

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO VENTURA Y TOLENTINO, DEFENDANT-APPELLANT.

G.R. No. L-32716. December 01, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

Antonio Ventura appealed from the decision of the Court of First Instance of Manila, finding him guilty of murder, sen-tencing him to reclusion perpetua and ordering him to indemnify the heirs of Conrado Carlos in the sum of P12,000 (Criminal Case No. 182).

The judgment of conviction was based on the following evidence for the prosecution:

Nicolas Alcantara, a thirty-one year old druggist, residing at 1727 Remigio (Requesens) Street, Sta. Cruz, Manila and the proprietor of East Asia Pharmaceuticals, was implicated by Conrado Carlos in a robbery at Marsman & Company. Alcantara was investigated and allegedly maltreated by the police of Makati, Rizal and divested of P3,000 cash, a magnum revolver, a diamond ring, a Rolex watch and a necklace.

Antonio Ventura, alias Tony Commando, forty-three years old, jobless, a high school graduate, a native of Iloilo City, married but separated from his wife, a resident of 27-E 15th Avenue, Cubao, Quezon City and a compadre of Alcantara, tried to help the latter. Ventura supposedly used to be an undercover agent of the Criminal Investigation Service (CIS) at Camp Crame.

Ventura brought Alcantara to Nini Zulueta of the National Press Club. Zulueta allegedly prepared a press release in connection with the incident. That publication probably frightened the Makati police. They returned to Alcantara through another Makati policeman the things that they had taken from him.

Later, Alcantara filed with the City Fiscal's office of Manila a complaint for grave coercion, kidnapping and robbery against Conrado Carlos and seven members of the Makati police force, namely, Captain Gabriel Bayle, Sergeant Pedro Espejo, Corporals Hipolito Jagar and Romeo Peña and Patrolmen Reynaldo Alano, Manuel Casay and one Schlobolm.

That complaint was scheduled for preliminary investigation in the afternoon of January 28, 1969. Nick Alcantara, with his wife Marcela, his brother Alfredo, his friend Amado Bustamante and his two security guards, went to the third floor of the City Hall on that date to attend the investigation.

Ventura also went to the City Hall at around two-thirty in that afternoon. Alfredo Alcantara informed him that the investigation was postponed. From the third floor, Ventura and Alfredo went down to the quadrangle or interior driveway of the City Hall and emerged at Arroceros Street, opposite the YMCA compound, where the jeep of Bustamante was parked. Nick Alcantara, with his lawyers and security guards, went out of the front or southern exit of the City Hall and proceeded to the Bungalow Restaurant on San Marcelino Street.

Inside the jeep were Mercy Alcantara, the comadre of Ventura, and her companions. Ventura conversed with her.

She pointed to him Conrado Carlos, who was then reading a newspaper while standing on the pavement on the eastern end of the driveway near Arroceros Street about twelve meters away from the jeep.

Ventura harbored the notion that Carlos (also a compadre of Nick Alcantara) had falsely implicated Alcantara in the robbery at Marsman & Company and, therefore, in colloquial parlance, Carlos had some atraso or debt to pay to Alcantara.

Allegedly animated by sympathy for his compadre, Nick Alcantara, Ventura imposed upon himself the task of liquidating Carlos. Ventura approached Carlos and at a distance of about two to three meters and without any preliminaries shot him point blank five times with a .38 caliber revolver. One shot hit Carlos in the chest and another shot hit him in the abdomen when he was already prostrate on the pavement. Both shots were fatal.

After the shooting, Ventura walked hurriedly on Arroceros Street, crossed Concepcion Street near the city court building, entered the city court compound and headed for Hospital Street where he took a bus bound for Quiapo. He was able to escape.

He changed clothes at his residence in Quezon City. He phoned Alcantara at his office in the Don Santiago Building on Taft Avenue and informed him of the killing of Carlos. Later, Ventura went to the residence of Alcantara. Nick gave him forty pesos and advised him to go in hiding.

