Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

- versus -

ARON AKIL *y* GUAMALON,
Accused-appellant.

G.R. No. 265570

Present:

CAGUIOA, *J.*,
Chairperson,
INTING,*
GAERLAN,
DIMAAMPAO, and
SINGH, *JJ.*

Promulgated:
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DECISION

GAERLAN, *J.*:

This is an ordinary appeal under Rule 122 of the Rules of Court, as amended, seeking to reverse and set aside the Decision[1] dated August 30, 2022 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02496-MIN.

The assailed issuance affirmed *in toto* the Decision[2] dated January 16, 2020 issued by Branch 63 of the Regional Trial Court (RTC) of Polomolok, South Cotabato in Criminal Case No. 5281-18 which, in turn, found accused-appellant Aron Akil *y* Guamalon (Akil) guilty beyond reasonable doubt of the crime of Carnapping, as defined and penalized under Section 3 of Republic Act No. 10883,[3] otherwise known as the New Anti-Carnapping Act of 2016.

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* On official business.

1 *Rollo*, pp. 9–29. Penned by Associate Justice Richard D. Mordeno and concurred in by Associate Justices Evalyn M. Arellano-Morales and Jill Rose S. Jaugan-Lo of the Twenty-Second Division of the Court of Appeals, Cagayan de Oro City.

2 *Id.* at 31–46. Rendered by Presiding Judge Adelbert S. Santillan.

3 Lapsed into law on July 17, 2016 without the signature of President Benigno Simeon C. Aquino III in accordance with Article VI, Section 27(1) of the Constitution.

Antecedents

Akil was indicted of the crime charged by virtue of an Information, the accusatory portion of which reading as follows:

> That on or about the 22nd day of August 2017 at around 4:07 o'clock in the afternoon, in Beside Municipal Compound, Barangay Poblacion, Municipality of Tupi, South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named Accused, without violence against or intimidation of persons or force upon things with intent to gain and without knowledge and consent of the owner, JR BELARDO *y* NADO, did then and there, willfully, unlawfully, and feloniously take, steal, and cart away one black Kawasaki Bajaj CT 100 motorcycle without plate number, with [chassis] number MD2A18AZ8GWJ35192 and engine number DUZWGJ46498 valued at NINETY[-]TWO THOUSAND NINE HUNDRED FIFTY[-]TWO PESOS ([PHP] 92,952.00), to the damage and prejudice of the latter.[4]

Upon arraignment, Akil, assisted by counsel, pleaded not guilty to the offense charged. Thus, pre-trial ensued, followed by trial on the merits.

Version of the prosecution

On August 22, 2017, at around 12:58 p.m., JR Belardo *y* Nado (Belardo) parked his Kawasaki Bajaj CT 100 motorcycle (subject motor vehicle) near the Tupi Municipal Gym. When he returned at around 5:00 p.m., the subject motor vehicle had already disappeared.[5]

Thereafter, Belardo went to the office of the Municipal Disaster Risk Reduction and Management Council (MDRRMC) and requested to check the CCTV footages of the area where he parked the subject motor vehicle. In one of the footages, Belardo saw that a tall man wearing a face mask, a ball cap, and sunglasses take away the subject motor vehicle. While Belardo did not see the said person's face, he saw that he was wearing a yellow Fubu shirt and faded pants, and carried a sling bag. Afterwards, Belardo went to the nearby police station to report the incident.[6]

On September 9, 2017, Belardo was informed by the police that an individual was arrested for stealing a motorcycle in Tupi. On the next day, he went to the police station to ascertain the identity of this person. Inside the detention cell, Belardo saw a tall man, later identified as Akil, who allegedly resembled the person who stole the subject motor vehicle. The police officers at

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4 *Rollo*, p. 31.
5 *Id.* at 11.
6 *Id.*

the station also told Belardo that they were able to retrieve several items that belong to Akil, namely: a red ball cap, sunglasses, a black sling bag, a black mask, and a yellow Fubu shirt. Through these items and Belardo's recollection of the CCTV footage that he saw earlier, he was able to identify Akil as the person who stole the subject motor vehicle on August 22, 2017. Belardo also claimed that Akil allegedly confessed to him that he was the one who stole the subject motor vehicle.[7]

Version of the defense

Professing innocence, Akil vehemently denied the accusation against him. He claimed that on August 22, 2017, at around 4:00 p.m., he was in his house in Barangay Mabuhay, General Santos City.

