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[G.R. No. L-35063. December 27, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RIZAL A. RAMOS,** *defendant-appellant.*

SYLLABUS

1. **REMEDIAL LAW; EXTRAJUDICIAL CONFESSION; VOLUNTARINESS; CIRCUMSTANCES REFUTING ACCUSED'S CLAIM THAT HIS CONFESSION WAS INVOLUNTARY.**— The trial court, therefore, committed no error in not giving credence to appellant's claim that this confession was extracted through force, violence and intimidation for this is refuted by: (a) the testimony of the Assistant Provincial Fiscal before whom the confession was subscribed and sworn to by appellant; (b) the firm hand with which the signature was written, twice on the left margin of pages 1 and 2 and at the bottom of page 3; (c) the profusion of details in the confession; and (d) the fact that some of the details of the confession were confirmed by other evidence. The presumption of law is in favor of the spontaneity and voluntariness of a statement given by an accused before police officers, and the confessant carries the burden of convincing the trial judge that his admissions are involuntary or untrue.

2. **ID.; EVIDENCE;** ***CORPUS DELICTI*****; PHYSICAL FACTS WHICH PROVE THE COMMISSION OF THE CRIME.**— As correctly found by the trial court, there are physical facts which prove the commission of the crime of rape. There is the report of Dr. Zacarias Aoigan, Rural Health Officer of Batac, Ilocos Norte, who conducted an autopsy on the body of the deceased. According to Dr. Aoigan, he found "irregular perforation" on the hymen of the victim, 3/4 of an inch in diameter, which perforation of the hymen was still fresh. Her dress was stained with blood. Her blouse and her panties were also bloody and torn. Her half-slip was torn on several portions and ripped from top to bottom. As shown by the pictures taken of the victim's body, soon after it was found by her mother, the legs of the victim were bent at the knees and spread wide apart, a position strongly indicating the posture of a woman who has been sexually abused.

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3. ID.; COURTS; COURT OF FIRST INSTANCE; FINDINGS OF FACTS; APPELATE COURT WILL NOT DISTURB THE TRIAL COURT'S FINDINGS AS TO THE CREDIBILITY OF THE WITNESS.— The lower court, which had the fullest opportunity to observe the demeanor of this witness, stated that it was impressed with the "candor and forthrightness" of Nestor "whose testimony was confirmed in its details by the evidence of the defense." It is a cardinal rule of evidence that an appellate court will not disturb a trial court's findings as to the credibility of a witness because such trial court had full opportunity to observe the witness' demeanor on the stand, which the appellate court does not have.

4. CRIMINAL LAW; PENALTIES; CAPITAL; IMPOSABLE IN CASE OF SPECIAL COMPLEX CRIME OF RAPE WITH HOMICIDE.— Having found that accused is guilty beyond reasonable doubt of the special complex crime of rape with homicide, this Court has no alternative but to impose the penalty prescribed by the law therefor, namely, death. Article 335, as amended by Republic Act No. 2632 and Republic Act No. 4111, of the Revised Penal Code provides, among others, that "When by reason or on the occasion of a rape a homicide is committed, the penalty shall be death" (last paragraph). Death is provided as a single, indivisible penalty and, therefore, neither the court *a quo* nor this Tribunal has any discretion with respect to the severity of the penalty to be imposed upon a person found guilty of rape with homicide. We are bound by the mandate of the law. Even if mitigating circumstances had attended the commission of the crime (which is not the case here), the imposition of the indivisible penalty of death would still be called for.

APPEARANCES OF COUNSEL

Eduardo J. Berenguer (Counsel de Oficio) for appellant.
Office of the Solicitor General for appellee.

D E C I S I O N

PER CURIAM:

Automatic review of a decision dated April 13, 1972 of the Court of First Instance of Ilocos Norte finding the accused

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Rizal A. Ramos guilty beyond reasonable doubt of the crime of Rape with Homicide and sentencing him to suffer the penalty of death, with the accessories of the law, and ordering him to indemnify the heirs of the deceased Modesta Battulayan in the amount of ₱12,000.00, plus ₱5,000.00 as moral damages.

The factual background of the case is as follows:

In the morning of November 21, 1971, Cristina Manglallan Battulayan, while walking along an isolated road on her way to the Poblacion of Batac, Ilocos Norte to sell vegetables, found the lifeless body of her eighteen year-old daughter, Modesta Battulayan, lying face up on the ground, with legs spread apart and clothes torn and bloody. Cristina shouted for help and her husband and two sons, as well as the Barrio Captain, arrived at the scene. The police authorities were sent for and the cadaver was first brought to the town hall, then to the Battulayan residence. An examination of said cadaver was conducted by Dr. Zacarias Aoigan, Rural Health Officer of Batac, Ilocos Norte, who indicated in his report (Exhibit "C") and later on testified in open court that the victim sustained a total of five (5) stab wounds on various parts of the body and two (2) lacerated wounds on the head, and that the cause of death was shock due to internal hemorrhage. Vaginal findings indicated an irregular perforation of the hymen, 3/4 of an inch in diameter.

