

FIRST DIVISION

[G.R. No. 128002, October 10, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BIENVENIDO BONITO Y BEDAÑA @ "BINDOY", EDILBERTO
(ROBERTO) CANDELARIA @ "BENTONG" AND DOMINGO BUIZA,
ACCUSED-APPELLANTS.**

DECISION

PUNO, J.:

Accused Bienvenido Bonito, Edilberto (Roberto) Candelaria and Domingo Buiza were convicted of the crime of Murder by the Regional Trial Court^[1] of Tabaco, Albay, for the violent death of FLORA BANAWON. They were sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay the heirs of the victim the amount of P50,000 as civil indemnity, P10,000.00 as actual damages, P20,000.00 for lost earnings of the victim, P30,000.00 for moral damages, and to pay the costs.

Appellants were charged with the crime of **murder** that was allegedly committed as follows:^[2]

"That on or about the 24th day of June 1994 at 10:00 o'clock in the evening, more or less, at Sitio Pinarik, Barangay Canaway, Municipality of Malilipot, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, together with a still unidentified person, with intent to kill, conspiring, confederating and helping one another, with **evident premeditation, treachery, abuse of superior strength** and **cruelty**, did then and there wilfully, (sic) unlawfully and feloniously assault and attack FLORA BANAWON, thereby causing various injuries on the vital parts of the body and not contented forcibly insert and thrust cassava stalk to the vagina of the offended party, which caused her death, to the damage and prejudice of her heirs." (emphasis ours)

The accused were arraigned on April 18, 1995. They pled "not guilty."^[3] Trial ensued.

The prosecution evidence came chiefly from the testimonies of the following witnesses: (1) Santos Banawon, the surviving spouse of the victim, (2) Dr. Arsenia Mañosca-Moran, the Municipal Health Officer of Malilipot, Albay, (3) Nelson Volante, the eyewitness, and (4) Benjamin Brusola, a neighbor of the Banawons and the accused.

Santos Banawon, 62 years old, husband of victim Flora Banawon, testified that on June 24, 1994, at about 6:00 p.m., the victim left for Datag, Malilipot, Albay, to pray the novena. Datag is approximately 5 kilometers away from their residence in

Pinaric, Canaway, Malilipot, Albay. That evening, she did not return home.^[4]

The next day, Santos searched for his missing wife. He proceeded to lower Pinaric and saw a crowd looking at the lifeless body of his wife. She was badly beaten and a cassava trunk was jabbed in her genitalia. The police brought his wife's body to the Rural Health Center for autopsy.^[5]

On August 15, 1994, Santos reported the incident to the National Bureau of Investigation to assist the local police in resolving the case of his wife.^[6]

Santos declared that he spent a total amount of P10,000.00 for his wife's embalment, coffin, wake, internment, tombstone, and funeral car. He received donations in the amount of P4,000.00, more or less. During her lifetime, his wife earned P400.00 weekly by weaving mats for other people. He lost his job as a carpenter because he was deeply troubled by his wife's death. His monthly income then was P2,000.00. For the five months he failed to work while seeking justice for the death of his wife, the total income he allegedly lost was P10,000.00.^[7]

Dr. Arsenia Mañosca-Moran, Municipal Health Officer of Malilipot, Albay conducted an autopsy on the victim on June 25, 1994. She noted the following injuries sustained by the victim:^[8]

"HEAD: pallor swollen face; with moving maggots on the buccal opening; lips blue, swollen tongue, completely fractured mandibular bone (R) side inwardly and upwardly dislocated & (L) side outward and upwardly dislocated; with imprint abrasion (bite mark) at (L) maxillomandibular region; 1.9 cm. Lacerated wound at (L) lower chin; (L) eye partially opened with constricted pupil; (R) eye, closed with purplish periorbital hematoma and 0.4 cm. lacerated wound at nasal side of infraorbital region; ear with purplish subcutaneous hematoma at (L) helix.

NECK: with redness and ecchymotic friction abrasion and slight desquamation of the epidermis at the (L) lateromedial aspect middle 3rd of the neck and neck flexed on the opposite side (R).

EXTREMITIES - Upper: firm clenched hands with purple fingernails.

Lower: with reddish brown multiple abrasion at posterior aspect of the proximal 3rd of the lower extremities, bilateral & (L) post. side of the knee.

GENITALIA:with cassava branch inserted 4 cm. Deep intravaginally with abundant yellowish maggot on the vaginal introitus and in thigh and upon removal of the branch, admits 2 fingers with ease, no lacerations noted.

