

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAUL MONEGRO TORRE, DEFENDANT-APPELLANT.

G.R. NO. L-44905. April 25, 1990

Ponente: PARAS, J.

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PARAS, J.:

Before Us is an appeal of Raul Monegro Torre from the Decision of the then Court of First Instance of Iloilo, Branch II, convicting him of the crime of murder and imposing on him the penalty of reclusion perpetua, together with all the accessory penalties, and to pay the costs.

The facts as presented by the Solicitor General are as follows:

"At around 7:15 o'clock in the evening of December 26, 1975, Romeo Diaz was found dead by Chief of Police Melquiades B. Syquio and Patrolman Bartolome Sabando Jr. of the Zarraga Police Department inside a public utility car, of which he was the driver, along the road in Singangao, Zarraga, Iloilo, (tsn, pp. 11-13, March 22, 1976; tsn, p. 30, May 3, 1976). Dr. Jose Rafio, Chief Medico-Legal Officer of the Iloilo Integrated National Police Force, who conducted a post-mortem examination of the cadaver of Romeo Diaz (tsn, pp. 2-4, March 22, 1976), found him with seventeen (17) stab wounds, seven of which are fatal as they are on the thoraco-abdominal region. Diaz's death was due to shock from the said multiple stab wounds (tsn, pp. 6-7, loc. cit.)

On the information of one Eustaquio Crisme that on December 26, 1975 he saw a person at Marymart matching the description of the accused Raul Monegro Torre in the company of an unidentified person talking with the deceased Romeo Diaz, Chief of Police Melquiades Syquio arrested the accused Raul Monegro Torre (tsn, pp. 7 & 9, March 22, 1976). The accused was identified by Eustaquio Crisme as the last person he saw with the deceased prior to the latter's death (tsn, pp. 4-9, loc. cit)." (pp. 2-3, Brief for the Plaintiff-Appellee; p. 54, Rollo)

Accused-appellant was thus charged with murder, described in the information as follows:

"That on or about the 26th day of December, 1975, in the Municipality of Zarraga, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused armed with a knife, conspiring, confederating and working together with another John Doe who is still at large, to better realize their purpose, with treachery and evident premeditation and with a decided purpose to kill, did then and there willfully, unlawfully and feloniously stab and wound one Romeo Diaz with the arms with which they were provided, thereby inflicting upon the latter multiple stab wounds which caused his immediate death." (p. 2, Rollo)

Accused-appellant now seeks the reversal of the trial court decision and his acquittal because the said court committed these errors:

1. The trial court erred in ruling that the identity of the accused was not convincingly and sufficiently established.

Specifically, the accused-appellant claims that the declaration of witness Eustaquio Crisme that he saw the former

at about 6:30 P.M. of December 26, 1975 in Marymart, Iloilo City, while he was contracting the PU vehicle driven by Romeo Diaz does not sufficiently prove that the latter had positively identified the accused. Accused-appellant also avers that it was not established that he was seen inside the PU car after he boarded the same.

2. The trial court erred in not holding that the circumstantial evidence of the prosecution was insufficient to convict the accused beyond reasonable doubt.

Accused-appellant alleges that the prosecution presented only one circumstance - that of having seen him in Marymart, Iloilo City contracting to ride in victim's vehicle. The other circumstance which the trial court heavily considered was the alleged threat hurled by the accused when he was jailed for robbery in 1969.

3. The trial court erred in finding that the defense of alibi has not been clearly and convincingly established by the accused-appellant.

The accused-appellant contends that his and the two other witnesses' testimonies on his whereabouts in the evening of December 26, 1975 were never discredited on cross-examination despite the lengthy questioning by the trial judge and prosecution.

The Solicitor General, arguing for the People, however, contends:

1. The circumstantial evidence presented by the prosecution as a matter of law, is sufficient to support a verdict of guilt against Raul Torre.

To warrant a conviction in criminal cases upon circumstantial evidence, such evidence must be more than one, derived from facts duly proven, and the combination of all of them must be such as to produce conviction beyond reasonable doubt.

2. The alibi is properly disregarded with the establishment by the prosecution of appellant's guilt beyond reasonable doubt.

We intend to resolve this appeal within the bounds of well-entrenched fundamental principles underlying a criminal prosecution. Thus, We adhere to these tested jurisprudence.

If the inculpatory facts and circumstances are capable of two or more explanations one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction. (People vs. Taruc, G.R. 74655, Jan. 20, 1988; cited in Summary of 1988 S.C. Rulings, Martinez)

The fundamental axiom underlying a criminal prosecution is that before the accused may be convicted of any crime, his guilt must be proved beyond reasonable doubt. Thus, if there are substantial facts which were overlooked by the trial court but which could alter the results of the case in favor of the accused, then such facts should be carefully taken into account by the reviewing tribunal. (Formilleza vs. Sandiganbayan, L--75160, March 18, 1988; 159 SCRA 1.)