After the discovery of the victim's body, an investigation was conducted by the police authorities of Batac. The police were informed of the identities of persons who were seen near the vicinity of the situs of the crime, namely Reynaldo Aguibitin and Rizal Ramos. After looking in vain for these persons in their respective homes, they found them later that day sleeping in the house of Juanito Ramos at Barrio Capacuan, Batac, Ilocos Norte. When they were told to go to the Poblacion, Rizal Ramos escaped from the police. They were able, however, to pick up Rizal Ramos at 4:00 a.m. on November 22, 1971. Nestor Aguibitin, a young man 14 years of age, when investigated by the police revealed that while he and Rizal Ramos were walking together near the scene of the crime, appellant Ramos left him to answer a call of nature. He heard the screams of a woman coming

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from the direction where Ramos went. And when Ramos returned he was excited and breathing very hard. He warned him not to reveal where they went that night. As a result of Aguibitin's testimony, appellant Rizal Ramos was brought in for questioning.

On November 22, 1971, the appellant gave a statement (Exhibit "A") wherein he admitted having raped Modesta Battulayan and later having stabbed and killed her in order to silence her as she knew him personally. This statement was subscribed and sworn to by the appellant before Assistant Fiscal Fernando Alcantara of Ilocos Norte, after having previously signed the same in the presence of the investigating police authorities.

On January 8, 1972, an Information for the crime of Rape with Homicide was filed against the appellant in the Court of First Instance of Ilocos Norte. Upon arraignment, Rizal Ramos pleaded not guilty of the crime charged, and at the trial of the case, repudiated his confession (Exhibit "A") on the ground that the same was signed by him only because he was maltreated and threatened with death by the police investigators.

After trial, the court *a quo* rendered the aforementioned decision and the case is now before this Court for automatic review.

Appellant reiterates his repudiation of Exhibit "A", alleging that said statement was concocted by the police investigators and that his signature thereon was affixed by him because he was maltreated and threatened by them.

The lower court refused to give credence to this allegation of the appellant, finding that the confession was actually voluntarily and freely given and hence admissible in evidence. We agree with the court *a quo*. It is on record that the accused underwent an X-ray examination and physical examination but no indications or signs of maltreatment were found on his body. Moreover, Fiscal Fernando Alcantara, before whom the confession was subscribed and sworn to, testified that when the appellant was brought before him, he examined his person and found no signs of any physical injuries whatsoever, except a few scratches

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on his arms which, according to the testimony of the accused, were caused by the frantic struggles of the victim to free herself. The Fiscal likewise inquired of him if he freely and voluntarily made the statement, even translating the questions and answers to him from English to Ilocano to ensure that he understood the same, and he answered in the affirmative. After he had subscribed to the confession and as he was about to leave, the Fiscal asked him if he was regretting having given his statement and he gave a negative reply. It appears undisputed that at the time appellant was investigated by the police in the afternoon of November 22, 1971, there were several persons present, namely, Dr. Gaudencio Flojo, Benedicto Tinio and Atty. Nalupta. Dr. Flojo declared that appellant's answers to the questions of the police investigator were spontaneous. In his extrajudicial confession (Exhibit "A"), appellant declared, among others, as follows:

Q: Do you know why the Police Force came to pick you up in your home?
A: Yes, sir.

Q: What do you know about it?
A: Because I know that the Police suspected me to be the one who raped and killed one, MODESTA BATTULAYAN, of Sitio Sibbo, Bo. of Camguidan, 25-N, Batac, Ilocos Norte.

Q: When did you commit this crime?
A: Last Saturday evening between the hour of 1730H. to 1800H. November 20, 1971.

Q: Where did you commit this crime?
A: At the Barrio Road from Bo. 27-E leading to Sibbo, Bo. Camguidan, Batac, Ilocos Norte.

Q: Can you specifically point that point where you did the dastardly crime?
A: Just a few meters at the top of the grade of the barrio road leading to Bo. Camguidan, on top of the big flat stones found at the center of said barrio road.

Q: What made you make up your mind to commit that kind of crime?
A: I was then in the influence of liquor, sir.

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Q: Where did you get that liquor?
A: In my house, sir.

Q: Did you really commit a sexual intercourse with the late deceased, Modesta Battulayan?
A: Yes, sir.

Q: Did the woman give any resistance when you committed that sexual intercourse?
A: Yes, sir, she put up a firm resistance that was why there were scratches made, on my right arm and left hand and also infront above my breast.

