

SECOND DIVISION

[G.R. No. 129380, October 19, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO BALTAZAR, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

BONIFACIO BALTAZAR was grazing his carabao outside the cemetery of Bgy. Kaingin, Bongabon, Nueva Ecija, around seven o'clock in the morning of Christmas Day 1992. When it started to rain he went inside the cemetery to seek shelter. As he entered, he smelled a foul odor which he thought was coming from one of the mausoleums. He immediately went to the house of Bgy. Capt. Anastacio Rigdaus to report the matter; however the barangay captain was not there. Baltazar was able to see him only the following day. Bgy. Capt. Rigdaus then summoned two (2) of his *tanods* and told them to proceed to the cemetery to investigate the report. The *tanods* eventually found the body of a young girl already in a state of decomposition, later identified to be that of seven (7)-year old Gladys Joy Marcos who had been missing since 11 December 1992.

On 1 August 1994, or two (2) years later, Bonifacio Baltazar was charged with murder for the killing of seven (7)-year old Gladys Joy Marcos in an Information which alleged that about 11 December 1992, at around five o'clock in the afternoon, he willfully and feloniously, with intent to kill, cruelty, use of superior strength, employing means to weaken the defense or to insure impunity, hit her head with a hard object resulting in her instantaneous death.^[1]

Roberto Marcos, father of Gladys Joy, testified that his daughter had been missing since 11 December 1992 and was found dead on 26 December 1992 inside the cemetery in Bgy. Kaingin, Bongabon, Nueva Ecija. Subsequently, the accused Bonifacio Baltazar, a neighbor living some five (5) houses away, became a suspect in the killing of Roberto's daughter.

Alejandro Briones, whose house was just fifty (50) meters away from that of the accused, testified that in the afternoon of 11 December 1992 while he was on his way home from his onion plantation he passed by the accused Bonifacio Baltazar and Gladys Joy Marcos walking hand in hand near the cemetery.

That much, unfortunately, was the evidence for the prosecution.

The accused denied participation in the perpetration of the crime. He claimed that he never left his house on 11 December 1992 and was in fact playing *tong-its*^[2] with his neighbors.

Bgy. Capt. Anastacio Rigdaus testified that it was the accused who reported to him the stench supposed to be coming from one of the tombs in the cemetery. He also said that he saw the accused attend the wake of the victim.

Rodrigo Lucero, a public school teacher, testified that on 11 December 1992 he and his companions were at the cemetery constructing a tomb for one of his relatives, and that on that day he saw a person enter the cemetery but could not identify him as the person of the accused.

Mercy Mercado whose house was near the cemetery testified that between 4:00 o'clock and 5:00 o'clock in the afternoon of 11 December 1992 Gladys Joy bought some snack items from her store. She was riding on a bicycle with a male companion in his 20's.

On the basis of the very scanty evidence herein narrated, the court *a quo* on 28 March 1997 found the accused guilty of murder and sentenced him to *reclusion perpetua* and to indemnify the heirs of Gladys Joy Marcos P50,000.00 for her death, P50,000.00 for moral damages, and to pay the costs.^[3]

Quite obviously, the trial court convicted the accused of murder based on circumstantial evidence. It thus ratiocinated -

It is true that no witness testified that it was the accused who had in fact killed the victim. However, Section 5, Rule 133 of the Rules of Court provides that circumstantial evidence is sufficient for conviction if: a) There is more than one circumstance; b) The facts from which the inferences are derived are proven; and c) The combination of all the circumstances are such as to produce a conviction beyond reasonable doubt.

The prosecution brought to fore the following circumstances which purportedly prove that the accused is the culprit, to wit: 1. That the accused was seen with the victim in the town cemetery at around 5:00 o'clock of December 11, 1992 and immediately before she disappeared x x x x 2. That the victim was missing thereafter x x x x 3. That the victim was found dead in the very town cemetery and near the place where she and the accused were seen x x x x 4. That the accused left and was never seen anymore in the town after the discovery of the body of the victim on December 26, 1992 x x x x 5. That the accused has not visited nor condoled with the family during the wake of his neighbor x x x x

There are other circumstances which the Court notes (in) proving the guilt of the accused. For one, while the accused claims he was at the wake of the victim for three (3) hours x x x there was no witness to corroborate his presence. On the other hand, Roberto Marcos, the victim's father, as well as witness Francisco Flores, testified that they never saw the accused at the wake x x x x This casts serious doubt as to the credibility of the accused's alibi, especially when considered in the light of the fact that he should have readily been noticed at the wake, being the person who first reported the existence of a dead body to the authorities. It is likewise strange that the accused, as he himself admitted, never attempted to talk to the victim's relatives.

Clearly, for a conviction based on circumstantial evidence to prosper, the prosecution must establish more than one circumstance indubitably linking the accused to the commission of the crime. Likewise, the facts from which the inferences are derived are proved and that the combination of all these circumstances must produce a conviction beyond reasonable doubt. This is not so in the instant case.