He also claimed that on September 9, 2017, he went to Tupi to attend a festival when, suddenly, police officers dragged him away and arrested him. He denied that the items purportedly confiscated by the police belonged to him.

The RTC Ruling

On January 16, 2020, the RTC rendered a Decision[8] finding Akil guilty as charged. The trial court reasoned that although there was no direct evidence to prove Akil as the person who stole the subject motor vehicle, the circumstantial evidence collected by the police sufficiently establish his guilt beyond reasonable doubt.

These circumstances, according to the RTC, are: (1) based on the CCTV footage, the person who stole the subject motor vehicle was wearing a red ball cap, a yellow shirt, a black mask, and had a sling bag; (2) a few days after the subject motor vehicle was stolen, Akil himself was arrested for stealing a different motorcycle in Tupi, South Cotabato; (3) when Akil was brought to the police station, the police officers retrieved from his possession a red ball cap, a yellow shirt, a black mask, sets of keys, and a sling bag; and (4) Akil's alleged admission that he indeed stole the subject motor vehicle.

Ultimately, the RTC decreed:

> WHEREFORE, premises considered, this Court finds the accused ARON AKIL *y* GUMALON, guilty beyond reasonable doubt of having committed the crime of CARNAPPING, defined and penalized under Sec. 3

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7 *Id.*

8 *Id.* at 31–46.

> of R.A. 10883 and hereby sentences him to suffer the penalty of 20 years and 1 day as minimum to 24 years as maximum; to indemnify private complainant, JR BELARDO y NADO, the owner of the stolen subject motorcycle, the amount of [PHP] 92,952.00 as value of the stolen vehicle, all indemnifications are without subsidiary imprisonment in case of insolvency.
>
> SO ORDERED.[9]

Aggrieved, Akil interposed an appeal to the CA.

In his Appellant's Brief[10] dated April 26, 2021, Akil asseverated that the circumstantial evidence relied upon by the RTC were insufficient to support his conviction. He pointed out that Belardo was never able to see the face of the person who stole the subject motor vehicle. Moreover, the identification made by Belardo at the police station was heavily influenced by the fact that Akil was involved in a similar carnapping incident. Too, the supposed red ball cap, yellow shirt, black mask, sets of keys, and sling bag confiscated from him were never even marked as evidence in the course of the trial, thereby negating any alleged proof that the same belonged to him. Finally, Akil asserted that the alleged confession that he made while he was detained was uncounseled and, as such, inadmissible as evidence against him.

Countermanding the foregoing contentions, the Office of the Solicitor General (OSG), representing the People, argued in its Appellee's Brief[11] dated March 16, 2022 that Akil's guilt was sufficiently established by circumstantial evidence; and that his admission was valid because it was voluntarily given to Belardo.

The CA Ruling

In the herein assailed Decision[12] dated August 30, 2022, the CA found no compelling reason to disturb the findings and conclusion of the RTC.

The appellate court ruled that there was "too much of a coincidence that two people stealing motorcycles on two different occasions would be wearing exactly the same articles of clothing as accessories as in this case."[13] Moreover, contrary to Akil's claim, the items seized by the police from him were actually presented and offered as evidence during trial. Finally, because Akil confessed to Belardo while he was not under custodial investigation, such extrajudicial confession is valid and admissible as evidence against him.

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9 *Id.* at 46.
10 CA *rollo*, pp. 43–61.
11 *Id.* at 124–137.
12 *Rollo*, pp. 9–29.
13 *Id.* at 23.

