

THIRD DIVISION

[G.R. No. 105673, July 26, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO MAGANA, ACCUSED-APPELLANT.**

DECISION

PANGANIBAN, J.:

Circumstantial evidence adduced by the prosecution in this case was more than sufficient to convict the accused-appellant of rape with homicide. But beyond affirming the correctness of the trial court's decision and reiterating familiar legal doctrines, we declare that in this instance, the ruthlessness and viciousness exhibited by appellant in carrying out his dastardly design upon a hapless minor most certainly warrants the imposition of the severest punishment possible. We also note with considerable frustration and anxiety that this case is only one among a host of others, constituting a veritable floodtide of crime and immorality which seemingly signals an unstoppable regression to the law of the jungle, where anyone is free to grab and take whatever he pleases.

This is an appeal taken from the decision of the Regional Trial Court of Daet, Camarines Norte, Fifth Judicial Region, Branch 38,^[1] in Criminal Case No. 6919 entitled "People vs. Antonio Magana." The trial court found the accused (appellant herein) guilty beyond reasonable doubt of the special complex crime of rape with homicide and sentenced him to "imprisonment for life (Reclusion Perpetua)".^[2]

The Facts

At about 6:00 a.m. of January 14, 1991, 14-year old Odette Sta. Maria left for school, as usual taking the feeder road which is about 2 1/2 km. from Sierra Bros. From there, she would have gotten a ride to school.

At about 7:00 a.m. that morning, Danilo De Austria saw accused-appellant "strangling the victim" with his left arm by the side of the feeder road. De Austria was about to untie his carabao before reporting the incident to the authorities, but he was immediately accosted by the appellant who poked a knife at him, threatening to kill him if the family of the victim would come to know of the matter.

The victim's mother, Lucia Sta. Maria, got worried when at 5:00 p.m., her daughter was not with the other kids returning from school. She and her husband started to ask around for Odette, and learned that she did not even make it to school that day. Together with De Austria and some neighbors, they searched for Odette. At about 9:00 p.m., they found the body of the girl sprawled on the ground some twenty meters from the site of that morning's incident. The body was muddy, the face swollen, with hack wounds on the neck. Half of the victim's body was covered with cut grass. Her skirt was raised upward; her panty had been removed and was found

near the body.

Post-mortem examination conducted by Dr. Marcelito B. Abas, Municipal Health Officer of Labo, Camarines Norte, showed that the victim sustained hacking wounds on the neck, hematomas on the head, body and left arm, and multiple laceration of the hymen. The cause of death was "shock hemorrhagic due to the hacking wound on the neck". The time of death was estimated at approximately 12 to 24 hours prior to the time of autopsy.

After the burial of the victim, De Austria revealed to the Sta. Marias what he witnessed that fateful morning. Accordingly, on March 7, 1991, an Information was filed charging appellant with rape with homicide. It reads:

"That on or about 7:00 o'clock in the morning of January 14, 1991, at Mahawanhawan, Municipality of Labo, Province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo and with the use of a piece of wood, and by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one ODETTE STA. MARIA, a girl of 14 years old (sic), against the latter's will; that on or after the commission of said offense, said accused did then and there willfully, unlawfully and feloniously, with deliberate intent to kill and with evident premeditation and taking advantage of his superior strength, assault, attack, hack and hit said Odette Sta. Maria, thereby inflicting upon the latter serious and mortal wounds which were the proximate cause of the death of said Odette Sta. Maria, to the damage and prejudice of the heirs of the victim.

"All contrary to law, and with the aggravating circumstances that the said offense was committed in uninhabited place being a grassy area and the victim not having given provocation for the offense."^[3]

On February 7, 1992, the trial court found appellant guilty beyond reasonable doubt:

"WHEREFORE, premises considered, this Court finds accused Antonio Magana guilty beyond reasonable doubt of the special complex crime of Rape with Homicide and hereby sentences him to the penalty of DEATH. However, in view of the suspension of the death penalty, accused is hereby sentenced (sic) imprisonment for life (Reclusion Perpetua). And, he is hereby ordered to indemnify the heirs of the deceased the amount of FIFTY THOUSAND PESOS (P50,000.00) for her death, THIRTY-NINE THOUSAND PESOS (P39,000.00) as liquidated damages, TWENTY THOUSAND PESOS (P20,000.00) as moral damages and TEN THOUSAND PESOS (P10,000.00) as exemplary damages."^[4]

Hence, this appeal.

