

EN BANC

[G.R. No. 131618, July 06, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR MANGAT Y PALOMATA, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

Accused Dominador Mangat y Palomata was charged with rape with homicide in an Information that reads as follows:

"That on or about the 10th day of July 1995, at around 1:00 o'clock in the afternoon, in barangay Lusong, municipality of San Agustin, province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there wilfully, unlawfully and feloniously had carnal knowledge with one Kristal F. Manasan, against her will, and on the occasion thereof, wilfully, unlawfully and feloniously attack, assault and strangle the said victim, inflicting upon the latter mortal injuries in different parts of her body which were the direct and immediate cause of her death."^[1]

Upon arraignment, the accused pleaded "not guilty." Whereupon, trial on the merits ensued. The prosecution presented SPO1 Ronnie M. Fajutag of PNP San Agustin, Romblon; Pacifico Magramo, a farmer; Dr. Cynthia Baradon-Mayor, Medical Officer IV of Tablas Island District Hospital; Jaime Magramo, a farmer; and Herminio Manasan, father of the victim. The defense, on the other hand, presented the accused himself, his wife Alice Mangat and SPO1 Ronnie M. Fajutag.

The facts, as borne by the records, are as follows:

Thirteen-year-old Kristal F. Manasan lived with her family in Barangay Lusong, San Agustin, Tablas Island, Romblon.^[2] On July 10, 1995, Kristal went out of their house to go to the shore, about 2 1/2 kilometers away. To reach it, she has to pass by Saguilpit creek. Kristal failed to return home and could not be found for three days. Alarmed, Herminio Manasan, father of Kristal, reported the matter to their barangay council.^[3]

At four in the afternoon of July 13, 1995, SPO1 Fajutag received information from Brgy. Kagawad Ronnie Manao of Brgy. Lusong that a decomposing body was found along Lusong River. SPO1 Fajutag proceeded to Brgy. Lusong to verify the report. Upon reaching the place, he saw the dead body of a girl lying on her belly. The victim was nude and the upper part of her body was placed inside an opening of a stone hole. The panties and shorts of the victim were also found on the riverside, along with a plastic bag containing a pitcher and a headband. The place where the body was found was a cave-like structure on top of which was a foot-trail used by

local residents, and underneath water flowed to the lowlands.^[4]

The body was later identified to be that of Kristal F. Manasan. Dr. Cynthia Baradon-Mayor examined the cadaver and certified that Kristal died of multiple hemorrhage due to multiple fracture on the head. The victim also suffered multiple hymenal and anal lacerations. Her bladder went out of the vaginal canal and her intestines went out of the rectal vault. From all indications, Dr. Mayor concluded that the victim was brutally raped and murdered.^[5] In particular, the medical findings showed the following injuries:

- 1) Head - Multiple hematoma with multiple fracture of skull; with severe cerebral hemorrhage; both eyes reddish to blackish in color and protruding; tongue severely protruding (about 95% of tongue is protruding).
- 2) Neck - Hematoma contused, around the neck.
- 3) Chest - Hematoma contused blood vessels blackish all over chest and back.
- 4) Arms - Multiple Hematoma of both arms.
- 5) Abdomen - distended, swollen, with multiple hematoma, contused.
- 6) Vagina - with multiple laceration of hymen at 12:00, 9:00, 6:00 and 8:00 respectively; examining fingers were able to penetrate with ease, vaginal canal much relaxed; with cervical and bladder prolapse.
- 7) Rectum - with intestinal herniation with lacerated rectal vault on 9:00 and 3:00 o'clock.
- 8) Legs - with multiple hematoma and blackish blood vessels.^[6]

Pacifico Magramo, a farmer and resident of Brgy. Lusong, was presented as prosecution witness. He testified that at 2:30 p.m. of July 10, 1995, he was walking downhill along Saguilpit creek in Brgy. Lusong, carrying a sack of copra which he was bringing to the shore. He chanced upon accused Dominador Mangat pushing the naked and lifeless body of thirteen-year-old Kristal into a rock hole. Seeing him too, accused warned him not to divulge to anyone what he saw or he would be next.^[7] Scared, Magramo continued downhill while accused walked away followed by his dog.^[8] He also testified that the accused was wearing a gray sando and white pair of shorts, and was carrying a bolo in a sheath hanging on his left shoulder by a string.^[9]

