

EN BANC

[G.R. No. 128647, March 31, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO "TONY" SALONGA, ALFREDO "FRED" DANGANAN AND
EDUARDO "EDDIE" DANGANAN, DEFENDANTS-APPELLANTS.**

D E C I S I O N

PER CURIAM:

The frailty of human flesh gives no excuse for the transgression of a woman's purity especially when rape was coupled with the taking of the victim's life. Such act is testament to a debased, perverted and savage minds which deserves a penalty no less than death.

For automatic review is the decision 'of the Regional Trial Court, Branch 65, Tarlac, Tarlac finding Antonio "Tony" Salonga, Alfredo "Fred" Danganan, and Eduardo "Eddie" Danganan, guilty of rape with homicide under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659^[1] and imposing upon each of them the supreme penalty of death, in addition to ordering them to pay the heirs of the victim the amount of P50,000.00 as death indemnity, P100,000.00 as moral and exemplary damages, P83,900.00 as actual damages, P15,000.00 as attorney's fees, and the costs of the suit.

The amended information alleged -

"That on or about November 10, 1994, in the Municipality of Tarlac, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with the use of a bladed instrument and other hard object, conspiring, confederating and helping with one another, did then and there willfully, unlawfully and feloniously by means of force, threat and intimidation succeeded in having carnal knowledge with Babylyn Garcia, 13 years old, single and virgin against her will, that on the occasion thereof, the above-named accused with the use of a bladed weapon and a hard object stab several times and hit her with hard object on her head inflicting skull fracture on her head and stab wound on the different parts of her body which cause her immediate death at the scene of the crime.

CONTRARY TO LAW."^[2]

Upon arraignment the accused-appellants pleaded "not guilty" to the charge.

We quote with approval the facts of the case as summarized by the trial court, as

such facts are supported by the evidence on record:

"xxx xxx xxx

"Prosecution evidence shows that in the morning of November 10, 1994, Babylyn Garcia, a 13-year old comely girl, 5 ft. 4 inches in height, left their house in Barangay Sta. Maria in Tarlac, Tarlac to attend her classes as a First Year High School in the Gerona Tarlac, about 14 km. from the capital town of Tarlac. Babylyn walked from their house to Sitio Maligaya in Barangay Sinait, Tarlac, Tarlac, then a kilometer away. From Sitio Maligaya, she stepped down the dike and crossed the almost 500-meter-wide Tarlac River, which becomes passable by foot during the dry season, to reach Barangay Sta. Cruz Tarlac, where she took a ride to Gerona. She expected to be home as usual between 5:00 to 6:00 o' clock in the afternoon of that day. On that fateful day of November 10, 1994, her father Pablito Garcia, failed to go and meet her as he was wont to do [sic] at Brgy. Sta. Cruz and Babylyn must have decided to go home alone, walking along the same beaten path that she and some residents thereabouts usually take in crossing the river. Babylyn failed to come home at the expected time and her parents became worried. Her father then decided to look for her in her school, in the houses of some relatives in Brgy. Sinait and along the usual path that he and Babylyn used to take in crossing the river but did not find her.

Between 5:20 and 5:30 o' clock in the afternoon of November 10, 1994, Maximo Tabag, a resident of Brgy. Sinait went to gather firewood at the dry portion of the Tarlac River, some 150 meters from the river embankment in Sitio Maligaya where cogon grass and bamboos had already grown in clusters and a few kakawati and acacia had taken root. While in the process of gathering firewood, Tabag heard voices and peering through the tall cogon grasses, he saw three men about 12 to 15 meters away dragging an unconscious woman, whose head was bloody and her dress stained with blood. (TSN, March 6, 1995 p.7). As Tabag watched furtively behind tall cogon grasses, the three men whom he recognized as Antonio Salonga, Alfredo Danganan and Eduardo Danganan, who appeared unaware of his presence then dumped the unconscious woman, whom he also recognized as Babylyn Garcia amidst cogon grasses near an acacia tree. Moments thereafter, he saw them leaving together in a hurry towards Brgy. Sta. Cruz where Alfredo and his family reside.

Tabag did not attempt to approach the unconscious girl because he was afraid the three men might see him and decide to go after him. He instead went home about four minutes after they left and kept silent about what he saw because he feared the accused (TSN, March 15, 1995). Tabag personally knows accused Alfredo Danganan and his brother, Eduardo, because they are his barangay mates in Brgy. Sinait since they were yet young boys and their half-brother, accused Antonio Salonga, was his barangay mate in Brgy. Agusong where he (Tabag) once resided for sometime. At the time he saw them in the river, Antonio Salonga was wearing a brown hat made of bamboo and a sky-blue, long

sleeved polo shirt, Alfredo Danganan was in white shorts and white T-shirt and Eduardo Danganan was in maong pants and naked from the waist up (TSN, March 6, 1995, pp. 27-28).

