

EN BANC

[G.R. No. 120546, October 13, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO OPERAÑA, JR., ACCUSED-APPELLANT.**

DECISION

PURISIMA, J.:

An errant husband stands charged with the crime of parricide. He was convicted on the basis of circumstantial evidence and meted the supreme penalty of death.

After a careful study, the Court finds all the elements of circumstantial evidence necessary for conviction present here. Proof beyond reasonable doubt does not really mean the degree of proof excluding the possibility of error and producing absolute certainty. Only moral certainty or "that degree of proof which produces conviction in an unprejudiced mind" is required.^[1]

Chronology of events:

Appellant Rodolfo Operaña, Jr. and the deceased Alicia Operaña were lawfully married. Their union was blessed with five (5) children. Complainant Rufina Maminta is the mother of the deceased.

Appellant was charged before Branch 41 of the Regional Trial Court of Dagupan City with the crime of parricide allegedly perpetrated as follows:^[2]

"That on or about the 11th day of May, 1994, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, RODOLFO OPERAÑA, JR., with intent to kill his wife, ALICIA M. OPERAÑA, with whom he has united in lawful wedlock, with evident premeditation, did then and there, wilfully, unlawfully and criminally, attack, assault and use personal violence upon his said wife, ALICIA M. OPERAÑA, resulting in her eventual death due to 'Cardio Respiratory Arrest, Asphyxia, Hanging' as per Autopsy Report and Exhumation Report issued by the City Health Office and the National Bureau of Investigation, to the damage and prejudice of the legal heirs of said deceased, ALICIA M. OPERAÑA, in the amount of not less than FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency, and other consequential damages.

Contrary to Article 246 of the Revised Penal Code."

Arraigned thereunder on September 6, 1994, appellant entered a negative plea.

The Strangulation Theory of the Prosecution:^[3]

The prosecution sought to show through circumstantial evidence that appellant Rodolfo Operaña, Jr. killed his wife Alicia by strangulation, on May 11, 1994.

Both the mother of the deceased, the herein complainant, and Joselito Paragas insisted that Alicia Operaña was still alive when they first saw her lying on the floor of the kitchen of their house. Rufina Maminta, an anguished mother and out of love for her daughter, begged the appellant, again and again, that her dying daughter be brought to the hospital but seemingly without any concern, appellant staunchly refused to rush Alicia to the nearest hospital; reasoning that she could not reach the hospital alive.

An external examination of the body of the deceased was conducted on May 14, 1994 by Dr. Tomas Cornel, upon the request of Mrs. Maminta. On May 18, 1994, an exhumation followed by an autopsy of the remains of the deceased was conducted by Dr. Ronald Bandonill of the NBI, again upon the request of the herein complainant. According to Dr. Bandonill's report, the presence of multiple injuries all over the body and the suspicious presence of multiple abrasions on the area of the neck not related to the hanging gives the suicidal aspect a big question mark.^[4] With respect to the said "suspicious" multiple abrasions on the neck, the same were clarified by the same doctor as "[a]brasions, multiple, with signs of strangulation, encircling the neck, at an area of 32.0 cms. x 4.5 cms., just below the thyroid cartilage."^[5]

Aside from the said abrasions, there were twelve (12) abrasions and one (1) contusion found on the body of the deceased.^[6]

Contrary to the claim of appellant that the deceased was found hanging from a wooden truss in their kitchen, SPO1 Daniel Coronel of the Dagupan City Police Station testified that per his investigation, he found no markings on the roof truss from where the victim was supposed to have hanged herself. He also measured the distance of the 2" x 3" by 1 yard wooden truss from the floor of the kitchen and found it to be six (6) feet. The deceased was 5'6" in height.

On the basis of the foregoing facts and circumstances, Rufina Maminta instituted the case of parricide at bar against the appellant.

