

THIRD DIVISION

[G.R. No. 116514, March 13, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MAGUAD Y NICOR, NELSON LLONOR, PETER DOE AND JOHNNY DOE, ACCUSED, NELSON LLONOR, ACCUSED-APPELLANT.

DECISION

ROMERO, J.:

Stands of sugarcane bore mute witness to the rape and subsequent killing of Josephine Pelayo. Unfortunately for the perpetrator, they were not the only witnesses.

For the rape and killing, Romeo Maguad, accused-appellant Nelson Llonor, and two others, identified only as Peter Doe and Johnny Doe, were charged with the complex crime of rape with murder and robbery, in an information filed on August 14, 1991, to wit:

“That on or about the 30th day of July, 1991, in the City of La Carlota, Philippines, and within the jurisdiction of this Honorable Court, the above-named four (4) accused being then armed with knives, helped and aided one another and by means of force and intimidation, did, then and there, wilfully, feloniously and unlawfully have sexual intercourse in succession with Josephine Casas Pelayo, thereafter stab(bed) the victim several times resulting to (sic) her death and further said four (4) accused take (sic), steal (sic) and carry (sic) away her personal belongings.

That the commission of the above crime is attended by the aggravating circumstances of superior strength and committed in (an) uninhabited place.

AN ACT CONTRARY TO LAW.”^[1]

Upon arraignment, Llonor and Maguad pleaded not guilty to the crime charged.

Thereafter, the prosecution presented Nestor Samban and Irene Cabuguason, two witnesses who purportedly saw the incident, Patrolman Remegio Reloj and Dr. Edwin Jayme.

Samban, a thirteen-year old, recounted that at around 8:30 a.m. of July 30, 1991, he was near the railroad at Hda. Najalin in La Carlota, herding a carabao with a certain Lloyd Gaupo who later left when Apa, a deaf-mute, joined them. By then, Samban had noticed three men loitering in the area. He recognized two of them as Maguad and Llonor, who is a security guard at Hda. Najalin. A woman, whom he recognized as Josephine Pelayo, passed by and the three men grabbed her. Josephine’s hands and feet were held by Maguad and Llonor, respectively, while the third man covered her mouth. The men then dragged her to the canal near the railroad. Samban, now frightened, left but returned at around 11:00 o’clock to retrieve a sack containing tools which he, in his haste, had left behind. This time, he saw four persons emerge from a

canefield, including Maguad, who threatened to kill him if he revealed what he saw to anyone.

On cross-examination, Samban admitted that as a carabao herdsman living in La Carlota, he had to leave his residence at 3:00 a.m., riding on a truck to reach Hda. Najalin. After the incident, he stayed with Josephine's father, Jose, for one month. On the night in question, he participated in the search for the missing Josephine Pelayo, but it was only two days later, or on August 1, 1991, that he revealed the aforementioned occurrence to Jovy Egay, Josephine's brother-in-law. The records reveal that Samban's affidavit, taken by the police, failed to mention anything about the alleged abduction of Josephine, but only stated that he saw Maguad at the place of the incident and that the latter threatened to kill him.

On the other hand, Cabuguason, a 36-year old farm laborer, testified that in the morning of July 30, 1991, at around 9:30 a.m., he was collecting firewood at a riverbank near Hda. Najalin when he heard a woman shout six times for help. Moving towards the railroad, from where the shouts emanated, he noticed a field where the sugarcane plants were moving, as if people were grappling therein. As he approached, he saw a man, whom he recognized as Llonor, on top of a woman, whom he likewise recognized to be Josephine Pelayo. Llonor had a knife pointed at Josephine's neck, his pants were lowered, and he was performing the sexual act on her. He also heard several persons talking nearby. Like Samban, he got scared and fled.

Patrolman Reloj testified that on July 31, 1991, in the course of the police inquiry into Josephine's death, they found the victim's cadaver in a sugarcane field, Field No. 22, with her skirt inserted in her vagina. Her clothes, underwear, and bag were scattered nearby. She had been stabbed fourteen times.

After considering Samban's testimony, they invited Llonor for questioning. During the investigation, Pat. Reloj saw a bloodstained knife in the possession of Llonor, which he confiscated. The knife was subsequently found to match the punctures found in the victim's skirt and shorts.

