

EN BANC

[G.R. No. 128827, August 18, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO CAYAGO Y REYES, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

For killing his own wife through strangulation and with evident premeditation, appellant was indicted for parricide.^[1] He was tried and subsequently sentenced to die and ordered to pay damages to the victim's heirs.^[2] The lower court judge, after making a twelve page summary of the testimonies of the witnesses, arrived at a conclusion that appellant is guilty of parricide, in just one short paragraph, which reads:

"After considering the prosecution and the defense evidence, the Court is convinced that the version of the defense is not credible. In his redirect examination, he admitted that his wife was reported missing as embodied in his first sworn statement, which had been marked in evidence as Exhibit `K'. Said sworn statement is entirely wrong because his wife was not missing as mentioned by the accused, but killed her. In the said first statement to the police, he merely wanted to mislead the police by concocting a lie that his wife is missing, when in truth and in fact, he had killed her and left her at the comfort room of the abandoned barangay hall, already lifeless."^[3]

Culled from the evidence on record are the following facts which was condensed in the Appellee's Brief, to wit:

"At about 1:25 o'clock in the afternoon of August 2, 1995, SPO2 Belino Zinampan, Jr. was at the police headquarters at Pasig City where he received the report of Rolando Cayago that he saw the decomposing body of his wife at the abandoned barangay hall of Santolan, Pasig City. Zinampan, SPO2 Antonio Paulite, a police photographer and Cayago proceeded to the said abandoned barangay hall to verify the report. Thereat, the group saw the dead and decomposing body of a woman. Zinampan requested Cayago to identify the body and on recognizing the shoes worn by the deceased, let out a loud cry and thereafter lost consciousness for about five minutes. Thereafter, Cayago, in answer to Zinampan's question, answered that he does not know who killed his wife. Zinampan and Cayago then returned to the police headquarters where the latter's statement was taken by the former.

"At the time Cayago's statement was being taken, Police Sr. Inspector Pajota noticed Cayago's several inconsistent statements. Pajota subsequently instructed Zinampan, SPO2 Paulite and SPO2 Delos Reyes

to further interrogate Cayago and, who, thereafter concluded that Cayago was 'reluctant and inconsistent in answering our simple questions.' Pajota then advised Cayago to undergo a polygraph examination at Camp Crame.

"On August 3, 1995, when Cayago was about to be brought to Camp Crame for a polygraph test, he requested permission to go to the nearby church. Cayago requested that he be accompanied by SPO2 Delos Reyes, who agreed. Thereat, Cayago admitted to SPO2 Delos Reyes that he killed his wife Myra Cayago and was willing to give his statement relative to said killing. SPO2 Delos Reyes and Cayago returned to the police station and upon such information, Sr. Inspector Pajota instructed Zinampan to secure a lawyer to assist Cayago. Zinampan then requested Atty. Reynario Campanilla, who agreed to assist Cayago. Atty. Campanilla conferred with Cayago at the Office of the Investigation Division. After apprising Cayago of his constitutional rights, Cayago admitted that he killed his wife. Atty. Campanilla then advised Cayago to personally write down his confession which Cayago did for about an hour in the presence of Atty. Campanilla. Thereafter, with the aid of a tape recorder, requested Cayago to read his admission. After informing Cayago of his constitutional rights against self-incrimination, SPO2 Delos Reyes started taking down Cayago's extra-judicial confession again in the presence of Atty. Campanilla and who signed said statement together with Cayago."

[4]*

The gravamen of the felony of parricide is the killing of any of the persons enumerated in Article 246 of the Revised Penal Code (RPC), as amended. Its elements are:

1. a person is killed;
2. the deceased is killed by the accused;
3. the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the *legitimate spouse* of the accused.^[5] (Italics supplied).

In the case at bar, it is clear that appellant strangled his wife resulting to her death. This is supported by appellant's own testimony, his confession to the police and the medical findings corroborating that she died of asphyxia by strangulation.

In his testimony, appellant claims that he embraced his wife so tight but did not notice she had stopped breathing due to the tightness of the embrace. If it were true, however, that his intention of embracing her was to stop her from pushing him, he would have wrapped his arms around her body including her hands. Yet the medical findings revealed injuries on the neck which is shown by the presence of fracture on the victim's windpipe and hemorrhage inside the windpipe.^[6] The examining physician explained his findings on the victim's cadaver which was already in an advanced state of decomposition at the time it was recovered two (2) days after the killing:

Q Based on the examination you conducted, Doctor, can you tell

us what was the cause of death?

A The cause of death Ma'am after the internal examination is asphyxia by strangulation because of the presence of fracture on windpipe and also the presence of hemorrhage inside the windpipe.

Q And what could have cause (sic) that injury?

A This particular finding was caused by the application of extensive pressure on the neck, anterior aspects of the neck.

Q Like what?

