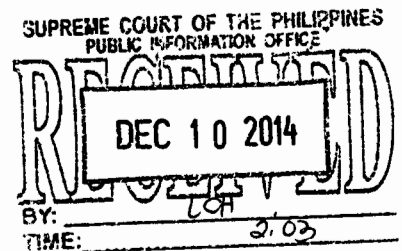




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated November 19, 2014, which reads as follows:

“G.R. No. 200944 (*People of the Philippines vs. Norchito Cipriano Guadayo*). – On appeal is the July 28, 2011 Decision¹ of the Court of Appeals (CA) which modified the May 22, 2003 judgment² of the Regional Trial Court (RTC), Branch 19, of Isulan, Sultan Kudarat. The RTC convicted appellant of murder based on circumstantial evidence, but the CA modified the judgment of conviction and instead found appellant guilty of rape with homicide as charged.

Summarily, the prosecution evidence proved the following facts: On February 3, 2001, AAA,³ a six-year-old Grade 1 student, went to her school in Kalamansig, Sultan Kudarat, to attend a review class for their upcoming achievement test. Around 3 o'clock in the afternoon, prosecution witness Cristeven Mallari, a Grade 5 student in the same school who was then on his way to appellant's store inside the school, saw AAA heading towards the main gate. Because the main gate was already closed, Mallari told AAA to pass through Gate 2. Then, Mallari proceeded to buy ice candy from appellant's store. After buying ice candy, Mallari went to the back of the Teachers Consumers Cooperative. On his way, he saw appellant, the school security guard, sitting near AAA in the area near the septic tank. Mallari told AAA to go home as he passed her, but AAA informed him that she was still waiting for her father who was supposed to fetch her. Mallari then went out of the school to the tennis court to watch an ongoing game. He later saw AAA's father BBB looking for AAA. Because AAA was already gone from the place where Mallari last saw her, Mallari told BBB that AAA had already gone home. Mallari then went on to watch a basketball game. Mallari however felt the need to urinate after some time. He decided to

¹ *Rollo*, pp. 5-19. Penned by Associate Justice Abraham B. Borreta with Associate Justices Edgardo A. Camello and Melchor Quirino C. Sadang, concurring. The assailed decision was rendered in CA-G.R. CR-HC. No. 00345-MIN.

² *CA rollo*, pp. 23-101. Penned by Judge German M. Malcampo and rendered in Criminal Case No. 2751.

³ The victim's real name and personal circumstances or any other information tending to establish or compromise her identity as well as those of her immediate family are withheld per *People v. Cabalquinto*, 533 Phil. 703, 709 (2006).

relieve himself at the side of the fence and while there, Mallari saw appellant dragging AAA by the hand towards the fishpond full of *kangkong* plants. Mallari saw that AAA's body was very limp and her head was hanging limply while appellant dragged her. He also saw appellant push AAA's body towards the bottom of the fish pond. All this time, Mallari hid himself from appellant's view. He did not report the incident nor did he tell AAA's father what he knew.⁴

The following morning, AAA's parents, together with police authorities, ROTC cadets and other concerned citizens, who came searching for AAA, found her belongings near the septic tank. Around 11:00 a.m., they found her lifeless body at the bottom of the fishpond. She was naked on the upper portion of her body and her short pants had been pulled down to her knees. The post-mortem examination of her body also showed abrasions, bruises, injuries on her chest and face, and evidence of rape because of the presence of complete lacerations in her hymen at the 3 o'clock and 7 o'clock positions. The examining physician further opined that she was still alive when she was pushed into the water because of the presence of muddy particles in the thoracic region. The cause of death was reported to be cardio pulmonary arrest secondary to lactic acidosis due to asphyxia.⁵

AAA's father, BBB, also testified that on the night of February 3, 2001 he came looking for AAA. He was about to look for her near the septic tank when appellant stopped him, telling him that the area was muddy. BBB claimed that appellant guided him to proceed towards the orchidarium away from the area of the septic tank. BBB added that when he came looking for AAA, he asked appellant if he saw her, but appellant denied having seen AAA on February 3, 2001.⁶

In the face of the prosecution evidence, appellant offered the defense of denial and alibi. Appellant admitted that he saw Mallari inside the school campus but denied seeing AAA. He also denied he was at the fishpond around 5:45 p.m. and claimed instead that he was in his house inside the school. He added that in the afternoon of February 3, 2001, the school supervisor instructed him to dispose of a dead dog in the river, and he presented several witnesses who testified to that effect. He opined that Mallari mistook the dead dog for AAA.⁷

The RTC found appellant guilty of murder and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the heirs of AAA ₱6,500 as actual damages, ₱50,000 as civil indemnity, ₱50,000 as moral damages, and ₱30,000 as exemplary damages. The trial court found appellant's

⁴ *Rollo*, pp. 6-7.

⁵ *Id.* at 7, 12-13.

⁶ *Id.* at 7.

⁷ *Id.* at 8-9.