Thus, the CA decreed:

> **WHEREFORE**, the appeal is **DENIED**. The January 16, 2020 Decision of the Regional Trial Court (RTC), Eleventh (11th) Judicial Region, Branch 63, Polomolok, South Cotabato, in Criminal Case No. 5281-18, finding accused-appellant Aron Akil y Guamalon **GUILTY** beyond reasonable doubt of **CARNAPPING** as defined and penalized under Section 3 of R.A. 10883, is **AFFIRMED *in toto***.
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> **SO ORDERED.**[14] (Emphasis in the original0

Hence, the present recourse.

On September 26, 2022, the CA issued a Minute Resolution[15] giving due course to the September 5, 2022 Notice of Appeal[16] filed by Akil, thereby ordering the elevation of the records of the instant case to this Court.

In a Resolution[17] dated June 14, 2023, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

In a Manifestation in lieu of Supplemental Brief[18] dated November 9, 2023, the OSG informed the Court that it would no longer file a supplemental brief because all of its contentions have been exhaustively ventilated in the Appellee's Brief that it submitted to the CA. Akil filed a similar Manifestation In Lieu of Supplemental Brief[19] dated November 30, 2023.

Meanwhile, in a letter[20] dated October 30, 2023 and a Compliance[21] dated October 31, 2023, the Bureau of Corrections confirmed to the Court that Akil is currently detained at the Davao Prison and Penal Farm.

The Court now resolves the case.

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14 *Id.* at 28.
15 *Id.* at 7.
16 *Id.* at 4–6.
17 *Id.* at 47–48.
18 *Id.* at 56–59.
19 *Id.* 67–70.
20 *Id.* at 49.
21 *Id.* at 60–61.

Issue

The Court is tasked to determine whether the CA erred in affirming *in toto* Akil's conviction for the crime of carnapping, as defined and penalized under Section 3 of Republic Act No. 10883.

The Ruling of the Court

Section 3 of Republic Act No. 10883 defines carnapping as "the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things." This definition is a verbatim reproduction of the second paragraph of Section 2 of Republic Act No. 6539,[22] otherwise known as the Anti-Carnapping Act of 1972.

The elements of carnapping are:

1. The taking of a motor vehicle which belongs to another;
2. The taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; and
3. The taking is done with intent to gain.[23]

In the instant case, it is beyond cavil that no direct evidence exists to prove that Akil was the one who stole the subject motor vehicle. Nevertheless, jurisprudence ordains that direct evidence is not the sole means of establishing guilt beyond reasonable doubt because circumstantial evidence, if sufficient, can supplant the absence of direct evidence.[24] Circumstantial evidence is evenly accepted in criminal cases to establish the guilt of the accused beyond reasonable doubt.[25] Accordingly, resort to circumstantial evidence is sanctioned by Rule 133, Section 4 of the Revised Rules on Evidence.[26]

In *People v. BBB*,[27] the Court had occasion to expound upon the concept of circumstantial evidence in the following manner:

> Circumstantial evidence is defined as "[e]vidence based on inference and not on personal knowledge or observation." Alternatively stated,

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22 Signed into law by President Ferdinand E. Marcos on August 26, 1972.
23 *Dueñas, Jr. v. People*, G.R. No. 211701, January 11, 2023 [Per J. Kho, Jr., Second Division].
24 *Bacolod v. People*, 714 Phil. 90, 95 (2013) [Per J. Bersamin, First Division].
25 *People v. Maglinas*, 928 Phil. 62, 72 (2022) [Per C.J. Gesmundo, First Division].
26 *People v. Soria*, 880 Phil. 387, 398 (2020) [Per C.J. Peralta, First Division].
27 923 Phil. 81 (2022) [Per J. Gaerlan, *En Banc*].

