

FIRST DIVISION

[G.R. No. 130587, July 12, 2000]

**PEOPLE OF THE PHILIPPINES , PLAINTIFF-APPELLEE, VS.
ROLDAN BOHOL Y GALICIA, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

The case before the Court is an appeal taken by accused Roldan Bohol y Galicia from a judgment^[1] of conviction rendered by the Regional Trial Court, Masbate, Branch 49, Cataingan, sentencing him to *reclusion perpetua*, with all its accessory penalties, and ordering him to indemnify the legal heirs of the victim, Aurelia Cabataña, in the amount of three hundred ninety thousand pesos (P390,000.00) as loss of net earnings, fifty thousand pesos (P50,000.00) as moral damages, twenty thousand pesos (P20,000.00) as exemplary damages, and ten thousand pesos (P10,000.00) for attorney's fees.

On July 3, 1989, Assistant Provincial Prosecutor Juan M. Gallego of Masbate filed with the Regional Trial Court, Masbate, Branch 49, Cataingan, an information charging Roldan Bohol y Galicia with kidnapping with murder, committed as follows:

"That on or about May 1, 1989, at about 12:00 midnight, at Poblacion, Municipality of Pio V. Corpus, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused thru force and intimidation and with the intention of depriving the victim of her personal liberty, did then and there waylaid Aurelia Cabataña and dragged her towards a direction opposite to where the victim was intending to go and once there with intent to kill, with treachery, evident premeditation and use of superior strength, did then and there willfully, unlawfully, and feloniously shot the victim four times hitting the latter on the different parts of her body which caused her instantaneous death."^[2]

At the arraignment on December 11, 1989, accused Roldan Bohol pleaded not guilty.^[3] Subsequently, trial ensued.

The facts, as found by the trial court, are as follows:

On May 1, 1989, at around 8:00 in the evening, Epitacia Centeno, 49 years old, was with her child, watching the induction ceremony of the town's barangay officials in the enclosed town plaza of Poblacion, Pio V. Corpus, Masbate.^[4] At around 12:00 midnight, she decided to go home. Before heading to her house, she walked to her mother's house to leave her child there. Clutching her sleeping child, she made her way past a bridge near a church. As she approached the bridge, she saw two people on the road near her mother's house, at a distance of about thirty meters from her. She recognized one of them as her neighbor, accused Roldan Bohol. The other

person wore barong tagalog and black pants. She saw accused Bohol, half-naked, armed with a gun, and forcibly dragging the person wearing barong tagalog in front of the house of her mother.

Frightened, Epitacia hid herself behind ornamental plants about twenty meters away from Bohol. Aided by a lamp placed on the porch of her mother's house and a "parol" hanging in the house of her elder sister Lagring,^[5] Epitacia watched in silence as Bohol, with his hand around the waist of the person he was dragging, covered the other person's mouth with his left hand. Then, accused Bohol stopped and aimed a gun at the other person. Suddenly, two gunshots were heard and the person in barong tagalog fell to the ground. Bohol moved closer to the prostrate body and fired two additional shots. Then, he walked away.

Stunned by the scene she had witnessed, Epitacia ran straight home instead of going to her mother's house. A few minutes after reaching her house, somebody called her up to inform her that her sister had been shot near her mother's house. Epitacia ran towards her mother's house again and realized that the person in barong tagalog whom she saw earlier was her youngest sister, Aurelia Cabataña. Soaked in blood, 41-year-old Aurelia Cabataña wore barong tagalog and long black pants, her costume for the folk-dance of the elementary school teachers in the program at the town plaza that night. Aurelia was placed on board a jeepney bound for the nearest hospital. She died on the way.

At around 5:00 in the morning of May 2, 1989, the incident was reported to the police and entered in the police blotter. Policemen conducted an investigation at the crime scene and retrieved the following items: a white sando T-shirt with red markings and three ribbons with latin words; a necklace with a bottle containing wooden items inside; and a coconut shell triangular in size tied with a nylon rope. They failed to recover the gun used in the shooting.

On the same day, at around 9:00 in the morning, Dr. Primitivo Monterde, the Municipal Health Officer for Cataingan and Esperanza, Masbate, conducted an autopsy on the victim, revealing the following injuries:

- "1. Wounds, gunshot (entrance) 1.0 in. in diameter, located at temporal region, penetrating the skull, traversing the front lobe, making a wound, lacerated (exit) 3.0 in. in diameter, parietal region, right, with avulsion of brain tissue. (deformed slug embedded in parietal bone), head.
2. Wound, gunshot, 1.0 in diameter (entrance) located at temporal region, left, penetrating the scalp, perforating skull and lacerating the brain tissues making a wound, lacerated (exit) 2.0 in. in diameter, occipital region, head.
3. Wound, gunshot (entrance) 1.5 in. in diameter, located at the epigastric region, penetrating the muscle, perforating the intestines ending blindly in the mesentric tissues. (slug not recovered)."^[6]

According to the medico legal expert, the cause of death was "hemorrhage secondary to wounds, gunshot, multiple."^[7] He also noted that the first two fatal gunshot wounds were found in the head, while the third was located at the center of the stomach of the victim.

Accused Roldan Bohol denied the charge and claimed that from 6:00 in the evening of May 1, 1989 until 2:00 of early dawn, he stayed inside the enclosed plaza of the town of Pio V. Corpus, attending to the visitors of the mayor and watching the festivities of the induction of barangay officials. He was in the company of high-ranking government officials of the town.^[8] He sat beside his wife and children and behind barangay captain Diomedes Amaroto. Although he sometimes left his seat to run errands for the mayor, he never left the confines of the plaza area.^[9]

At around midnight, a commotion outside the plaza interrupted the induction program and caused people to disperse. A policeman arrived to inform accused Bohol that someone had been shot near the plaza and suggested that people should not leave the premises. Bohol relayed this information to the guests of the mayor and remained inside the plaza to avoid being implicated in the killing.^[10] He denied ownership of the items found by policemen.^[11]

Diomedes Amaroto, Sr., barangay captain of Poblacion, Pio V. Corpus, Masbate, testified that the town plaza is forty meters away from the place where Aurelia Cabataña was shot and that it would only take a minute to travel from one place to the other.^[12] This distance was also corroborated by the wife of accused Bohol, who stated that it would even take less than a minute to reach the scene of the crime from the town plaza if the person would walk fast.^[13] Accused Bohol also revealed that the town plaza had three exit points.^[14]

Fausto L. Seachon testified that when the shooting incident occurred, accused Bohol was with barangay captain Amaroto and his wife.^[15] However, he could not be certain whether accused Bohol remained in the plaza during the entire affair up to 2:00 in the morning, saying that sometimes somebody would ask accused-appellant to buy cigarettes. He was busy during the affair that night.^[16]

Barangay Captain Diomedes Amaroto testified that he went inside the town plaza together with accused Bohol early in the night to attend the induction of the barangay officials. However, he admitted that accused-appellant was not always beside him during the affair.^[17]

On June 3, 1993, the trial court rendered a decision convicting accused Roldan Bohol y Galicia of murder, not kidnapping with murder, and disposed of the case as follows:

"ACCORDINGLY, the court finds the accused Roldan Bohol guilty beyond reasonable doubt of the crime of MURDER and hereby imposes upon him the penalty of RECLUSION PERPETUA, with all the accessory penalties under the Code, and shall indemnify the legal heirs the amount of P390,000 as loss of net earnings, P50,000 as moral damages, P20,000 as exemplary damages, and P10,000 for attorney's fees."

"SO ORDERED.

"Cataingan, Masbate, June 3, 1997.