

SECOND DIVISION

[G.R. No. 109939, June 08, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GLORIA MITTU Y CINTO AND GERVACIO SOLIDAD Y LLANES,
ACCUSED-APPELLANTS.**

D E C I S I O N

QUISUMBING, J.:

On appeal is the decision dated March 15, 1993 of the Regional Trial Court of Kaloocan City, Branch 121, in Criminal Case No. C-41128, convicting accused-appellants of the crime of kidnapping for ransom and sentencing them to suffer the penalty of *reclusion perpetua*.

Appellant Gloria Mittu y Cinto was a 37 year-old, sari-sari store owner residing at 80 Malolos Avenue, Bagong Barrio, Kaloocan City at the time of the incident. Appellant Gervacio Solidad y Llanes was employed by Mittu as an ice-cream vendor cum tricycle driver.^[1]

Kidnapped was Vik Ramjit Singh, the 4-year old son of the spouses Dhanwant and Caridad Singh, together with Mary Gene Coña y Rodrigo^[2], his 15-year old nursemaid.

The facts, as summarized by the Office of the Solicitor General, and which we find to be supported by the records, are as follows:^[3]

"On August 31, 1992, around 7:45 a.m., four year-old Vik Ramjit Singh (Vikvik) and his fifteen-year old nursemaid, Mary Jane (Fanny or Pane) (sic) Coña, both of 51 Pilar St., Morning Breeze, Kaloocan City, were on their way to the Infant Jesus School at Asuncion Street, Morning Breeze, where Vikvik was a nursery student. While Vikvik and Pane were walking in front of a Catholic church, appellant Mittu suddenly grabbed them, saying, "Halika, punta kayo sa bahay," and then loaded them in a tricycle driven by appellant Gervacio Solidad (TSN, December 9, 1992, pp. 3-8; TSN, January 6, 1993, pp. 20-22).

Thereafter, the two appellants took the victims to Muntinlupa in a taxi where they were detained for two (2) days (TSN, December 9, 1992, pp. 3, 4 and 7, TSN, January 6, 1993, p. 22). During their captivity in Muntinlupa, they were brought to a public market where Mittu made Vikvik talk to his father on the telephone. Vikvik, whom appellant Mittu threatened to leave behind in the market if he told anyone that she was the one who took them, was only able to say, "Papa, kunin mo kami rito." (TSN, December 9, 1992, p. 4).

From Muntinlupa, Vikvik and Mary Jane were taken to Novaliches, where each one was hidden in separate houses (TSN, ibid., p. 5).

Meanwhile, around 12:00 o'clock noon of August 31, 1992, the father of Vikvik, Dan Waht Singh, went home to find his wife, Caridad, crying. Caridad confided that their son and his "yaya" failed to come home from school. She narrated further that when she went to the Infant Jesus School to look for her son, the teacher told her that Vikvik did not attend school that day (TSN, January 6, 1993, p. 6; TSN, December 9, 1992, p. 12). They then looked for the child but he was nowhere to be found (TSN, January 6, 1993, p. 7).

Soon thereafter, the Singh spouses received a telephone call from an unidentified male caller who told them, "Your son is here." The caller told them not to report the matter to the police. After the warning, he hanged up (TSN, January 6, 1992, p. 7; TSN, December 9, 1993, pp. 12-14). That same day, the same person called and reiterated what he had told them earlier. (TSN, January 6, 1992, p. 7).

The following day, the Singh spouses received another call from the same person who this time demanded P100,000.00 for the release of their son. But when Dan Waht Singh said he could not raise the amount, the caller hanged up again. The Singh spouses also received similar calls on September 2, 1992 (TSN, December 9, 1992, pp. 12-14; TSN, January 6, 1993, pp. 7-8).

On the morning of September 3, 1992, the Singh spouses finally went to the National Bureau of Investigation (NBI) and sought its help to rescue their son and his "yaya". NBI Assistant Director Atty. Liongson, who received their complaint, instructed them to wait for another call from the abductors and arrange for the payment of the ransom money. (TSN, January 6, 1993, p. 9; TSN, December 15, 1992, p. 4).

On September 4, 1992, the unidentified person called again and instructed Dan Waht Singh to give the ransom money to one Gloria Mittu at the Barrio Fiesta Restaurant, EDSA, Kaloocan City, at 7:00 o'clock in the evening that same day, and they would give him his child. (TSN, January 6, 1993, pp. 9-10).

After receiving the call, Mr. Singh called up the NBI and informed them of the arrangement for the payment of the ransom money. With this development, NBI agents assigned to the case then mapped out a plan to arrest the abductors after the release of the kidnap victims and delivery of the ransom money (TSN, December 15, 1992, pp. 4-5).

Around 4:00 o'clock in the afternoon, the NBI agents, headed by Atty. Ruel Lazala, team leader, were dispatched to cover the "pay-off" area (TSN, December 15, 1992, p. 5-7, 15-16).

When they arrived at the Barrio Fiesta Restaurant along EDSA, Kaloocan City, the agents saw the Singh spouses already seated in one of the tables. The agents then posted themselves strategically around the

restaurant. By 6:00 o'clock p.m., a woman, later identified as appellant Gloria Mittu, entered the restaurant and went straight to where Vikvik's parents were seated (TSN, *ibid.*, pp. 6, 16-18).

