

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AURORA ORTIZ LUIS, ACCUSED-APPELLANT.

Ponente: TIJAM, J.

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TIJAM, J.:

“In a criminal case, it is incumbent upon the prosecution to establish the guilt of the accused beyond reasonable doubt. The overriding consideration is not whether the Court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[1] It is an oft-cited rule that only when the conscience is satisfied that the persons on trial are the ones who committed the offense that the judgment should be for conviction.”[2]

The foregoing applies in the instant appeal[3] from the Decision[4] of the Regional Trial Court of Gapan, City, Branch 35, finding accused-appellant Aurora Ortiz Luis guilty beyond reasonable doubt of the crime of less serious physical injuries defined and penalized under Article 265 (1) of the Revised Penal Code and sentencing her to suffer the penalty of imprisonment of 4 months and 1 day to 6 months and to pay the private complainant the amount of P38,871.95 representing medical expenses.

The trial court's decision in this case pertains only to accused-appellant Aurora Ortiz Luis and Jacinto Ortiz Luis[5]. The other accused in this case remained at large.

The accusatory portion of the Information dated March 9, 2004 charging accused-appellant and Jacinto Ortiz Luis reads:

“That on or about the 6[th] day of May 2001, at about 9:00 o'clock in the evening, at Brgy. Entablado, in the Municipality of Cabiao, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, while on board a tricycle, did then and there willfully, unlawfully and feloniously bump and ran over one RONNIE G. LAPUZ, inflicting upon the latter open fracture in his left leg and thereafter, said accused alighted from said tricycle, conspiring, confederating and mutually helping one another, attack, assault and mauled said Ronnie Lapuz, inflicting upon him injuries in the different parts of his would have produced the crime of Murder as a consequence, but nevertheless, did not produce it by some reason of some causes independent of the will of the perpetrators, that is, by the timely intervention of other people and timely medical attendance extended to the said Ronnie Lapuz which prevented his death, to the damage and prejudice of the said victim.

CONTRARY TO LAW.”

During arraignment, accused-appellant and Jacinto Ortiz Luis entered a separate plea of not guilty to the charge.[6] After the termination of the pre-trial conference, trial on the merits ensued.

Private complainant Ronnie Lapuz alleged that, on May 6, 2001 at about 9 PM, together with his companion Roberto Ramirez, they were walking along the street of Entablado in Cabiao, Nueva Ecija when they saw a tricycle approaching their direction.[7] At some distance of about 4 to 5 meters, he allegedly heard somebody inside the tricycle uttered “sagasaan mo, sagasaan mo”. He alleged that it was the accused-appellant who uttered those words to the driver. Thereafter, the tricycle ran over him[8] and hit his left leg causing him to fall on the

ground.[9]

Private complainant also alleged that the tricycle was driven by the son of accused-appellant, Bonifacio Ortiz Luis. The passengers were also accused-appellant's children, Jacinto and Joseph, accused-appellant, and a certain Ilyo.[10]

Private complainant further alleged that, after he was hit by the tricycle, Bonifacio and Ilyo suddenly alighted therefrom. Then and there, he was hit by Bonifacio with a lead pipe on his head, hand, and some other parts of his body[11] while Jacinto and Joseph followed and kicked him many times all over his body.[12] Accused-appellant allegedly did not do anything to pacify her children. Ilyo also hit him with a pipe.[13] They only stopped hitting and hurting him when Darwin Ramirez and Roberto Ramirez rescued him.[14] Thereafter, he was brought to Duque's Clinic for first aid treatment; then to Paulino J. Garcia Memorial Research and Medical Center, where he was confined and had an operation on his leg.[15] From time to time, he needed to go to the Philippine Orthopedic Center in Quezon City for check-up.

The private complainant's testimony was corroborated in its material points by Darwin Ramirez and Roberto Ramirez.

Another prosecution witness, Dr. Antonito G. Duque testified that when he saw private complainant for the first time, the latter had an open fracture on the left leg that required an emergency surgery. He said that the injuries on private complainant's body may have caused his death if they were not treated outright.[16]

Norma Lapuz, the mother of private complainant, affirmed that private complainant was confined at the Paulino J. Garcia Memorial Research and Medical Center for 18 days, more or less, and she incurred medical expenses in the estimated amount of P30,976.95.[17]

The prosecution offered as documentary evidence the medical certificates issued by (1) Duque's Clinic (Exhibit "B")[18]; (2) Paulino J. Garcia Memorial Research and Medical Center (Exhibit "C")[19]; and, (3) the Philippine Orthopedic Center (Exhibit "D")[20] to prove that private complainant underwent medical treatment and surgery on his left leg. It also offered as evidence the list of expenses actually incurred by the private complainant amounting to P38,871.95 by way of medical expenses.[21]