VAGINAL SMEAR FOR SPERM CELL: (-) neg. June 27, 1994

CAUSE OF DEATH: Asphyxia 2^o to occluded windy

: Neurogenic shock."

(Emphasis supplied)

Dr. Moran explained that at the time of the examination, the victim had been dead for more than 12 hours. The victim's face was swollen and pale which could be due to strangulation. Her lips were blue and the tongue was swollen. The right and left sides of the lower bones of the mouth (jaws) were dislocated, probably due to a strong impact. There was a bite mark on the left cheek caused by human teeth and a 1.9 cm. wound on the lower chin. The left eye was slightly protruding (*medyo nakalabas*) while the right eye was closed and appeared bluish (*parang latay*), indicating that the victim received a fist blow. The lacerated wound on the nasal side indicated that whoever hit the victim had a metal or ring on his finger. The crack on the left ear, outer lobe, could be due to an impact against a hard object or due to a fist blow. The abrasions on the neck showed crossing imprints that were not caused by hand or rope but by a hard object pressed against the victim. The injuries on the thigh near the buttocks indicated that the victim was pushed or pressured down to the ground. Her genitalia had a branch of cassava inserted inside, about 4 cms. deep.^[9]

Dr. Moran concluded that, from the nature of the injuries sustained by the victim, it was possible that more than one person attacked her and that she put up a fight against her assailants. The victim died primarily due to strangulation.^[10]

Nelson Volante, 46 years old, gave an eyewitness account of the crime. He testified that on the evening of June 24, 1994, he watched television shows in the house of a certain Bonifacio Borjal. He left at about 10:00 p.m. It was a moonlit night.

On his way home, he passed by the trail leading to his house. After about one kilometer, he heard someone moaning. Curious, he followed where the sound emanated. As he peeped through the foliage some three meters away from the trail, he saw three men standing near a woman who was lying on the ground face up ("*nakatihaya*"). Another man whom he failed to recognize was standing beneath a banana tree about ten meters away from the accused and the woman. He identified the three men as accused Bienvenido Bonito, Roberto Candelaria^[11] and Domingo Buiza. Accused Bonito was holding a cassava trunk. Without much ado, Bonito inserted the cassava trunk in the private part of the woman while Buiza and Candelaria held her hands and feet respectively. Volante was just five meters away from the three accused. Shocked by what he saw, he hurriedly left and headed for home. He did not tell his wife about the incident because he was afraid to get involved. He hardly slept that night.^[12]

The following morning, Volante went to the farm as usual. When he returned home in the afternoon, he learned from a certain Sergia and Paño Binaday that the body of Flora Banawon was found with a cassava trunk inserted in her private part. He then realized who the victim was.

More than five months after the incident, Volante finally heeded his conscience and told Santos Banawon what transpired that tragic night. Santos Banawon accompanied him to the NBI office in Legazpi. Atty. Carlos Carrillo took his sworn statement on December 9, 1994.^[13]

After Volante had executed his affidavit and before the three accused were arrested, ^[14] his house was stoned on two occasions. Fearful for his family's safety, he and

his family moved to Sta. Elena, Malinao, Albay.

Benjamin Brusola, 67 years old, testified that at about 8:00 p.m. of June 26, 1994, he went to the house of Santos Banawon for the wake of the victim. He overheard that "Bindoy" (accused Bonito) also attended the wake to ask forgiveness from the victim because he could not sleep for three consecutive nights. Bonito briefly glanced at the coffin but he did not ask for forgiveness. Instead, Bonito sat on a bench and conversed with a certain Luis Cabalis and co-accused Domingo Buiza. Brusola overheard Bonito saying it was nice to have "fun" with an old woman ("*paitok-itokan*"), then Bonito exchanged "high-fives" with Buiza.

The defense was anchored on denial and alibi.

Essentially, accused Candelaria and Buiza claimed that they were sleeping in their respective houses on the night Flora Banawon was brutally murdered. Accused Bonito, on the other hand, did not take the witness stand. Their witnesses claimed that the last person they saw following Flora Banawon as she was heading for home that fateful night was eyewitness Nelson Volante.