Dr. Edwin Jayme, who performed the autopsy on Josephine's cadaver, testified that the victim suffered fourteen stab wounds, the most fatal being one on the chest. The stab wounds all measured about one centimeter in width and three to four inches in length, indicating that only one weapon was used.

In rebuttal, the defendants raised the timeworn defense of alibi, alleging that they were elsewhere at the time of the incident. Maguad, testifying in his own behalf, alleged that he was harvesting rice in Hda. Alejandria, adjacent to Hda. Najalin, when the incident occurred. He presented a co-worker to corroborate his statement.

Likewise, Llonor claimed that at 9:00 a.m. of July 30, 1991, he was at home in Hda. Najalin fetching water for cooking. He heard Josephine Pelayo call his sister-in-law, Noemi Isidoro, asking the latter to accompany her. Noemi, who was then with a certain Grace Isidoro, however declined. He further claimed that he stayed at his house, cooking rice and viand, until 10:00 o'clock, after which he went to work, roving Fields 17 to 23, his security assignment, until 11:30 a.m. A certain Cresenciano Esmedia supposedly saw him during that time. He then went home to eat lunch, then returned to his post only at around 1:00 p.m. where he stayed until 6:00 p.m. At 8:00 in the evening, Jovy Egay passed by and asked him whether he had seen Josephine, who was apparently missing, to which he replied in the negative. Thereafter, Llonor joined a

search party organized by the relatives of Josephine Pelayo, but it was their relievers who found Josephine's body. No other witnesses testified in Llonor's favor.

The trial court, in its evaluation of the evidence of the parties, gave short shrift to Samban's testimony, finding that:

"(T)he testimony of Nestor Samban however has yielded irreconcilable (sic) inconsistencies in his declaration, grave self-contradictions in his narrations and consequential improbabilities in his statements all on points material to the matter of the identification of the slayers of Josephine Casas Pelayo. For instance, Nestor Samban stated that he saw the accused and another person dragging the victim towards the canefield. Thereafter, Maguad held her hand while accused Nelson Llonor and another companion held her feet. He then ran home because he was afraid. And yet according to the same witness, he returned to the place where he saw the accused and the victim at 11:00 o'clock in the same morning only for the purpose of retrieving the sack containing a crescent and a monkey wrench which he left earlier after running from the scene of the crime because of fear. The court can hardly believe such a tall tale considering his age. Normal human instincts and the promptings of human nature dictate a reaction utterly different from those taken by Samban."^[2]

Likewise, the trial court found it unbelievable that Samban, who testified that he even joined the search for the missing Josephine, did not immediately inform the Casas family, with whom he was then staying, of his harrowing experience. The court similarly found it incredible that Samban would leave La Carlota at 3:00 a.m. to go to Hda. Najalin just to herd a carabao which was not even theirs. The court *a quo*, moreover, emphasized the glaring discrepancy between Samban's testimony and his sworn affidavit.

The trial court, however, gave full faith and credence to Ireneo Cabuguason's testimony identifying Nelson Llonor as the person who sexually assaulted Josephine Pelayo.

After trial, the court *a quo* acquitted Romeo Maguad but found Llonor guilty of rape with homicide. The dispositive portion of the decision reads:

"WHEREFORE, viewed in the light of the preceding considerations, the court hereby renders judgment finding NELSON LLONOR guilty beyond reasonable doubt of the Special Complex crime of "RAPE WITH HOMICIDE" and hereby imposes upon him the penalty of RECLUSION PERPETUA, to pay the amount of ONE HUNDRED THOUSAND (P100,000.00) PESOS as damages without subsidiary imprisonment in case of insolvency. Pursuant to the provisions of Republic Act 6127 the accused Nelson Llonor is credited in full of the period of his detention provided he has complied with the aforesaid provisions of the law.

For utter lack of evidence, the court hereby pronounces the verdict of ACQUITTAL as against the accused ROMEO MAGUAD.

SO ORDERED."^[3]

Accused-appellant Llonor, now appeals to this Court, questioning his conviction and the trial court's award of damages.