

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL RICARTE ET AL., DEFENDANTS-APPELLANTS.

G.R. No. L-159. March 13, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

Accused of the crime of homicide committed on April 10, 1945, in Iloilo, for allegedly participating in the killing of Emilio Dahuya, appellant Manuel Ricarte was sentenced by the lower court to suffer from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months of reclusion temporal, to indemnify the heirs of the deceased in the sum of P2,000, without subsidiary imprisonment, to suffer the accessory penalties of the law, and to pay one-half of the costs.

As to how the deceased was killed, the prosecution called only one witness to testify, Concepcion Binalon.

At about 9 a. m. on April 10, 1945, because it was warm, Concepcion was at the window of her house and she saw the two accused and the deceased coming down from a house. Evangelio asked Dahuya why he went up the house in undershirt when there were girls and Americans enjoying singing. Dahuya answered that it did not matter because it was warm. "You are shameless," said Evangelio and immediately hit Dahuya with a guitar. Dahuya wrested the guitar from the former and hit him with it. Ricarte took a piece of bamboo and hit Dahuya at the left jaw; Dahuya fell. Evangelio mounted on Dahuya and gave him fist blows at the mouth and in the face. Ricarte ran away saying, "Continue fighting as I am going to call Porfirio," the latter being a brother of Evangelio. Concepcion shouted for help but nobody came. She ran away and went to tell Amparo, Dahuya's wife, that her husband died. The incident took place in the District of Lapuz, jurisdiction of La Paz, City of Iloilo.

The above was testified to by Concepcion Binalon in her direct testimony. At cross-examination, she testified that Dahuya was her step-son. The witness is the owner of the house where she was at the time of the incident. But she was not living there because it was still unfinished. She was temporarily living in the house of one Anunciacion about three "brazas" away. When the incident took place, her husband was present. She was about three "brazas" away from the accused and the deceased when the incident took place, which happened for "less than an hour. All the time she remained standing at the place facing the three persons. It was only when Dahuya fell down and Evangelio mounted on him and rained blows on his face when she cried for help. After that, "me retire a casa." She could not tell whether Evangelio was still in the same place with Dahuya when she returned to her house, because people gathered at the place, including American MPs. She does not know if any investigation was conducted at the place of the incident that night. The incident was also witnessed by a woman, Adelina Santillan. When Dahuya was being hit by Evangelio, "he was already dead."

Several reasons compel us not to accept Concepcion Binalon's testimony to convict appellant:

- Her name does not appear in the list of witnesses appearing at the bottom of the information, and nowhere in the record can we find any explanation why her name was omitted if she was to be used as a witness.

- In her direct testimony she declared having witnessed the incident from the window of her unfinished house, while at her cross-examination she testified that she witnessed the incident standing in an unmentioned place but other than her house, from which she had to retire to said house, after unsuccessfully crying for help, a contradiction not having been explained in any way.
- While her husband was present when the incident took place, no explanation has been given why said husband was not presented as witness, although he must be the father of the deceased, as can be deduced from the fact that the latter is the step-son of the witness, and, therefore, should have taken interest in the case.
- No explanation has been given why the witness, notwithstanding her relations with the deceased, went away from the place when people, including American MPs, came around, instead of giving her version of the incident to the authorities present. She even failed to know whether any investigation was conducted in the place at the very night of the incident.
- Adelina Santillan is mentioned by the witness as one who also witnessed the incident, but, for no reason at all, said woman was not called to testify.
- The information carries a list of witnesses for the prosecution, including Antonina Magluyan, Maria de la Cruz, and Adela Dahuya, but no one of the three was called to testify.
- Another witness for the prosecution, also mentioned in the information, is Loreto A. Herrera. She was not called to testify for the prosecution. But the defense called her to testify, and her testimony corroborates the defense.
- The alibi of appellant Manuel Ricarte is supported, not only by his own testimony but also by testimonies of Loreto A. Herrera, Valentin Concepcion and his co-accused Igmedio Evangelio. The latter testified that it was he alone who fought with the deceased and it was he who hit the deceased with a piece of bamboo. There is no reason why he should assume exclusive responsibility for the killing, while he was still on trial and not knowing whether he was to be acquitted or not, unless he was telling the truth.

Our conclusion is that there is no evidence of record to support appellant's conviction beyond all reasonable doubt.

When the evidence of the prosecution consists in the uncorroborated testimony of a lone witness, who has incurred in an unexplained contradiction on an important detail and had shown an attitude apparently inconsistent with the truth of his testimony, it should not be enough basis to convict the accused. The fact that the prosecution, without explanation, failed to call several witnesses, three mentioned in the information and the two others mentioned by its lone witness, the presumption is that their testimonies will not be favorable to the prosecution's cause.

The lower court's decision is reversed and appellant Manuel Ricarte is acquitted.

Moran, C.J., Paras, Feria, Pablo, Hilado, Bengzon, Briones, and Padilla, JJ., concur.

DISSENTING

TUASON, J.:

I regret I am unable to give my assent to the decision of the Court. Upon consideration of the conflicting evidence, there is no occasion to reverse the finding of the trial judge. The Court has departed, without cause, from the time-honored, rational and realistic norm of this Court of respecting the decision, on the question of credibility, of

the judge who was in the best position to gauge that credibility.

Independent of the lower court's finding, I am satisfied beyond reasonable doubt that the appellant is guilty. The prosecution's eye-witness had no motive to perjure herself, and the evidence discloses nothing to impeach her ability to recognize the appellant. She and he had known each other intimately and had resided in the same barrio. Under the circumstances, she could tell him from others even without seeing his facial features.

I am firmly convinced that the accused was present at the affray. I might doubt the evidence against him on the score of what he actually did in that affray if he had admitted his presence and denied participation in the fight. But his defense is crude and should not merit serious attention. In putting up alibi, he established by inference his direct intervention in the crime—assuming, as I believe the evidence shows, that he was with his coaccused.

The majority overlook the fact that appellant was arrested on the morning of the next day, if not sooner, and was held under detention from that time on. The importance of this circumstance is that it tends to preclude the idea of the accusation against him being trumped-up.

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