As soon as she reached the Singh spouses, appellant Mittu demanded for the whole amount of the ransom money, but Dan Waht Singh replied, "Cannot be, you give me my son." But Mittu refused to turn-over the kidnap victims unless half of the ransom money was given to her. Mr. Singh could do nothing else but accede to the demand and gave P50,000.00 to Mittu who, after receiving the money, went out of the restaurant (TSN, January 6, 1993, pp. 10-11; TSN, December 15, 1992, pp. 7, 16, 18).

When Mittu had gone, Mr. Singh conferred with Atty. Lazala inside the comfort room and informed him that appellant Mittu would be back after two (2) hours to bring the victims. (TSN, December 15, 1992, pp. 7-8).

Thereafter, the Singh spouses went home even as the NBI team, composed of Attys. de Villa, Liongson, Lazala and Laurence Nidera, held a briefing at the establishment adjacent to the Barrio Fiesta restaurant. They posted themselves at the left side corner of the restaurant, while another NBI team was posted at the right side (TSN, January 6, 1993, p. 11; TSN, December 15, 1992, p. 8). After two hours, Mr. and Mrs. Singh went back to the restaurant (January 6, 1993, tsn, *ibid.*).

Around 9:00 o'clock in the evening, Mary Jane or "Pane," the little boy's "yaya," went inside the restaurant. When Mr. Singh saw her, he went out, directly towards a taxicab in which he saw inside his son Vikvik with appellants Mittu and Solidaridad. The two appellants then let the boy out of the taxi and gave him to Mr. Singh (TSN, January 6, 1993, pp. 11-12; TSN, December 15, 1992, p. 9).

When Atty. Lazala saw the little boy already safe with his parents, he immediately signalled to the agents to arrest the appellants. After their arrest, the two kidnappers were then brought to the NBI headquarters (December 15, 1992; tsn, pp. 9-10; January 20, 1993, p. 2).

Gloria Mittu admitted in the investigation that she still had in her possession part of the ransom money in the amount of P27,000.00 (TSN, January 20, 1993, p. 3). Another NBI team, thereafter repaired to her house in Bagong Barrio, Kaloocan City, where said appellant handed over to the team leader, Atty. Oscar Embido, NBI senior agent, the P27,000.00 that was part of the ransom money (TSN, *ibid.*, pp. 3, 5). When asked about the rest of the fifty thousand (P50,000.00) pesos, Mittu answered that she already used it to redeem a pawned jewelry. (TSN, *ibid.*, p. 6)."

On September 28, 1992, after preliminary investigation, the following Information for Kidnapping^[4] was filed against appellants:

"The undersigned State Prosecutor of the Department of Justice accuses Gloria Mittu y Cinto and Gervacio Solidaridad y Llanes for violation of Article 267 of the Revised Penal Code (Kidnapping for ransom) committed as

follows:

That on or about August 31, 1992 at around 7:45 o'clock in the morning in Caloocan City and within the jurisdiction of this Honorable Court above named accused while conspiring and confederating with one another did then and there wilfully, unlawfully and feloniously, with criminal intent, pull, take and carry away with the use of force, threat, stealth and intimidation the minors Vik Ramjit Singh and Mary Gene Coña y Rodrigo without their consent to Muntinlupa, Metro Manila where they were detained, kept, and constrained of their liberty until September 1, 1992.

That the victims on September 1, 1992 were later transferred by the accused to Novaliches, Quezon City where the victims were separately detained, kept and constrained of their liberty until September 4, 1992.

That the accused while detaining the victims demanded and extorted money and did receive money from Dhanwant Singh, father of Vik Ramjit (sic) Singh and employer of Marygene Cona (sic) in the amount of One Hundred Thousand Pesos as ransom money for the release of the victims to the damage and prejudice of Dhanwant Singh.

CONTRARY TO LAW.

Manila for Caloocan City. September 17, 1992.

THEODORE M. VILLANUEVA
State Prosecutor II"

On November 10, 1992, appellants entered their respective pleas of not guilty upon arraignment.^[5] Thereafter, trial ensued. The prosecution presented the following witnesses: (1) Vik Ramjit Singh, the four-year old victim; (2) Mary Gene Coña, his nursemaid; (3) Dhanwant Singh and Caridad Singh, parents of Vik Ramjit; (4) Laurence Nidera; and (5) Atty. Oscar Emdibo, both Special Investigators of the National Bureau of Investigation (NBI).

For the defense, appellants testified on their behalf. Appellant Mittu testified that she knew both of the Singh spouses since 1982. She claimed that they fabricated the kidnap story when they failed to collect from her the monetary obligations of her husband, an Indian National, who was already deported by the Bureau of Immigration.^[6] She also claimed that Vik Ramjit Singh and his nursemaid used to visit her in her house so that Vik Ramjit could play with her son, Arjon. She insisted that the sum of P27,000.00 confiscated from her by NBI agents was her own money.^[7]

For his part, appellant Solidaridad denied any knowledge of the kidnapping claiming that he was a mere employee of Mittu and that he merely drove Mittu and the two victims to the Barrio Fiesta Restaurant, without knowing the purpose of their trip to said restaurant.^[8]