Meanwhile, at the scene of the crime, Patrolman Jose Yumul placed Carlos in a taxicab. He died before reaching the hospital. The necropsy report of the chief medico-legal officer of the Manila Police Department indicates that the thirty-three year old victim (a native of Paombong, Bulacan and a resident of Pateros, Rizal) sustained a mortal gunshot wound in the chest and a similar wound in the abdomen. Profuse hemorrhage caused his death.

For about a year, the police made no headway in the investigation of the case. Then, Alcantara wrote a letter dated January 13, 1970 to the Manila chief of police, revealing that Ventura had confessed to him that he (Ventura) had shot Carlos.

Alcantara made the revelation because he was apprehensive that he might be liquidated by Ventura who had been blackmailing him and threatening to link him to the killing. Ventura had been asking Alcantara to give "protection money". Alcantara gave money to Ventura because the latter was a "dan-gerous character".

The Manila policemen were able to get a photograph of Ventura. They asked Alcantara to identify the photograph. Alcantara confirmed that it was Ventura's picture. The police started looking for Ventura.

On January 15, 1970 the police received reliable information that at about quarter to ten in the morning of that day Ventura would get a bottle of whiskey from Alcantara's drugstore located at the Don Santiago Building. As expected, at that hour a man alighted from a taxicab, went to the drugstore, got a bottle of liquor wrapped in yellow paper, and returned to the waiting taxi-cab. He was not Ventura. The police trailed the taxicab which proceeded to a barbershop at Mabini Street, Ermita, Manila.

The police operatives found Ventura in that barbershop. He tried to draw a .38 caliber revolver when the policemen sought to arrest him. They overpowered him and confiscated his revolver, ammunition pouch, and a cartridge belt.

In the course of the investigation at the police headquarters, Ventura confessed to Detective Alejandro Yanquiling that he was the killer of Carlos. Ventura's confession was reduced to writing in question-and-answer form. It consists of four pages, typed single-space. He signed it and initialled the corrections contained therein. He signed the confession before Assistant Fiscal Rodolfo A. Nocon of Manila when he swore to it on that same day, January 5, 1970, the day he was arrested.

In the afternoon of that day, Ventura voluntarily re-enacted the commission of the crime or the shooting of Carlos. Pictures of Ventura were taken during the reenactment of the crime.

Detective Yanquiling inquired from the CIS whether Ventura, as he claimed, "belongs to the Police Intelligence Branch of the CIS". Yanquiling was informed that Ventura was not a CIS agent and that the CIS had not issued any firearm to him.

Amado Bustamante, an eyewitness to the shooting of Carlos, saw Ventura, with his drawn revolver, approaching Carlos, who was then standing on the cemented pavement, facing the YMCA building. He testified that Ventura fired successive shots at Carlos at close range. Bustamante saw Carlos sprawled on the pavement. He saw Ventura "leaving hurriedly going towards Arroceros Street".

After the shooting, Bustamante went to the Bungalow Restaurant together with his four lady companions and narrated to Nicolas Alcantara the shooting incident which he just witnessed. Although Bustamante feared for his life, he said that he had no choice but to tell to the court what he had seen. He kept silent for almost one year but when lately Alcantara informed him that Ventura was linking him (Alcantara) to the shooting, Bustamante insisted that that falsehood must be exposed.

Ventura disclosed in his confession that he had killed Totoy, his bilas or the husband of his wife's sister, and one Severino de Villa on April 1, 1968. He had not been prosecuted for said killings.

On January 17, 1970, or two days after he was arrested, Ventura was charged with the murder of Carlos. As already stated, he was convicted after trial. He was represented by a counsel de oficio. He had pleaded not guilty notwithstanding his confession.

Ventura took the witness stand. He tried to repudiate his confession and create the impression that Alfredo Alcantara (the brother of Nicolas) was the killer. He identified himself as an undercover agent of the Metrocom Police Intelligence Service.

