

SECOND DIVISION

[G.R. No. 129380, October 19, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO BALTAZAR, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

BONIFACIO BALTAZAR was grazing his carabao outside the cemetery of Bgy. Kaingin, Bongabon, Nueva Ecija, around seven o'clock in the morning of Christmas Day 1992. When it started to rain he went inside the cemetery to seek shelter. As he entered, he smelled a foul odor which he thought was coming from one of the mausoleums. He immediately went to the house of Bgy. Capt. Anastacio Rigdaus to report the matter; however the barangay captain was not there. Baltazar was able to see him only the following day. Bgy. Capt. Rigdaus then summoned two (2) of his *tanods* and told them to proceed to the cemetery to investigate the report. The *tanods* eventually found the body of a young girl already in a state of decomposition, later identified to be that of seven (7)-year old Gladys Joy Marcos who had been missing since 11 December 1992.

On 1 August 1994, or two (2) years later, Bonifacio Baltazar was charged with murder for the killing of seven (7)-year old Gladys Joy Marcos in an Information which alleged that about 11 December 1992, at around five o'clock in the afternoon, he willfully and feloniously, with intent to kill, cruelty, use of superior strength, employing means to weaken the defense or to insure impunity, hit her head with a hard object resulting in her instantaneous death.^[1]

Roberto Marcos, father of Gladys Joy, testified that his daughter had been missing since 11 December 1992 and was found dead on 26 December 1992 inside the cemetery in Bgy. Kaingin, Bongabon, Nueva Ecija. Subsequently, the accused Bonifacio Baltazar, a neighbor living some five (5) houses away, became a suspect in the killing of Roberto's daughter.

Alejandro Briones, whose house was just fifty (50) meters away from that of the accused, testified that in the afternoon of 11 December 1992 while he was on his way home from his onion plantation he passed by the accused Bonifacio Baltazar and Gladys Joy Marcos walking hand in hand near the cemetery.

That much, unfortunately, was the evidence for the prosecution.

The accused denied participation in the perpetration of the crime. He claimed that he never left his house on 11 December 1992 and was in fact playing *tong-its*^[2] with his neighbors.

Bgy. Capt. Anastacio Rigdaus testified that it was the accused who reported to him the stench supposed to be coming from one of the tombs in the cemetery. He also said that he saw the accused attend the wake of the victim.

Rodrigo Lucero, a public school teacher, testified that on 11 December 1992 he and his companions were at the cemetery constructing a tomb for one of his relatives, and that on that day he saw a person enter the cemetery but could not identify him as the person of the accused.

Mercy Mercado whose house was near the cemetery testified that between 4:00 o'clock and 5:00 o'clock in the afternoon of 11 December 1992 Gladys Joy bought some snack items from her store. She was riding on a bicycle with a male companion in his 20's.

On the basis of the very scanty evidence herein narrated, the court *a quo* on 28 March 1997 found the accused guilty of murder and sentenced him to *reclusion perpetua* and to indemnify the heirs of Gladys Joy Marcos P50,000.00 for her death, P50,000.00 for moral damages, and to pay the costs.^[3]

Quite obviously, the trial court convicted the accused of murder based on circumstantial evidence. It thus ratiocinated -

It is true that no witness testified that it was the accused who had in fact killed the victim. However, Section 5, Rule 133 of the Rules of Court provides that circumstantial evidence is sufficient for conviction if: a) There is more than one circumstance; b) The facts from which the inferences are derived are proven; and c) The combination of all the circumstances are such as to produce a conviction beyond reasonable doubt.

The prosecution brought to fore the following circumstances which purportedly prove that the accused is the culprit, to wit: 1. That the accused was seen with the victim in the town cemetery at around 5:00 o'clock of December 11, 1992 and immediately before she disappeared x x x 2. That the victim was missing thereafter x x x 3. That the victim was found dead in the very town cemetery and near the place where she and the accused were seen x x x 4. That the accused left and was never seen anymore in the town after the discovery of the body of the victim on December 26, 1992 x x x 5. That the accused has not visited nor condoled with the family during the wake of his neighbor x x x

There are other circumstances which the Court notes (in) proving the guilt of the accused. For one, while the accused claims he was at the wake of the victim for three (3) hours x x x there was no witness to corroborate his presence. On the other hand, Roberto Marcos, the victim's father, as well as witness Francisco Flores, testified that they never saw the accused at the wake x x x This casts serious doubt as to the credibility of the accused's alibi, especially when considered in the light of the fact that he should have readily been noticed at the wake, being the person who first reported the existence of a dead body to the authorities. It is likewise strange that the accused, as he himself admitted, never attempted to talk to the victim's relatives.

Clearly, for a conviction based on circumstantial evidence to prosper, the prosecution must establish more than one circumstance indubitably linking the accused to the commission of the crime. Likewise, the facts from which the inferences are derived are proved and that the combination of all these circumstances must produce a conviction beyond reasonable doubt. This is not so in the instant case.

Strictly speaking, the prosecution presented in evidence only one (1) circumstance linking, albeit indirectly, accused-appellant to the crime, i.e., that he was seen walking hand in hand with the victim outside the cemetery in the afternoon of 11 December 1992 immediately before the latter's disappearance. As to the fact that accused-appellant left Bongabon immediately after knowing that he was being suspected of having killed Gladys Joy, it only remained a mere supposition on the part of the prosecution. Other than the testimonies of Alejandro Briones and Roberto Marcos to the effect that they had not seen the accused-appellant after 26 December 1992, no other evidence was presented to prove their claim that indeed he had already left Bongabon.