In her defense, accused-appellant denied private complainant's accusation that she uttered "sagasaan mo, sagasaan mo" to Bonifacio. If ever it was true, it was impossible for the private complainant to have heard her voice because the tricycle was closed.[22]

On April 29, 2008, the trial court rendered the assailed decision, the dispositive portion of which reads:

"WHEREFORE, finding accused Aurora Ortiz Luis guilty beyond reasonable doubt as principal by inducement of the crime of less serious physical injuries defined and penalized under paragraph 1 of Article 265 of the Revised Penal Code, she is hereby sentenced to suffer the penalty of four (4) months and one (1) day to six (6) months and to pay the offended party the amount of P38,871.95 representing medical expenses.

For failure of the prosecution to establish his guilt beyond reasonable doubt, accused Jacinto Ortiz Luis is acquitted.

SO ORDERED."

Aggrieved by the trial court's judgment, accused-appellant filed the instant appeal raising the following errors:

“I.

THE HONORABLE REGIONAL TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR LESS SERIOUS PHYSICAL INJURIES AS HER ALLEGED GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

A. THE HONORABLE REGIONAL TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED-APPELLANT AURORA ORTIZ LUIS IS GUILTY AS A CONSPIRATOR AND BY INDUCEMENT.

A-1. THE HONORABLE REGIONAL TRIAL COURT ERRED IN NOT MAKING A FINDING OF FACTS CLEARLY AND DISTINCTLY IN VIOLATION OF ARTICLE VIII, SECTION 14 OF THE CONSTITUTION WHICH PROVIDES SEC. 14., ARTICLE VIII – NO DECISION SHALL BE RENDERED BY ANY COURT WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH IT IS BASED.”[24]

The evidence by which accused-appellant can be linked to the crime was private complainant's testimony that he overheard accused-appellant uttering “sige sagasaan mo, sagasaan mo”. Said utterance was treated by the trial court as an exercise of her dominance, influence and ascendancy over her son. Thus, it found her guilty as co-conspirator.

Simply put, the conviction for less serious physical injuries is premised on the trial court's finding that accused-appellant induced Bonifacio to run over and hit the private complainant causing the latter to sustain injury as a result.

The pivotal query posed, therefore, is whether or not accused-appellant is a co-conspirator and principal by inducement.

The appeal is granted.

Emphasis must be laid, at the outset, that to find an accused a principal by inducement for utterances he made, the same must be of such nature and manner as to become the determining cause of the crime to serve such purpose, and that such inducement was uttered with the intention of producing the result.[25] In other words, the inciting words must have great dominance and influence over the person who acts; they ought to be direct and as efficacious, or powerful as physical or moral coercion or violence itself.[26]

The rule was expounded in *People v. Dumancas, et al.*[27] A person may be convicted as principal by inducement, only if the following requisites are present: (1) the inducement be made with the intention of procuring the commission of the crime, and (2) such inducement be the determining cause of the commission by the material executor.[28] To constitute inducement, there must exist on the part of the inducer, the most positive resolution and the most persistent effort to secure the commission of the crime, together with the presentation to the person induced of the very strongest kind of temptation to commit the crime.

Viewed in the light of the foregoing jurisprudential rule, the conviction of the accused-appellant of the crime of less serious physical injuries from the original charge of frustrated murder is baseless in fact and in law.

We explain.

First, private complainant's allegation that he heard accused-appellant utter “sige sagasaan mo, sagasaan mo”, was effectively rebutted by the accused-appellant's testimony under oath, viz:

“Atty. Cajucom:

Q:

Mrs. Ortiz, you are charged of frustrated murder in this case by the Fiscal and that you uttered the following words: *sige sagasaan mo*, what can you say about that?

A:

That is not true, sir.

Q:

Why did you say that is not true?

A:

Because no parents who will instruct to do bad things, sir.[29]

x x x

x x x

Q:

What is the truth, can you tell us the truth why Ronnie Lapuz said that in this affidavit?

A:

I do not know why Ronie Lapuz said that in his statement and we had no knowledge about it, sir.”[30] (Underscoring Ours).

Notably, the prosecution did not bother to challenge accused-appellant's credibility. It chose not to cross-examine her despite opportunity to do so. This is fatal to the prosecution's case. The prosecution should have utilized all the expedients to determine the credibility of accused-appellant as witness in order to determine which of the contradictory testimonies represents the truth, but it failed to do. Thus, if a witness is not impeached, his testimony must be taken as any other testimony, with the presumption of truthfulness as it was given under oath.[31]

Second, We find it incredible for the private complainant to have heard the accused-appellant's utterance considering that the tricycle was closed and as he alleged, the accused-appellant was inside the tricycle when it ran over him. The picture of the tricycle marked as Exhibit “E” shows that its front part is enclosed with stainless steel and tinted fiberglass. Considering that the incident took place at nighttime and the tricycle was moving, it is doubtful for accused-appellant, a 55 year-old-woman,[32] or anyone inside the tricycle for that matter, to have seen the private complainant on the road. It is thus incredulous for her to utter “*sige sagasaan mo, sagasaan mo*” when she had not seen him at all. Thus:

Q:

Attached to the record are Exhibits “E”, “E-1”, “E-2”, “E-3” and “E-4”, will you please look at these exhibits and tell us if that is the tricycle you were riding that night?

A:

Yes, sir, that is the one.

Q:

Ronnie Lapuz said that the tricycle was ten (10) meters away from him when you said, “sagasaan mo, sagasaan mo”, what can you say as to that?

A:

I do not know that, sir.

Q:

In this picture Exhibit “E” for the prosecution, will you please the Court where you were?

A:

I was inside, sir.

Q:

In [sic] you are inside the tricycle, can you see what is in front?

A: No, sir.

Q: Why?

A: Because it was closed, sir.”[33]

Again, We hold that if a witness is not impeached, as in the case of accused-appellant, her testimony therefore must be taken as any other testimony, with the presumption of truthfulness as it was given under oath.

On the other hand, it is unlikely for private complainant to have just waited for the tricycle to run over him. His first impulse and man's natural instinct would have been to protect, repel, and save his person from impending danger or peril granting that it was true that he overheard the accused-appellant utter “sige sagasaan mo, sagasaan mo” while the tricycle was still some meters away from him.

Third, We cannot accept the trial court's sweeping conclusion against accused-appellant that she, as the mother of Bonifacio, exercised dominance, influence and ascendancy over the latter when she uttered “sige, sagasaan mo, sagasaan mo”. As opposed to the trial court's findings, there is not enough evidence to establish that accused-appellant had in fact uttered “sige sagasaan mo, sagasaan mo,” if that is the only reason she is found criminally liable under the circumstances. Stated differently, the utterance of accused-appellant, granting that it was true, is not equivalent to a commission of a crime in the absence of proof that her utterance was made in such a manner as to become the determining cause of the crime and that the same utterance was with the intention of producing the result. The legal justification with which the trial court based its ruling is apparently imprecise as the jurisprudence it cited [People v. Bautista, (C.A.) 58 O.G. 5197] involves a totally different factual milieu barring the application thereof in the present case.

Fourth and most important, conspiracy has not been established beyond reasonable doubt. It is a rule that although there is no direct evidence of prior agreement to commit the crime, conspiracy may be inferred from the acts before, during, and after the crime which are indicative of a joint purpose, concerted action, and concurrence of sentiments.[34]

In this case, the record is bereft of any evidence indicating a prior plan or agreement between accused-appellant and her sons who were all together in the tricycle on the date and time the complained incident occurred. Except for the allegation of the private complainant that he overheard the accused-appellant utter “sige, sagasaan mo, sagasaan mo” to Bonifacio – which allegation was repudiated by accused-appellant's own testimony – no evidence of weight and value was adduced to warrant the affirmance of the trial court's decision.

Thus, absent any other proof of overt act necessary or essential to the perpetration of physical injuries against private complainant, accused-appellant's alleged presence and utterance cannot be a valid basis for her conviction.

All the foregoing premises considered, We are inclined to reverse the findings and conclusion of the trial court. Accused-appellant is therefore acquitted for failure to prove her guilt beyond reasonable doubt.

In *People v. Bolivar, et al.*[35], the Supreme Court acquitted the accused for failure of the prosecution to prove that he was a principal by inducement. In that case, the Court made the following discourse:

“Even assuming that CANAGURAN agreed to kill CALLAO, the evidence of record is still insufficient to convict BARRION as a principal by inducement. Article 17 of the Revised Penal Code provides that principals are those who "directly force or induce others" to commit an offense. "One is induced to commit a crime either by a command (precepto) or for a consideration (pacto), or by any other similar act which constitutes the real and moving cause of the crime and which was done for the purpose of inducing such criminal act and was sufficient for that purpose. Where the circumstances of force, fear, price, promise or reward are not present, the question that may arise is whether the command given by a person to the author of the crime amounts to a criminal inducement. The inducement exists whenever the act performed by the physical author of the crime is determined by the influence of the inducer over the mind of him who commits the act whatever the source of such influence." Thus, the inciting words must have great dominance and influence over the person who acts; they ought to be direct and as efficacious, or powerful as physical or moral coercion or violence itself.

