

EN BANC

[G.R. No. 135054, August 07, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL GANNABAN, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

This is an automatic review of the Decision dated July 30, 1998 of the Regional Trial Court, Second Judicial Region, Branch 18, Ilagan, Isabela, sentencing the accused-appellant to death for killing and raping a ten-year old girl.

On July 13, 1995, an Information was filed charging said accused-appellant for the crime of Rape with Homicide committed as follows:

That on or about the 4th day of March, 1995, in the municipality of Ilagan, Province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and feloniously, by means of force, intimidation and with lewd designs, have carnal knowledge with one Rea Ballesteros, a minor, against the latter's will and consent;

That on the occasion and by reason of the said rape, the said accused, did then and there, willfully, unlawfully and feloniously, wit intent to kill and without any just motive, assault, attack and hit a blunt instrument the said Rea Ballesteros, inflicting upon her, injuries on the head, which directly caused her death.

CONTRARY TO LAW.^[1]

Upon arraignment, the accused-appellant pleaded not guilty. Trial, thereby, ensued with the prosecution presenting (1) Rita Ballesteros, (2) Alfredo Manabat, (3) Mariano Tumolva, (4) Placido Gangan, (5) Elizabeth Deraco, (6) SPO2 Walberto Agpawa and (7) Dr. Conrado Gabriel, Sr. as their witnesses. For the defense, the accused-appellant and his live-in partner, Susan Domalanta testified in court.

The facts as found by the trial court are as follows:

In the early morning of February 28, 1995, ten (10) years old Rhea Ballesteros bade good-bye to her mother Rita Ballesteros to attend her classes at East Central Elementary School, Ilagan, Isabela. She was dressed with the school regulation uniform of white shirt, blue skirt, white socks with brown shoes and carried a school bag colored black and green. Inside her bag were ruled pad, pencil, notebook and a school book.

Manuel Gannaban works as a baker at Elsa's Bake Shop owned by Elizabeth Deraco of Centro, Ilagan, Isabela. During his stint as a baker in that shop, he befriended Rhea according to Deraco (see also Exh. "E"). At about 11:00 A.M. on February 28, 1995, Gannaban left the Bake Shop for Barangay San Ignacio, Ilagan, Isabela.

On the same day, February 28, 1995, between 3:00 and 4:00 P.M. , Alfredo Manabat was playing basketball at the barangay park with Mario Carino and others at San Ignacio, Ilagan, Isabela. Manabat saw Gannaban pass by the park with a young girl. She was wearing a white shirt and blue skirt. Both were going towards the northern direction of the barangay (see also Exhibit "A").

On the same day, between 4:00 and 5:00 P.M., Mariano Tumolva, a fisherman and a widower was at home at Barangay San Ignacio, Ilagan, Isabela. Gannaban and a young girl about 10 years old arrived in the house and asked for food. Gannaban who is well known to Tumolva, cooked salted fish with tomatoes and rice. The young girl ate, Gannaban did not. They stayed in the house for less than 30 minutes. After the young girl took her meal, she left with Gannaban, southbound. According to Tumolva, they were going home to the town proper Ilagan (see also Exh. "B").

Placido Gangan, of Baculud Norte, Ilagan, Isabela, arrived at his house at about 7:00 P.M., February 28, 1995 to rest after making his daily routine with his motorized passenger tricycle. Gangan found Gannaban and a young girl at their house. His wife asked for the name of the young girl who was dressed with a white shirt and blue skirt and he came to know from the wife her name as Rhea Ballesteros. Gannaban was asking accommodation for the night. His wife cooked cabbage for supper and they shared and dined together. They were given another room of the house to spend the night. At about 5:00 A.M., March 1, 1995, the visitors of Gangan left their house.

At about 6:00 A.M., March 1, 1995, Gannaban returned to the bakeshop of Deraco. When Deraco confronted him where he came from Gannaban told her he came from San Ignacio. Deraco also confronted Gannaban why he was with Rhea but Gannaban kept silent. In the evening of March 1, 1995, Gannaban, together with a certain Inggo and Larry had a drinking spree in a carinderia on the top floor of Ilagan supermarket. In the early morning of March 2, 1995 at about 3:00 A.M., Deraco went to her bakeshop to wake up Gannaban. She found out Gannaban was no longer there. He took all his belongings and left without taking his unpaid salary of P300.00. Since that time, Gannaban never returned to the shop.

In the meantime, when Rhea did not go home, Rita Ballesteros together with her husband and sons, looked for her around the town. She was nowhere to be found. On the second day, March 1, 1995, they again looked for her and reported her missing to the PNP of Ilagan and one Crisel Ferrer, a Bombo reporter. Ferrer reported over Bombo Radio about the missing Rhea.