Proof to sustain conviction must survive the test of reason. Suspicion of guilt, no matter how strong, should not be permitted to sway judgment. (People vs. Ramos, L-76744, June 28, 1988; 162 SCRA 794; citing People vs. Bania, 134 SCRA 347.)

Only if the trial judge and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. Every circumstance favoring his innocence must be duly taken into account. The proof against the accused must survive

the test of reason. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged: that not only did he perpetrate the act but that it amounted to a crime. Moral certainty is required. (Ibid.)

We cannot now find merit in the version of the Solicitor General. His conclusion of appellant's guilt has been based on mere conjectures and speculations.

The first circumstantial evidence of having seen the accused contracting with the victim at the place of departure and linking the same with the death of the victim is not foolproof. It suffers from loopholes which would make an ordinary person doubt and think more deeply. And in the process of searching for the truth, certain possibilities and even realities come into focus.

The prosecution's only credible witness declared that he saw the accused at around 6:30 P.M. of December 26, 1975 in Marymart, Iloilo City, contracting the PU car driven by Romeo Diaz. Consider the fact that in the month of December, nightfall sets in early and that at 6:30 P.M., it is already dark. Thus, too, the matter of distance of witness Crisme from the victim's vehicle was never shown in the proceedings nor was the same inquired into. This would have been material to the alleged positive identification of the accused because on a dark night, recognizing a person would depend on how far or near he is from the subject of identification.

Consider further the strong possibility that between Iloilo City or place of departure up to Zarraga, the place where the alleged crime was committed which covers a distance of 12 kilometers, another person or persons might have boarded the victim's vehicle and attacked the latter; or the accused could have alighted at any point (assuming that the identification was accurate) before the crime was perpetrated.

It should be noted that the alleged companion of the accused was never produced. Why? Simply because he was not recognized and hence, could not be identified as to who he was.

Note that the Medico Legal Officer testified that 17 wounds were inflicted on the victim and that two weapons might have been used by the assailant. He also testified that it could have been possible for the assailant to inflict the wounds with two weapons but improbable for one person to use both hands. (tsn of Feb. 26, 1976, pp. 6 and 12); Underscoring supplied.

The other circumstantial evidence of the alleged threat made by the accused six years before the victim was killed when he was jailed for alleged robbery is also speculative and cannot be the basis of a conviction.

Consider this testimony of witness Antonia Diaz.

"Q.

Now, were you able to talk with Raul Torre or did he say something which you heard?

"A

While I was there Raul Monegro Torre talked inside the cell and I heard it." (TSN of May 3, 1976, p. 32) Italics supplied.

Clearly, from the above testimony, the alleged threat was not told directly to the victim's wife, Antonia Diaz. She merely heard it.

Likewise, assuming that there was such a threat, why did it take the appellant six long years to pursue the same? A person seeking vengeance would normally attempt to do it while his anger is at its highest peak. He would not wait for six years to get even with a person he intends to harm.

It appears that because the prosecution could not pin down the accused with the first circumstantial evidence, it had to play up the circumstance of the alleged threat overheard by the wife. Why, was the prosecution certain that no other person could have had a motive to kill the victim? And suppose there was such a person who really committed the murder, then We would be punishing a man who happens to provide an alleged motive simply because he was once indicted for robbery by the victim years ago. Something is wrong here somewhere. The prosecution's weakness becomes more glaring.

If only to stress Our point, We have before ruled that to uphold a judgment of conviction on circumstantial evidence, the circumstances must be "an unbroken chain which leads to one fair and reasonable conclusion, which points to the defendant to the exclusion of all others, as the guilty person. (People vs. Colinares, L-72025, June 30, 1988 163 SCRA 313.)

Thus, too, in the case of People vs. Macatana, L-57061, May 9, 1988, 161 SCRA 235, We held that from all circumstances, there should be a combination of evidence which in the ordinary course of things, leaves no room for doubt as to the guilt of the accused. Where the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with innocence and the other with guilt, the evidence does not fulfill the test of moral certainty and is not sufficient to convict the accused.

Indubitably, the prosecution has failed to establish an unbroken chain of circumstances which would make Us conclude reasonably and positively that the accused-appellant is indeed the guilty person.

CONSIDERING THE FOREGOING, the decision of the trial court is hereby REVERSED and accused-appellant is accordingly ACQUITTED of the crime of murder.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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