Jaime Magramo and his wife traversed the same pathway at two o'clock in the afternoon of July 10, 1995. They were going downhill with Jaime carrying a sack of copra on his shoulder. While passing along Saguilpit creek, Jaime saw the accused conversing with his father Benedicto Mangat. Jaime though could not hear what they were talking about.^[10] On July 14, 1995, Jaime was informed by his son who was in Grade V that the dead body of Kristal was found along Lusong River. It was found exactly in the same spot where the accused was seen talking with his father in the afternoon of July 10, 1995.^[11]

With the recovery of the body of Kristal on July 14, 1995, there was widespread speculation that the accused was the culprit. On July 15, 1995, the police authorities arrested the accused.^[12] Bothered by his conscience, Pacifico Magramo eventually

came out in the open and reported to the police what he had witnessed in the afternoon of July 10, 1995.^[13]

While at the police station, the accused and his father offered to settle the case amicably. SPO1 Fajutag executed an affidavit in this wise:

"That on or about the 15th day of July 1995, at around 5:00 o'clock in the afternoon, more or less, while I was in the police station together with SPO1 Rodolfo Espinosa Jovillo, suspect in Rape with Murder case Dominador Mangat and Benedicto Mangat orally manifest (sic) to me that they are willing and wanted (sic) to talk with the complainant for the possible amicable settlement of their case. Benedicto asked me further, how much the amount he will give to the complainant as payment for the early death of Kristal Manasan; and that Dominador Mangat who was just listening inside the cell interrupted and asked his father how much is his share and likewise concurred with his father's idea for the settlement of their case. Indeed, he told me that he is willing to give the amount no matter how big provided that their case will be settled amicably; I asked them the reason why they wanted to settle their case, Dominador answered, I only want that this case be settled amicably;

"That when said persons were about to be released from jail after thirty six (36) hours detention, they refused to be released and they voluntarily executed an affidavit of waiver for safekeeping on the ground that they are afraid for any retaliation from the relatives of the victim; xxx."^[14]

The accused offered an alibi. He claimed that on July 10, 1995, he was working with his wife at a farm located in the mountain of Lusong from morning until lunchtime, after which they went home to their house, located just 50 meters away, to eat lunch and rest. At 1:00 p.m., they returned to the farm and continued their weeding until 4:30 p.m.^[15] This was corroborated by his wife, Alice Mangat.^[16] The accused admitted, though, that he had a dog which fit the description given by prosecution witness Pacifico Magramo.^[17] Corollarily, the accused asserted that the prosecution witnesses have an ill-motive in testifying against him as he did not vote for their candidate in the last May 8, 1995 elections.^[18]

The trial court gave credence to the evidence presented by the prosecution. Thus, finding the accused guilty of the complex crime of rape with homicide, it sentenced him to suffer the supreme penalty of death and to pay the heirs of Kristal F. Manasan the amount of P50,000.00 and costs. The dispositive portion of the decision reads:

"WHEREFORE, this Court finds the accused DOMINADOR MANGAT Y PALOMATA GUILTY beyond reasonable doubt of the complex crime of Rape with Homicide and hereby sentences him to suffer the supreme penalty of DEATH. He is ordered to pay the heirs of the victim, KRISTAL F. MANASAN, the sum of P50,000.00 as indemnity for her death, without subsidiary imprisonment in case of insolvency, and to pay the costs.

Pursuant to Section 10, Rule 122 of the 1985 Rules on Criminal Procedure, as amended, let the records of this case be forwarded to the

Honorable Supreme Court for automatic review and judgment within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

SO ORDERED."^[19]

This case is now before Us on automatic review.

Accused-appellant assails the judgment of conviction, contending that:

THE TRIAL COURT ERRED IN GIVING THE TESTIMONY OF PACIFICO MAGRAMO FULL WEIGHT AND CREDENCE TO CONCLUDE BEYOND REASONABLE DOUBT THAT ACCUSED-APPELLANT DOMINADOR MANGAT (SIC) GUILTY OF THE HEINOUS CRIME OF RAPE WITH HOMICIDE.^[20]

In support of his contention, accused-appellant argues that:^[21]

(1) If Pacifico Magramo saw accused pushing the body of the victim at 2:30 p.m. of July 10, 1995, it follows that Jaime Magramo should have witnessed the commission of the heinous act when he passed by the same spot earlier.

