

EN BANC

[G.R. Nos. 138404-06, January 28, 2003]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAFAEL CALOZA, JR. ALIAS "JUNE CALOZA", ACCUSED-
APPELLANT.**

DECISION

CALLEJO, SR., J.:

Before us on automatic review is the Joint Decision of Branch 27 of the Regional Trial Court of Cabanatuan City convicting accused-appellant of three counts of murder and meting on him the supreme penalty of death for each count. He was also ordered to pay civil indemnity and actual damages to the heirs of the victims.

I. The Indictment

On April 20, 1998, accused-appellant Rafael Caloza, Jr. was charged before the Regional Trial Court of Cabanatuan City with three counts of murder in three separate Informations, to wit:

Criminal Case No. 8198 –

"That on or about the 6th day of July, 1997, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and taking advantage of nighttime and with the use of a hard pointed object (bareta de kabra) did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one DIONISIO BULACLAC, by hitting him with the use of a bareta de kabra, thereby resulting to the instantaneous death of said DIONISIO BULACLAC to the damage and prejudice of his heirs.

CONTRARY TO LAW."^[1]

Criminal Case No. 8199 –

"That on or about the 6th day of July, 1997, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and taking advantage of nighttime and with the use of a hard pointed object (bareta de kabra) did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one EDNA BULACLAC, by hitting her with the use of a bareta de kabra, thereby resulting to the instantaneous death of said EDNA BULACLAC to the damage and prejudice of her heirs.

CONTRARY TO LAW.”^[2]

Criminal Case No. 8200 –

“That on or about the 6th day of July, 1997, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and taking advantage of nighttime and with the use of a hard pointed object (bareta de kabra) did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one MARK JOSEPH BULACLAC, by hitting him with the use of a bareta de kabra, thereby resulting to the instantaneous death of said MARK JOSEPH BULACLAC to the damage and prejudice of his heirs.

CONTRARY TO LAW.”^[3]

Upon his arraignment on May 19, 1998,^[4] Rafael, assisted by counsel, entered a plea of “not guilty” to all the charges. Thereafter, upon agreement of the parties, a joint trial of the case ensued.

The prosecution presented Gilbert Embuscado, Allan Bulaclac and Felipa Hernal Bulaclac as witnesses.

II. Antecedent Facts

Dionisio Bulaclac was a tenant of a farm lot located in Bakod Bayan, Cabanatuan City. He and his 16-year-old wife, Edna, and their infant son, Mark Joseph Anthony, lived in a hut situated near the farmstead Dionisio was tilling.^[5] Allan Bulaclac, the younger brother of Dionisio, used to frequent the latter’s place whenever Dionisio requested help to farm the field.^[6]

On July 5, 1997, Dionisio asked Allan to come to his farm the following day to help him till the land. Allan agreed. At about 5:00 a.m. on July 6, 1997, Allan left their place in Liway, Sta. Rosa, Nueva Ecija and proceeded to Dionisio’s farm. Allan had a “lente” placed on his forehead to illumine his path as it was still dark. When Allan was about a hundred meters away from Dionisio’s hut, he noticed Rafael at a distance of ten meters coming from the direction of the hut of Dionisio.^[7] Rafael was no stranger to Allan because the latter used to help Dionisio till the field.^[8] Allan readily recognized Rafael from the illumination coming from the “lente” on his forehead. Allan noticed bloodstains on the clothes of Rafael. Allan was perplexed when Rafael tried to evade him as they met.^[9] Allan then entered Dionisio’s hut which at that time was lighted by a kerosene lamp called “kingke.” Allan called but nobody answered. He peeped through the window and was horrified to see his brother’s feet as well as blood under the bed. Allan immediately rushed home and reported the incident to his parents. Allan and his parents proceeded posthaste to Dionisio’s hut. They saw several persons near the hut of Dionisio including some policemen who prevented Allan and his parents from entering the hut. It turned out that Dionisio, his wife Edna and their young son Mark Joseph Anthony were already dead.^[10]

On July 7, 1997, Dr. Gilbert V. Embuscado, Acting City Health Officer of Cabanatuan City, conducted an autopsy examination of the cadavers of the victims and made the following post-mortem findings:

Dionisio Bulaclac

"x x x The victim is approximately 1.75 M in height and fairly built. The following findings were seen.

- Gaping wound approximately 2.5 cms x 3 cms frontal area with comminuted fracture of frontal and nasal bones.
- Incised wound approximately 0.5 cm. left eyelid
- Incised wound approximately 0.5 cm nasal area
- Lacerated wound approximately 0.5 cm left side face
- Abrasion left side of face
- Contusion hematoma left periorbital region.
- Incised wound approximately 1 cm. right side of face with comminuted fracture of zygomatic bone.
- Incised wound right side of face approximately 1 cm.
- Lacerated wound approximately 0.5 cm right side of face.
- Incised wound approximately 1 cm right mandible
- Lacerated wound approximately 1.5 cm lower jaw with fracture (comminuted) right mandible and exfoliation (detachment) of lower set of teeth.
- Lacerated wound right ear.
- Lacerated wound right lower lip.
- Abrasion approximately 3 cms. middle third right forearm.

CAUSE OF DEATH:

Cerebro vascular accident (hemorrhage) secondary to traumatic injury."^[11]

Edna Bulaclac

"x x x x x x x x x

The victim is approximately 1.40 m. in height and medium built. The following findings were seen.