Blas Bongalos, 75 years old, testified that at about 6:30 p.m., on June 24, 1994, Volante dropped by his house and asked for something to drink. Bongalos gave him a bottle of gin (lapad). Clemente Buiza, father of accused Domingo Buiza, happened to be there. Clemente told Volante to entrust to him his (Volante's) bolo if he would like to drink liquor. Volante obediently gave the bolo to Clemente for temporary safekeeping. Volante consumed the gin after more than twenty minutes. Thereafter, he got his bolo back from Clemente and left.^[15]

Alfredo Brutas, 45 years old, a "*barangay kagawad*," testified that Volante used to work for him in his farm in Canaway, Malilipot, Albay, before the latter transferred his residence to Malinao in February 1995. On June 24, 1994, there was a drinking spree in his house because his son had just arrived from abroad. Volante arrived at about 7:00 p.m. to retrieve the bolo that he (Brutas) confiscated from Volante when the latter got drunk on another occasion. Brutas refused to give back the bolo because Volante appeared inebriated again. Volante got peeved at him. Brutas then told him to leave his house. Volante left at 8:00 p.m.

Brutas claimed that he did not talk to anyone prior to his appearance in court. Allegedly, he happened to be in court to visit Fiscal Narciso Berango when he saw the court's calendar posted on the bulletin board. He volunteered to testify for the accused.

Ricardo Banaobra, 30 years old, testified that in the evening of June 24, 1994, he was one of the guests of Alfredo Brutas. They were celebrating the arrival of Brutas' son. Volante passed by at 7:00 p.m. He had a bolo with him and he was very talkative. He noticed that Volante was a bit intoxicated. Brutas took the bolo from Volante. At past 9:00 p.m., the victim passed by. After awhile, Volante left the group.^[16]

Jose Belenzo, 64 years old, testified that he had known eyewitness Nelson Volante, the Banawons and accused Bienvenido Bonito and Roberto (Edilberto) Candelaria for many years because they were residents of Canaway. He also knew accused

Domingo Buiza because he married a girl from Canaway. Between 9:00 p.m. and 10:00 p.m. of June 24, 1994, he was in his store doing some chores. Volante arrived at 9:00 p.m. He noticed that Volante was a bit tipsy. Volante asked for cigarettes. After an hour, the victim passed by his store and momentarily stopped to ask for the time. After he told her that it was already 10:00 p.m., she went home. Volante followed her. In the afternoon of the next day, Belenzo learned that somebody died. He had not seen Volante since then.^[17]

On cross-examination, Belenzo testified that he attended all the hearings of the case but he never went to the NBI to shed light on the incident. Roberto Candelaria and Edilberto Candelaria refer to the same person but the real name of Roberto is Edilberto. When Volante passed by his store in the evening of June 24, 1994, he was not carrying any bolo. According to Belenzo, he had seen the victim pass by the trail near his store for several years. That night, however, was the first time that she dropped by the store solely to ask him what the time was.^[18]

Accused Domingo Buiza, 33 years old, testified that at 9:00 a.m. of June 24, 1994, he was in Sto. Cristo, Tabaco, Albay to help his aunt Nelia prepare for the town's fiesta. He stayed there the whole day and went home only at 7:00 p.m. When he reached home, he immediately went to bed because he had a few drinks in his aunt's house. He woke up late the following day. It was already Sunday morning when he learned from an uncle that his aunt, Flora Banawon,^[19] was killed. He went to her wake twice. After the internment, his uncle, Santos Banawon, went to his house and requested him to testify against Volante. He told his uncle that he could not help him because he did not know anything about the killing. He claimed he had a good relationship with the victim when she was still alive. She requested him to take care of one of her piglets.

On cross-examination, Buiza testified that he did not ask Santos why he had to testify against Volante. Santos also did not tell him how the victim died. Even during the wake, he claimed that he had no idea how the victim died. He informed his parents that Santos Banawon wanted him to testify about the case.^[20]

Clemente Buiza, 54 years old, father of accused Domingo Buiza, testified that Delfin, a brother of the victim, requested him to help in convincing his son, Domingo Buiza, to testify against Volante. He relayed the message to his son. Domingo declined the request because he did not know anything about the incident. On another occasion, Delfin fetched him and Domingo and accompanied them to the house of Santos. Again, Domingo denied any knowledge of the incident. Clemente surmised that Domingo was prosecuted because he refused to testify against Volante.

On cross-examination, he testified that after the internment of the victim, Delfin came to see him and told him that Santos would like to talk to him and his son in the house of Dionisio Cielo, a brother of Delfin and the victim. Santos allegedly told him, "Ano kaya kun patistigason mo si Domingo digdi? (How about letting Domingo testify in this case?)" Without asking Santos why the latter was insisting that Domingo should testify in the murder case, he replied that that would be impossible because his son knew nothing about the case. However, he never asked Santos what would be the nature of his testimony.^[21]