

## EN BANC

[ G.R. No. 133226, March 16, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOCSIN FABON @ "LOKLOK," ACCUSED-APPELLANT.**

### DECISION

#### PER CURIAM:

Circumstantial evidence coupled with accused-appellant's flight from the town where the crime as committed sealed his fate and merited his conviction of a heinous crime and the corresponding imposition of the supreme penalty of death.

In an information filed before the Regional Trial Court of Hilongos, Leyte, docketed as Criminal Case No. H-642, accused-appellant Locsin Fabon, alias "Loklok." was charged with the crime of robbery with homicide accompanied by rape and intentional mutilation.<sup>[1]</sup> The information reads:

That on or about the 23rd day of April 1995, in the Municipality of Hilongos, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, said accused at the house of the victim did then and there, willfully, unlawfully and feloniously with intent to gain by means of force and violence against one BONIFACIA LASQUITE, take and carry away, sum of money consisting of bills of assorted denominations and coins amounting to TWENTY FIVE THOUSAND PESOS (P25,000.00) more or less, Philippine Currency, and by reason or on occasion of the robbery the same accused attack (sic) and take (sic) the life of the victim with the use of [a] bladed weapon, thus wounding:

1. Lacerated wound on (R) side of the forehead about 0.5 cm. x 0.2 cm. with a depressed skull fracture;
2. Stabbed (sic) wound (punctured-like) at the (R) side of the epigastic area;
3. Stabbed (sic) wound (punctured-like) at the 3rd intercostal space (L) parasternal line;
4. Depressed fracture (L) parieto-occipital area;
5. Hematoma formation, lower jaw and at the base of the neck;
6. Multiple hematoma formation at the epigastic area, RUQ and anterior chest wall; which clearly evince the manifest and intentional mutilation of victim's person or corpse (sic); and likewise on the same occasion of the robbery, rape has (sic) been committed by the same accused on the person of the victim,

BONIFACIA LASQUITE, as shown by the autopsy report, thus:

7. Hematoma formation noted on both sides of vaginal canal and near urethral opening;
8. Hematoma formation (L) hand, dorsal aspect of metacarpophalangeal joint;
9. Tonge (sic) half bitten and directed to the right side.

ACTS CONTRARY TO LAW.<sup>[2]</sup>

Upon being arraigned on 26 September 1995, accused-appellant, assisted by counsel *de oficio*, Atty. Mario Alonzo of the Public Attorney's Office, pleaded "not guilty" to the offense charged.<sup>[3]</sup>

The prosecution presented Benjamin Milano, the nine (9) year old nephew and neighbor of the accused-appellant, as its first witness. He testified that on 23 April 1995, at around five o'clock in the morning, he was awakened by his mother to fetch water for their morning meal.<sup>[4]</sup> Bringing along a container, he then proceeded to the water pump of Bonifacia Lasquite, located at the back of the latter's house.<sup>[5]</sup> After filling up his container, he then went on his way home.<sup>[6]</sup> However, while still near the house of Bonifacia Lasquite, he noticed that someone was coming from the fence of Bonifacia Lasquite's house.<sup>[7]</sup> Although it was still a little dark,<sup>[8]</sup> he recognized it to be his uncle, accused-appellant.<sup>[9]</sup> While standing only five (5) meters away,<sup>[10]</sup> accused-appellant asked him: "Toy, is there somebody fetching water?"<sup>[11]</sup> He responded in the negative. He noticed that the forehead, t-shirt and hair of accused-appellant were stained with blood.<sup>[12]</sup> He also noticed that accused-appellant was carrying a plastic bag<sup>[13]</sup> and had a bolo tucked in his pants.<sup>[14]</sup> Accused-appellant then walked away in a hurried manner while repeatedly looking over his shoulders.<sup>[15]</sup> Later on in the day, he was informed by a certain Emma about the death of their neighbor, Bonifacia Lasquite.<sup>[16]</sup> Because of this, he informed Roberto Lasquite, the son of Bonifacia Lasquite, of his encounter with accused-appellant in the early morning of the ill-fated day.<sup>[17]</sup>

The second witness presented by the prosecution was Mario Vinculado. He testified that he has been a resident of Brgy. Santa Cruz, Hilongos, Leyte, since his birth and, as such, he knows both accused-appellant and the victim.<sup>[18]</sup> Sometime in the second week of August of 1995, he went to Ampayon, Butuan City together with a police officer named Lumayno from the Hilongos Police Station.<sup>[19]</sup> He went to the said town because he was requested by Roberto Lasquite to accompany police officer Lumayno in ascertaining whether accused-appellant was indeed in Ampayon pursuant to an information sent by the Butuan Police Station to the Hilongos Police Station.<sup>[20]</sup> When they arrived in Ampayon, they went to the municipal jail where they found accused-appellant being investigated by the police.<sup>[21]</sup> After the investigation, accused-appellant asked Mario Vinculado if they could have a talk.<sup>[22]</sup> During their conversation, accused-appellant informed Mario Vinculado that he had a companion when he assaulted Bonifacia Lasquite<sup>[23]</sup> and that he was only able to

stab the victim twice in the breast.<sup>[24]</sup> Upon Mario Vinculado's return to his hometown, he informed the Hilongos police and Roberto Lasquite of the admission made to him by accused-appellant.