> circumstantial evidence refers to "evidence of facts or circumstances from which the existence or nonexistence of fact in issue may be inferred." Circumstantial evidence is that which is applied to the principal fact, indirectly, or through the medium of other facts, from which the principal fact is inferred according to reason and common experience.
>
> In this jurisdiction, circumstantial evidence has been defined as that evidence "which indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established." It is that which "goes to prove a fact or series of facts other than the facts in issue, which, if proved, may tend by inference to establish a fact in issue."[28]

Too, *People v. Pentecostes*[29] teaches us that a person accused of a crime may be convicted solely based on circumstantial evidence if the following requisites concur:

1. There is more than one circumstance;
2. The facts from which the inferences are derived are proven; and
3. The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[30]

Verily, conviction based on circumstantial evidence can be upheld, provided that the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person.[31] Alternatively stated, all the circumstances must be consistent with each other, compatible with the hypothesis that the accused is guilty and in conflict with the notion that he or she is innocent.[32]

Measured with the standards for conviction based on circumstantial evidence, the Court finds merit in the appeal and acquits Akil. The Court is not convinced that the circumstantial evidence relied upon by the prosecution sufficiently established Akil's guilt beyond reasonable doubt for the crime of Carnapping.

I.

The identification made by Belardo is unreliable and cannot be considered as a positive identification of Akil as the perpetrator of the crime in question.

In *People v. Caliso*,[33] the Court ordained:

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28 *Id.* at 88.
29 820 Phil. 823 (2017) [Per J. Caguioa, Second Division].
30 *Id.* at 833.
31 *People v. Agan*, 895 Phil. 233, 242 (2021) [Per J. Delos Santos, Third Division].
32 *People v. Leocadio*, G.R. No. 227396, February 22, 2023 [Per J. M.V. Lopez, Second Division].
33 675 Phil. 742 (2011) [Per J. Bersamin, First Division].

> The identification of a malefactor, to be positive and sufficient for conviction, does not always require direct evidence from an eyewitness; otherwise, no conviction will be possible in crimes where there are no eyewitnesses. Indeed, trustworthy circumstantial evidence can equally confirm the identification and overcome the constitutionally presumed innocence of the accused. Thus, the Court has distinguished two types of positive identification in *People v. Gallarde*, to wit: *(a)* that by direct evidence, through an eyewitness to the very commission of the act; and *(b)* that by circumstantial evidence, such as where the accused is last seen with the victim immediately before or after the crime. The Court said:
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> > Positive identification pertains essentially to proof of identity and not *per se* to that of being an eyewitness to the very act of commission of the crime. There are two types of positive identification. A witness may identify a suspect or accused in a criminal case as the perpetrator of the crime as an eyewitness to the very act of the commission of the crime. This constitutes direct evidence. There may, however, be instances where, although a witness may not have actually seen the very act of commission of a crime, he may still be able to positively identify a suspect or accused as the perpetrator of a crime as for instance when the latter is the person or one of the persons last seen with the victim immediately before and right after the commission of the crime. This is the second type of positive identification, which forms part of circumstantial evidence, which, when taken together with other pieces of evidence constituting an unbroken chain, leads to only fair and reasonable conclusion, which is that the accused is the author of the crime to the exclusion of all others. If the actual eyewitnesses are the only ones allowed to possibly positively identify a suspect or accused to the exclusion of others, then nobody can ever be convicted unless there is an eyewitness, because it is basic and elementary that there can be no conviction until and unless an accused is positively identified. Such a proposition is absolutely absurd, because it is settled that direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt. If resort to circumstantial evidence would not be allowed to prove identity of the accused on the absence of direct evidence, then felons would go free and the community would be denied proper protection.[34]

In *People v. Teehankee, Jr.*,[35] the Court expounded upon the modes of out-of-court identification and the parameters to consider in evaluating whether an out-of-court identification is reliable. Thus:

> Out-of-court identification is conducted by the police in various ways. It is done thru *show-ups* where the suspect alone is brought face to face with the witness for identification. It is done thru *mug shots* where photographs are

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[34] *Id.* at 754–755.

[35] 319 Phil. 128 (1995) [Per J. Puno, Second Division].

