

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. GORGONIO SERDEÑA, DEFENDANT AND APPELLANT.

G.R. No. L-18032. April 30, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from the decision of the Court of First Instance of Leyte finding the defendant-appellant Gorgonio Serdeña (sometimes spelled in the records as "Cerdeña") guilty of the crime of murder for the death of Genaro Roldan and sentencing him therefor to life imprisonment and to indemnify the heirs of the deceased in the sum of P6,000.00, with costs.

The information reads as follows:

"The undersigned Provincial Fiscal accuses GORGONIO SERDENA of the crime of murder, committed as follows:

"That on or about the 9th day of January, 1959, in the municipality of Santa Fe, province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with intent to kill, with evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously attack, assault and wound one GENARO ROLDAN with a bolo while the latter was sleeping, thereby inflicting upon him mortal wounds on the left side of his body which caused his instantaneous death.

"CONTRARY to Article 248 of the Revised Penal Code.

"Tacloban City, January 15, 1959.

(SGD.) ALFREDO M. SABATER
Provincial Fiscal

The prosecution presented four witnesses, namely: the district health officer who performed necropsy on the victim, two eyewitnesses to the incident, Gregorla Palamos and Vicente Valera, and Vicente Palamos who testified on the antecedent and subsequent facts of the incident.

From the testimony of the above-named eyewitnesses, at about 6:00 o'clock in the evening of January 9, 1959, several persons gathered at a store in Barrio Katipunan, Sta. Fe, Leyte to play checkers or "dama" as the game is known in the locality. Among them were the appellant herein, Genaro Roldan, Vicente Palamos, Vicente Valera, Bonifacio Cerdana, Clemente Berden, Igmedio Carba, Dominador Valera and Jesus Roldan. Shortly after they were thus gathered, however, Genaro Roldan apparently lost interest in the game because he bought a tarrifa of tuba, equivalent to about a dozen glassful, and invited two of the men in the store, Vicente Palamos and Gorgonio Serdeña, the defendant-appellant, to join him. Palamos and Serdeña accepted the invitation and it was not long before the three of them consumed the wine. All became intoxicated.

So, Vicente Palamos and Gorgonio Serdeña left the store and went home. Genaro Roldan, however, was too sleepy and affected by the drink for he reclined by a bench in the store, pillowed his head with his right arm, and dozed off to a deep sleep.

Genaro Roldan was still sleeping at around 8:00 o'clock that same evening when the appellant herein returned with an 18-inch bolo in his hand. After briefly viewing the sleeping figure on the bench, the said appellant declared, "You will not be saved anymore, Pacanap" and forthwith stabbed the man to death.

The appellant does not deny having stabbed Genaro Roldan to death. On the contrary, he admits it. He maintains, however, that he did it in defense of his wife's honor because at the time of the incident, the victim was forcing some unchaste or criminal desire upon her.

According to the appellant, his wife was alone in the store earlier mentioned in this decision at around eight o'clock of the evening in question while he was in their house across the street taking his supper. Suddenly, he heard his wife screaming for help and when he rushed to the store, he saw Genaro Roldan trying to flee from the store's improvised bedroom. The appellant ran after him and on catching up with him, stabbed the latter twice. Thereafter, he went to a nearby barrio to request some relatives of his to raise his bail bond and, on the third day after the incident, surrendered himself to the Chief of Police of Sta. Fe who happened to be his nephew.

In support of the foregoing, the appellant presented his wife and two policemen of Sta. Fe. In the main, his wife corroborated the appellant's claim that the victim had attempted to attack her that evening and that the said appellant came to her rescue in the course of which the killing took place. The policemen, on the other hand, merely testified on the results of their investigation.

This Court is unable to see any reason for disturbing the findings of the trial court. In the first place, the truth and veracity of the appellant's defense have been explicitly rejected by the trial court with the observation that the witnesses for the defense who vouched for the appellant's plea of "defense of a relative" were related to the accused and could not be impartial in their testimony. Moreover, the trial court observed that the appellant and his wife were nervous, unconvincing and hesitating in their answers to questions propounded during the trial, in sharp contrast with the conduct of the prosecution witnesses. In other words, the appellant's plea of "defense of relatives" has been denied by the trial court as a factual issue. Time and again, this Court has said that it will not alter determinations of facts by trial courts precisely because they are in a better position to assess the same than appellate tribunals. We have not been shown any special or compelling reason why this rule should not now be followed.

What this Court is actually being asked in this appeal is to revise the trial court's assessment of the relative credibility of the prosecution and defense witnesses. But as has already been explained, it is wisest to entrust the judgment to the trial judge who has had the opportunity to observe and weigh the demeanor, attitude and conduct of the witnesses on the stand. And, unless his conclusions thereon are seriously contradicted by the records and the evidence, the same ought to be sustained.

As accepted by the trial court upon the testimony of the prosecution witnesses, the incident occurred at around eight o'clock in the evening in front of a barrio store which was then with several habitues. Consequently, it would have really been foolishly reckless and unreasoning of Genaro Roldan to have made an attempt on the appellant's wife under the circumstances. Not only would that have been contrary to all plain instinct, it would have also provoked retaliation not only from the offended party's husband but from all those present too. We fully agree with the court a quo, therefore, that the appellant's defense is simply incredible.

The appellant questions the correctness of his conviction on the ground that the prosecution has not shown any

motive for the killing. Considering, however, that he has admitted the deed, the failure to establish motive was completely inconsequential (People vo Ramirez, G. R. No. L-10951, October 23, 1958).

The records of this case do not sustain the claim of the appellant that he surrendered voluntarily to the authorities (jo the end that he might be accorded that mitigating circumstance. According to him, he surrendered on January 12, 1959. And yet, the warrant for his arrest was issued only on January 17, 1959. If he had already surrendered on the 12th, then there would not have been any need for the issuance of the warrant for his arrest on the 17th. And, as noted in the said warrant, the appellant surrendered on January 27, 1959. There is no basis whatsoever, therefore, for sustaining his claim that he should have been extended the mitigating circumstance of voluntary surrender.

FINDING NO ERROR in the decision appealed from, the same is hereby affirmed in full.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, Barrera, Dizon, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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