Romeo Garcia, a kagawad of Barangay Sta. Maria and an uncle of Babylyn, together with a barangay tanod, launched a search for his missing niece. They scoured out the pathway across the Tarlac River between Sitio Maligaya and Brgy. Sta. Cruz. At about 2:00 o'clock in the early morning of November 11, 1994, Kgd. Garcia and his companion found the lifeless body of Babylyn concealed amidst cogon grasses near an acacia tree about 150 meters from the river embankment in Sitio Maligaya. Aside from human footprints, the school identification card of the victim and a woman shoe were found near the place where the body was dumped. Kgd. Garcia then notified the police that the body of his niece had already been found. SPO4 Conrado Duenas of Tarlac PNP, together with the two policemen and some members of the Kababayan Center No. 9 in San Isidro, Tarlac, which has jurisdiction over Brgy. Sta. Maria and Sinait, went to the place. They were told that the victim's body which was already removed by relatives, was found in a cogonal area. At about 7:00 a.m., November 11, 1994, the cadaver was brought to the Enriquez funeral parlor in Tarlac for autopsy. Tabag, bothered by his conscience, decided to see Kgd. Garcia at about 6:00 p.m. of that day and informed him of what he saw and asked him to cause the investigation of the brothers Antonio, Alfredo and Eduardo in connection with the slaying of Babylyn. Kgd. Garcia brought Tabag to the police but Tabag did not reveal all the details of what he saw the three accused did, not until they were arrested and detained.

Thereafter, SPO4 Oscar Mayor, a member of the Tarlac PNP, conducted an investigation of the death of Babylyn Garcia. He conferred with the members of the Kababayan Center in Brgy. Sinait, who had earlier made an ocular inspection of the crime scene. They furnished Mayor the names of Antonio Salonga, Alfredo Danganan, Eduardo Danganan Ronald Salvador and Cirilo Ibanez as possible suspects in the killing. Ronald Salvador and Cirilo Ibanez later were excluded from the list of suspects for lack of evidence against them, SPO4 Mayor, with SPO2 Estabillo, went to the house of Antonio Salonga in Brgy. Aguso on November 19, 1994, to inquire about his whereabouts and what he had used on November 10, 1994, but Antonio was not at home then. Antonio's wife, however, told Mayor, that her husband was wearing a brown hat made of bamboo when he and Alfredo went to Brgy. Sinait in the morning of November 10, 1994. When shown the hat, Mayor noticed what he suspected to be a bloodstain on the hat. Mayor then asked Antonio's wife if he could have the hat and the latter in the presence of Danilo Bulanditan and Kgd. Conrado Capitulo as witness voluntarily gave it to him after he issued a receipt dated November 10, 1994 (Exhibit 'C'). Mayor then submitted the hat, together with the blood-stained handkerchief and a piece of cloth of the victim, to the National Bureau of Investigation (NBI) in Manila for laboratory examination. Based on the NBI Biology Report No. E-94-1423 (Exhibit 'D') the contents of which were admitted by the defense (TSN, March 13, 1995, p.61), test results disclosed that 'the above specimen all gave positive results for human blood showing the same reaction of

Group A'.

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After the trial on the merits, the trial court rendered judgment on February 27, 1996 convicting all the accused-

"WHEREFORE, this Court finds the accused Antonio "Tony" Salonga, Alfredo "Fred" Danganan and Eduardo "Eddie" Danganan GUILTY beyond reasonable doubt of the crime of Rape with Homicide defined and penalized in Article 335, as amended, of the Revised Penal Code, and hereby sentences each of them to suffer the penalty of death, and to jointly and severally pay the heirs of Babylyn Garcia the amount of P50,000.00 as death indemnity, the amount of P100,000.00 as moral and exemplary damages, the amount of P83,900.00 as actual damages and the amount of P15,000.00 as attorney's fees and to pay the costs.

