house/parlor of Elmer Duque (Barbie) at 1325 Tuazon Street, Sampaloc, Manila, just six meters across Peñamante's house.<sup>[5]</sup>

There was a light at the left side of the house/parlor of Barbie, his favorite haircutter, so Peñamante stated that he was able to see the face of Chavez and the clothes he was wearing.<sup>[6]</sup>

Chavez could not close the door of Barbie's house/parlor so he simply walked away. However, he dropped something that he was holding and fell down when he stepped on it.<sup>[7]</sup> He walked away after, and Peñamante was not able to determine what Chavez was holding.<sup>[8]</sup> Peñamante then entered his house and went to bed.<sup>[9]</sup>

Sometime after 10:00 a.m., the Scene of the Crime Office (SOCO) team arrived, led by PCI Cayrel. She was joined by PO3 Rex Maglansi (photographer), PO1 Joel Pelayo (sketcher), and a fingerprint technician.<sup>[10]</sup> They conducted an initial survey of the crime scene after coordinating with SPO3 Casimiro of the Manila Police District Homicide Section.<sup>[11]</sup>

The team noted that the lobby and the parlor were in disarray, and they found Barbie's dead body inside.<sup>[12]</sup> They took photographs and collected fingerprints and other pieces of evidence such as the 155 pieces of hair strands found clutched in Barbie's left hand.<sup>[13]</sup> They documented the evidence then turned them over to the Western Police District Chemistry Division. Dr. Salen was called to conduct an autopsy on the body.<sup>[14]</sup>

At around 11:00 a.m., Peñamante's landlady woke him up and told him that Barbie was found dead at 9:00 a.m. He then informed his landlady that he saw Chavez leaving Barbie's house at 2:45 a.m.<sup>[15]</sup>

At around 1:00 p.m., Dr. Salen conducted an autopsy on the body and found that the time of death was approximately 12 hours prior to examination.<sup>[16]</sup> There were 22 injuries on Barbie's body — 21 were stab wounds in various parts of the body caused by a sharp bladed instrument, and one incised wound was caused by a sharp object.<sup>[17]</sup> Four (4) of the stab wounds were considered fatal.<sup>[18]</sup>

The next day, the police invited Peñamante to the Manila Police Station to give a statement. Peñamante described to SPO3 Casimiro the physical appearance of the person he saw leaving Barbie's parlor.<sup>[19]</sup>

Accompanied by his mother, Chavez voluntarily surrendered on November 5, 2006 to SPO3 Casimiro at the police station.<sup>[20]</sup> Chavez was then 22 years old.<sup>[21]</sup> His mother told the police that she wanted to help her son who might be involved in Barbie's death.<sup>[22]</sup>

SPO3 Casimiro informed them of the consequences in executing a written statement without the assistance of a lawyer. However, Chavez's mother still gave her statement, subscribed by Administrative Officer Alex Francisco.<sup>[23]</sup> She also surrendered two cellular phones owned by Barbie and a baseball cap owned by Chavez.<sup>[24]</sup>

The next day, Peñamante was again summoned by SPO3 Casimiro to identify from a line-up the person he saw leaving Barbie's house/parlor that early morning of October 28, 2006.<sup>[25]</sup> Peñamante immediately pointed to and identified Chavez and thereafter executed his written statement.<sup>[26]</sup> There were no issues raised in relation to the line-up.

On the other hand, Chavez explained that he was at home on October 27, 2006, exchanging text messages with Barbie on whether they could talk regarding their misunderstanding.<sup>[27]</sup> According to Chavez, Barbie suspected that he was having a relationship with Barbie's boyfriend, Maki.<sup>[28]</sup> When Barbie did not reply to his text message, Chavez decided to go to Barbie's house at around 1:00 a.m. of October 28, 2006.<sup>[29]</sup> Barbie allowed him to enter the house, and he went home after.<sup>[30]</sup>

On August 19, 2011, the trial court<sup>[31]</sup> found Chavez guilty beyond reasonable doubt of the crime of robbery with homicide:

WHEREFORE, in view of the foregoing, this Court finds accused MARK JASON CHAVEZ y BITANCOR @ NOY GUILTY beyond reasonable doubt of the crime of **Robbery with Homicide** and hereby sentences him to suffer the penalty of reclusion perpetua without eligibility for parole.

Further, he is ordered to pay to the heirs of the victim, Elmer Duque y Oros the sum of P75,000.00 as death indemnity and another P75,000 for moral damages.