The prosecution then presented Dr. Conrado Abiera as its expert witness. He testified that on 23 April 1995, he conducted an autopsy on the victim and, correspondingly, accomplished a gross autopsy report.<sup>[25]</sup> The gross autopsy report reads:

Name: BONIFACIA FABON LASQUITE Age: 64 years old

Address: Brgy. Sta. Cruz, Hilongos, Leyte Sex: Female

Civil Status:  
Widow

Occupation: Housekeeper  
Requesting Officer: Jaime S. Yamba

Sr. Insp. PNP  
Acting Chief of  
Police

Date & Time of Autopsy: April 23, 1995 at 2:10 p.m.  
Place of Autopsy: Brgy. Sta. Cruz, Hilongos, Leyte

General Survey: Fairly build (sic), fairly nourished, fairly developed, whole body covered with with (sic) blanket, when removed the face is (sic) covered with moist, torned (sic) cloth the upper half of the body covered with cloth and lower half naked, in the state of cadaveric spasm with hematoma formation on the jaw and base of the neck, lacerated wound on the forehead, stabbed (sic) wound on the anterior chest wall and multiple hematoma formation on the anterior chest wall.

Pertinent Findings:

1. Lacerated wound on (R) side of the forehead about 0.5 cm. x 0.2 cm. with a depressed skull fracture.
2. Stabbed (sic) wound (punctured-like) at the (R) side of epigastric area.
3. Stabbed (sic) wound (punctured-like) at the 3rd intercostal space (L) parasternal line.
4. Depressed fracture (L) parieto-occipital area.
5. Hematoma formation, lower jaw and at the base of the neck.
6. Multiple hematoma formation at the epigastric area, RUQ and anterior chest wall.
7. Hematoma formation noted on both sides of vaginal canal and near the urethral opening.
8. Hematoma formation (L) hand, dorsal aspect of

9. metacarpo-phalangeal joint.  
Tongue half-bitten and directed to the right side.

Cause of Death: Internal Hemorrhage due to stabbed (sic) wound at the heart and liver area.  
Suffocation secondary to strangulation.

(signed)  
DR. CONRADO B. ABIERA III  
Medical Officer III<sup>[26]</sup>

During his testimony, Dr. Abiera clarified the statements he made in the gross autopsy report. He stated that lacerated wound in the victim's forehead and the depressed skull fracture, reported as the first item under the heading Pertinent Findings, signified that the victim was hit with a blunt instrument which could have been a stone, a piece of wood or the back portion of a bolo.<sup>[27]</sup> He added that the same blunt instrument may have also been used in the depressed fracture in the parieto-occipital area.<sup>[28]</sup> Dr. Abiera also explained that the punctured-like stab wounds, reported as the second and third items under the heading Pertinent Findings, meant that the assailant used an instrument similarly shaped as an ice pick or a sharpened welding rod.<sup>[29]</sup> With regard to the hematoma formation at the lower jaw and at the base of the neck, reported as the fifth item above, this signifies that the victim was strangled.<sup>[30]</sup> Dr. Abiera added that the strangulation of the victim caused her to struggle for air and, in the process, she probably bit her tongue which, thus, accounts for the finding in the ninth item above.<sup>[31]</sup> He concluded that this strangulation could not have been caused by a wire or a rope since these instruments would have left marks in the neck of the victim. In his expert opinion, Dr. Abiera deduced that the victim was strangled through the use of a handkerchief or some other piece of cloth.<sup>[32]</sup> With regard to the hematoma formation in the vaginal canal and near the urethral opening, the seventh item above, he explained that this could mean that the victim was raped.<sup>[33]</sup> However, he clarified that he cannot assert such conclusion with certainty because he did not examine if there were sperm cells in the victim's vagina since the autopsy was conducted in a barrio where there was no laboratory.<sup>[34]</sup> Looking at the gross autopsy report in its entirety, Dr. Abiera concluded that the assault on the victim could have been done by more than one assailant considering that three devices were used in attacking the victim, *i.e.*, a blunt object, an ice-pick like tool and a cloth-like instrument. On the aspect of mutilation, Dr. Abiera stated that no vital part of the victim's body was severed which, thus, negates mutilation.<sup>[35]</sup>