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uncorroborated defense of denial and alibi unworthy of credence especially considering the positive identification made by Mallari who was not shown to have any ill motives to testify falsely against appellant. The trial court noted that Mallari testified in a candid, categorical, and straightforward manner and did not waver even during cross-examination. However, the trial court held that appellant was only guilty of murder instead of rape with homicide because the prosecution failed to present evidence to prove the identity of the person who sexually molested AAA and likewise failed to establish a direct relation between the rape and the killing. Thus, while the killing of AAA was established, the prosecution was unable to prove the special complex crime of rape with homicide, said the trial court.⁸

The CA, as aforesaid, modified the RTC decision and found appellant guilty of the crime of rape with homicide. Appellant was sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and ordered to pay the heirs of AAA ₱75,000 as civil indemnity, ₱75,000 as moral damages, ₱30,000 as exemplary damages, and ₱25,000 as temperate damages.⁹

The CA held that the prosecution was able to prove beyond reasonable doubt that appellant raped and killed AAA. The CA noted that Dr. Ronald Jaramillo who examined AAA's body, opined that she was the victim of sexual abuse due to the presence of abrasions, bruises and injuries in AAA's chest and face, the skin avulsion in the anterior part of the external female sex organ at the 6 o'clock position and the presence of blood from her vagina. Dr. Ricardo Rodaje of the NBI Medico Legal Division who also conducted an examination of her body, likewise testified to the complete laceration of AAA's hymen at the 3 o'clock and 7 o'clock positions. Present also were other indications of rape such as the description of AAA's clothing and undergarments. These circumstances, when taken together with the fact that appellant was the last person to be seen with AAA, and that he was later seen dragging AAA's unconscious body towards the fishpond and pushing her to the bottom, prove that appellant raped AAA before killing her.¹⁰

Appellant filed the present appeal essentially questioning Mallari's credibility.

We dismiss the appeal. We have carefully reviewed the records of this case and the parties' submissions and find no cogent reason to disturb the decision of the CA. There is no showing that either the RTC or the CA committed any error in its assessment of Mallari's credibility. It has been consistently held that in criminal cases the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge, whose

⁸ CA rollo, pp. 92-101.

⁹ Rollo, p. 18.

¹⁰ Id. at 10-14.

conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe said witnesses on the stand and ascertain if they were telling the truth or not.¹¹ A witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent on cross-examination is a credible witness.¹² Absent any showing in this case that the lower courts overlooked, misunderstood or misappreciated substantial facts and circumstances, which if considered, would change the result of the case, this Court gives deference to the trial court's appreciation of the credibility of witnesses, especially since this Court's own review of the records leads it to conclude that Mallari's testimony meets the test of credibility.

We note that appellant could only offer denial and alibi in his defense. Denial and alibi, however, are weak defenses which must be supported by strong evidence of non-culpability to merit credibility. These are negative self-serving evidence which cannot be given greater weight than the testimony of a credible witness who testified on affirmative matters. Between the positive identification made by Mallari and appellant's bare self-serving denial and alibi, the former deserves more credence.¹³

Indeed, Mallari's testimony that he saw appellant dragging AAA's unconscious body towards the fishpond and pushing her towards the bottom of the fishpond debunks appellant's denial of any participation in the crime. Then, too, we take note of appellant's other clear attempts to hide discovery of the crime as shown by BBB's testimony that appellant denied having seen AAA when BBB started looking for AAA and asked him if he had seen AAA. BBB also testified that appellant stopped him from looking for AAA in the very area where AAA's belongings were later recovered. Considering that appellant was the last person to be seen with AAA and that between the time Mallari saw appellant sitting near AAA and the time appellant drowned AAA in the fishpond, AAA was raped, we find that the appellate court correctly found appellant guilty of rape with homicide.

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.¹⁴ While it is established that nothing less than proof beyond reasonable doubt is required for a conviction, this exacting standard does not preclude resort to circumstantial evidence when direct evidence is not available. Direct evidence is not a condition *sine qua non* to prove the guilt of an accused beyond reasonable doubt. For in the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden. Crimes are usually committed in secret and under

¹¹ *People v. Obina*, G.R. No. 186540, April 14, 2010, 618 SCRA 276, 281.

¹² *People v. Torres*, 418 Phil. 694, 711 (2001); *People v. Dayuha*, 396 Phil. 721, 726 (2000).

¹³ See *People v. Amante*, 440 Phil. 651, 669-670 (2002); *People v. Alvero*, 386 Phil. 181, 200 (2000).

¹⁴ *People v. Guihama*, 452 Phil. 824, 843 (2003).

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conditions where concealment is highly probable. If direct evidence is insisted on under all circumstances, the prosecution of vicious felons who commit heinous crimes in secret or secluded places will be hard, if not impossible, to prove.¹⁵


As regards the award of damages, we affirm the amounts awarded by the appellate court as the same are in line with prevailing jurisprudence. However, pursuant to current policy, we likewise impose interest on all damages awarded in this case reckoned from the finality of this Resolution until fully paid. The rate is hereby declared to be the legal rate of 6%.

WHEREFORE, the appeal is **DISMISSED**. The July 28, 2011 Decision of the Court of Appeals in CA-G.R. CR-HC. No. 00345-MIN is **AFFIRMED with MODIFICATION**. Appellant is likewise ordered to pay interest at the legal rate of 6% per annum on all damages awarded in this case reckoned from the finality of this Resolution until fully paid.

With costs against the accused-appellant. (**Jardeleza, J.**, no part, due to his prior action as Solicitor General; **Perez, J.**, designated Member per Raffle dated November 10, 2014.)

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
 Division Clerk of Court
 ds 11/24/14

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The Chief Superintendent
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The Presiding Judge
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¹⁵ *People v. Navarro, Jr.*, 454 Phil. 728, 745 (2003).