

## SECOND DIVISION

[ G.R. No. 187725, January 19, 2011 ]

**BENJAMIN JESALVA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**NACHURA, J.:**

Before this Court is a Petition for Review<sup>[1]</sup> on *Certiorari* under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision<sup>[2]</sup> dated October 17, 2008, which affirmed with modification the decision<sup>[3]</sup> of the Regional Trial Court (RTC) of Sorsogon, Sorsogon, dated November 18, 1997, finding petitioner Benjamin Jesalva *alias* Ben Sabaw<sup>[4]</sup> (petitioner) guilty beyond reasonable doubt of the crime of Homicide.

#### *The Facts*

On September 11, 1992, the Chief of Police of Sorsogon, Sorsogon, filed a criminal complaint<sup>[5]</sup> for Frustrated Murder against petitioner. Four days thereafter, or on September 15, 1992, the complaint was amended, charging petitioner with the crime of Murder, as the victim Leticia Aldemo<sup>[6]</sup> (Leticia) died on September 14, 1992.<sup>[7]</sup> After conducting a hearing on the bail application of petitioner, the Municipal Trial Court (MTC) of Sorsogon, Sorsogon, on December 18, 1992, granted him bail.<sup>[8]</sup> On January 11, 1993, the MTC recommended the filing of Murder against petitioner, and then ordered the transmittal of the records of the case to the Provincial Prosecutor of Sorsogon.<sup>[9]</sup>

Thus, petitioner was charged with the crime of Murder in an Information<sup>[10]</sup> dated January 26, 1993, which reads:

That on or about the 9<sup>th</sup> day of September, 1992 in the Municipality of Sorsogon, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, taking advantage of superior strength, with treachery and evident premeditation with the use of motor vehicle and during night time, did then and there [wilfully], unlawfully and feloniously attack, assault, manhandle and use personal violence upon [Leticia] Aldemo, inflicting upon the latter serious and mortal wounds which directly caused her death shortly thereafter, to the damage and prejudice of her legal heirs.

CONTRARY TO LAW.

When arraigned on March 1, 1993, petitioner entered a plea of not guilty to the offense charged.<sup>[11]</sup> Thereafter, trial on the merits ensued. In the course of the trial, two varying versions arose.

### ***Version of the Prosecution***

The testimonies of the prosecution witnesses are essentially summarized by the Office of the Solicitor General (OSG), as follows:

In the evening of September 8, 1992, witness Gloria Haboc, together with the victim Leticia Aldemo, Benjamin Jesalva (petitioner), Elog Ubaldo,<sup>[12]</sup> Jo Montales and Romy Paladin were at Nena's place playing mahjong. A certain Mrs. Encinas and Atty. Alibanto were also there. At about 10 o'clock that night, Gloria's group left Nena's place and boarded the Isuzu panel of petitioner. With the exception of Jo Montales, the group proceeded to Bistro Christina to eat and drink. While Gloria had softdrink, Leticia drank two (2) bottles of beer, and the rest consumed beer and [F]undador until 11:30 in the evening.

After they ate and drank, the group, with the exception of Elog Ubaldo who flagged down a tricycle, once again boarded petitioner's Isuzu panel as it was usually petitioner who drove them home. The victim Leticia Aldemo was seated at the front seat. Petitioner dropped Romy Paladin at his house first, followed by Gloria, who resided some 20 meters away from Leticia's house. While at Gloria's house, petitioner wanted to drink some more but Gloria told him to defer it until the next day because the stores were already closed. Gloria then gave Leticia three (3) sticks of barbecue and accompanied her and petitioner at the gate. After petitioner and Leticia boarded the Isuzu [panel], the former immediately accelerated his car and went to the direction of 6<sup>th</sup> Street instead of towards 7<sup>th</sup> Street where Leticia's house was situated.

At about 12:20 early morning of September 9, 1992, the group of SPO1 Edgardo Mendoza (SPO1 Mendoza) of the Sorsogon PNP Mobile Patrol Section chanced upon petitioner's Isuzu [panel] in St. Rafael Subdivision in [Our Lady's Village] OLV, Pangpang, Sorsogon. The police patrol team approached the vehicle and SPO1 Mendoza focused a flashlight at the front portion of the vehicle to check what was going on. There, SPO1 Mendoza saw petitioner whom he knew since childhood seated in front of the wheel so he called out his name. Instead of heeding his call, however, petitioner did not respond, immediately started the engine and sped away toward Sorsogon town proper which is directly opposite his place of residence which is Ticol, Sorsogon, Sorsogon.