The fourth and final witness for the prosecution was the son of the victim, Roberto Lasquite. He testified that on 22 April 1995, he went with a friend to Sitio Panas, Brgy. Bilibol, Southern Leyte, to attend a fiesta.<sup>[36]</sup> He stayed in the said place until the following day. On 23 April 1995, at around ten o'clock in the morning, a certain Costan Taping informed him that his mother was dead.<sup>[37]</sup> He immediately went home together with Costan Taping and his fiancée and arrived at their house at noon of the same day.<sup>[38]</sup> He found his mother lying dead on the kitchen floor with their things scattered.<sup>[39]</sup> When he searched for the shell where they kept their money, it was no longer in its hiding place in their cabinet.<sup>[40]</sup> Inside the missing

shell was the Twenty Five Thousand Pesos (P25,000.00) that was sent to them by the victim's sister who lives in Denmark.<sup>[41]</sup> Later on in the day, Benjamin Milano informed him of his encounter with accused-appellant while he was fetching water.<sup>[42]</sup> Because of this, he and the barangay tanods looked for accused-appellant.<sup>[43]</sup> They searched for accused-appellant for more than a month but could not find him.<sup>[44]</sup> He only learned about the whereabouts of his mother's assailant when he was informed by police officer Lumayno that accused-appellant had been arrested in Butuan City.<sup>[45]</sup> Roberto Lasquite then went to their councilor, Mario Vinculado, to request the latter to go to Butuan City and confirm if accused-appellant indeed killed his mother.

In his defense, accused-appellant took the witness stand and denied the accusations against him. He testified that he was registered as a resident of Brgy. Bliss but he actually resides in the house of his brother in Brgy. Sta. Cruz,<sup>[46]</sup> which is around 380 meters away from the house of Bonifacia Lasquite, her aunt.<sup>[47]</sup> He stated that in the morning of 22 April 1999, he was with his live-in partner, Prima Naul, washing clothes since they were preparing to leave for Butuan City the following day<sup>[48]</sup> in order to look for her live-in partner's long lost father.<sup>[49]</sup> At noon of the same day, he and Prima Naul went to his mother's house to have lunch.<sup>[50]</sup> They left his mother's house at around one o'clock in the afternoon and returned to their house.<sup>[51]</sup> He turned in for bed at around nine o'clock in the evening and woke up at 5:30 a.m. the following day, 23 April 1995.<sup>[52]</sup> He then prepared their provisions for their Butuan trip and finished at around 8:00 a.m.<sup>[53]</sup> Thereafter, he went to the house of the Brgy. Captain of Brgy. Bliss to get a residence certificate.<sup>[54]</sup> He was informed by the Brgy. Captain that he can get his residence certificate from the Brgy. Secretary, Mrs. Lumayno.<sup>[55]</sup> He went to the house of Mrs. Lumayno and was able to get a residence certificate.<sup>[56]</sup> He and his live-in partner then proceeded to Butuan City and arrived thereat in the morning of the following day.<sup>[57]</sup> During their stay in Butuan City, they were unable to locate her live-in partner's father. When inquired upon with regard to the testimony of Benjamin Milano, accused-appellant denied that he saw the child in the morning of 23 April 1995. On cross-examination, accused-appellant testified that he does not know of any reason why Benjamin Milano testified the way he did.<sup>[58]</sup> He also admitted having seen Mario Vinculado in the police station while he was incarcerated and being investigated in Butuan City on account of another charge for robbery.<sup>[59]</sup> Despite his having seen Mario Vinculado, he denies having spoken with the latter and that he admitted to killing the victim.<sup>[60]</sup> He reasoned that he was unable to speak with Mario Vinculado since he was being investigated by the police.<sup>[61]</sup> He also stated that when he left for Butuan City, he was not aware that Bonifacia Lasquite was dead.<sup>[62]</sup> He, however, admitted that while he was in Butuan City, he was informed by a certain Citas about the killing of the victim and that he was being made responsible for the same.<sup>[63]</sup> Nevertheless, despite learning of this matter, he admitted not having exerted any effort to inform Roberto Lasquite of his innocence and justified his complacency with the excuse that he had differences with Roberto Lasquite.<sup>[64]</sup> Their differences arose sometime in 1992 when he was accused by Roberto Lasquite of having stabbed the latter's carabao.<sup>[65]</sup> Accused-appellant also admitted having escaped from prison during the pendency of the present case before the lower court.<sup>[66]</sup> He was,