The "Suicide by Hanging" Theory of the Defense:

Appellant asseverates that at about 6 o'clock in the morning of May 11, 1994, his wife Alicia Operaña was discovered hanging from a kitchen truss by their daughter Jonaliz, who then woke him up and informed him of what happened.^[7] Thereafter, appellant told his brother Gary to inform Alicia's mother, the complainant herein, who was residing in Brgy. Canaoalan, Binmaley, Pangasinan. Gary took a motorcycle to fetch the complainant. Meanwhile, several neighbors saw the deceased and some even touched her pulse and all of them concluded that she was already dead.^[8]

A certain SPO1 Ginder Arzadon investigated the incident. According to appellant, the said police officer took with him the "suicide note" and the electric cord allegedly used by Alicia in hanging herself.^[9]

Appellant recounted that shortly thereafter,^[10] Mrs. Maminta, the herein complainant, arrived, approached Alicia and opined that the latter was still alive. According to her, Alicia was still breathing and tears were flowing from her eyes. She then went to her barangay and returned on a tricycle driven by Joselito Paragas. Like the complainant, the latter also claimed that he saw tears in Alicia's eyes and her Adam's apple was moving. Complainant then suggested that Alicia be brought to the hospital. However, the appellant said that "there's no more hope as she's already dead."

Appellant theorized that the deceased committed suicide by hanging and placed heavy reliance on medical evidence. According to him, both autopsy reports reveal a ligature mark above the thyroid cartilage, consistent with hanging.

As regards the multiple abrasions on the body of the deceased, appellant tried to explain their probable cause thus:^[11]

- 1.) due to improper handling when embalmed;
- 2.) while being dressed;
- 3.) use of stone when bathing; or
- 4.) self-infliction, such as scratching.

Ruling of the Lower Court:

As recited by the trial court:

"Evidence for the prosecution consisted of the testimonies of the following: SPO1 Daniel Coronel, NBI Dr. Ronald Bandonill, Dr. Tomas Cornel, Joselito Paragas, and Rufina Maminta.

SPO1 Daniel Coronel, PNP member of Dagupan City Police Station testified that since April, 1991, he has been an investigator and on May 11, 1994, his tour of duty was from 7:00 o'clock in the morning up to 7:00 o'clock of the following morning, May 12, 1994. At around 1:00 o'clock in the afternoon of May 11, 1994, Rufina Maminta came to the police station to report an alleged suicide case that transpired in Carael District, Dagupan City, wherein her daughter Alicia Operaña allegedly committed suicide. He proceeded to the scene of the incident, together with three (3) other members of the PNP, Dagupan City. At the scene of the incident at Carael District, Dagupan City, he found out that Alicia Operaña was already lying flat on the floor of the kitchen. Alicia was wearing a duster, barefooted, no traces of blood but there were markings appearing on her neck which must have been caused an (sic) an electric cord. Operaña's mother, Rufina Maminta, her husband Rodolfo Operaña, Orlan Maminta, Joselito Paragas and some residents of Canaoalan, Binmaley, Pang. were present. The accused was sitting beside the body of the deceased.

SPO1 Coronel authorized Mr. Lorie Abrejal to take pictures of the deceased (Exhs. 'A', 'A-1', 'A-2' & 'A-3'). Aside from authorizing the

taking of pictures, as investigator, he measured the distance from the roof truss to the cemented floor where the alleged suicide was committed which is six (6) feet. In connection with his investigation, he executed an affidavit (Exh. `B') attesting to the fact that during the investigation, there were no signs of markings which appeared on the roof truss where the victim allegedly tied the electric cord. He also identified the electric cord (Exh. `C') as the one which the deceased allegedly used in hanging herself which was recovered on top of the dining table, about 3 to 4 meters away from the body of the deceased. Also found was an alleged suicide note. (Exh. `2').

Dr. Ronald Bandonill, a physician and presently NBI Medico-Legal Officer testified that he received a request from the Municipal Mayor of Binmaley, Pangasinan, Atty. Jose Fabia, for the exhumation of the cadaver of Alicia Operaña. On May 18, 1994 at around 10:00 o'clock in the morning he conducted the exhumation in the presence of the deceased's mother, Mrs. Rufina Maminta, Anselmo Doria, his assistant, Ernesto Labayog, an agent of the NBI Dagupan City Sub-Office, Mr. Tomas Aoanan, the Manager of the Eternal Gardens and other persons whom he believed are helpers of the Memorial Park. In connection with the exhumation, he made an Exhumation Report consisting of two pages (Exhs. `G' & `G-1').

