

EN BANC

[G.R. No. 126146, March 12, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JEMREICH MATIGNAS Y SAN PASCUAL, NOEL DE GUZMAN Y CRUZ, ALBERTO BAUTISTA JR. Y CAPANZA AND RUEL TARRE Y GONZALES, ACCUSED,

JEMREICH MATIGNAS Y SAN PASCUAL AND NOEL DE GUZMAN Y CRUZ, APPELLANTS.

DECISION

PANGANIBAN, J.:

The killing of the victim and appellants' authorship thereof have been proven beyond reasonable doubt by circumstantial evidence. However, the *corpus delicti* of the alleged rape has not been established. Hence, appellants may be convicted only of murder (qualified by abuse of superior strength), not rape with homicide; and sentenced to *reclusion perpetua*, not death.

Statement of the Case

For automatic review by this Court is the October 3, 1995 Decision^[1] of the Regional Trial Court (RTC) of San Mateo, Rizal (Branch 75), in Criminal Cases Nos. 2596-2600, finding Appellants Jemreich^[2] Matignas and Noel De Guzman guilty beyond reasonable doubt of rape with homicide and sentencing them to death. The dispositive portion of the Decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered by this Court as follows:

"In Criminal Case No. 2596:

"a) finding accused Noel de Guzman y Cruz and accused Jemrich (Jemreich/Gemreich) Matignas y San Pascual GUILTY beyond reasonable doubt of the crime of Rape with Homicide penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, and, there being present the aggravating circumstances of nocturnity, abuse of superior strength, and that the crime was committed by two persons, they are hereby sentenced to suffer the penalty of death;

"b) finding accused Alberto Bautista, Jr. y Capanza and Ruel (Rhoel/'Taweng) Tarre y Gonzales NOT GUILTY of the crime charge[d] for failure of the prosecution to prove their guilt beyond reasonable doubt;

"c) ordering accused Noel de Guzman y Cruz and accused Jemrich

(Jemreich/Gemreich) Matignas y San Pascual to indemnify the heirs of the victim in the total amount of P2,127,543.85;

"In Criminal Case No. 2597:

"a) finding accused Jeimrich (Jemreich/Gemreich) Matignas GUILTY beyond reasonable doubt of the crime of Rape with Homicide penalized under Article 335 of the Revised Penal Code, as amended, by Republic Act No. 7659, and, there being present the aggravating circumstances of nocturnity and abuse of superior strength, he is hereby sentenced to suffer the penalty of death;

"In Criminal Case No. 2598:

"a) finding accused Alberto Bautista, Jr. y Capanza NOT GUILTY of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt;

"In Criminal Case No. 2599:

"a) finding accused Ruel (Rhoel/'Taweng') Tarre y Gonzales NOT GUILTY of the crime charge[d] for failure of the prosecution to prove his guilt beyond reasonable doubt.

"In Criminal Case No. 2600:

"a) finding accused Noel de Guzman y Cruz GUILTY beyond reasonable doubt of the crime charge[d], and, there being present the aggravating circumstances of nocturnity and abuse of superior strength, is hereby ordered to suffer the penalty of death;

"The cases against Noel Liit, whose identity and whereabouts are still unknown, are hereby ordered archived pending his arrest."^[3]

Appellants, together with their co-accused -- Alberto Bautista Jr., Ruel Tarre and one alias "Noel Liit" whose true identity and whereabouts remain unknown -- were charged with rape with homicide in five separate Informations^[4] all dated July 28, 1994, filed by State Prosecutor Linda L. Malenab-Hornilla. Docketed as Criminal Cases Nos. 2596, 2597, 2598, 2599 and 2600, the Informations were almost uniformly worded thus:

Crim. Case No. 2596-94

"That on or about the 10th day of January, 1994 in the Municipality of Rodriguez, Province of Rizal Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one alias Noel "Liit" whose true identity and present whereabouts is still unknown and mutually helping and aiding one another, with lewd designs and by means of force, threats and intimidation did then and there willfully, unlawfully and feloniously have sexual intercourse with one Rosario "Cherry" Olaez against her will and consent; that on the occasion of said rape, the above-named accused

taking advantage of their superior strength, nocturnity and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and strangle with a rope said Rosario "Cherry" Olaez which directly caused her death."^[5]

Crim. Case No. 2597-94

"That on or about the 10th day of January, 1994 in the Municipality of Rodriguez, Province of Rizal [P]hilippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Noel De Guzman y Cruz, Alberto Bautista, Jr. y [Capanza], Ruel Tarre y Gonzales and one alias Noel "Liit" whose true identity and present whereabouts is still unknown and mutually helping and aiding one another, with lewd designs and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Rosario "Cherry" Olaez against her will and consent; that on the occasion of said rape, the above-named accused taking advantage of their superior strength, nocturnity and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and strangle with a rope said Rosario "Cherry" Olaez which directly caused her death."^[6]

Crim. Case No. 2598-94

"That on or about the 10th day of January, 1994 in the Municipality of Rodriguez, Province of Rizal Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Gemreich Matignas y San Pascual Noel De Guzman y Cruz, Ruel Tarra y Gonzales and one alias Noel "Liit" whose true identity and present whereabouts is still unknown and mutually helping and aiding one another, with lewd designs and by means of force threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Rosario "Cherry" Olaez against her will and consent that on the occasion of said rape, the above-named accused [;] taking advantage of their superior strength, nocturnity and with intent to kill, did then and there willfully unlawfully and feloniously attack, assault and strangle with a rope said Rosario "Cherry" Olaez which directly caused her death."^[7]