On the contrary, their testimonies were belied by the fact that when the warrant of arrest was issued against accused-appellant, it was stated therein that the latter could be found at his residence in Bgy. Kaingin, Bongabon, Nueva Ecija. In fact, after the warrant of arrest was served, accused-appellant was found and apprehended in no time at all at his stated address. If indeed he was in hiding as intimated by the prosecution, then the apprehending officers would have encountered difficulty in finding him. Also, it is not true that accused-appellant was not at the wake of the victim. On this fact, Bgy. Capt. Rigdaus corroborated the testimony of accused-appellant that he was at the wake of the victim.

For a conviction based on circumstantial evidence to stand, it is imperative that there be a confluence of circumstances. These circumstances which are proved 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.^[4] We find that the web of circumstances adverted to above does not constitute an unbroken chain that would fairly lead to the conclusion that it was accused-appellant who killed the victim. In short, the circumstances laid by the prosecution failed to establish the guilt of accused-appellant beyond reasonable doubt. There were lapses in the ruling of the court below.

First, it declared that "Briones clearly and categorically identified the accused as the one who took the victim to the cemetery immediately before the latter was killed or reported missing." This is misleading. Nowhere in the testimonies of Briones could be found that it was accused-appellant who brought the victim into the cemetery. He only testified that he passed by the victim and accused-appellant who were walking towards the cemetery. In fact, upon further clarification, Briones did not even know where accused-appellant and the victim went after he passed them by.

Second, it was error on the part of the court below to state that "while the accused claims he was at the wake of the victim for three hours x x x there was no witness to corroborate his presence. On the other hand, Roberto Marcos x x x as well as witness Francisco Flores, testified that they never saw the accused at the wake." As culled from the records, Bgy. Capt. Rigdaus corroborated the testimony of accused-appellant that he attended the wake of the victim. Likewise, the records revealed that Flores did not testify that he did not see accused-appellant at the wake of the victim. In fact, he never mentioned the wake of the victim at all. All he said was that accused-appellant did not attend the burial of Gladys Joy. Plainly, wake and burial are two different things. Besides, Flores would have been incompetent to conclude that accused-appellant did not attend the wake as Flores himself was not present at the wake all of the time. It was possible then that accused-appellant was there during the time when Flores was absent. Moreover, it was understandable and not unusual for accused-appellant not to talk to or approach the parents of Gladys Joy during the vigil. As explained by accused-appellant, he was not personally acquainted with the Marcoses but, just the same, he went to the wake as was customary for a neighbor in their place.

Third, the trial court convicted accused-appellant based mainly on the testimony of Briones. The court *a quo* stated thus: "A perusal of the records shows that perhaps the most important evidence in the prosecution's favor is the testimony of Alejandro Briones x x x x The fact that witness Rodrigo Lucero saw a person (enter the cemetery) who was not the accused does not prove that the categorical identification of Alejandro Briones pointing to the accused as the person seen with the victim is false. In the first place, the Court noted the demeanor of Alejandro Briones at the witness stand who testified in all candor." But a closer scrutiny of the records would reveal that Briones was not really straightforward in his testimony. In fact, at one instance, the hearing of the case was reset due to the confusion manifested by Briones. The minutes of the hearing held on 7 November 1994 is quite revealing. It stated -

When the case was called for hearing, the Public Prosecutor conducted his direct examination of prosecution witness Alejandro Briones. However, due to an apparent state of confusion manifested by the witness as noticed by the Court and Cross-Examining Counsel, the continuation of the cross examination of the witness Alejandro Briones is hereby reset x x x x^[5]

In criminal prosecutions, the identity of the offender must be established.^[6] In the instant case, the prosecution endeavored to demonstrate that accused-appellant was the assailant by showing that he was the last person seen in the company of the victim immediately before she disappeared. Nonetheless, based on the quantum of evidence required in criminal cases, the evidence presented by the prosecution would not constitute proof beyond reasonable doubt of the guilt of accused-appellant. It cannot be made to rest on mere speculations or even probabilities.^[7] It is not sufficient for conviction that the evidence establishes a strong suspicion or even a probability of guilt. Proof beyond reasonable doubt that the accused committed the crime is required.

At all times an accused is presumed innocent unless proved otherwise. The *onus* is on the State to dispose of this presumption. In the case before us, we find that the prosecution miserably failed to discharge its burden. Although

accused-appellant proffered only denial and alibi as defenses, still, the evidence presented by the prosecution was weaker, and could not prevail over the constitutional presumption of innocence.

WHEREFORE, the appealed Decision of the Regional Trial Court, Br. 40, of Palayan City in Crim. Case No. 0534 - P is **REVERSED** and **SET ASIDE**. Accused-appellant Bonifacio Baltazar is **ACQUITTED** on insufficiency of evidence or on reasonable doubt.

The Director of Prisons is **DIRECTED** to forthwith cause the release of Bonifacio Baltazar unless the latter is held for another lawful cause and to inform this Court accordingly within ten (10) days on the action taken hereon.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

Judgment reversed and set aside. Accused-appellant Bonifacio Baltazar acquitted.

Note. – A key element in the web of circumstantial evidence is motive. (*People vs. Villaran*, 269 SCRA 630 [1997])

[1] *Information; Rollo, p. 10.*

[2] *A card game.*

[3] *Decision penned by Judge Erlinda Pestaño Buted, RTC-Br. 40, Palayan City, p. 18; Rollo, p. 126.*

[4] *People v. Ragundiaz, G.R. No. 124977, 22 June 2000.*

[5] *Original Records, p. 59.*

[6] *People v. Castillo, G.R. No. 130188, 27 April 2000.*

[7] *People v. De Los Santos, G.R. No. 126998, 14 September 1999, 314 SCRA 303.*