

EN BANC

[G.R. No. 131823, January 17, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ISAGANI PARAISO Y HUTALLA, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

The case before us for automatic review is a conviction for rape with homicide against appellant Isagani Paraiso y Hutalla, rendered in the judgment ^[1] of the Regional Trial Court xxx, dated September 29, 1997.

Paraiso was charged in an information ^[2] which reads as follows:

“That on or about the 5th day of August 1994, at xxx Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, with intent to kill and taking advantage of his superior strength, did then and there willfully, unlawfully and feloniously attack, assault and hack several times with said weapon one AAA, a minor, 13 years of age, inflicting upon her fatal wounds on vital parts of her body, which directly caused her death; that on the same occasion, the said accused, with lewd design, did then and there willfully, unlawfully and feloniously have sexual intercourse with said AAA while she was already unconscious.”

During his arraignment on December 17, 1996, appellant, duly assisted by counsel, pleaded not guilty. ^[3] Thereafter, trial on the merits followed.

The Solicitor General, in his Brief for Plaintiff-Appellee, ^[4] related the facts, as follows:

“On August 5, 1994, at around 9:00 o’clock in the morning, BBB, AAA’s father, was having a drinking spree with appellant and Anthony Briones in the place of a copra dealer near the school of xxx. It lasted up to 1:00 o’clock in the afternoon when they decided to separate. Appellant told BBB that he had to proceed to the place of the ‘pamanhikan’ which concerned his son. Appellant likewise asked BBB who were the persons in their house. BBB told appellant his children AAA and two year-old CCC will be left in their house, as the other two children will buy rice.(TSN, 5-13-97, pp. 8-10)

On the same day of August 5, 1994, at around 4:00 o’clock in the afternoon, Benny Reoveros was in their house at xxx when he heard the voice of a young child shouting ‘Diyos ko po, Diyos ko po, tama na po, tama na po.’ He was thus impelled to proceed to the place where the

shout came from. When he was already near, at a distance of about fifteen (15) meters more or less, he saw appellant Isagani Paraiso carrying a child face down, with his two hands. Benny hid himself in a shrubby place where there were several anahaw trees. Then he saw appellant put down the child with her face up on the ground. The child was AAA. Benny was more or less twenty (20) meters away from the place of appellant and AAA. He saw appellant remove the shorts of AAA then raise her upper clothes and pull down his pants. Appellant then placed himself on top of AAA and raped her for about five minutes. Thereafter, appellant hacked AAA on the neck with a bolo. Because of fear, Benny ran to their house. He reported the incident to Barangay Captain Angel Roy Recilla who in turn summoned his barangay kagawad and they went to the place pointed by Benny. At the shrubby place, they found Arlene already dead. (TSN, 4-15-97, pp. 3-9)

Dr. Manuel L. Salaveria, Municipal Health Officer of xxx conducted the post mortem examination upon the victim AAA with the finding that she was abused and the cause of death was 'cardio respiratory arrest due to severe internal and external hemorrhage secondary, multiple hack wounds' (Exhibit 'B'). AAA was buried in the afternoon of August 7, 1994."

Appellant relates his version of the facts, thusly: [5]

"Evidence for the defense shows that on August 5, 1994 at about 11:00 o'clock in the morning, the accused had a drinking spree with the father of the deceased. It lasted until about 1:00 o'clock in the afternoon. Thereafter, the accused readily went home riding his carabao. On his way, he met the brother and sister of the deceased. He asked them where they were going and the two answered that they were going to buy rice. He arrived at his house at more or less 2:30 in the afternoon. Upon reaching his place, he tied his carabao at a coconut tree. Since he was under the influence of liquor at that time and feeling sleepy, he immediately went into bed. At that time, his sister Florinda was with him. At around 3:00 o'clock of the same afternoon, Letecia Buizon, cousin of the accused dropped by the latter's house in order to ask for bamboo poles to be used in the flooring of her house. Finding that the accused was sleeping, she went out of the house and got 8 pieces of bamboo poles, then returned to the house of the accused to inform the latter that she already got the bamboo poles. However, upon seeing that the accused was still sleeping, she just went home at xxx. xxx."