Version of the Prosecution

The prosecution's theory is that on that fatal morning appellant was lying in wait for the victim, and when she passed by on her way to school, appellant forced her to go with him by strangling or choking her and threatening her with a bladed weapon,

the same one used on De Austria. Then, he forced himself on her. Afterwards, he hacked her neck, thereby killing her. He attempted to hide the body of the victim by covering it with cut grass. He also threatened to kill De Austria to prevent the latter from telling on him.

The prosecution presented the testimonies of the following witnesses: Dr. Marcelito Abas, Municipal Health Officer of Labo, Camarines Norte, Danilo De Austria, Lucia Sta. Maria, Fe Caramoan Juanson, and Antonio Vasquez.

Dr. Abas testified that the victim sustained a hacking wound on the right side of the neck; an incised wound above the first wound parallel to each other; multiple hematomas of both eyes, both cheeks, left forehead, and left chin; "multiple hematomas right chest, both scapular region (sic) of the back, left upper extremity posterior aspect with fracture of both radius and ulna, middle portion;" and multiple laceration of the hymen at 4, 6 and 8 o'clock.^[5] Also, when he conducted the autopsy, the victim was not wearing underwear.^[6] Dr. Abas was of the opinion that the victim died approximately 12 to 24 hours before the post-mortem examination which was conducted at 8:30 a.m. of January 15, 1991, and that death could have occurred at about 7:00 a.m. of January 14, 1991.^[7] The hacking wound, he said, was caused by a sharp instrument, but the hematomas were inflicted with a blunt instrument. He also testified that the multiple lacerations in the victim's hymen, which were probably inflicted just before the hacking, indicated the possibility of rape.^[8]

Danilo De Austria, a farmer and resident of Mahawanhawan, Labo, Camarines Norte, was familiar with both the appellant and the victim. He testified that on that fateful morning, at about 7:00 a.m., while he was walking along the feeder road towards the ricefields in Barangay Mahawanhawan, he espied the appellant and the victim some forty meters ahead of him.^[9] He was shocked to see appellant strangling the victim with his left arm.^[10] Before he could make a move, appellant blocked his way, poked a double-bladed weapon at him and threatened to kill him if he told the Sta. Marias of the incident. He said, "Yes, yes" because he was "over-frightened" of the appellant. He knew appellant to be abusive whenever he was drunk.^[11]

De Austria further testified that the vicinity where he saw appellant assaulting the victim was uninhabited, and that cries for help would go unheard; that the person working the ricefields in that area was none other than accused-appellant himself; and that the body of the victim was found in a grassy area five meters from the feeder road, and about twenty meters from where the victim was seen being strangled.^[12] De Austria also revealed that some ten days after the killing, both he and the appellant were abducted and interrogated by the NPA, and that he heard appellant admit to the NPAs that he had raped the girl.^[13]

Lucia Sta. Maria, mother of the victim, testified that about a week before her daughter's death, they met appellant, and Odette complained that appellant was staring at her in a "bad way." The victim informed her that appellant would look at her that way everytime they met.^[14]

Fe Caramoan Juanson, a neighbor, testified that while she was grazing her carabao, she saw appellant standing on the feeder road at about 6:30 a.m. that day.

Appellant, who was wearing a faded jacket, appeared uneasy, looking left and right and towards the hinterland of the barangay, seemingly waiting for somebody.^[15] The place where she saw appellant waiting was very near the place where the body of the victim was recovered.^[16]

Antonio Vasquez, martial arts instructor of the victim's brother-in-law, spent the night of January 13, 1991 at the house of the Sta. Marias, and left at about 6:10 a.m. the following morning to go back to Labo. He took the feeder road and saw the appellant, whom he met many times and knew by face and whom he positively identified in court, standing quite near the place where the victim's body was subsequently recovered. Appellant appeared to be uneasy and was pacing back and forth; he seemed to be looking for something. The witness noticed that appellant wore a faded brown jacket at that time.^[17]

Version of the Defense

The defense's theory consists of establishing an alibi for appellant and implicating Danilo De Austria as the perpetrator of the crime. The following witnesses were presented, viz., Merly Mahipos, Wilfredo Chavez, Jaime Chavez, Jovita Paquita, and the appellant himself.

Mahipos, 35, married and a resident of Sierra Bros, testified that on January 14, 1991, at about 6:30 a.m., she and her husband were walking from Sierra Bros to Mahawanhawan, a distance of two kilometers (about thirty minutes on foot) they met the victim and Danilo De Austria.^[18] The latter were not yet halfway on the road to Sierra Bros and about 50 meters from the house of Mahipos' parents. The victim was walking ahead of De Austria by about seven (7) arms length.^[19] She asked the victim why she was alone and the victim only smiled. De Austria walked fast and carried a bolo ("sinampalok") about eighteen inches long.^[20] He was wearing a white T-shirt and black short pants. She did not see appellant, however.

Wilfredo Chavez, 31, married, a farmer and resident of Mahawanhawan, testified that at about 6:00 a.m. of January 14, 1991, while he was at home, he saw De Austria and the victim pass by, with the victim ahead of De Austria by about seven (7) arms length.^[21] He did not see appellant that morning.

Jaime Chavez, 42, married, a farmer and likewise a resident of Mahawanhawan, testified that on that day, at about 6:30 a.m., he was in his house situated beside the feeder road, waiting for his co-laborers to arrive as they were supposed to go gold panning at Jose Panganiban, Camarines Norte. He saw the victim (in her school uniform) pass by, followed closely by De Austria at about 6:30 a.m.^[22] After five (5) minutes, Mahipos and her husband passed by, going the other way. He further testified that appellant came to his house at about 7:00 a.m. and asked that he be included in the gold panning activity. Appellant stayed in his house for an hour and left at around 8:00 a.m. together with Kagawad Jovita Paquita to buy cigarettes at Sierra Bros.^[23] He later saw appellant in Sierra Bros at about 9:00 a.m. He also testified that the place where appellant worked was about half a kilometer from the place where the body of Odette was recovered.^[24]

Jovita Paquita, 47, married and resident of Mahawanhawan, testified that she saw

appellant at Chavez' house at past 8:00 a.m. that, morning. She and appellant walked together to Sierra Bros. There, they parted ways.^[25]

Appellant testified that on that day, after taking breakfast at about 6:30 a.m., he went to his mother's house (which is near the feeder road and about 50 meters from his own house^[26]), where he stayed for about 15 minutes, then left by about 7:00 a.m. to see Kagawad Jaime Chavez.^[27] Chavez' house is approximately 330 meters from appellant's house.^[28] After about five minutes, he went to the Mahawanhawan Elementary School to buy cigarettes. Unable to buy any there, he returned to Chavez' place and thereafter went to Sierra Bros at 8:00 a.m. He bought cigarettes at Sierra Bros, then returned to his house, arriving there at around 9:30 a.m.^[29] Later, he made copra at his parent's land, then spent the rest of the day at his house, which is only 500 meters from the grassy place where the body of the victim was found.^[30]

The Issues

The appellant charges that the trial court erred:

- "1. In failing to give due credence to the accused's defenses;
2. In giving undue credence to the testimonies of the prosecution's witnesses;
3. x x x (In convicting) the accused despite the failure of the prosecution to prove the guilt of the accused beyond reasonable doubt;
4. In convicting the accused of x x x Rape with Homicide although the prosecution have (sic) only proven a case for Homicide;
5. In not considering that based on the evidences (sic) presented (by) both the prosecution and the defense, it is Danilo De Austria and not the accused, who is probably guilty of the offense charged."^[31]

all of which may be summed up as questioning the trial court's assessment of the credibility of witnesses and its appreciation of the weight and sufficiency of the prosecution's evidence, *vis-a-vis* that of the defense.

The Solicitor General adds that the trial court erred when it equated life imprisonment with *reclusion perpetua* in the dispositive portion of the decision.

The Court's Ruling

First Issue: Credibility of Appellant's Defense

We cannot agree with appellant's contention to the effect that the defense built a more credible case than the prosecution, and that its story is consistent with ordinary human experience. In essence, the defense's theory is that, although appellant was in Mahawanhawan, he could not have been at the scene of the crime that fatal morning, and that someone else (De Austria) was present thereat.