At about 7:00 A.M., March 4, 1995, SPO2 Walberto Agpawa received a report from one, Oscar Adorio, that he found a "cadaver of foul play" at his cornfield at Bagumbayan, Ilagan, Isabela. Agpawa, together with Station Commander Nepomuceno Alindada, Jr., and Dr. Conrado S. Gabriel, Sr., proceeded to the corn plantation of Adorio. Alindada must have dropped by the house of Rita Ballesteros before they reached the cornfields reason for which Rita was present in that cornfield. When they reached the cornfield, they found the body of a young girl in rigor mortis. The right side of her head was bashed and there was a crack on that side. The cadaver was wearing a white T-shirt, her blue skirt was raised to her waist, her panty was in her legs exposing her private parts. Rita Ballesteros identified Rhea thru a mole found at her upper right back. Scattered around her were her school bag, papers, pencil and her shoes.

Dr. Conrado Gabriel, Sr. conducted a post mortem examination and submitted Exhibit "D", Medico Legal Report, as follows:

"BODY:

- 1) SKULL = Right mastroid process damage.
- 2) VAGINA = a) Cervix laceration 5 o'clock 12 o'clock

Body = state of decomposition

"CAUSE OF DEATH:

Hypovolemic shock, due to Internal Hemorrhage, Rape Accident."^[2]

On July 30, 1998, the RTC rendered its judgment with the following dispositive portion:

WHEREFORE, and in view of the foregoing, the Court finds the accused MANUEL GANNABAN guilty beyond any reasonable doubt for the rape and death of Rhea Ballesteros. No matter how personally revolting on the Court to impose the death penalty, this Court must bow and obey the law of the land. Manuel Gannaban is hereby sentenced to suffer the supreme penalty of death as provided for and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act 7659. He is further ordered to indemnify the heirs of young Rhea the sum of FIFTY THOUSAND (P50,000.00) PESOS, to pay P50,000.00 as moral damages and the further sum of FIFTY THOUSAND (P50,000.00) PESOS, as exemplary damages and to pay the costs.

SO ORDERED.^[3]

In this appeal, the accused-appellant raised the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE WITH HOMICIDE BASED ON PURELY CIRCUMSTANTIAL EVIDENCE.

II

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE DEFENSE PUT UP BY THE ACCUSED-APPELLANT AS WELL AS THE ESSENCE OF THE TESTIMONY OF THE DOCTOR WHO CONDUCTED THE POST-MORTEM EXAMINATION ON THE VICTIM.[4]

The only issue to be resolved in the instant case is whether or not the accused-appellant's guilt for the crime of rape with homicide has been proven beyond reasonable doubt based on circumstantial evidence.

Conviction can be had on the basis of circumstantial evidence so long as a combination of all the circumstances proven produces a logical conclusion which suffices to establish accused-appellant's guilt beyond reasonable doubt.[5] Circumstantial evidence may be sufficiently cogent to satisfy the judicial conscience and may be as potent as direct testimony in tending to connect the accused-appellant with the commission of the offense.[6] As clearly pointed out by the OSG, the circumstances testified by the prosecution witnesses lead to the inevitable conclusion that the accused-appellant is the author of the crime, to wit:

Rita Ballesteros, the mother of Rhea Ballesteros testified:

Q (PROS. FAUSTO CABANTAC)

Madam Witness it has been admitted that your daughter was last seen by you on February 28, 1995, where did you see her alive?

A (RITA BALLESTERO)

The last time I saw her alive was at home, sir.

Q (COURT)

Where was she going?

A To school, sir.

Q (PROS. CABANTAC)

What school?

A Ilagan East Central School, sir.

Q What was her clothes when she left for school?

A White T-shirt and blue skirt, sir.

Q What about her shoes or slippers, if you remember?

A Brown shoes and white socks, sir.

Q When she went to school, was she carrying something?

A Her bag, sir.

x x x x x x x x

Q (PROS. CABANTAC) Now what were contained in that bag?

A Books, papers, notebooks and her pencil, sir.

Q That bag, does it have a handle?

A Yes, sir."

(pp. 7-9, TSN, January 30, 1996; underscoring supplied)

Another circumstance was testified to by prosecution witness Alfredo Manabat, thus:

Q (PROS. FAUSTO CABANTAC)

On February 28, 1995, between the hours of 3:00 o'clock in the afternoon to 4:00 o'clock, do you remember where were you?

A (ALFREDO MANABAT)

Yes, sir.

Q Where were you on that date and time?

A I was at the basketball court.

Q What were you doing in that basketball court?

A We were playing basketball.

Q Who were your companion playing basketball?

A Antonio Malana and Mario Cariño.

Q While you were playing basketball, do you know if you have seen a person by the name of Manuel Gannaban?

x x x x x x x x

COURT: Interpreter.

He said 'yes, sir'.

x x x x x x x x

Q How far were you when you saw Manuel Gannaban passed by in that basketball court where you were playing.

A About 20 meters.

x x x x x x x x

Q Do you know if he has a companion when you saw him?

A Yes, sir.

x x x x x x x x

Q How about the appearance of that woman whom you saw with the companion of the accused, can you tell us if she (sic) elderly woman or younger?

A A young girl (balasitang).

Q Do you remember what were the clothes wore (sic) by that girl?

A If I am not mistaken, white T-shirt and blue skirt."

(pp. 1-12, TSN, January 16, 1996; underscoring supplied)