At about the same time that night, Noel Olbes, a driver for the MCST Sisters holding office at the Bishop's Compound in Sorsogon, Sorsogon, was also in OLV Pangpang. While he was walking from a certain Lea's house, he saw a woman naked from the waist down and lying on her belly on the highway. Her jeans and [panty] were beside her. Because it

was raining, Olbes pitied her so he carried her and her things to the shed some 10 meters away. As he was doing so, a tricycle being driven by Eduardo De Vera focused its headlight in his direction. De Vera called out, "What is that?" Because he received no response from Noel Olbes, he decided to bring his passenger home first and just come back to check the site later.

Meanwhile, upon reaching the shed, Olbes noticed that the woman was bleeding that he even got stained with her blood. Afraid that he might be implicated, he hurriedly left the woman at Hazelwood such that when De Vera came back, he no longer found Olbes. De Vera then proceeded to the police station to report the incident to [SPO1] Balaoro.

De Vera, SPO1 Balaoro and SPO1 Sincua eventually returned to comb the area but to no avail. On their way back at about 1:15 o'clock (sic) in the morning, they met Lt. Caguia talking with Noel Olbes. De Vera lost no time in identifying him to be the man he saw with the woman. At this point, Olbes admitted the allegation but professed innocence. He admitted he left the woman in Hazelwood where the police found her.

Eventually, Olbes was investigated by the police and was not released until the next day. However, because the evidence pointed to petitioner as the last person seen with the victim, a search for him was conducted. He "surrendered" at one (1) o'clock in the afternoon accompanied by Fiscal Jose Jayona, his first cousin.<sup>[13]</sup>

The prosecution highlighted that, per testimony of Gloria Haboc, Leticia disclosed to her that petitioner was courting Leticia. However, Leticia told petitioner that they should just remain as friends because she was already married, and that she loved her handsome husband.<sup>[14]</sup> Moreover, the prosecution asseverated that, at around 12:20 a.m. of September 9, 1992, while conducting patrol in St. Rafael Subdivision,<sup>[15]</sup> together with other police officers, Senior Police Officer 1 Edgardo Mendoza (SPO1 Mendoza), by using his flashlight, saw petitioner on board his vehicle alone. Upon sight, petitioner immediately started his vehicle and drove toward the town proper of Sorsogon, which was directly opposite his residence in Ticol, Sorsogon, disregarding SPO1 Mendoza's calls.<sup>[16]</sup> Lastly, at about 1:00 p.m. of September 9, 1992, petitioner, together with his first cousin Fiscal Jose Jayona (Fiscal Jayona), went to the police station, wherein he voluntarily intimated to SPO4 William Desder (SPO4 Desder) that Leticia jumped out of his vehicle.<sup>[17]</sup> At about 1:20 p.m. of September 9, 1992, SPO2 Enrique Renoria, together with other police officers, Fiscal Jayona, and petitioner inspected the place, which petitioner identified as the place where he and Leticia sat. They found bloodstains thereat.<sup>[18]</sup>

After the prosecution presented twelve (12) witnesses, the defense moved for leave of court to file demurrer to evidence. On February 21, 1994, the defense filed before the RTC, Branch 51, its Demurrer to Evidence,<sup>[19]</sup> which the RTC, Branch 51, denied in its Order<sup>[20]</sup> dated July 8, 1994. On August 11, 1994, the defense filed a Motion<sup>[21]</sup> for Reconsideration of the Order dated July 8, 1994 and Inhibition of Presiding Judge, which the prosecution opposed. The Presiding Judge of the RTC,

Branch 51, voluntarily inhibited himself from taking any further action in the case; [22] hence, the case was re-raffled to the RTC, Branch 52. Acting on the pending Motion for Reconsideration of the defense, the Presiding Judge of the RTC, Branch 52, denied the same and set the reception of evidence of the defense. [23]

### ***Version of the Defense***

In his relatively short stint on the witness stand, petitioner denied that he killed Leticia. He testified that he did not have any reason to kill her, and that he had many reasons why he should not kill her. [24] The prosecution manifested that it would not conduct a cross-examination on the person of petitioner as his testimony was tantamount to pure denial. [25] To prove that there was a broken chain of circumstantial evidence, the defense presented, as witness, Eduardo de Vera. The CA narrated:

12. **Eduardo de Vera** declared that on September 9, 1992 at about 12:30 a.m., he was driving his tricycle en route to OLV, Pangpang, Sorsogon; upon reaching the junction of the national road or highway, he saw a man and a woman three meters from the edge of the road; he stopped his tricycle and focused the headlight of his tricycle towards the two; he saw the woman leaning on the left arm of the man while the man was on a squatting position; he asked them "what is that?" and did not get any response; that the man was hiding his face and saw little blood on the clothes of the woman; he saw the woman with clothes, a polo shirt and pants; he decided to bring home his passenger home (sic) first and then returned to the scene but found no one there; he reported the matter to [SPO1] Balaoro, who immediately accompanied him to the place; they searched for the man and woman but they could not find them; they checked the Sorsogon Provincial Hospital but nobody had been brought there; then they proceeded back to the junction and later to the Sorsogon town proper; upon reaching Barangay Tugos, they saw [Lt.] Cagua talking with a man, whom he (De Vera) recognized as the man with the woman; [Lt.] Cagua directed the man to go to Police Sub-Station 1; at the police Sub-Station 1, he came to know the name of the man - Noel Olbes; he saw bloodstains on Olbes' arms, hands, face and nose; the police interrogated him about it and he replied that he just helped the woman.

On cross-examination, he admitted that he has known [petitioner] for a longtime; and he has good relationship with him; [petitioner] was his bondsman in Criminal Case No. 95-3989 for illegal possession of firearms and because of this, he is indebted to him and he thus wants to repay his gratitude to [petitioner]; [petitioner] requested him to be a witness in the case. [26]

Relative to the subsequent events, the CA summarized the testimonies of SPO1 Eduardo Balaoro and Noel Olbes (Olbes), as follows:

6. **SPO1 Eduardo Balaoro** essayed that at around 1:00 a.m. of September 9, 1992, Eduardo De Vera reported to him at the Police Sub-Station 1 that he saw a man, who was in squatting position, and a woman, who had blood on the upper right breast of her clothes, lean[ing] against the man and that after De Vera brought his tricycle passenger home, he returned to the site but he could not find the two anymore; upon receiving the report, he (SPO1 Balaoro), together with SPO1 Sincua and De Vera, proceeded to the diversion road, at the junction going to the hospital and Pangpang, Sorsogon, Sorsogon to investigate; they searched the place and went to the hospital but found nothing; on their way back, at around 1:15 [a.m.] they saw Noel Olbes talking with Lt. Caguia at Barangay Tugos; De Vera pointed to Olbes as the man he saw with the woman at the crossing so they brought him to Police Sub-Station 1 for investigation; Olbes told them that he saw the woman lying on the side of the road so he tried to lift her up but when he saw the tricycle (De Vera's) he became afraid as he might be implicated in the crime so he brought her to Hazelwood, which is five meters away from the highway; at 2:25 a.m. the patrol team found Leticia Aldemo, whom they found naked from the waist down; at the garage of Hazelwood; they found the long pants of the victim lying beside her and noted that her panty was still on one of her knees; the victim's body appeared to have been laid down; they did not find any blood in the garage except where the victim's body was found outside the garage, they saw the other pair of shoes of a woman and thick bloodstains; he (SPO1 Balaoro) brought Olbes to Balogo station and entrusted him to their investigator.

7. **Noel Olbes** testified that he is a driver for the MCST Sisters who are holding office at the Bishop's Compound in Sorsogon, Sorsogon; that on September 8, 1997, he went out with his friends Danny, Oca and Ely in Almendras to drink a bottle of gin; at around 6:30 p.m. he went to downtown Sorsogon and roamed around until 10:30 p.m.; then he went to Bahay Kainan and at about 11:00 or 11:30 p.m., he went to Pena Fast Food and took a bottle of beer; upon the invitation of Lea, he went inside Pena and drank another bottle of beer; he brought Lea to her home at OLV, Pangpang, Sorsogon, Sorsogon; from Lea's house, he walked and upon reaching the junction of OLV, he saw a woman lying on her belly naked from the waist down; the woman was just uttering guttural sound; her jeans and panty were just lying beside her; taking pity on the woman and since it was raining that night, he carried the woman to a nearby shed in order that she would not be run over by motor vehicles; he also took the panty and the jeans to the shed; he noticed that a tricycle stopped for a while and focused its headlight on them and proceeded on its way; when he laid down the woman in the shed, he noticed that she was bleeding and he was stained with her blood; after seeing the blood, he got scared and left; he walked towards the Sorsogon town proper and after about forty-five minutes, two policem[e]n apprehended him and brought him to the police station for investigation; while being investigated, he was not apprised of his constitutional rights and made to sign the police blotter; he was detained as he was a suspect for the injuries of the victim; after 7 or 8 hours, he was released; and he executed a Sworn Statement and affirmed its contents. [27]