He also stated in his findings that the cause of death is asphyxia by hanging and remarked that the presence of multiple injuries all over the body and the suspicious presence of multiple abrasions on the neck area not related to the hanging gives the suicidal aspect a big question mark.

Dr. Tomas Cornel, physician and Asst. City Health Officer of Dagupan City testified that on May 14, 1994, a member of the PNP Dagupan City requested him to perform a post-mortem examination on the body of deceased Alicia Operaña. He conducted the post-mortem examination at the deceased's house at Carael Dist., Dagupan City, three (3) days after her death. He ordered that the cadaver be removed from the coffin and placed on a flat wooden bed. The deceased's clothes were removed. When he conducted the examination, the mother of the deceased, Rufina Maminta and two members of the PNP, Dagupan City were present; while the husband, accused Rodolfo Operaña, Jr. was not around. The result of the examination was all reflected in his report (Exh. `I'), with the following findings:

External Findings

1. Ligature mark around the neck from the mastoid left and right and anterior portion of the neck above the thyroid cartilage.
2. Abrasion, parietal and frontal area, left.
3. Abrasion, shoulder, posterior aspect, left.
4. Abrasion, midscapular line, level of the 3rd thoracic vertebra, left

5. Abrasion, lumbar region, along the vertebral column.
6. Contusion, hematoma, medial aspect, middle 3rd, thigh, left.
7. Abrasion, anterior trunk, left.
8. Abrasion, popliteal area, left.
9. Abrasion buttock, medial aspect, right.
10. Abrasion, posterior aspect, distal 3rd, leg left.
11. Abrasion, lateral aspect, distal 3rd, leg, left.
12. Abrasion, postero lateral aspect, middle 3rd leg, right.
13. Abrasion, postero medial aspect, proximal 3rd, thigh, right.

In his finding no. 1, the injury might have been caused by hanging or by excessive force of strangulation. The abrasions are superficial injuries caused by rough instrument and it depends upon the one who inflicted the injury because the abrasions are(sic) only slight or it is also possible that they are (sic) deliberately inflicted. Contusions & hematoma are (sic) most probably caused by the impact with a blunt instrument or by fist blows or by striking with a piece of wood. All the injuries in his findings might have been inflicted most probably before the death of Alicia Operaña. The death might have been caused by asphyxia or the obstruction of air passage due to hanging because of the ligature mark from the mastoid left portion, just after the left cartilage. As he conducted the post-mortem 3 days after the body was embalmed, he could not determine anymore whether the tongue was protruding or not. The kind of injuries sustained by the deceased were (sic) not possibly self-inflicted especially so that she is a woman and the injuries were located on the different parts of the body, scattered especially on the back part of the medial aspect which might be possibly caused by pulling the victim within (sic) upward or downward. It is highly improbable that these 13 wounds were inflicted by the deceased if she hanged herself.

When he conducted the post-mortem examination, photographs were taken and he identified those photographs.

Joselito Paragas testified that he had known Rufina Maminta for a long time already. On May 11, 1994 at around 6:20 o'clock in the morning, he was asked by Rufina Maminta to go with her to Carael District, Dagupan City, to help her bring her daughter, Alicia, to a hospital for treatment. He and Rufina Maminta proceeded to the house of Alicia Maminta Operaña at Carael Dist., Dagupan City. Upon arriving at the house of Alicia Operaña, he saw the latter lying on the floor of the kitchen with (her) face upward. He noticed that there was a contusion `asireg' below the Adam's apple of Alicia and tears were flowing from her eyes and (he noticed) also the palpitation below her Adam's apple. The floor where whe(sic) was lying was covered by floor mat. Accused Rodolfo Operaña told them that Alicia