> shown to the witness to identify the suspect. It is also done thru *line-ups* where a witness identifies the suspect from a group of persons lined up for the purpose. Since corruption of *out-of-court* identification contaminates the integrity of *in-court* identification during the trial of the case, courts have fashioned out rules to assure its fairness and its compliance with the requirements of constitutional due process. In resolving the admissibility of and relying on out-of-court identification of suspects, courts have adopted the *totality of circumstances test* where they consider the following factors, *viz*: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure.[36] (Emphasis in the original)

Parenthetically, in *People v. Jimenez*,[37] the Court enumerated the so-called "danger signals" which indicate that the identification of an accused may be erroneous even though the method used is proper. These "danger signals" are:

> (1) **The witness originally stated that he or she could not identify anyone;**
>
> (2) The identifying witness knew the accused before the crime, but made no accusation against him or her when questioned by the police;
>
> (3) A serious discrepancy exists between the identifying witness's original description and the actual description of the accused;
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> (4) Before identifying the accused at the trial, the witness erroneously identified some other person;
>
> (5) Other witnesses to the crime fail to identify the accused;
>
> (6) Before trial, the witness sees the accused but fails to identify him or her;
>
> (7) **Before the commission of the crime, the witness had limited opportunity to see the accused;**
>
> (8) The witness and the person identified are of different racial groups;
>
> (9) During his or her original observation of the perpetrator of the crime, the witness was unaware that a crime was involved;
>
> (10) **A considerable time elapsed between the witness' view of the criminal and his identification of the accused;**
>
> (11) Several persons committed the crime; and

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36 *Id.* at 180.

37 G.R. No. 263278, October 11, 2023 [Per J. Zalameda, First Division].

(12) The witness fails to make a positive trial identification.[38] (Emphasis supplied)

In the instant case, it is readily apparent that Belardo's identification of Akil falls short of the foregoing standards.

First, Belardo's identification was done through a show-up. The police officers invited Belardo to the station where Akil was being detained. At this moment, Belardo knew that he was going to identify the person who stole the subject motor vehicle, and the police arranged that he be able to speak to Akil, and Akil alone. These circumstances show that the process of identifying Akil was "tainted with apparent suggestiveness."[39]

Second, Belardo himself admitted that he was never able to see the face of the perpetrator of the crime in question. Neither did he witness the actual commission of the said crime. While Belardo saw the perpetrator through a CCTV footage at the office of the MDRRMC, he was never able to see the said person's face. Too, the alleged CCTV footage was never even properly authenticated or even formally offered as evidence during trial.[40]

And *third*, there was a gap of 18 days between the time when the subject motor vehicle was stolen, and the time when Belardo visited Akil in detention. This, coupled with the fact that Belardo is not even an actual eyewitness, renders as flimsy the identification of Akil. No witness for the prosecution was able to testify about the perpetrator's physical appearance. There was no testimony on the person's significant features, distinguishing marks, height, or skin complexion. This, to the mind of the Court, raises doubt on the truthfulness of Belardo's testimony and his identification of Akil as the perpetrator of the crime in question.[41]

On this score alone, there is a nagging doubt that Akil and the person in the CCTV footage are one and the same person, to the exclusion of other suspects. Belardo's out-of-court identification of Akil cannot constitute as a positive identification of the latter as the perpetrator of the crime in question.

Too, the Court observes that Belardo and the police contradicted each other as to how Akil possessed the same items as the perpetrator in the CCTV footage.

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38 *Id.*

39 *Concha v. People*, 841 Phil. 212, 233 (2018) [Per J. Leonen, Third Division].

40 *See* CA *rollo*, p. 7. Documentary Exhibits for the Prosecution.

41 *People v. Quillo*, 856 Phil. 123, 136 (2010) [Per J. Carandang, First Division].