Q: After you have committed the sexual intercourse with the late deceased Modesta Battulayan what else did you do to her?
A: I rendered several stab wounds only I am not certain how many injuries inflicted on her.

Q: You stated that you stabbed her several times what weapon did you use?
A: A single bladed weapon (IMOCO), sir.

Q: Who is the owner of that bladed weapon which you use in stabbing your victim?
A: I borrowed from Andres Aguibitin, a resident of Bo. Camguidan, Batac, Ilocos Norte.

Q: If that bladed weapon is shown to you now can you still identify it? (Investigator showing to him the subject knife [IMOCO] about 7-l/2 inches blade) Is this the same knife you used in stabbing the late Modesta Battulayan?
A: Yes, sir.

Q: At the time when you were forcing the late Modesta Battulayan in raping her, aside from putting up a fight with you what else did she do?
A: She had been screaming for help.

Q: How many times did you hear her screamed?
A: I could only recall three times, sir.

Q: Did anybody come to her rescue?
A: None, sir.

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Q: After you have satisfied your lust by raping the woman, what prompted you further to stab or inflict so many fatal wounds on the late Modesta Battulayan?

A: I wanted to silence her perpetually because of the fact that the deceased knows me personally.

Q: After you have raped her and inflicted stab wounds on different parts of her body, what more did you do to her, if any?

A: The last act I did was to stab her so that the wound on the left of the head was inflicted ahead of the stab wounds. When I was able to force her to lay on the ground she still put up a fight so that I had to pick up a stone nearby and use it to knock her head, and that made her unconscious.

Q: Showing to you this stone now in the possession of the police authorities. (Investigator showing the stone to the subject, which stone was found by the Police at the scene of the crime, or just near the left side of the head of the victim), is this the same stone you used in knocking the victim on the head?

A: Yes, sir, this is the same stone used in knocking the victim on the head.

Q: Why were you at that particular part of the barrio road at that time and date?

A: My purpose was to visit one Hospicio Cienda at Bo. Camguidan but because I saw a woman walking alone we had to purposely follow that lone woman on that barrio road.

Q: Is it true that when you saw that lone woman walking on that barrio road on that late hour of the day you had already made up your mind to commit the heinous crime?

A: Yes, sir.

* * * * * * * * *

Q: When you left her at the place where you inflicted those wounds on the person of the late Modesta Battulayan, was she already dead at the time?

A: No, sir, but she was still moaning and groaning, sir."

It is apparent from the answers given by the appellant that they are replete with details that only the declarant could have known.

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Aside from the confession given by the appellant and the testimony of Nestor Aguibitin, there are other evidence which points to appellant Rizal Ramos as the perpetrator of the heinous crime. Scratches on his arms, hands and chest indicate the struggles of the victim and the resistance she put up in defense of her honor and her life. Likewise, We take cognizance of other pieces of evidence in the possession of the court *a quo*, in the nature of autoptic profference, consisting in a pair of men's briefs (Exhibit "J") and a handkerchief (Exhibit "K") belonging to the appellant with tell-tale bloody spots on them. The trial court, therefore, committed no error in not giving credence to appellant's claim that this confession was extracted through force, violence and intimidation for this is refuted by: (a) the testimony of the Assistant Provincial Fiscal before whom the confession was subscribed and sworn to by appellant; (b) the firm hand with which the signature was written, twice on the left margin of pages 1 and 2 (Exhibits "A-3", "A-4", "A-5", "A-6") and at the bottom of page 3 (Exhibits "A-1" and "A-2"); (c) the profusion of details in the confession; and (d) the fact that some of the details of the confession were confirmed by other evidence. The presumption of law is in favor of the spontaneity and voluntariness of a statement given by an accused before police officers, and the confessant carries the burden of convincing the trial judge that his admissions are involuntary or untrue.[1]

Appellant further contends that aside from the confession of appellant Ramos, there is not enough evidence to prove that the deceased was actually raped.

As correctly found by the trial court, there are physical facts which prove the commission of the crime of rape. There is the report (Exhibit "B") of Dr. Zacarias Aoigan, Rural Health Officer of Batac, Ilocos Norte, who conducted an autopsy on the body

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[1] *People v. Pereto*, L-20894, Dec. 29, 1967, 21 SCRA 1469; *People v. Manuel*, L-23786-87, Aug. 29, 1969, 29 SCRA 337; *People v. Baluran*, L-28582, March 25, 1970, 32 SCRA 71; *People v. Pingol*, L-26931, May 28, 1970, 33 SCRA 73.