SO ORDERED.<sup>[32]</sup>

On February 27, 2013, the Court of Appeals<sup>[33]</sup> affirmed the trial court's decision.<sup>[34]</sup> Chavez then filed a notice of appeal pursuant to Rule 124, Section 13(c) of the Revised Rules of Criminal Procedure, as amended, elevating the case with this court.<sup>[35]</sup>

This court notified the parties to simultaneously submit supplemental briefs if they so desire. Both parties filed manifestations that they would merely adopt their briefs before the Court of Appeals.<sup>[36]</sup>

In his brief, Chavez raised presumption of innocence, considering that the trial court

“overlooked and misapplied some facts of substance that could have altered its verdict.”<sup>[37]</sup> He argued that since the prosecution relied on purely circumstantial evidence, conviction must rest on a moral certainty of guilt on the part of Chavez.<sup>[38]</sup> In this case, even if Peñamante saw him leaving Barbie’s house, Peñamante did not specify whether Chavez was acting suspiciously at that time.<sup>[39]</sup>

As regards his mother’s statement, Chavez argued its inadmissibility as evidence since his mother was not presented before the court to give the defense an opportunity for cross-examination.<sup>[40]</sup> He added that affidavits are generally rejected as hearsay unless the affiant appears before the court and testifies on it.<sup>[41]</sup>

Chavez argued that based on Dr. Salen’s findings, Barbie’s wounds were caused by two sharp bladed instruments, thus, it was possible that there were two assailants.<sup>[42]</sup> It was also possible that the assailants committed the crime after Chavez had left Barbie’s house.<sup>[43]</sup> Given that many possible explanations fit the facts, that which is consistent with the innocence of Chavez should be favored.<sup>[44]</sup>

On the other hand, plaintiff-appellee argued that direct evidence is not indispensable when the prosecution is establishing guilt beyond reasonable doubt of Chavez.<sup>[45]</sup> The circumstantial evidence presented before the trial court laid down an unbroken chain of events leading to no other conclusion than Chavez’s acts of killing and robbing Barbie.<sup>[46]</sup>

On the argument made by Chavez that his mother’s statement was inadmissible as hearsay, plaintiff-appellee explained that the trial court did not rely on, and did not even refer to, any of the statements made by Chavez’s mother.<sup>[47]</sup>

Finally, insofar as Chavez’s submission that Dr. Salen testified on the possibility that there were two assailants, Dr. Salen equally testified on the possibility that there was only one.<sup>[48]</sup>

The sole issue now before us is whether Chavez is guilty beyond reasonable doubt of the crime of robbery with homicide.

We reverse the decisions of the lower courts, but find Chavez guilty of the crime of homicide.

## I

Chavez was found guilty of the special complex crime of robbery with homicide under the Revised Penal Code:

Art. 294. Robbery with violence against or intimidation of persons – Penalties. – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1) The penalty of *reclusion perpetua* to death, when by reason or on

occasion of the robbery, the crime of homicide shall have been committed. . . .<sup>[49]</sup>

Chavez invokes his constitutional right to be presumed innocent, especially since the prosecution's evidence is purely circumstantial and a conviction must stand on a moral certainty of guilt.<sup>[50]</sup>

The Rules of Court expressly provides that circumstantial evidence may be sufficient to establish guilt beyond reasonable doubt for the conviction of an accused:

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.<sup>[51]</sup>

The lower courts found that the circumstantial evidence laid down by the prosecution led to no other conclusion than the commission by Chavez of the crime charged:

In the instant case, while there is no direct evidence showing that the accused robbed and fatally stabbed the victim to death, nonetheless, the Court believes that the following circumstances form a solid and unbroken chain of events that leads to the conclusion, beyond reasonable doubt, that accused Mark Jason Chavez y Bitancor @ Noy committed the crime charged, vi[z]: first, it has been duly established, as the accused himself admits, that he went to the parlor of the victim at around 1:00 o'clock in the morning of 28 October 2006 and the accused was allowed by the victim to get inside his parlor as it serves as his residence too; second, the victim's two (2) units of cellular phones (one red Nokia with model 3310 and the other one is a black Motorola) without sim cards and batteries, which were declared as part of the missing personal belongings of the victim, were handled to SPO3 Steve Casimiro by the mother of the accused, Anjanette C. Tobias on 05 November 2006 when the accused voluntarily surrendered, accompanied by his mother, at the police station: third, on 28 October 2006 at about 2:45 o'clock in the morning, witness Angelo Peñamante, who arrived from his work, saw a person holding and/or carrying something and about to get out of the door of the house of the victim located at 1325 G. Tuazon Street, Sampaloc, Manila, and trying to close the door but the said person was not able to successfully do so. He later positively identified the said person at the police station as MARK JASON CHAVEZ y BITANCOR @ NOY, the accused herein; and finally, the time when the accused decided on 27 October 2006 to patch up things with the victim and the circumstances (Dr. Salen's testimony that the body of the victim was dead for more or less twelve (12) hours) when the latter was discovered fatally killed on 28