In the case at bar, the only evidence adduced by the prosecution linking BARRION to the crime was PANAGA's testimony that he overheard BARRION telling CANAGURAN to try to kill CALLAO. No evidence of force, fear, price, promise or reward exerted over or offered to CANAGURAN by BARRION that impelled him to kill CALLAO was presented by the prosecution. It was therefore incumbent upon the prosecution to prove that BARRION had an influence over CANAGURAN so great that such inducement would be the determining cause of the commission of the crime by the material executor. x x x It does not follow by necessary inference that the order of BARRION to CANAGURAN was effective and motivated CANAGURAN's shooting CALLAO. The conclusion would be speculative without further evidence that the plot was indeed pursued to its actual completion on the basis of the conversation that transpired in the public market. x x x (Underscoring Ours).

Moreover, as held in *People v. Janson*[36] it is only when the conscience is satisfied that the persons on trial are the ones who committed the offense that the judgment should be for conviction. Only when there is proof beyond reasonable doubt can we be certain that, after trial, only those responsible should be made answerable. The evidence for the prosecution must stand or fall on its own merit and cannot be allowed to draw strength from the weakness of the evidence for the defense. In this exacting standard, the prosecution failed. It follows that the judgment of the trial court convicting accused-appellant ought to be set aside for failure to meet the quantum of evidence constitutionally required.

All told, the only reason for disregarding the findings of fact of the trial court – which are ordinarily given great respect by the appellate courts – is when there is a manifest indication that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could have altered the conviction of the accused. Our discussions above are more than enough reason for Us to set aside the trial court's findings.

WHEREFORE, the appeal is GRANTED. The Decision of the Regional Trial Court of Gapan City, Branch 35 is REVERSED and SET ASIDE. Accused-appellant Aurora Ortiz Luis is hereby ACQUITTED based on reasonable doubt.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Baltazar-Padilla, P.J., and Reyes Carpio, A., JJ., concur.

[1] People of the Philippines v. Trinidad, G.R. No. 181244. August 9, 2010. Emphasis Ours.

[2] People v. Janson, G.R. No. 125938, April 4, 2003.

[3] See Notice of Appeal, dated June 15, 2011; Record, p. 454.

[4] Penned by Hon. Judge Ma. Theresa Dolores C. Gomez-Estoesta on June 1, 2011; Record, pp. 439-449.

[5] He was acquitted by the trial court on reasonable doubt; See RTC Decision, *supra*.

[6] Certificate of Arraignment; Record, p.

[7] TSN, August 4, 2005, pp. 3-4.

[8] *Id.*, p. 7.

[9] *Id.*, p. 8.

[10] *Id.*, p. 5.

[11] *Ibid.*

[12] *Ibid.*

[13] *Id.*

[14] TSN, August 4, 2005, p. 9.

[15] *Id.*, p. 11.

[16] TSN, March 16, 2006, pp. 9-11.

[17] TSN, November 16, 2006, pp. 5-7.

[18] Record, p. 8.

[19] The Medical Certificate indicates the healing period of the injuries sustained by private complainant from 3 to 4 weeks; Record, p. 10.

[20] *Id.*, p. 199.

[21] See Exhibit “H”; Record, p. 207.

[22] TSN, January 11, 2008, p. 5.

[23] Decision, pp. 7-8; Rollo, pp. 62-63.

[24] Brief for the Accused-Appellant, p. 4; Rollo, p. 45.

[25] *People v. Parungao*, G.R. No. 125812, November 28, 1996 citing *People v. Caimbre, et al.*, G.R. No. L-12087, December 29, 1960, *People v. Castillo*, 17 SCRA 721, and *People v. Canial*, 46 SCRA 634.

[26] *Id.*

[27] G.R. No. 133527-28, December 13, 1999.

[28] *People v. Dumancas, et al.*, *supra* citing *U.S. vs. Indanan*, 24 Phil. 203 [1913].

[29] TSN, January 11, 2008, p. 3.

[30] *Id.*, p. 5.

[31] *People v. Ruiz, Jr.*, G.R. Nos. 135679-137375, October 10, 2001.

[32] She was 62 years old when she testified. See TSN, January 11, 2008, p. 2.

[33] TSN, January 11, 2008, p. 5. Bracketed insertion Ours.

[34] *People v. Garcia*, G.R. No. 138470, April 1, 2003.

[35] G.R. 108174, October 28, 1999.

[36] G.R. No. 125938, April 4, 2003.

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