SO ORDERED."[4]

On account of the penalty imposed, the records were elevated to this Court for automatic review.[5]

Accused-appellants seek the reversal of the judgment of conviction insisting that the circumstantial evidence presented by the prosecution against them is insufficient to prove their guilt beyond reasonable doubt. They denied the charge and claimed that they could not have committed the crime of rape with homicide and interposed the defense of alibi. Their testimonies are summarized in the following portion of the decision of the trial court:

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"Accused Alfredo Danganan testified that he and his half-brother, Antonio Salonga, went to Sitio Maligaya, Brgy. Sinait, Tarlac, to visit their father, Benito Danganan, in the morning of November 10, 1994. He was then wearing white shorts and white boxer (TSN, Feb. 28, 1996, p.11). He left Antonio at the house of their father and went to collect the debts of his borrowers in Brgy. Sinait and Brgy. Maria. He returned at 1:00 o' clock in the afternoon. At 4:15 p.m., he and Antonio returned to Brgy. Sta. Cruz because he had to attend the 6:00 p.m. 'prayer and worship service' at the Iglesia Ni Cristo chapel in Brgy. Agusong where he also served as a deacon. In going home they took the 'short cut' route from Sitio Maligaya towards Alfredo's house in Brgy. Sta. Cruz. While crossing the river, Antonio heard the voices of two women quarrelling. He told Antonio the voices seemed to come from Brgy. Sinait. They arrived at his (Alfredo's) house at 4:45 p.m. by his watch. After taking a bath, he dressed up and proceeded to the chapel with his wife, Yolanda, at 5:30 p.m. and arrived there at 5:38 p.m. using his passenger jeep. After signing his name on a loose left purporting to be an attendance sheet, he performed his duties

as a deacon. After the services, he and his wife proceeded to the 'big chapel' of the INC in San Roque, Tarlac, at 10:00 p.m. and went home at 11:00 p.m. The following morning, November 11, 1994, when he returned to Brgy. Sinait to collect the debts of his other borrowers, he learned from Kgd. Garcia, the uncle of Babylyn, that the latter, the daughter of Pablito Garcia, was killed. He informed Kgd. Garcia and the policemen who were with him that when he and Antonio were crossing the river on their way home the previous afternoon, his brother heard the voices of two women quarrelling and he told him they appeared to be in Brgy. Sinait. Alfredo Danganan testified on the witness stand in a manner as if he already knew just what his counsel would ask and immediately gave his answer. At times, he seemed hesitant in answering questions propounded on cross examination. His countenance on the witness stand appeared troubled.

Accused Antonio Salonga testified that he and his brother, Alfredo Danganan, went to Sitio Maligaya in Brgy. Sinait at about 8:00 o' clock in the morning of November 10, 1994. After taking their launch (sic) in the house of their father, Benito, he and Alfredo went home at about 4:15 p.m. of that day, based on his calculation. As they were crossing the river, he heard the voices of two women who were quarreling and Alfredo told him they seemed to be in Brgy. Sinait. They reached the house of Alfredo at around 4:45 p.m., again based on his calculation. Later, his brother and his wife, Yolanda, went to the INC chapel. He stayed at their house up to the time when they returned at 11:00 o' clock in the evening. Then he went home in Brgy. Aguso. At about 6:00 o' clock in the morning of November 11, 1994, he drove Alfredo's passenger jeep to earn some money to Camiling, Tarlac where according to him, a couple, Cenon Ibanez and Fanny Limos, who managed a store in that town, stopped him and told him that the daughter of Pedro Garcia was 'raped and killed' (TSN, March 7, 1996, p.5). As closely observed by the Court, he appeared listless as he answered questions propounded to him by his counsel or by the prosecution, making the Court feel that he was not telling the truth. He admitted, however, that the brown hat made of bamboo given by his wife to SPO4 Mayor belonged to him.

Accused Eduardo Danganan testified that in the morning of November 10, 1994, his brothers Antonio and Alfredo came to their house in Sitio Maligaya, Brgy. Sinait. While Antonio stayed in the house, Alfredo went out to collect the debts of his borrowers and returned at about 1:00 p.m. of the same day. At about 2:00 p.m., he went to the house of Remegio Manoloto and helped his brother, Arcadio, pile up about 60 cavans of palay in Manoloto's house up to 6:00 p.m. Thereafter, he went home and slept. The following day November 11, 1994, Kgd. Garcia and the Brgy. Captain of Sinait passed by their house and asked him if he noticed a man who may have passed by their place and told him that the daughter of Pabling Garcia was killed. Together with Bong Dela Cruz and Ronald Dela Cruz, he went to the house of the victim but the body had not as yet been brought home. On November 12, 1994, he, Antonio Salonga and Alfredo Danganan were brought to the police station for investigation. Before he was made to talk, SPO2 Versoza punched him, hit him with a stick on his chest and kicked his feet. He then gave a