

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORMAN VIÑAS, DEFENDANT-APPELLANT.

G.R. No. L-21756. October 28, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

From a judgment of the Court of First Instance of Occidental Negros, in its Case No. 7843, convicting two brothers, Nelson and Norman Viñas, of the crime of murder for the killing of one Jesus Varela, and sentencing both to life imprisonment, Norman Viñas appealed directly to this Court.

It is uncontested that in the evening of 10 April 1962, in the premises of the Bacolod Murcia Sugar Central, Jesus Varela was stabbed from behind, while urinating beside a tree. Autopsy revealed a stab wound four inches from the spine, at the level of the second lumbar vertebra, that entered from behind, slightly downward, penetrating the peritoneal region and lacerating the vena cava. His death was attributed to the ensuing severe hemorrhage and shock (Exhibit "B").

Inquiries led to the arrest and prosecution for murder of the brothers, Nelson and Norman Viñas, and of one Rodolfo Sumpay, who had been living on the bounty of his co-accused for over two months before the killing. On motion of the fiscal in charge, the court dismissed the charge against Sumpay, and he was utilized as a witness for the prosecution.

After trial, the court, in due course, rendered judgment convicting both brothers and sentencing them to undergo reclusion perpetua, to indemnify the heirs of the deceased, Jesus Varela, in the sum of P6,000.00, and to pay the costs. Only Norman Viñas appealed. Nelson Viñas did not.

Appellant assigns the following errors as committed by the Court a quo:

"1. The Honorable Trial Court erred in giving credence and weight to the testimonies of the witnesses for the prosecution and in not considering the testimonies of the witnesses for the accused-appellant which are natural, believable and spontaneous.

"2. The Honorable Trial Court erred in finding that the accused-appellant is guilty of the crime of murder as charged."

The prosecution presented two eyewitnesses to the crime, Rodolfo Sumpay and Mario Derla, both of whom were closely acquainted with the accused brothers. Sumpay was, at the time living with said accused at the house of the latter for over two months. Derla had been their friend for ten years.

Sumpay testified that upon returning to the house of the Viñas in the Bacolod Murcia Central's compound, after a vain try at attending the radio program of station CBN in Bacolod City, he met on the night of 10 April 1962, at around 8 o'clock P.M., both the Viñas brothers conversing with Marlo Derla. Nelson drew him aside and said, "It is (a) good thing that you are here, because we are planning an idea (sic) to kill Varela" (t.s.n., pages 8-9); while Norman said, "let us stab (buno) Jesus Varela" (t. s. n., page 10). Sumpay protested: "Why should we stab him

when I do not even know him and he has no fault?" and Norman (now appellant) retorted: "Just go with me because he has committed a fault against me" (transcript, page 10). The four continued conversing and, at that juncture, Varela emerged from the nearby house of one Bauzon, where he had been drinking. All five went toward the plaza of the central and Varela separated from the others and leaned on a tree. Sumpay and Mario walked on ahead because they wanted to avoid trouble, and from some 40 meters away Sumpay saw Nelson Viñas approach Jesus Varela and immediately, without uttering a word, stab the latter with a curved knife (bulang) (Exhibit "A"). Varela rolled down an embankment and Sumpay and Mario ran away with Nelson Viñas. The first two stayed some time in the house of Evelyn Doraquez, Sumpay's girl friend, and then went home.

The second witness, Mario Derla, who had known the accused for over ten years, deposed in court that at 9:30 P.M. on 10 April 1962 he and Sumpay were ordered by the accused brothers to watch and fallow Jesus Varela, who had been drinking with some companions at the house of one Bauzon. While Varela was urinating and holding a branch of a tree (t.s.n., page 14, II pieza), Nelson Viñas stabbed him from behind with the knife, Exhibit "A". Sumpay was with the witness at the time. After the stabbing, Nelson rushed to them and told them to run away.

Varela's widow testified that she had been informed that her husband had a fight with Norman Viñas the previous December and, as a result, the latter had been demoted in rank at the Central where he was a watchman, although the case had been settled by the police. Some time later, Norman mauled Varela, but the incident was again settled. Thereafter, Varela made a sort of shield for his body, and was cautious when leaving the Central compound.

The defense set up by the accused was that the late Varela chanced to meet Derla, Sumpay and Nelson Viñas on the fatal night, and that Varela challenged Sumpay to "draw" and attacked him with the knife, exhibit "A", but only hit the jacket that Sumpay was carrying. Nelson testified that he wanted to run away, but Derla handed him a knife, and Nelson lunged then at Varela with intent to stab his hand and make him release Sumpay, "but I do not know where he was hit" (t.s.n., page 5, Hearing of 27 March 1963). The artificiality of the defense version flies in the teeth of physical facts, let alone the version of both Derla and Sumpay. It does not explain (and the defense did not attempt to do so) how in a frontal encounter Varela could be stabbed from behind, as revealed by the autopsy, or why Varela, being alone, should attack three men without any provocation. Anyway, since Nelson Viñas did not appeal, his explanation need not be delved into any further.

Both Nelson Viñas and witness Oscar Parcon told the court that Norman Viñas was not in Bacolod but went to Hinigaran on the 8th of April 1962 to attend Parcon's birthday party on 9 April, and did not return to Bacolod until the 11th. The alibi is plainly insufficient. No explanation is given why Norman Viñas had to stay at Parcon's home until 11 April, when the celebration was on the 9th, nor why no other witness was produced to support the alibi. Moreover, since Minigaran is barely 50 kilometers, an hour and a half by jeepney, it was not physically impossible for Norman Viñas to proceed from Hinigaran to Bacolod and back on the night of the crime.

The appellant's brief assails the veracity of the prosecution eyewitnesses on the basis of contradictions as to some details in their narration, but without referring to any specific pages of the transcript, as expressly required by the Rules of Court (Section 16(f), Rule 46). Such contradictions are to be expected, both in the observation of a startling occurrence and in recalling the same at the trial two years afterward. They indicate veracity rather than prevarication. Much more significant it is that both witnesses had been very close to the accused and, hence, expectably biased in their favor; and neither one of the Viñas brothers could indicate any reason why Sumpay and Derla should testify against them, save vague unsupported hints at their being employed by the Central since the slaying of Varela.

The presence of both brothers at the place and time of the attack on Varela; their remarks to Sumpay just before the crime was committed; the assault on the deceased by Nelson Viñas, who had no personal reason to bear any grudge against said Varela, were circumstances that led the trial court to find that both brothers had conspired to carry out the killing. We find no adequate reason to overturn the conclusion.

WHEREFORE, the decision appealed from is affirmed. Costs against appellant.

Concepcion, C.J., Dizon, Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., on leave, did not take part.

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