- Lacerated wound (gaping wound) approximately 5 cms. at fronto-parietal region of skull with linear fracture.
- Lacerated wound approximately 3 cms on left side of face with blood oozing out from left ear.
- Hematoma left periorbital region
- Hematoma right upper outer quadrant of right breast.
- Hematoma at right lateral and left lateral portion of the vulva.

CAUSE OF DEATH:

Cerebro vascular accident (hemorrhage) secondary to Traumatic Injury."^[12]

Mark Joseph Bulaclac

- Victim is approximately 0.55 m. in height.
- Abrasion approximately 2 cms. x 2.5 cms. right parietal region with depressed fracture approximately 1.5 cms.
- Abrasion with hematoma approximately 2 cms x 2.5 cms right side face.
- Hematoma – linear approximately 6 cms from right nipple line to right subcostal area.
- Abrasion right nasal area.

CAUSE OF DEATH:

Cerebro-vascular accident secondary to blunt trauma.”^[13]

Mark Joseph was an infant, four months old.^[14] Dr. Embuscado concluded that judging from the nature of the wounds sustained by the victims, two types of instruments were used in inflicting their injuries, namely – a sharp instrument and a hard object.^[15]

III. The Defense and Evidence of Rafael

Rafael denied the charge. Although he admitted that at the time Dionisio, his wife and their son were killed, he was near the hut of Dionisio, he swore that he did not kill the victims. He testified that on July 5, 1997 in the evening, he and two Visayan co-workers at the Imperial Subdivision, one of whom he knew only by the name of Dondon, were having a drinking spree by a sari-sari store at the corner street in Bakod Bayan. Rafael consumed only two bottles of Red Horse beer while his two Visayan companions emptied less than a case. When the three ran out of *pulutan*, they decided to go to the hut of Dionisio, who raised ducks and chickens, to ask him for a duck or chicken for their *pulutan*. When the three arrived in the hut of Dionisio between 2:00 to 3:00 a.m. of July 6, 1997, they asked Dionisio to give them a duck or chicken for their *pulutan*. However, Dionisio refused. Rafael and his two companions left the hut of Dionisio. The two Visayan companions of Rafael tarried and conversed in their native dialect and thereafter returned to Dionisio’s hut. Momentarily, Rafael heard a commotion coming from inside the hut of Dionisio. When he looked toward the direction of the hut, Rafael, who was about 7 to 10 meters away therefrom, saw his two Visayan companions kill Dionisio, Edna and Mark Joseph, and exit from the hut. Dondon was carrying a crowbar (*bareta de kabra*). Rafael was so petrified that he did not even try to help the victims. Dondon then threw the crowbar (*bareta de kabra*) at Rafael and threatened him with the words, “*Putang ina mo papatayin ka rin namin.*” However, the crowbar landed near the feet of Rafael. Afraid for his life, Rafael immediately fled the scene and went to the house of his relatives at Sta. Rosa and Rizal, Cabanatuan City. By 5:00 a.m., Rafael was about 2 kilometers away from the hut of Dionisio, Federico Lacanilao saw Rafael at the crossing of the Sangitan Market. The next day, Rafael proceeded to Valenzuela City where he was subsequently arrested by police authorities on December 22, 1997.^[16] Rafael claimed that Allan testified against him because Allan was informed that he (Rafael) was seen at the hut of Dionisio where the latter, his wife and son were killed.

IV. The Verdict of the Trial Court

On March 12, 1999, the trial court promulgated a decision, the dispositive portion of which reads:

"WHEREFORE, premises, and in the absence of any mitigating circumstance and in the presence of the aggravating circumstances of dwelling and nocturnity, the Court finds and so holds the accused RAFAEL CALOZA, JR. alias "JUNE CALOZA" guilty beyond reasonable doubt of the crime of MURDER and sentences him to suffer the penalty of:

1. DEATH in Criminal Case No. 8198 (AF), and for him to indemnify the heirs of the deceased offended party in the amount of P50,000.00, and the amount of P110,000.00 representing actual damages.
2. DEATH in Criminal Case No. 8199 (AF), and for him to indemnify the heirs of the deceased offended party in the amount of P50,000.00, and the amount of P110,000.00 representing actual damages.
3. DEATH in Criminal Case No. 8200 (AF), and for him to indemnify the heirs of the deceased offended party in the amount of P50,000.00, and the amount of P110,000.00 representing actual damages.

No moral damages are awarded as the same is subsumed in the civil indemnity for death (*People vs. R. Daen, G.R. No. 112015, 26 May 1995*).

4. To pay the costs of the suits."^[17]

V. Assignment of Errors

Rafael seeks a reversal of the decision of the trial court contending that:

"I

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT RAFAEL CALOZA, JR., IN CRIMINAL CASES NOS. 8198-8199 AND 8200 DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE AGGRAVATING CIRCUMSTANCES OF NOCTURNITY AND DWELLING, AND THE QUALIFYING CIRCUMSTANCES OF ABUSE OF SUPERIOR STRENGTH AND TREACHERY ON THE ASSUMPTION THAT INDEED ACCUSED-APPELLANT KILLED THE VICTIMS.

III

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY UPON ACCUSED-APPELLANT ON THE ASSUMPTION THAT INDEED HE KILLED THE VICTIMS."^[18]