Belardo claimed that when he visited Akil in detention, the latter was wearing the exact same clothes as the person in the CCTV footage:

> Q: You mentioned that he was there at the police station what items were taken from him when he was arrested Mr. Witness this person? [sic]
> A: The items taken from him were the same items he used when he took my motorcycle.
>
> Q: And what items were these Mr. Witness?
> A: He was still wearing a red cap, he was still wearing that yellow Fubu shirt, faded pants, sling bag, face mask and the sun glass [sic].[42]

However, Police Officer 2 Louie Jayoma (PO2 Jayoma) claimed that these items had already been placed inside Akil's bag when the latter was arrested. In addition, he was not even wearing the yellow Fubu shirt at the time of his arrest:

> PROS. COSEP:
> Q: Now, inside this black sling bag Police Officer is this red ball cap, now what can you tell me about this red ball cap Police Officer with regards [sic] to the items that you turned over to the evidence custodian of Tupi Municipal Police Station?
>
> PO2 JAYOMA:
> A: This was the one used by Akil Sir
>
> COURT:
> Q: What do you mean the one used by Akil, he was wearing that when you arrested him?
>
> PO2 JAYOMA:
> A: Yes, Your Honor, and he put inside the bag, Your Honor.
>
> PROS. COSEP:
> Q: And once again taking out the item from this sling bag, Your Honor, Police Officer, I am showing to you this black face mask, what can you tell me about this black face mask with regards [sic] to the items that you turned over to the evidence custodian of Tupi Municipal Police Station the one actually recovered from Aron Akil?
>
> PO2 JAYOMA:
> A: That was the one that he used as his mask.
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> PROS. COSEP:
> Q: Where did you recover this from Police Officer?
> A: From the possession of Arron [sic] Akil.

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42 CA *rollo*, p. 54.

PROS. COSEP:
Q: Now, then police officer I am taking out another item from this sling bag this time Black Sun Glass Police Officer, now what is the relationship of this item which is stated in the Receipt of evidence and was turned over to the evidence custodian of Tupi Municipal Police Station, the once that you recovered from Aron Akil Police Officer?

PO2 JAYOMA:
A: That was the one he put on his head Sir.

PROS. COSEP:
Q: Now, again Police Officer I am taking out an item from this black sling bag this time a shirt Police Officer a yellow FUBU shirt, now what can you tell me about this shirt Police Officer. What's the relationship of this shirt to the items that you recovered from Aron Akil and the items that you turned over to the evidence custodian of Tupi Municipal Police Station?

PO2 JAYOMA:
A: That was the one inside the bag of Akil the black sling bag.[43]

In any event, in the absence of a properly authenticated CCTV footage, the Court must reject as patently insufficient the circumstantial evidence that the items that were worn by the perpetrator of the crime in question were the same items that were retrieved from Akil's bag. When dealing with circumstantial evidence, an inference cannot be based on another inference.[44]

Verily, the Court finds Belardo's out-of-court identification of Akil as highly dubitable. It cannot be used as basis for his conviction.

II.

Neither can Akil be convicted on the basis of his extrajudicial confession to Belardo while he was languishing in detention and deprived of any legal assistance from his counsel.

The right to counsel during custodial investigation is guaranteed by Article III, Section 12(1) of the Constitution:

> Sec. 12(1). Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

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43 *Rollo*, pp. 39–40.
44 *People v. Maglinas*, 928 Phil. 62, 85 (2022) [Per C.J. Gesmundo, First Division].

Relatedly, Section 2 of Republic Act No. 7438[45] provides that:

> SECTION 2. *Rights of Persons Arrested, Detained or under Custodial Investigation; Duties of Public Officers.* --- a) Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.
>
> b) Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.
>
> c) The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or thumbmarked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person, otherwise, such investigation report shall be null and void and of no effect whatsoever.
>
> d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.
>
> e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.
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> f) Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights or by any international non-governmental organization duly accredited by the Office of the President. The person's "immediate family" shall include his or her spouse, fiancé or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

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[45] Titled, "AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF," and signed into law by President Corazon C. Aquino on April 27, 1992.

