

EN BANC

[G.R. No. 129723, May 19, 1999]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO MORADA Y TUMLOD, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

This is an appeal from the decision, dated July 7, 1997, of the Regional Trial Court, Branch 90 of Dasmariñas, Cavite, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused [Danilo Morada y Tumlod] GUILTY beyond reasonable doubt of the crime of Murder, committed with treachery and taking advantage of superior strength and hereby sentences him to suffer the penalty of DEATH and to pay FIFTY THOUSAND PESOS (P50,000.00) to the legal heirs of the deceased, Jonalyn Navidad, in consonance with our current case law and policy on death indemnity. No pronouncement with respect to the cost.

SO ORDERED.^[1]

This case originated from the information filed against accused-appellant which alleged:

That on April 13, 1995 in the Municipality of Imus, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, with treachery, with evident premeditation and with the use of superior strength while armed with Bolo, did then and there, wilfully, unlawfully and feloniously attack, assault, and hack several times JONALYN NAVIDAD y MONZON inflicting multiple fatal wounds on the head of the said victim causing her instantaneous death to the damage and prejudice of the heirs.

CONTRARY TO LAW.^[2]

The killing took place in Barangay Bukandala 5, Imus, Cavite. The victim, Jonalyn Navidad y Monzon, 17, was found, with several hack wounds in the head, near a creek. She was taken to the hospital but she died shortly after at 11:15 a.m. The cause of death was "Cardio-Respiratory Arrest, Sec. to Multiple Hacking wounds."^[3]

Five witnesses were presented by the prosecution.

The first witness was SPO3 Arsenio Gomez, 44 years of age and a member of the Philippine National Police at Imus, Cavite. He testified that, on April 13, 1995, while he was on duty, he received a telephone call that a certain Jonalyn Navidad had been hacked and was in serious condition at Bukandala 5. He said he proceeded to

the scene of the crime but, when he reached the place, the victim had already been taken to the hospital. According to him, he and Edgardo Manimbao, the barangay captain of Bukandala, found a pair of slippers (Exhs. B and B-2) with thumbtacks (Exhs. B-1 and B-3) embedded in the insteps. One of the bystanders, Alejandro de la Cruz, identified the slippers as those of accused-appellant. SPO3 Gomez and Barangay Captain Manimbao, therefore, proceeded to the nipa hut of accused-appellant. SPO3 Gomez claimed they found a stained T-shirt hanging from a tree more or less a meter away from the nipa hut. SPO3 Gomez said he took the T-shirt as he suspected the red stain on it to be human blood. Also a meter away from the side of the nipa hut he recovered a bolo with a stain on it. Present were accused-appellant, his wife and his brother. SPO3 Gomez said accused-appellant's brother told him the slippers belonged to accused-appellant. SPO3 Gomez said that he asked accused-appellant whether he knew anything about the crime, but the latter did not answer and just kept quiet. He then "invited" accused-appellant to the police station for questioning. During oral interrogation, SPO3 Gomez said, accused-appellant admitted that he had hacked Jonalyn Navidad but they did not take down accused-appellant's confession because there was no available lawyer to assist accused-appellant. According to SPO3 Gomez, the T-shirt and bolo were sent to the National Bureau of Investigation (NBI) for testing, while the slippers were turned over to the Regional Trial Court. The NBI subsequently reported that the shirt and bolo both tested positive for "human blood showing reactions to Group `O.'" (Exh. E)^[4] SPO3 Gomez and the barangay captain, Edgardo Manimbao, signed a "Magkasamang Salaysay" (Exh. C)^[5] on April 13, 1995.^[6]

On July 3, 1996, SPO3 Gomez was recalled to the witness stand. He was shown a bolo (Exh. F) and a T-shirt (Exh. G). He identified them as the ones he recovered near accused-appellant's house. He claimed that he took the items in the presence of the barangay captain.^[7] On cross-examination, SPO3 Gomez admitted that he took the shirt and the bolo from accused-appellant without any search warrant.^[8]