The trial judge evaluated the credibility of the witnesses and their testimonies, viz.: [6]

"As shown by the records, witness Reoveros, at times, hedged and failed to answer some questions; and gave inconsistent statements, particularly when asked about distances and the four (4) cardinal directions, viz: (a) distance of his house to house of victim which he estimated to be 50 meters, more or less, if about ¼ of the distance from this Court to railroad crossing (TSN., April 7, 1997, pp. 3-5); (b) time consumed by the travel from the place of barangay captain to the place of victim which

he stated is more or less 1 hour (TSN., pp. 14-15, supra); (c) failed to answer when asked three (3) times if he was definite that on the night of August 5, 1994, he did not inform the barangay captain that it was Isagani Paraiso who raped and killed AAA; and (d) his errors and inconsistencies in his rough sketch (Exh. '1'). He candidly admitted his non-familiarity with the four (4) cardinal directions due to his lack of education and that what he knew is going to 'Ilaya' or 'Ibaba'. (TSN., 29, 1997).

These enumerated inconsistencies in the declarations of the eyewitness Benny Reoveros cannot destroy the totality of his testimony. These discrepancies do not negate the main thrust of his testimony that he saw the accused raped and hacked the victim on the date and time in question. 'A truth-telling witness is not always expected to give an error-free testimony, considering the lapse of time and treachery of human memory. Thus, we have followed the rule in accord with human nature and experience that honest inconsistencies on minor and trivial matters serve to strengthen, rather than destroy, the credibility of a witness, especially of witnesses to crimes shocking to conscience and numbing to senses' (People vs. Paule, G.R. Nos. 118168-70, September 11, 1996), as in this case at bar.

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The most important thing is that the eyewitness Benny Reoveros, on the witness stand, was firm, spontaneous and categorical in his declaration that it was accused Isagani Paraiso whom he saw that afternoon carrying the victim, face down and laid her on the ground, face up; then lowered her shorts and panty, pushed up her blouse and raped her. Thereafter, accused hacked her on the neck with his bolo. Reoveros stood by his declaration, unshaken throughout the entire trial, and never showed any hesitation in his identification of accused. His positive identification is unerring. He knows accused who is his uncle by affinity because the wife of accused and his mother are sisters. Moreover, nowhere in the records does it show that said eyewitness was impelled by improper motives to impute such false and serious charges. (People vs. Trilles, 254 SCRA 641). Even accused admitted, on record, that witness Reoveros, a nephew of his wife, has a very high respect from him, xxx.

xxx xxx xxx

xxx As witness Reoveros succinctly stated, he was bothered by his conscience for what accuse did to the child. Thus, despite his relationship to accused, he had to come forward and reveal what he saw.

This Court understands the failure of the witness Reoveros to immediately report the incident and reveal the identity of the accused after that startling and shocking occurrence. More so, when he is related by affinity to the perpetrator of the crime, as this makes it all the more traumatic. xxx

Furthermore, Reoveros' version of the incident is supported by the physical evidence of the case, the Post-Mortem Examination (Exh. 'B, B-1 to B-3'), showing that the victim, AAA sustained multiple hack wounds and her internal examination revealed the following: 'vagina admits one finger with ease. On opening up the introitus there is perineal laceration and minute hemorrhages at 3 o'clock and 9 o'clock positions. Hymen ruptured. Patient: abused.'