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of the deceased. According to Dr. Aoigan, he found "irregular perforation" on the hymen of the victim, 3/4 of an inch in diameter, which perforation of the hymen was still fresh. Her dress was stained with blood (Exhibit "D"). Her blouse (Exhibit "D-1") and her panties were also bloody and torn. Her half-slip was torn on several portions and ripped from top to bottom. As shown by the pictures taken of the victim's body, soon after it was found by her mother (Exhibits "F" and "F-1"), the legs of the victim were bent at the knees and spread wide apart, a position strongly indicating the posture of a woman who has been sexually abused.

As stated heretofore, the admission of appellant contained in his confession is further corroborated by the testimony of Nestor Aguibitin, a boy 14 years old at the time of the trial. This witness testified that on November 20, 1971, between 5:00 and 6:00 o'clock in the afternoon, he was at the residence of Rizal Ramos to collect his older brother's wage for harvesting rice from appellant. As the *palay* representing said wage had not yet been segregated, he announced that he was going home but Rizal Ramos asked him to wait so that the two of them can go together. Nestor noticed that appellant was drunk and that he had on his person a small, sharp, pointed bolo (Exhibit "H") known in the Ilocano dialect as an "*immoco*." After they had walked some seventy (70) meters, Rizal told Nestor to wait for him as he was going to move his bowels. Rizal walked southward and was gone for about forty (40) minutes. He felt somewhat uneasy waiting for appellant, especially when he heard a woman scream about three or four times, coming from the direction on the top of the trial off the barrio road where appellant went. When Rizal Ramos returned, witness noticed that he looked tired and was gasping for breath. Rizal warned Nestor that: "Whatever you heard, please do not tell it to anybody but if you do I will kill you." At the suggestion of Ramos, they abandoned their original southward route which have brought them to the residence of the Aguibitins but instead took a farther and more roundabout one by going first northward and then proceeding eastward. In the course of their journey, appellant

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told him to go faster so they moved at a faster gait, until they reached their destination.

The lower court considered the testimony of Nestor Aguibitin to be credible and convincing. It made the observation that Nestor had no motive whatsoever to falsify the truth. It found, on the contrary, that the Aguibitins and the Ramoses are close and intimate friends and that Rizal is even married to a cousin of the Aguibitins. According to Patrolman Crisanto Casela it was after the appellant was confronted by Nestor Aguibitin that the latter admitted the commission of the crime. The lower court, which had the fullest opportunity to observe the demeanor of this witness, stated that it was impressed with the "candor and forthrightness" of Nestor "whose testimony was confirmed in its details by the evidence of the defense." It is a cardinal rule of evidence that an appellate court will not disturb a trial court's findings as to the credibility of a witness because such trial court had full opportunity to observe the witness' demeanor on the stand, which the appellate court does not have.[2] We, therefore, hold that the voluntary extrajudicial confession of appellant, together with the evidence of *corpus delicti* and the other relevant and material evidence afore-stated, are sufficient to sustain the finding of guilt of the trial court.

Appellant, however, questions the imposition of the death penalty upon him. It is his position that such a penalty is a cruel and unusual punishment prescribed by the Constitution. We are constrained to say that at this juncture this is but an academic exercise. This is not a judicial question, but a proper subject of discussion among behavioral scientists, criminologists and penologists. Having found that accused is guilty beyond reasonable doubt of the special complex crime of rape with homicide, this Court has no alternative but to impose the penalty prescribed by the law therefor, namely, death. Article 335, as

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[2] *People v. Caoile*, L-31104, Nov. 15, 1974, 61 SCRA 73; *People v. Jovellano*, L-32421, March 27, 1974, 56 SCRA 156; *People v. Beraces*, L-25016, March 27, 1971, 38 SCRA 127; *People v. Dominguez*, L-22474, Nov. 26, 1970, 36 SCRA 59.

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amended by Republic Act No. 2632 and Republic Act No. 4111, of the Revised Penal Code provides, among others, that "When by reason or on the occasion of a rape a homicide is committed, the penalty shall be death" (last paragraph). Death is provided as a single, indivisible penalty and, therefore, neither the court *a quo* nor this Tribunal has any discretion with respect to the severity of the penalty to be imposed upon a person found guilty of rape with homicide. We are bound by the mandate of the law. Even if mitigating circumstances had attended the commission of the crime (which is not the case here), the imposition of the indivisible penalty of death would still be called for.[3]

WHEREFORE, the decision appealed from, finding Rizal A. Ramos guilty beyond reasonable doubt of the crime of Rape with Homicide, ordering him to indemnify the heirs of the deceased in the amount of ₱12,000.00 plus ₱5,000.00 as moral damages, and imposing upon him the penalty of death, is hereby AFFIRMED.

SO ORDERED.

Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, Guerrero, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, concur.

Fernando, C.J., took no part.

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[3] *People v. Amit*, L-29066, March 25, 1970, 32 SCRA 95.