The next witness was Edgardo Manimbao, barangay captain of Bukandala, Imus. He testified that on April 13, 1995, he received a report of a woman having been hacked. Accompanied by the barangay secretary and some members of the barangay council, he proceeded to the scene of the crime, but when he reached the place the victim was no longer there. What he only saw were "traces that a woman fell" and a pair of slippers near an acacia tree. Manimbao said that he accompanied SPO3 Gomez to the house of accused-appellant, which was 120 meters away from the scene of the crime. They found a bloodstained bolo and T-shirt a meter away from accused-appellant's house. The witness said that accused-appellant's wife identified the T-shirt as her husband's. SPO3 Gomez and Manimbao then took accused-appellant, his wife, and his brother to the police station. Afterwards, Manimbao said, he went to the hospital to see the victim and saw that she had suffered several hack wounds on the head. Manimbao said he returned to the police station where he was told by SPO3 Gomez that accused-appellant, who was in jail, wanted to talk to him. Accompanied by a certain Cenon Santarin, Manimbao then went to see accused-appellant. Manimbao claimed accused-appellant admitted to him that the pair of slippers found at the scene of the crime was his and that he was the one who had killed the victim. After being told thus, Manimbao said he asked the prison guard if accused-appellant had told him why he had killed the victim and he was told it was because Jonalyn Navidad was so angry at accused-appellant she spat on his face.^[9]

The third witness was Christopher Saliva, 19 years of age, a delivery boy and a resident of Bukandala. He testified that on April 13, 1995, between 10 and 11 in the morning, while he was on his way home after feeding the fighting cocks at his farm, he saw accused-appellant, a childhood friend, going away from the scene of the crime carrying a bolo, and that when accused-appellant saw him the latter acted as if he had just seen a ghost and turned pale. He described accused-appellant as wearing a polo shirt with blue and yellow stripes. He did not notice whether the latter was wearing shoes or slippers. He also said that it was only at about 11 in the morning that he learned about the hacking incident from his cousin Allan Saquilayan. He later told the victim's father that he had seen accused-appellant coming from the scene of the crime, and, the next day, he went to the police station to give a statement (Exh. D).^[10] (He must have told the victim's father about seeing accused-appellant on April 13, 1995 near the scene of the crime on April 15 because he gave his statement to the police on April 16, 1995.)^[11]

On cross-examination, Saliva testified that he knew accused-appellant and the victim as both were his childhood friends. He said that he and accused-appellant had no misunderstanding.^[12]

Eric Navidad, the 13-year old brother of the victim, testified that he was the one who found his sister between 10 and 11 on April 13, 1995 near a creek. He ran and fetched his father. Eric said that he saw a pair of yellow slippers near the body. He testified that it was the one that accused-appellant wore while playing basketball. He recognized the slippers because they had thumbtacks in the insteps which he noticed everytime he passed by accused-appellant's house and the latter took them of and left them at the foot of the stairs. Eric also said that although accused-appellant was married, he courted Jonalyn.^[13]

On cross-examination, Eric testified that he was asked questions by the police. Although the investigation was reduced to writing, Eric said that he was not placed under oath or made to sign any report or statement.^[14]

The last witness for the prosecution was Alejandro de la Cruz, a 34-year old driver and resident of Bukandala 5. He testified that, on April 13, 1995, at about 11 in the morning, he was roused from sleep by his wife and told that Jonalyn Navidad had been seriously wounded and taken to the hospital. With only his briefs on and a towel wrapped around his hips, he went to the scene of the crime where he saw a pair of yellow slippers near an acacia tree. One slipper was upright, while the other was overturned. De la Cruz said he knew that accused-appellant owned the slippers because of the thumbtacks on them. He claimed that during the wake of his father in January 1995, he hid the slippers as he and his friends played a game while accused-appellant was asleep.^[15] De la Cruz gave a sworn statement (Exh. E)^[16] in which he identified the slippers as those of accused-appellant. On cross-examination, De la Cruz said he was neither a friend of accused-appellant nor a relative of the victim.^[17]

The defense thereafter presented its witnesses, accused-appellant and Rosita Cabañero.

Accused-appellant claimed^[18] that on April 13, 1995, between 10 and 11 in the morning, he was in his house cooking. He and his wife had a visitor from Makati, Rosita Cabañero. Earlier that day, between nine and 10, accused-appellant said the victim's mother, Jocelyn Navidad, came for help because her daughter Jonalyn had been found slumped in the creek. Hence, accused-appellant and his elder brother, Joel Avenda,^[19] went to the creek. They saw Jonalyn being held by her father Nicasio Navidad. She was placed in a jeepney and taken to the hospital. Accused-appellant said he and his brother then went home, but, 30 minutes later, a group of policemen led by SPO3 Arsenio Gomez, went to his house and arrested him. He complained that the policemen took his bolo and his T-shirt without any search warrant or warrant of arrest. He claimed that he was taken to the municipal building where he was beaten up to make him admit to the killing of Jonalyn Navidad, but he admitted no such thing.