Finally, accused's defense of alibi crumbles in the face of the positive identification of the accused as the perpetrator of the crime (People vs. Ferrer, 255 SCRA 19). Positive identification was made by eyewitness Benny Reoveros, his nephew by affinity. Reoveros could not, therefore, have been mistaken as to his identity. 'The doctrine constantly upheld by this Court is that alibi and denial cannot prevail over the positive identification of the accused as the perpetrator of the crime. In addition thereto, accused has failed to establish that it was physically impossible for him to have been at the crime scene when it happened' (People vs. Alimon, 257 SCRA 661). And it is well-settled that the testimony of a single eyewitness is sufficient to support a conviction so long as such testimony is found to be clear and straight-forward and worthy of credence by the trial court (People vs. De Roxas, 241 SCRA 369)."

With its above findings, the lower court concluded that it was "fully convinced and morally certain that it was the accused Isagani Paraiso who raped and killed the victim AAA." Thus, the penalty of death was imposed, in accordance with article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act 7659. The dispositive portion of the Judgment dated September 29, 1997, reads:

"WHEREFORE, finding the accused Isagani Paraiso y Hutalla guilty beyond reasonable doubt of the crime of rape with Homicide, he is hereby sentenced to suffer the penalty of death, with its accessory penalties under Art. 40 of the Revised Penal Code, and to pay the Heirs of the deceased AAA the following: (a) P150,000.00 for actual and moral damages; and (b) P50,000.00 indemnity for death, without subsidiary imprisonment in case of insolvency, and to pay the costs.

Pursuant to Sec. 10 of Rule 122 of the Revised Rules of Court, as amended, let the whole records of this case be forwarded to the Supreme Court for automatic review and judgment."

In his Brief, [7] accused-appellant makes a single assignment of error, as follows:

"The Court a quo gravely erred in finding that the guilt of the accused for the crime charged has been proven beyond reasonable doubt."

To support his plea for acquittal, appellant points to alleged flaws in the prosecution evidence: (1) the delay of the eyewitness in identifying the appellant as the culprit; (2) the eyewitness' false statement during direct examination that appellant was his blood-relative while, in truth, they are only related by affinity; and (3) the

improbability of the commission of such a crime in broad daylight and within hearing distance of neighboring houses. These circumstances, appellant avers, amount to a failure of the prosecution to meet the quantum of evidence required to overcome his innocence.

As to the first alleged flaw, jurisprudence is replete with rulings that delay in revealing the identity of the perpetrator of the crime will not impair the credibility of the witness, if such delay is sufficiently explained. [8] It is not uncommon for witnesses to the commission of crimes to show reluctance in volunteering information thereon and getting involved in criminal investigations. [9] This is especially true when family members are the assailants. [10] In this case, the lone eyewitness, Benny Reoveros, is related by affinity to accused-appellant, the latter's wife being the sister of Benny's mother. Appellant himself admitted that he was highly respected by the eyewitness [11] and knows no reason why the latter would testify against him. [12] Indeed, the defense showed no reason why Reoveros would falsely implicate Paraiso in a despicable and grave offense as rape with homicide. As the Solicitor General correctly cites, "where there is no evidence and nothing indicates that the principal witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit." [13] Absent a corrupt intent, Reoveros' close relationship to and respect for appellant sufficiently explain his delay in identifying the latter as the wrongdoer.

Nevertheless, the Court carefully examined the lengthy testimony of Benny Reoveros. We find the meat of his testimony, as to how the crime was committed and by whom, to be clear, positive and unequivocal, as follows:

"PROSECUTOR MAGNO:

Q Now, at around four o'clock in the afternoon on August 5, 1994, do you remember where were you?

A Yes, sir.

Q Where were you then?

A I was in our house, sir.

Q And where is your house located insofar as the barangay, municipality and province are concerned?

A xxx, sir.

Q And what were doing, if any, on that precise time, date and place?

A I was making something where our stove will be placed, sir.

Q And while you were making the patungan of the stove at around four o'clock in the afternoon on August 5, 1994, could you remember of any unusual incident that happened?

A There was, sir.

Q And what was that unusual incident you are referring to?

A I heard somebody shouting, sir.