(2) If in fact he committed the crime, his white short pants should have been "dirtied and messed" and his behavior or appearance should have been "disturbed."

(3) If Pacifico Magramo saw what happened, then he should not have waited for a month before reporting the matter to the police authorities.

(4) If the accused had his dog with him when he committed the crime, then it would not have been as quiet because despite their loyalty to their master, dogs "bark if they sensed something bad is happening around them."

In short, the accused contends that with the above circumstances, he could not have committed the crime. Thus, the evidence proffered by the prosecution is "improbable, incredible and inconsistent with normal human experience."^[22] Consequently, the prosecution has miserably failed to prove his guilt beyond reasonable doubt.

This Court is unconvinced. The accused-appellant's conviction must stand.

It is true, as contended by the defense, that there is no direct evidence linking the accused to the crime charged. There is to Our mind, however, ample circumstantial evidence which tend to prove beyond a reasonable doubt that the accused was the author of the offense.

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; (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.^[23] No greater degree of certainty is required when the evidence is circumstantial than when it is direct. In either case, what is required is that there be proof beyond reasonable doubt that the crime was committed and that the

accused committed the crime.^[24]

In this case, not only was the accused-appellant's presence at the crime scene established, there is also clear an convincing testimony that he was seen pushing the body of the victim into a cave-like hole in the rock. We have examined the transcripts and found that the respective testimonies of Pacifico Magramo and Jaime Magramo in this regard withstood rigorous cross-examination and questioning by the trial court. Accused-appellant, however, attempts to impeach the credibility of Pacifico Magramo by seemingly inconsistent statements. In the face of the damaging testimony against him given by Pacifico, accused-appellant can only make capital of the latter's earlier statement in his affidavit that when he saw him, he thought he saw a person gathering shells and shrimps. Upon closer scrutiny of Pacifico's affidavit, however, We find that the inconsistency is more imagined than it is real. For in the same breath, Pacifico corrected himself by confirming that as he got nearer he realized that it was indeed the accused-appellant whom he saw pushing a half-naked person into a hole in the rock. Pacifico's exact words were:

"That on or about the 10th day of July 1995, at around 2:30 o'clock in the afternoon, more or less, I left the kiln of Panfilo Manalon at the interior of Barangay Lusong, carrying on my shoulder one sack of copras proceeding to the low land (barangay proper) thus, when I was along Sagilpit Lusong River I noticed that there was a person standing on the river which I thought gathering shells and shrimps *then when I am getting nearer to said person I recognized that it was my compare "Enggoy" but I was shocked upon seeing him pushing a half naked person towards the hole of stone which I believed already dead.*"^[25]

It is not unnatural for a person to mistake people, objects and even events from afar. Pacifico merely thought that what he saw was a person gathering shells and shrimps when he was yet at a distance. When he got nearer, the vision became clearer and he realized that it was accused-appellant pushing a half-naked dead body into the hole.

Even if there was an inconsistency between Pacifico's affidavit and his testimony in open court, it can still be easily reconciled by affording greater weight to his open court declaration. In *People v. Mayor Antonio L. Sanchez, et al.*,^[26] this Court held that discrepancies between sworn statements and testimonies made at the witness stand do not necessarily discredit the witness. Sworn statements/affidavits are generally subordinated in importance to open court declarations because the former are often executed when an affiant's mental faculties are not in such a state as to afford him a fair opportunity of narrating in full the incident which has transpired. Testimonies given during trials are much more exact and elaborate. Thus testimonial evidence carries more weight than sworn statements/affidavits.

Insofar as prosecution witness Jaime Magramo is concerned, accused-appellant argues that he should have seen the commission of the crime when he passed by Saguilpit creek earlier because when Pacifico Magramo passed by thirty minutes later he saw accused-appellant stuffing the body of the victim into the stone hole. We do not agree. Jaime himself testified that from his vantage point as he was passing the spot where accused-appellant and his father were standing, a rock obstructs his view. This is described by the trial court in more detail: