

SECOND DIVISION

[G.R. No. 111285, January 24, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE VALLA^[1], ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

On appeal is the decision dated March 29, 1993 of the Regional Trial Court of Gumaca, Quezon, Branch 62, convicting appellant of the crime of rape with homicide, imposing upon him the penalty of *reclusion perpetua*, and ordering him to pay the heirs of the victim the amount of P50,000.00 as indemnity and P30,000.00 as actual and moral damages.

Appellant was 28 years old, married, cousin of the victim, and resident of Barangay Tayuman, San Francisco, Quezon, at the time of incident. The victim was an eight (8) year-old girl, Dyesebel "Gigi" de la Cruz, who was reported missing and the following day found raped and strangled to death near the riverbank of the Tayuman river in Quezon province.

The facts, as summarized by the Office of the Solicitor General, which we find to be supported by the records, are as follows:

"1. On April 14, 1991, at around nine o'clock in the morning, Myra Pines, a twelve-year old girl, was passing by the ricefield near the road located at Barangay Ilayang Tayuman in the Municipality of San Francisco, Quezon Province. She was carrying bananas on her way to the crossing in said municipality. (pp. 3-6, Pines, February 5, 1991).

"2. As she passed by the ricefield, she heard a voice coming from the direction of the forested area of the place and it seemed to her that someone was being strangled. Listening closely, she recognized the voice as belonging to her friend and playmate, Dyesebel de la Cruz, an eight-year old girl. Frightened at the thought that Dyesebel was being strangled, Myra scampered and proceeded to the crossing where she was originally headed for. After discharging her bananas at the crossing, she went home. (pp. 5-6, tsn, Pines, February 5, 1991).

"3. Later that day, at around four o'clock in the afternoon, Barangay Captain Aristeo Allarey of Barangay Ilayang Tayuman was visited in his house by Mila de la Cruz, Dyesebel's mother, who reported that her daughter was missing. Allarey sought the assistance of his constituents and organized a search party composed of the members of the Sangguniang Barangay, a Barangay Tanod, Dyesebel's father Gonzalo de la Cruz, and other residents of the barangay. Prosecution witnesses

Bayani Samadan, a Kagawad of the Sangguniang Barangay and Reynaldo Merle, a 'barangay tanod,' were among the searchers (pp. 10-13, tsn, Allarey, February 5, 1991; p. 24, tsn, De la Cruz, February 5, 1991; pp. 6-7, tsn, Merle, July 18, 1991; pp. 4-7, tsn, Samadan, September 17, 1991).

"4. Barangay Captain Allarey learned from Gonzalo de la Cruz that, earlier, Dyesebel was in the company of accused-appellant Vicente Valla, and that both of them were tasked to watch the ricefield. They went to the ricefield but appellant was not there. Allarey learned from a barangay tanod that appellant was drinking liquor in the house of a friend within the same barangay. He summoned appellant but the latter failed to immediately report to him. (pp. 14-15, and 20, tsn, Allarey, February 5, 1991).

"5. That afternoon, Allarey and his party started their search but they had to stop at around 6:30 in the evening since it was already dark. The following day, they continued their search for Dyesebel. (p. 12, tsn, Allarey, February 5, 1991; pp. 7-8, tsn, Merle, July 18, 1991).

"6. While Allarey, De la Cruz and the rest of their companions were searching for Dyesebel, they were joined by appellant who trailed behind them. Earlier, appellant spoke to Allarey and told him that he knew nothing about Dyesebel's whereabouts. (pp. 15-16, tsn, Allarey, February 5, 1991; p. 24, tsn, De la Cruz, February 5, 1991; p. 13, tsn, Merle, July 18, 1991; pp. 8-9, tsn, Samadan, September 17, 1991).

"7. At around 11:00 o'clock in the morning of that day, they finally found Dyesebel. Her body was found near the river with her neck blackened and her vagina bloodied. She was still wearing her dress but her panty had been pulled down to her mid-thigh. (pp. 13-14, tsn, Allarey, February 5, 1991; p. 23, tsn, De la Cruz, February 5, 1991; pp. 8-9, tsn, Merle, July 18, 1991; pp. 7-8, tsn, Samadan, September 17, 1991).

"8. Allarey and his companions immediately confronted appellant who, out of remorse, admitted that he raped and killed Dyesebel. Thereafter, he addressed Dyesebel's father, in the presence of Allarey and company, offering his own daughter in payment of Dyesebel's life which he took and begged for forgiveness. De la Cruz told appellant that he cannot accept appellant's daughter and, thereafter, tried to unsheath his bolo. But before De la Cruz could attack appellant, he was held back by the people around him. Appellant was ordered arrested by Allarey. (pp. 16-17 and 21, tsn, Allarey, February 5, 1991; pp. 24-26 and 28, tsn, De la Cruz, February 5, 1991; pp. 11 and 18, tsn, Merle, July 18, 1991; pp. 9-11 and 13-14, tsn, Samadan, September 17, 1991).

"9. That same day, at around one o'clock in the afternoon, Allarey, accompanied by Samadan, Merle, De la Cruz, and one Abelardo Rego, brought appellant to the police headquarters in San Francisco, Quezon. (pp. 5-6, tsn, Rosales, November 6, 1991; p. 17, tsn, Allarey, February 5, 1991).