Crim. Case No. 2599-94

"That on or about the 10th day of January, 1994 in the Municipality of Rodriguez, Province of Rizal Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Gemreich Matignas y San Pascual Noel De Guzman y Cruz, Alberto Bautista, Jr y Capanzana and one alias Noel "Liit" whose true identity and present whereabouts is still unknown and mutually helping and aiding one another, with lewd designs and by means of force threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Rosario "Cherry" Olaez against her will and consent; that on the occasion of said

rape, the above-named accused taking advantage of their superior strength, nocturnity and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and strangle with a rope said Rosario "Cherry" Olalez which directly caused her death.^[8]

Crim. Case No. 2600-94

"That on or about the 10th day of January, 1994 in the Municipality of Rodriguez, Province of Rizal Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Gemreich Matignas y San Pascual Alberto Bautista, Jr y [Capanza], Ruel Tarra y Gonzales and one alias Noel "Liit" whose true identity and present whereabouts is still unknown and mutually helping and aiding one another, with lewd designs and by means of force threats and intimidation, did then and there willfully unlawfully and feloniously have sexual intercourse with one Rosario "Cherry" Olalez against her will and consent; that on the occasion of said rape, the above-named accused taking advantage of their superior strength, nocturnity and with intent to kill, did then and there willfully unlawfully and feloniously attack, assault and strangle with a rope said Rosario "[C]herry " Olalez which directly caused her death.^[9]

Duly assisted by their respective counsels, appellants and their co-accused -- with the exception of Noel Liit who remained at large -- pleaded not guilty to the charge during their arraignment on August 17, 1994.^[10] Trial on the merits proceeded in due course. Thereafter, the trial court rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief,^[11] the Office of the Solicitor General presents the prosecution's version of the facts as follows:

"On January 10, 1994, at past 2:00 o'clock in the morning, Herminia Olalez y Linco woke up so that she could fetch her daughter, the victim Rosario 'Cherry' Olalez, who would be coming home from her work at the Cravings Restaurant in Katipunan Avenue, Quezon City. Shortly before 3:00 o'clock in the morning, Herminia and her other daughter Yolanda proceeded to the waiting shed at the corner of A. Bonifacio and J.P. Rizal Street near the Smokey's Fastfood Chain in Barangay Balite, Montalban, Rizal, which was about three (3) minutes walk from their house. They stayed at the waiting shed waiting for Cherry until past 4:00 o'clock in the morning but she did not arrive. So they decided to go home because Herminia had to cook food for Yolanda who had to leave for work later.

"Soon thereafter, Tita Bautista, a neighbor, called Herminia to ask her if Cherry had already arrived, because she found in the alley some clothes and an identification card belonging to Cherry. Immediately, Herminia's two (2) children, Josephine and Roberto went outside to verify, Tita's husband told them 'dito ninyo tingnan manghiram kayo ng flashlight dito

ninyo tignan dito parang meron kaming narinig na hinihilang parang basura.' There, Josephine and Roberto saw their sister Cherry already dead. Upon hearing it, Herminia fainted.

"At around 5:35 o'clock in the morning, SPO2 Rolando Santos of the Montalban Police Station was informed of the incident and he proceeded to the vacant lot where the body was found. There he found the victim's pants, underwear, detached lock of jewelry and detached clip of pants. He estimated the vacant lot to be around 25 to 30 meters from A. Bonifacio Street. While interviewing bystanders, a certain Marcelo San Pascual told him that the gate of Eulogio Rodriguez Elementary School [ERES] along the side of A. Bonifacio Street was open. However, when PO2 Santos proceeded to ERES to verify, it was already locked. Later, at the station, a brother of the victim brought to him a bullcap and a certain Mrs. Uaje also turned over to him a picture booklet, which she allegedly recovered near the scene of the crime.

"At 12:00 o'clock noon, Dr. Florante Baltazar, former Chief of the PNP Crime Laboratory Service, conducted a postmortem examination of the cadaver of the victim at the Morgue of Santiago Funeral Parlor, San Mateo Rizal. After completing his examination, Dr. Baltazar prepared Medico-Legal Report No. M-0069-94 dated January 19, 1994, which disclosed the following findings:

'Fairly developed, fairly nourished found cadaver in rigor mortis with postmortem lividity over the different parts of the body. Conjunctivae were pale. Lips and nailbeds were cyanotic, with petechial hemorrhage over the face and sandy particles at the pubic region.

'EXTERNAL INJURIES: NECK, TRUNK AND EXTREMITIES:

- 1) multiple abrasions, neck, bisected by the anterior midline, measuring 13 cms x 15 cms.
- 2) linear abrasion, anterior right neck, 7 cms from anterior midline measuring 0.9 cm x 0.1 cm.
- 3) abrasion, left [supraclavicular region], 7.5 cms from anterior midline, measuring 0.9 cm x 0.5 cm.
- 4) [this paragraph is not legible]
- 5) multiple linear abrasions, right iliac region, 8 cms from anterior midline, measuring 4 cms x 2.5 cms.
- 6) multiple abrasions, posterior right shoulder, measuring 4 cms x 4.5 cms., 16 cms. from posterior midline.
- 7) multiple abrasion, left elbow, along its posterior midline, measuring 5.5 cms. x 3 cms.
- 8) abrasion, right elbow, along its posterior midline, measuring 0.9 cm x 0.5 cm.
- 9) abrasion dorsal aspect of the right foot, 3 cms. [m]edial to its anterior midline, measuring 1 cm x