As to the T-shirt, accused-appellant said it had no stain when the police took it. He denied that Christopher Saliva saw him carrying a bolo and wearing a bloodstained shirt, saying, "[t]here's no truth to that allegation, sir, because at that time I was already at home." Accused-appellant also denied attending the wake of the father of Alejandro de la Cruz "[b]ecause at that time . . . my wife is pregnant and I have to stay at home."

As for the testimony of the victim's brother, Eric Navidad, that he knew that the slippers belonged to accused-appellant because he used to see the latter playing basketball while wearing the same, accused-appellant claimed that he does not know how to play basketball. Accused-appellant said that he saw the slippers for the first time when they were shown to him in court. He said that he does not place thumbtacks on his slippers because the same would cause him injuries.

Accused-appellant testified that the family of the victim owned the land which he had been cultivating for the last 12 years.

On cross-examination,^[20] accused-appellant testified he had written two letters, dated December 27, 1995 and February 1, 1996, to the court in which he questioned the legality of his arrest and invoked his right to a speedy trial. He said that he had complained to the policemen at the municipal jail that his arrest was illegal, but they would not listen to him; that while he knew it was his right to have a preliminary investigation, he had no way of asking for reinvestigation because he knew no one whom he could approach for help.

Accused-appellant admitted being close to the victim, but he denied that he had any special feelings for her.

Accused-appellant said that his house faces the victim's house and that the house next to his house is his in-laws' house. Other than those three houses, accused-appellant said that there are no other houses in the vicinity.

Accused-appellant said that the reason why he was implicated in the killing of Jonalyn was because the latter's family wanted to eject him from the land on which his house was built so that the land could be sold. He said that already his house as well as that of his parents had been removed from the property.

Accused-appellant's alibi was corroborated by Rosita Cabañero. She testified that accused-appellant was a cousin of her neighbor in Makati, Geraldine Defenso. She claimed that in the morning of April 13, 1995 she was at accused-appellant's house because the latter's cousin had asked her to get from accused-appellant's mother a dog that will be slaughtered for the birthday of accused-appellant's cousin. At around 10 in the morning, Rosita Cabañero said a woman (apparently Jonalyn's mother) came to accused-appellant's house asking for help. Accused-appellant woke up his brother and then left the house and returned after 30 minutes. Half an hour later, policemen arrived together with some barangay officers and took accused-appellant with them.^[21]

On cross-examination, Rosita testified that accused-appellant's brother Joel did not leave the house. She said that the dog she came to get was killed and placed in a sack by Joel at around nine in the morning.^[22]

On July 7, 1997, the Regional Trial Court rendered its decision finding accused-appellant guilty of the murder of Jonalyn Navidad. It held that "[t]he chain of circumstances occurring before, during, and after the hacking of Jonalyn Navidad, linked together, leads to but one indubitable conclusion: that she was murdered by the herein accused, Danilo Morada." It imposed on him the penalty of death after finding that the crime had been committed with treachery, evident premeditation, abuse of superior strength, and cruelty.

Hence, this appeal. Accused-appellant contends that -

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF MURDER AND SENTENCING HIM TO SUFFER THE PENALTY OF DEATH BASED ON PURELY CIRCUMSTANTIAL EVIDENCE.^[23]

In convicting accused-appellant, the trial court relied on the following circumstances as constituting an unbroken chain leading to the conclusion that accused-appellant was the author of the crime:

1. In the scene of the crime the accused's pair of slippers with thumbtacks on them was found. This was positively identified as belonging to the accused by Eric Navidad, a younger brother of the victim and the first person who discovered the victim's body. Alejandro Dela Cruz, likewise, identified the same subject slippers having seen them during a hide-and-seek game in the wake of his dead father while Joel Avenda, accused's half brother, also identified the accused as the owner of the same pair of slippers.
2. Accused was seen by Christopher Saliva coming from the scene of the crime carrying with him a bolo and reacted as if he saw a ghost and turned pale when he saw Saliva. Accused was then wearing a polo shirt with striped design of blue and yellow which matched the blood-stained shirt recovered from a tree beside the nipa house of the accused.
3. From the premises of the accused were recovered a blood-stained yellow and gray striped T-shirt hanging on a tree and one (1) blood-stained bolo about a meter away from the side of the nipa house of the accused. Further, Morada's wife identified the blood-stained T-shirt as belonging to her husband Danilo