A Could be manual strangulation by using a material enough to exert pressure on the neck.

Q Did you prepare a medico legal report based on the examination you conducted?

A Yes Ma'am.

X X X X X X X X X

Q Now Doctor, can you explain further the findings that you stated here in your medico legal report in this portion laceration is noted at the posterior uterine wall with extrusion of the segments of the small intestines.

A This only shows that there is laceration at the uterus and this is at the posterior portion at the back portion of the uterus, and this means that something was inserted thru the vagina and eventually lacerating the uterus, further examination showed that the small intestine of the deceased herniated or passed thru this particular lacerations and was eventually extruded thru the vaginal opening.

Q Can you tell us Doctor what could have cause (sic) this injury?

A It is highly probable that this was caused by something hard inserted thru the vaginal opening up to the uterus and extensive pressure was applied upon insertion of the material.

Q What do you mean by extensive pressure?

A Well, considering Ma'am that it created a laceration on the uterus then a pressure must be used to cause that lacerations.

Q With that same object?

A Yes Ma'am. ^[7]

There is no indication that his wife was sick as to succumb to an immediate difficulty or cessation of breathing. In any case, appellant's testimony before the trial court is clear and categorical that his wife died in his own hands:

Q What else happened?

A Because there were already passersby she was pushing me, I requested her to go to the abandoned barangay hall, to have a talk.

Q What happened next?

A I thought we had settled everything when we were talking,

inside the abandoned barangay hall she still pushing me to produce money and then to stop her, I held her, embraced her.

Q What happened next?

A As I embraced her and while she was still resisting and then I was also tired that time, and my mind turned blank and I can no longer know what happened. I can no longer recall what happened.

Q How did you hold your wife?

A I embraced her.

Q Was she in front of you?

A Yes Ma'am.

Q You were, you were facing with each other?

A The first, we were facing each other but when she kept on resisting she turns her back.

Q What else happened after that?

A Suddenly she was breathless already and I thought she just stopped resisiting.

Q What happened next?

A When I thought that she just stayed calm, I was, I suddenly, I was surprise (sic) she already (sic) on my arms.

Q What else happened?

A I got afraid when she fell down I don't know what to do, I ran away and left her behind.

COURT What time did you arrive at that abandoned barangay hall?

A 11:30 o'clock in the evening, your honor.

COURT What time did you run away from that abandone (sic) barangay hall?

A 12:00 o'clock in the evening.

COURT Okey, proceed

ATTY. AZANZA Did you struggle?

A No Ma'am.

Q What did you do that time?

A I did not think of anything, I was afraid that time so I just went home.

Q When you held her tight, what do you intend to do that time?

A I just want her to be silent and to listen to me.

Q Did you box her?

A No, Ma'am.

Q Do you want to hurt her that time?

A No, Ma'am.

Q After that, what happened next if any?

A I left the place and went home at Valenzuela.

Q What happened next?

A The following day I went to her sister, elder sister. I want to tell her everything happened but when I arrived there, the relatives, the cousins, of my wife were there and I was afraid that they might hurt me, so I was not able to, I left the place.

Q What else did you do if any?

A I went home. I don't know what to do. I was confused that time I could not think of anything to do, I went to the headquarters of Pasig.

Q What happened at the head quarters?

A I told what happened I confessed everything and we took the cadaver

Q What else happened after that?

A No, more, Ma'am. [8]

The foregoing testimony materially corroborates appellant's extrajudicial confession, even narrating facts to the minutest detail which would have been known only to him. Thus,

55.T.- Ano ang ginawa mo sa pagkakataong ito?

S.-Niyakap ko po siya ng mahigpit na mahigpit hanggang sa masakal ko siya.

56.T. Papaano mo siya sinakal ?

:-

S. Yakap-yakap po siya ng aking kaliwang kamay at sakal-
:- sakal naman siya ng aking kanang kamay.

57.T.- Ano ang sumunod na pangyayari?

S.-Namalayan ko na lamang po na nanlupaypay na siya at wala na siyang buhay at ibinaba ko na lang siya sa semento.

58.T.- Papaano mo naman nalaman na wala na siyang buhay?

S.-Kinapa ko po ang kanyang dibdib at nalaman kong hindi na tumitibok ang kanyang puso.

59.T.- Anong ginawa mo sa pagkakataong ito nang malaman mo na patay na ang asawa mo?

S.-Natakot po ako. Ang ginawa ko ay hinubaran ko siya ng kanyang suot na pantalon, T-shirt, bra at panty.

60.T.-

Bakit mo naman naisip na hubaran ang iyong asawa matapos mong malaman na patay na pala siya?

S.-Para palabasin po na hindi ako ang gumawa sa kanya noon at palabasin na siya ay ginahasa.

61.T.- Saan mo naman inilagay ang saplot ng iyong asawa na hinubad mo?