He testified that his confession and the reenactment were not voluntary because he was afraid that he might be killed if he did not cooperate with the police. He claimed that he was connected with the Metropolitan Command (Metrocom) and that he was allowed to possess a .38 caliber revolver. He supposedly conducted missions as an infiltrator of the underworld.

He explained that on January 15, 1970 he was in an Ermita barbershop because he was going to confer with a Metrocom lieutenant. He was surprised by Manila policemen in the barbershop. He told them that he was framed up. On the way to the police headquarters, Patrolman P. Doplito allegedly warned him to cooperate or else he would be. He said that he was interrogated by the police at the Springfield Hotel in front of the Hilton Hotel.

Thereafter, he was brought to the tourist police headquarters at the Luneta Park, where he was investigated by Corporal Yanquiling and six husky detectives. He said that he admitted the killing of Carlos because he feared for his life. He swore to his confession before Fiscal Nocon because he was accompanied by armed policemen. The reenactment of the crime was made at the behest of Lieutenant Idefonso Labao.

Ventura testified that he had known Alcantara for only five years and not ten years as claimed by the latter and that Alcantara's business consists of "robberies, hijacking and explosions and selling fake drugs to the residents of Tondo and suburban towns" (8 tsn April 29, 1970).

He declared that on January 27, 1969 or on the eve of the preliminary investigation, he was at the residence of Nick Alcantara and he heard Nick giving instructions to his brother Fred and his friend Bustamante to liquidate Carlos by hook or by crook. He was requested by Nick to be present at the preliminary investigation.

He admitted that he was at the City Hall in the afternoon of January 28, 1969 and that he talked with Mercy Alcantara. He said that he saw Alfredo Alcantara going towards the place where Carlos was standing and that ten minutes later he heard gunshots. Then, Alfredo boarded a taxicab. The jeep wherein Mercy Alcantara and Bustamante were riding left. Ventura walked along Arroceros Street and boarded a bus for Quiapo.

Ventura pointed to Nicolas Alcantara as the mastermind behind the killing and as the person who framed him up. A ballistics expert from the Manila Police Department, testifying for the defense, declared that the three bullets (Exh. 1-E to 1-G) allegedly fired from Ventura's revolver had not been fired from it as shown by a comparison between those exhibits and the test bullets. However, the expert admitted that the barrel of the revolver could have been changed after the shooting to mislead the ballisticians.

Ventura in this appeal contends that the trial court erred in convicting him of murder. He argues that the confession and reenactment were vitiated by duress; that he had no motive for killing Carlos; that he was not positively identified as the gunwielder, and that certain circumstances engender doubt as to his guilt.

Appellant's contentions are devoid of merit and do not deserve serious consideration. His detailed confession bears the earmarks of voluntariness. There is a photograph of Ventura signing his confession before Fiscal Nocon. There are twenty-one pictures of Ventura replaying his role as the assassin of Carlos.

His averment that the police threatened to kill him if he did not cooperate is a very transparent concoction. His testimony intimating that Alfredo Alcantara shot Carlos, as directed by his brother Nicolas Alcantara, is an eleventh hour fabrication.

His confession and the eyewitness-testimony of Bustamante leave no room for doubt that he was the gunwielder who callously shot Carlos in broad daylight in a public place in the presence of many persons.

The record reveals that he is a hardened killer, who having previously killed two persons and not having been prosecuted for those acts, had become trigger-happy and had no compunction in using his gun to kill the enemy of his compadre just to earn a few pesos and perhaps display his hubris or machismo.

The killing should be characterized as murder because it was attended with treachery. Ventura made an unexpected assault on the victim which insured the killing without any risk to himself since the victim had no chance to retaliate (Art. 14[16], Revised Penal Code).

Evident premeditation was not proven. There being no modifying circumstances, the penalty of reclusion perpetua was properly imposed by the trial court (Arts. 64[1] and 248, Revised Penal Code).

Finding no error in the lower court's judgment of conviction, the same is affirmed with costs against the defendant-appellant.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Concepcion, Jr., and Santos, JJ., concur.

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