

SECOND DIVISION

[G.R. No. 116058, February 01, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLAND DANAÓ, ACCUSED-APPELLANT.**

D E C I S I O N

REGALADO, J.:

Insisting that he was not positively identified as the perpetrator of the offense with which he was charged, accused-appellant Roland Danao appeals from the judgment in Criminal Case No. 7034 of the Regional Trial Court, Branch 44, of Masbate, Masbate finding him guilty of rape with homicide and sentencing him to suffer the penalty of *reclusion perpetua*, to indemnify the heirs of the victim in the amount of P50,000.00, and to pay the costs.^[1]

The information which initiated this case on June 16, 1993 indicted appellant for rape with homicide, based upon the following allegations:

"That on or about October 14, 1992 in the evening thereof at Brgy. Batuhan, Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with MARIA APAREJADO, a 13 year old girl against the latter's will and with intent to kill, by means of treachery and abuse of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault, strangle and drown said Maria Aparejado causing the latter's instantaneous death."^[2]

At his arraignment on July 19, 1993, appellant, duly assisted by counsel, registered a plea of not guilty.^[3] Trial proper then followed. The prosecution presented five witnesses, namely, Bonifacio Manacho, Feliciano Gonzaga, Dr. Artemio Capellan, Marilou Cos, and the victim's own mother, Rita Aparejado. The defense, on the other hand, had as countervailing witnesses Roland Danao, the accused himself; Rogelio Danao, Sr., appellant's father; and, Nicolas Bolon and Benhur Lupango, both members of the Philippine National Police in Masbate, Masbate. On May 20, 1994, the trial court rendered its aforementioned judgment which is now the subject of this appeal.

The prosecution in this case principally relied upon circumstantial evidence in establishing the guilt of appellant. Witness Feliciano Gonzaga, a neighbor of appellant, testified that at around 5:30 in the late afternoon of October 14, 1992, the victim, Maria Aparejado, stopped by her residence in Barangay Batuhan in

Masbate, Masbate in order to get her notebooks, and left shortly thereafter. Gonzaga, who was then nursing her two-month old baby, observed that as the victim was on her way back home, appellant followed her and appeared to stalk Maria. However, she did not give much thought to that act or behavior of appellant. The following day, Gonzaga learned that Maria, who was her niece, had been found dead in the mangrove, that is, a swampy area with mangrove trees and other marine plants growing in brackish water, which is located just several meters away from Gonzaga's house.^[4]

Another prosecution witness, Bonifacio Manacho, a farmer and neighbor of both appellant and the victim, recounted that at past 6:00 o'clock in the evening of October 14, 1992, he was on his way home with his carabao from farm work when he espied appellant hurriedly walking away from the mangrove where the victim's body was later found. Manacho then recalled that in the early morning of October 15, 1992, he saw appellant's mother, Asuncion Danao, running near the same mangrove and she appeared to be very distraught. When he inquired as to what was wrong, Asuncion Danao said that there was a dead person in the mangrove. The two then proceeded to the place at the request of Danao and there they saw the corpse of a young girl lying face down in the water. Danao then told Manacho to keep to himself what they saw and not to tell anyone about it. However, Manacho, who by then had apparently realized the identity of the victim, immediately informed Maria Aparejado's mother about what he saw. Together with the *barangay* captain, they went to the mangrove and ascertained that it was Maria Aparejado.^[5]

Marilou Cos testified that on October 28, 1992, during the fiesta in Barangay Biong, Masbate, Masbate, she was in the house of appellant's sister, Haide Danao Leones. She overheard Asuncion Danao telling Haide while they were all having lunch that appellant was asking for help because he had raped and killed somebody.^[6]

Appellant, on the other hand, denied any participation in the death of Maria Aparejado who, he says, was his cousin, appellant's father and the victim's mother being cousins likewise. He asserted that he played billiards with his brother and father at the house of their neighbor, one Zosima Orna, in Barangay Batuhan from 5:30 in the afternoon to 7:00 o'clock in the evening of October 14, 1992. Hence, he contends that he could not have killed Maria Aparejado.^[7] His father, Rogelio Danao, Sr. testified in court and corroborated his son's claims about his whereabouts at the time.^[8] The trial court, nevertheless, disbelieved appellant's defense and accordingly found him guilty as charged, hence the present appellate review.

Appellant imputes three supposedly glaring errors of the trial court which would justify a reversal of his conviction, namely, (1) in convicting him on the basis of the evidence adduced by the prosecution, (2) in applying the rule on circumstantial evidence, and (3) in not acquitting him.^[9] In a nutshell, appellant banks his appeal upon the alleged insufficiency of the evidence adduced by the prosecution. According to him, no witness for the prosecution positively pointed to him as having raped and killed the victim on the day and time in question. The Court disagrees.

Direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.^[10] Indeed, there are crimes where there are no eyewitnesses at all. Under such situations, the courts are

allowed to rule on the bases of circumstantial evidence. Such species of evidence is sufficient for conviction if (1) there is more than one circumstance, (2) the facts from which the inferences are derived are proven, and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.^[11] The corollary rule is that the circumstances established must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.^[12]

In this case under review, several circumstances significantly stand out to incriminate appellant and forge the links of the chain of his guilt. *Firstly*, there is the uncontradicted testimony of the victim's mother, Rita Aparejado, that prior to her daughter's death, the latter repeatedly informed her that appellant had been following or stalking her in the school which she attended.^[13] Appellant did not contradict this and in fact admitted that he used to see the victim in her school. *Secondly*, at the approximate time of the incident, appellant was positively seen by Feliciano Gonzaga following the victim shortly after the latter had taken her notebooks from Gonzaga's house. Gonzaga recalled that the victim had in fact given way to appellant by letting him walk ahead, as if she was suspicious of his presence, so she could keep an eye on him.^[14]

Thirdly, there is the testimony of Bonifacio Manacho that as he was going home shortly after 6:00 o'clock in the evening of October 14, 1992 and was passing by the mangrove where the victim's body was later discovered, he definitely saw appellant hastily leaving the immediate vicinity thereof. Then, in the early morning of the following day, Manacho met appellant's mother, Asuncion Danao, in a state of panic near the same mangrove. Danao led Manacho to the victim's body and bade him to keep secret what they had seen, apparently in a bid to cover up for her son's misdeed.^[15]

Fourthly, the defense failed to successfully traverse the revelation of Marilou Cos on the colloquy between appellant's mother, Asuncion Danao, and his sister, Haide Danao Leones, about appellant's admission and appeal for help. It bears stressing that neither of said close relatives of appellant was presented to give the lie to the testimony of Marilou Cos or, for that matter, of Manacho.

Dr. Artemio Capellan, Municipal Health Officer of Masbate, Masbate who conducted the post-mortem examination on the remains of the victim, testified that she was raped and that the cause of her death was asphyxia secondary to drowning.^[16]

The forthright testimonies of both Feliciano Gonzaga and Bonifacio Manacho indubitably point to appellant's suspicious presence near the mangrove swamp at around the time that the victim was raped and killed. Feliciano Gonzaga's testimony was clear and positive that she saw appellant inexplicably following the victim as the latter was on her way home and would have to pass by the mangrove where she was later found to have been sexually assaulted and drowned. Bonifacio Manacho was likewise unequivocal in his declaration that it was appellant whom he saw hastily leaving the vicinity of the mangrove which was the scene of the crime.

The testimonies of these two were categorical, consistent and complementary to the established fact about the joint presence of appellant and the victim at the mangrove on that day. No ill motives whatsoever have been attributed to them as to