

## SECOND DIVISION

[ CA-G.R. CR-HC No. 04703, November 13, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERT LEONOR Y ESPARAGO, EDUARDO ABE Y OTIZ, JOSEPH GEORFO Y MEDEL AND ARMAD GANSAD Y LUMON, ACCUSED-APPELLANTS.**

### DECISION

**BUESER, J.:**

Before the Court is an appeal from the decision rendered by the Regional Trial Court, Branch 163 of Pasig City finding the accused-appellants guilty beyond reasonable doubt of Robbery with Multiple Homicide in Criminal Case No. 130841-H entitled "People of the Philippines vs. Albert Leonor y Esparago, Eduardo Abe y Otiz, Joseph Georfo y Medel, Armand Gansad y Lumon and CICAL Jeffrey Prima y Tagayon" and Albert Leonor guilty beyond reasonable doubt of the crime of Rape with Homicide in Criminal Case No. 130842-H entitled "People of the Philippines vs. Albert Leonor y Esparago, Eduardo Abe y Otiz, Joseph Georfo y Medel, Armand Gansad y Lumon and CICAL Jeffrey Prima y Tagayon."

Culled from the records<sup>[1]</sup> are the following pertinent, material antecedent facts:

Spouses Antonio and Hayda Napura owned a bakery at ISG Village Central, Western Bicutan, Taguig City. Their residence at the same village was just a five-minute walk from the bakery. The couple have an adopted daughter, Heide. On the other hand, Albino Nalagay was Hayda Napura's brother and Heide's biological father. AAA<sup>[2]</sup> was the housemaid of the family.

Accused-appellant Albert Leonor (Leonor, for brevity) was a former baker of the Napura's whose work was terminated because of his usual habit of leaving the store without his employer's permission. Armand Gansad (Gansad, for brevity) was the former family driver of the Napuras. Eduardo Abe (Abe, for brevity), Joseph Georfo (Georfo, for brevity) and Jeffrey Prima (Prima, for brevity) usually hanged out in front of the bakery.

At around 4 o'clock in the morning of May 29, 2005, Ahron, A. Nalagay, Little and Melchor woke up. Ahron started baking "pandesal" while Antonio Nalagay (Antonio, for brevity) attended to the store. Ahron wondered why AAA did not bring their breakfast.

At about 9:30, Antonio went to the Napura's residence. He returned afterwards because it seems nobody was at home. He asked Ahron to call Hayda through her mobile phone but the latter's phone was unattended. At around 10:00 o'clock in the morning, Ahron went to the Napura's house. He peeped through a window and saw Hayda's jewelry box scattered on the bed.

Ahron returned to the bakery, worried. He thought that Antonio Napura might have been rushed to the hospital. Ahron and Antonio Nalagay returned to the house. Despite several calls and knocks, nobody answered them. When he saw the couple's Tamaraw FX parked outside, they decided to forcibly open the main door of the house. Once inside, they saw blood under a bench. Antonio pushed the master's bedroom door and they were shocked to see the bloodied and headless body of Hayda lying at the door. In the kitchen, they found Antonio Napura and in another room, Heide and AAA, all dead. AAA was bloodied and fully naked.

Ahron immediately informed complainant Albino, who was in the province at that time, and "Molin" Hayda's sister-in-law, of the tragedy that occurred in the Napura residence. Ahron also informed the purok leader of the place and the latter in turn reported the matter to the Taguig Police Station. At about 7:00 o'clock in the evening of the same day, policemen arrived and conducted their investigation.

According to Ahron, three days before the incident, accused Leonor slept in the bakery for one night, left in the morning, came back again in the early morning of the next day, slept, and then left again. He had with him a .38 caliber revolver. He suspected Albert to be the culprit because of the grudge he harbored against Hayda. Albert got mad at Hayda because she fired him from work at such time when he badly needed money for his intended marriage with his live-in partner.

On June 6, 2005, an Information<sup>[3]</sup> was filed against the accused-appellants, viz:

xxx                      xxx                      xxx

That, on or about the 29<sup>th</sup> day of May, 2005, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one another, while armed with butcher's knife, with intent to gain and by means of force, violation and intimidation, did, then and there take, steal rob and divest from complainants, namely: Hayda Napura y Nalagay, Antonio Napura y Nonaillada, Heide Napura y Nalagay, 4 years old, a minor, and Leny Nietes y Lozada, the following items, to wit: one (1) pc. Nokia cellphone, one (1) 8210 cellphone and assorted pieces of jewelry and cash money of an undetermined amount; and by reason or on the occasion of said robbery, the above-named accused, in conspiracy with one another, while armed with butcher's knife, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and hack the said complainants thereby inflicting upon them fatal injuries which directly caused their death, said robbery and killing have been attended by the aggravating circumstance of abuse of superior strength and committed by an organized/syndicated group.