"10. Dyesebel's body was brought to the Bondoc Peninsula District Hospital in Catanauan, Quezon, where an autopsy was performed. Dyesebel's skull bore a depression on the left temporal area which resulted from being struck with a hard object. Her pubic area bore blisters brought about by a contact with a lighted cigarette. Her hymen bore several lacerations indicative of repeated rape before and possibly, after she was killed. (pp. 4-6, tsn, Madatu, January 14, 1992)."^[2]

On August 14, 1990, appellant was charged with the crime of "rape with murder" under the following Information:^[3]

"The undersigned upon complaint originally filed with the Municipal Circuit Trial Court of San Francisco-San Andres, by Gonzalo de la Cruz, father of the offended party Dyesebel de la Cruz, accuses Vicente Valla (prisoner, (sic) of the crime of rape with murder, committed as follows:

"That on or about the 14th day of April 1990, at Barangay Ilayang Tayuman, in the Municipality of San Francisco, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, by means of force and violence, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Dyesebel de la Cruz, a minor, 8 years of age, against her will; that by reason, and on the occasion of said rape, the said accused with intent to kill and with treachery and taking advantage of his superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ violence against said Dyesebel de la Cruz, thereby inflicting upon the latter injuries on vital parts of her body, which directly caused her death.

"Contrary to law."

Upon arraignment, appellant, duly assisted by counsel *de officio* Atty. Ronaldo Salamillas, entered a plea of not guilty to the crime charged.^[4] Trial on the merits ensued.

The prosecution presented the following witnesses: (1) Myra Pines, the victim's 12 year-old playmate, who heard the victim's cries as she was being strangled, but became afraid and went home instead; (2) Aristeo Allarey, the Barangay Captain of Ilayang, Tayuman, San Francisco, Quezon, who organized a search party upon report of the mother that her daughter was missing, and before whom, appellant admitted that he raped and killed the victim, and even offered his (appellant's) daughter in return; (3) Gonzalo de la Cruz, father of the victim, who took part in the search party, and who witnessed appellant's confession to the commission of the crime; (4) Reynaldo Merle, Barangay Tanod of Barangay Ilayang, Tayuman, San Francisco, Quezon, another member of the search party; (5) Bayani Samadan, Kagawad of the Barangay, also a member of the search party; (6) Rodolfo Rosales, police investigator of San Francisco, Quezon, Philippine National Police; (7) Dr. Araceli R. Madatu, Senior Resident Physician of Bondoc Peninsula District Hospital, Catanauan, Quezon, who testified that when the cadaver was brought for examination, it was in cadaveric rigidity, the legs were spread like a woman about to give birth ("parang nanganganak"), the tongue sticking out ("nakalawit), the skull crushed ("basag"), and the pubic area had blisters resulting from cigarette burns,

("pinagpapaso ng sigarilyo"), and the vagina had a laceration up to the anus, evidencing that the child was raped.^[5]

In addition to the oral evidence, the prosecution offered as documentary evidence the sworn statements of Barangay Captain Aristeo Allarey and Gonzalo de la Cruz, the Criminal Complaints filed with the Municipal Trial Court of San Francisco, San Andres, Quezon, and the Medico-legal Certificate signed by Dr. Madatu.

On the other hand, the defense presented as its witnesses (1) appellant himself who bluntly denied any participation in the rape/killing of the victim, or that he made any confessions to the barangay captain; he interposed the defense of alibi that at the time of the alleged rape/killing, he was at his house in Barangay Ilayang Tayuman, San Francisco, Quezon together with his wife, their child and his brother, caring for his sick child,^[6] and (2) his father Emilio Valla, who corroborated his story.^[7] The defense offered no documentary evidence.

On March 29, 1993, the trial court rendered a decision^[8] finding appellant guilty of the crime of "rape with homicide," the dispositive portion of which reads:

"WHEREFORE, premises considered, the fact that the government has proved beyond an iota of a doubt that the accused is guilty, sentences him to suffer an imprisonment of RECLUSION PERPETUA.

"Further the accused is ordered to indemnify the heirs of the late Dyesebel de la Cruz the sum of P50,000.00 for her death and P30,000.00 for actual and moral damages.

"SO ORDERED."

Hence, the present appeal. Appellant assigns the following errors:^[9]

I. THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE CONFLICTING AND IMPROBABLE TESTIMONIES OF THE PROSECUTION WITNESSES.

II. THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT DESPITE INSUFFICIENCY OF EVIDENCE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

In his brief, appellant claims that the testimony of prosecution witness Allarey was inconsistent since on direct examination, Allarey narrated that when he summoned appellant, the latter did not immediately appear,^[10] but on cross-examination, he said that appellant immediately reported to him.^[11] Appellant also contends that Merle's testimony that appellant was "tulala" at the time he confessed to the commission of the crime^[12] was inconsistent with appellant's alleged begging for forgiveness for the crime.^[13] Further, appellant adds that his statement offering to exchange his own daughter for the victim was made because of compulsion from the crowd. Appellant further insists that his alibi should be given due consideration since the prosecution failed to overturn his alibi which was duly corroborated by the testimony of his father.