In *People v. Marra*,[46] the Court defined custodial investigation in the following manner:

> Custodial investigation involves any questioning initiated by law enforcement officers *after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way*. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, *the suspect is taken into custody, and the police carries out a process of interrogations that lends itself to eliciting incriminating statements* that the rule begins to operate.[47] (Emphasis in the original)

Verily, a person is already under custodial investigation from the moment that he or she has been placed in the custody of the police, or deprived of his or her freedom of action in a significant manner.[48]

In *Lopez v. People*,[49] Lopez was charged with violation of Presidential Decree No. 533[50] or the Anti-Cattle Rustling Law of 1974. The facts show that a carabao belonging to Mario Perez and Teresita Perez (Teresita) went missing on July 17, 2002. On the following day, a barangay official told Teresita that Lopez stole their carabao. Thus, Teresita went to the police station to report the alleged theft. This prompted the police officer on duty to issue a "request for appearance"[51] so that Lopez and Teresita could "confront each other."[52] During the ensuing confrontation, Lopez admitted to taking the carabao and promised to pay indemnification. The Court ruled that Lopez's admission was inadmissible because it was obtained in violation of his rights under custodial investigation. Thus:

> [A] "request for appearance" issued by law enforcers to a person identified as a suspect is akin to an "invitation." Thus, the suspect is covered by the rights of an accused while under custodial investigation. Any admission obtained from the "request for appearance" without the assistance of counsel is inadmissible in evidence.[53]

In the present case, when Akil was detained at the police station, he was already a suspect and was, therefore, under custodial investigation. From the very moment that the police officers called Belardo to the police station to meet Akil, the latter was already singled out as the culprit of the crime in question. Akil was, thus, entitled to the rights guaranteed by the Constitution.[54]

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46 306 Phil. 586 (1994) [Per J. Regalado, Second Division].
47 *Id.* at 594.
48 *Porteria v. People*, 850 Phil. 259, 280 (2019) [Per J. A.B. Reyes, Jr., Third Division].
49 788 Phil. 789 (2016) [Per J. Leonen, Second Division].
50 Signed into law by President Ferdinand E. Marcos on August 8, 1974.
51 *Lopez v. People*, 788 Phil. 789, 808 2016 [Per J. Leonen, Second Division].
52 *Id.* at 809.
53 *Id.* at 793.
54 *People v. Hijada*, 469 Phil. 284, 297 (2004) [Per J. Azcuna, *En Banc*].

The Court cannot sanction the police officers' attempt at circumventing the constitutional and statutory protections for persons under custodial investigation by deliberately sending Belardo—a private individual who recently had his motor vehicle stolen—to Akil to confront, question, and extract a confession out of him. While, technically speaking, Akil did not confess to a police officer, the indubitable fact is that Belardo's questioning was initiated by law enforcement officers. Accordingly, before having any extrajudicial confession solicited from him while he was in detention, Akil was entitled to the protection of Republic Act No. 7438 and the Constitution.

Indeed, case law holds that the burden to prove that an accused waived his constitutional right before making a confession under custodial investigation rests with the prosecution, and such burden has to be discharged by clear and convincing evidence.[55]

In *People v. Agustin*,[56] it was held that:

> An extrajudicial confession is not valid and inadmissible in evidence when the same is obtained in violation of any of the following rights of an accused during custodial investigation: (1) to remain silent, (2) to have an independent and competent counsel preferably of his choice, (3) to be provided with such counsel, if unable to secure one, (4) to be assisted by one in case of waiver, which should be in writing, of the foregoing, and (5) to be informed of all such rights and of the fact that anything he says can and will be used against him.[57]

In the instant case, Akil's confession was made without any of the foregoing safeguards. As such, it is inadmissible as evidence against him.

III.