CONTRARY TO LAW.<sup>[4]</sup>

**Version of the Prosecution**

SPO1 Mapili testified that he and PO3 Ehron Balauat were the ones assigned to investigate the crime. When he received a report on the incident, he immediately sought the assistance of the Scene of the Crime Operation (SOCO). SOCO and the CIS discovered the headless body of Hayda inside the master's bedroom, the dead body of Heide with deep cut wound on her throat and with multiple lacerations on both hands, the naked body of AAA with ligature marks on her neck in the adjoining room and of Antonio Napura in the kitchen. He noted a forcibly opened cabinet and several bloodstains scatted on the floor.

The police conducted a follow up operation. On May 31, 2005, the police received information that Leonor was hiding at SSG Village, Zone 1, Signal Village in Taguig<sup>[5]</sup>. They immediately went there disguised as government employees of Taguig City Hall<sup>[6]</sup>. They met Leonor's mother and brother, however, they were unable to find Leonor that day<sup>[7]</sup>.

In the morning of June 1, 2005, a certain M/Sgt. Pacarin went to see Brgy. Kagawad Antonio F. Castro, Jr.(Castro, fro brevity) to tell him that Leonor was staying at his place. Leonor's brother was Pacarin's boarder<sup>[8]</sup>. Pacarin mentioned that Leonor was a suspect in the Sto. Niño massacre and was willing to surrender<sup>[9]</sup>. Castro asked Pacarin to bring Leonor to him<sup>[10]</sup>.

Castro called Councilor Dueñas to endorse Leonor<sup>[11]</sup>. After twenty minutes, Dueñas arrived<sup>[12]</sup>. Thereafter, Pacarin together with Leonor, Marissa and Leonor's brother arrived<sup>[13]</sup>. It was the first time Castro met Leonor and his family members<sup>[14]</sup>. Dueñas talked to Leonor and the former noticed that Leonor had a wound in his palm<sup>[15]</sup>. Dueñas invited them to the police headquarters at the City Hall<sup>[16]</sup>.

Leonor, his wife and his brother boarded Dueñas's car and proceeded to the City Hall. At Dueñas's office, he had Leonor, his wife and brother seated in front of his desk<sup>[17]</sup>. Thereafter, Capt. Bong and the other police handling the investigation arrived<sup>[18]</sup>.

They started asking Leonor as to his whereabouts before, during and after the killing of the Napura family<sup>[19]</sup>. Leonor replied that he did not leave the house that day. When asked why he was terminated from work, Leonor replied that he does not know. Dueñas asked him about the wound in his palm, Leonor said that he slipped while doing his laundry in Bulacan<sup>[20]</sup>.

Dueñas decided to talk to Leonor's common law wife, Marissa. They left Leonor and his brother, while he and Capt. Obong conferred with Marissa in an office next to Dueñas's. Marissa confided that Leonor arrived in Bulacan at past 6 in the evening of May 29<sup>[21]</sup>. Moreover, she noticed he already had a wound in his palm<sup>[22]</sup>. He gave her money and instructed her to arrange their wedding<sup>[23]</sup>.

Dueñas returned to his office and confronted Leonor with the information he gathered from Marissa<sup>[24]</sup>. Leonor was silent. Dueñas returned to the adjacent office

where he left Capt. Obong and Marissa<sup>[25]</sup>. Capt. Obong told him that Marissa is willing to accompany them to Bulacan to show Leonor's things, particularly a pair of maong pants<sup>[26]</sup>.

At around 5 or 6 o'clock in the afternoon of June 1, 2005, Dueñas, together with Marissa and Capt. Obong's team proceeded to Bulacan. Marissa took a pair of maong pants, showed it to them as well as Leonor's bag<sup>[27]</sup>. Marissa told them that before she saw Leonor washing the maong pants, she saw it covered with blood<sup>[28]</sup>.

Dueñas team examined the maong pants and noticed traces of blood<sup>[29]</sup>. Marissa also surrendered a .38 caliber gun which she said belonged to Leonor<sup>[30]</sup>. The team left Bulacan and returned to Taguig, bringing with them the maong pants, gun and bag<sup>[31]</sup>.

Upon arrival at his office, Dueñas confronted Leonor and told the latter he recovered his maong pants with traces of blood, his bag as well his revolver<sup>[32]</sup>. Leonor embraced his brother and confessed his participation in the crime<sup>[33]</sup>. His extra-judicial confession was made in the presence of and recorded by members of the media<sup>[34]</sup>. He identified and pinpointed the other four (4) persons involved with the crime namely: Abe, Georfo, Prima and Gansad.

Thus, together with the operatives and members of the media, Dueñas and Leonor went to Sitio Sto. Niño to apprehend a man Leonor identified as Abe<sup>[35]</sup>. Thereafter, they went to Georfo's residence. They did not find Georfo, however his wife informed them that he is in Batangas and voluntarily brought them there<sup>[36]</sup>.

That same night of June 1, 2005, they proceeded to Batangas<sup>[37]</sup>. When the police approached Georfo's house, he and his mother came out. Leonor identified him and was arrested by the police<sup>[38]</sup>. After which, they headed back to Taguig.

Leonor mentioned another suspect, Jeffrey Prima, was also in Sto. Niño West, Western Bicutan. When they reached Prima's house, they found out from Prima's friend that he was in Quezon City<sup>[39]</sup>.

Still accompanied by the media, they proceeded to Quezon City to find Prima. There, Prima was identified by Leonor and was arrested.<sup>[40]</sup> With all the four suspects in custody, Dueñas and the police returned to Taguig City Hall. They turned over the suspects to the Investigation Division and were presented to the media on June 2.<sup>[41]</sup> During their interview by Dueñas in the presence of the media, the five confessed their respective participation in the crime. Leonor admitted having committed the crime and implicated Abe, Georfo, Gansad and Prima as co-conspirators<sup>[42]</sup>.

As aptly pointed out by the court a quo:

"In a video-taped interview by Councilor Duenas in the presence of mediamen xxx, all accused confessed to their participation in the crime.

From the video-tape, the Court gathered that Albert, Eduardo and Joseph gathered in a chapel within the neighborhood and Albert asked Eduardo and Joseph if they wanted to earn money. Not long after that, the FX tamaraw, owned by the Napuras, arrived driven by Armand.

Jeffrey stated that he was picked-up by Albert and Joseph from the basketball court and was told to stay outside the house. He did; and shortly, thereafter, he heard a female outcry so he ran inside the house. After seeing what was going on inside, he ran away and proceeded to his house. The following day, he went to Quezon City and stayed with his "barkadas."

According to Eduardo, Albert and Armand were the ones who knocked at the door because they were known to the family. Leny, the housemaid, opened the door and let them in. Moments later, lights inside the house were turned off and Albert told Eduardo and Joseph that they could come in. They did.

Albert admitted that when they entered the house, Hayda was at the living room watching tv. He was very, very angry at her for terminating his employment that he immediately strangled her. When he saw that she was already gasping for breath, he went to the kitchen and took a knife which he used to slash her neck. But there was a bone in her neck which he could not break so he pulled her almost-dead body to a room where he completely severed her head. Then, he wrapped the head with a piece of clothing and placed it inside a plastic bag and positioned the baggage at the door.

Eduardo told his interviewers that after he was let in by Albert, he saw the latter holding the child (Heide) and stroking her hair and when the maid ["AAA"] opened the door of the comfort room, Albert pushed Heide aside causing the latter to slump on the floor no longer moving. He saw blood on Heide's body. Albert entered the toilet and sexually forced himself against [AAA]. Then, he saw Albert and Armand helping each other pull the naked body of the still-breathing [AAA] to a room. At that time, Albert was half naked, wearing only a wet pair of short pants. Eduardo noticed blood on AAA's face.

Albert admitted that inside the room, he tied [AAA's] neck with electrical refrigerator wire until she died. Albert pointed to Joseph as the one who strangled the old man (A. Napura) until he suffered a stroke and died.

According to Eduardo, Joseph threw him the bag containing their loot while he (Joseph) carried the plastic bag containing Hayda's head. When interviewed before the media, all four were agreed that after all these were finished, they all boarded the FX, with Armand on the driver's seat, split their stolen money and discarded Hayda's head; and that Eduardo alighted first, followed by Joseph and then Albert and Armand."<sup>[43]</sup>

Buccal swab, finger prints, foot prints and hair samples were taken from the