In *People v. Wagas*,[58] the Court decreed that the quantum of proof necessary to sustain a finding of conviction, i.e., proof beyond reasonable doubt, applies not only to the elements of the crime charged but also to establishing the identity of the accused, *viz.*:

> The Bill of Rights guarantees the right of an accused to be presumed innocent until the contrary is proved. In order to overcome the presumption of innocence, the Prosecution is required to adduce against him nothing less than proof beyond reasonable doubt. Such proof is not only in relation to the elements of the offense, but also in relation to the identity of the offender. If the Prosecution fails to discharge its heavy burden, then it is not only the right of

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55 *People v. Agustin*, 897 Phil. 987, 1002 (2021) [Per C.J. Peralta, First Division].
56 *Id.*
57 *Id.* at 998.
58 717 Phil. 224 (2013) [Per J. Bersamin, First Division].

> the accused to be freed, it becomes the Court's constitutional duty to acquit him.[59]

The following words of the Court in *People v. Ansano*[60] ring true and find application to the instant case:

> The Court thus takes this opportunity to remind courts that "[a] conviction for a crime rests on two bases: (1) credible and convincing testimony establishing the **identity** of the accused as the perpetrator of the crime; and (2) the prosecution proving beyond reasonable doubt that all elements of the crime **are attributable to the accused.**" "Proving the identity of the accused as the malefactor is the prosecution's primary responsibility. Thus, in every criminal prosecution, the identity of the offender, like the crime itself, must be established by proof beyond reasonable doubt. Indeed, the first duty of the prosecution is not to prove the crime but to prove the identity of the criminal, for **even if the commission of the crime can be established, there can be no conviction without proof of identity of the criminal beyond reasonable doubt.**"[61] (Emphasis in the original)

And in *Pagtakhan v. People*,[62] the Court added:

> A prosecution witness or a private complainant, albeit with good intentions, can indeed and without difficulty cause the unjust conviction and imprisonment of a likely innocent person based solely on mere rumors and gossip from well-meaning but prejudiced strangers. What guards against said unjust conviction and imprisonment, ideally, is the requirement that some form of identifying features and attributes of a crime's perpetrator must be given by the said witness or complainant at the earliest opportunity to form a solid basis for subsequent identifications (both out-of-court and in-court) that may in turn lead to proper conviction and imprisonment. Absent such prior identification, and despite the severity of the criminal act done to the victim, courts have no choice but to uphold the rights of the accused due to the reasonable doubt cast upon the identity of the actual perpetrator. The presumed innocence of the accused prevails here over the seeming certainty of the prosecution witness, and notwithstanding the appalling nature of the crime committed. . .[63]

Verily, an ample proof that a crime has been committed has no use if the prosecution is unable to convincingly prove the offender's identity.[64] In view of the failure of the prosecution to prove beyond reasonable doubt that Akil is the perpetrator of the crime of Carnapping committed against Belardo, as well as the patent invalidity of his extrajudicial confession, the Court must overturn his conviction and render a judgment of acquittal in his favor.

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59 *Id.* 227–228.
60 891 Phil. 360 (2020) [Per J. Caguioa, First Division].
61 *Id.* at 384.
62 G.R. No. 257702, February 7, 2024 [Per J. Gaerlan, Third Division].
63 *Id.*
64 *People v. Maglinas*, 928 Phil. 62, 71–72 (2022) [Per C.J. Gesmundo, First Division].

ACCORDINGLY, the appeal is **GRANTED**. The Decision dated August 30, 2022 of the Court of Appeals in CA-G.R. CR-HC No. 02496-MIN is **REVERSED** and **SET ASIDE**. For failure on the part of the prosecution to prove his guilt beyond reasonable doubt, accused-appellant Aron Akil *y* Guamalon is **ACQUITTED** of the crime charged in Criminal Case No. 5281-18. He is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being detained for some other lawful cause.

Let a copy of this Decision be furnished the Director General of the Bureau of Corrections for immediate implementation and to report the action he has taken to this Court within five days from receipt of this Decision.

Let entry of judgment be **ISSUED** immediately.

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(*On official business*)
HENRI JEAN PAUL B. INTING
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice