

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO BENARABA, CESAR BENARABA, AND VIRGILIO BENARABA,
ACCUSED-APPELLANTS.**

G.R. No. L-32865. May 18, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Automatic review of the decision of the then Court of First Instance of Quezon (Criminal Case No. 2365) convicting herein accused Antonio Benaraba, Cesar Benaraba and Virgilio Benaraba for multiple murder and sentencing them to the supreme penalty of "death by electrocution; to indemnify jointly and severally the heirs of Danilo, Ernesto, Gil and Henry, all surnamed de Leon, in the total amount of Forty Eight Thousand Pesos (P48,000.00), but without subsidiary imprisonment in case of insolvency; and, with costs de oficio."

The case against Cesar Benaraba was dismissed by this Court in a resolutions, dated February 15, 1979, as follows:

"L-32865 (People vs. Antonio Benaraba, et al.). -Considering the letter dated December 12, 1978 of Pablo L. Rosales of the Bureau of Prisons, reporting on the death of the accused-appellant Cesar Benaraba and the comment thereto of the Solicitor General, filed in compliance with the resolution of January 16, 1979, interposing no objection to the dismissal of the appeal insofar as the criminal liability of the deceased accused is concerned, but stating that the civil indemnity which was adjudged against him by the lower court should survive for final disposition by this Court, the Court Resolved to DISMISS the case against appellant Cesar Benaraba but only insofar as his criminal liability is concerned, without prejudice to his civil liability." (p. 302, Rollo)

Likewise, the case against Antonio Benaraba was dismissed in a resolution by the Court en banc, dated April 14, 1983:

"L-32865 (People vs. Antonio Benaraba, et al.). - Acting on the comment of the Solicitor General on the letter dated February 22, 1983 of the Acting Director of Prisons, informing this Court of the death of accused-appellant Antonio Benaraba, the Court Resolved to DISMISS this case with respect to said accused-appellant Antonio Benaraba." (p. 326, Rollo)

Thus, the case against Cesar Benaraba and Antonio Benaraba having been dismissed, this appeal concerns Virgilio Benaraba only.

Prosecution evidence shows that Marcialito de Leon of barrio Caglate, Alabat, Quezon borrowed from spouses Fidel Benaraba and wife, also of the same barrio, the sum of P1,165.30. It was their understanding that should de Leon fail to pay the debt he would sell his parcel of land to Fidel Benaraba and wife. The agreement was reduced in writing, signed in the presence of Fidel's sons namely: appellants Antonio Benaraba, Cesar Benaraba and Virgilio Benaraba.

De Leon failed to pay his indebtedness and when he did not sell his property to Fidel Benaraba as had been agreed upon, the latter was prompted to file a complaint for estafa against him. However, the estafa case was dismissed upon motion of the prosecution because the land was still in the possession of the complaining witness and no sale of the same was made to another person and the further fact that Fidel Benaraba failed to appear in court despite due notice.

Thereafter, Fidel Benaraba filed a tenancy case against de Leon with the then Court of Agrarian Relations. During the pendency of the CAR case, appellant Antonio Benaraba happened to meet Marcialito de Leon in the poblacion of Alabat, Quezon and in a threatening manner, Antonio told Marcialito that he would not stop until all the de Leons are killed.

On April 6, 1968, Marcialito de Leon, his wife and their two (2) daughters, Cerilla and Irene, were at the poblacion because the latter had to be treated for dislocation. The de Leon's four (4) children, namely: Danilo, 12 years old; Ernesto, 10 years old; Gil, 7 years old, and Henry, 5 years old were left at their house in Caglate, Alabat.

About six o'clock in the evening of April 6, 1968, Aniceto Cañazares passed by near the house of de Leon on his way home. He saw appellants Antonio, Cesar and Virgilio Benaraba in front of the de Leon's house. They were walking in single file in a crouched position towards the de Leon's house and with Cesar in front, followed by Virgilio and Antonio. They were about 20 meters away from the de Leon's residence. After watching them for about three minutes, Aniceto Cañazares continued on his way home.

Shortly thereafter, Cesar Magsino passed by near the house of de Leon. From a distance, he heard the sound of children crying in agony from the de Leon's residence. He went closer up to a distance of about 30 meters to observe what was happening inside. He stayed for sometime and he saw the Benaraba brothers - Antonio, Cesar and Virgilio, inside the house and the de Leon children crying.

About seven o'clock in the evening Antonio, Cesar and Virgilio left the house. Magsino also left and proceeded to his house without getting inside the house of the de Leons to see and inquire what had happened because he feared the Benaraba brothers.

About eight o'clock in the evening, the house of the de Leons was on fire. Alfredo Dequilla who lived nearby called upon his neighbors for help and they tried to put off the fire but failed. After the fire had run its course, people found the charred dead bodies of the four children of Fidel de Leon, namely: Danilo, Ernesto, Gil and Henry.

The bodies of the de Leon children were brought by the barrio people to the poblacion of Alabat, Quezon where an examination was conducted by Dr. Adolfo Caparas who issued the following findings:

"Danilo de Leon, 12 years old -

Cause of Death: Severe traumatic shock due to severe head injury, due to burn, severe, generalized covering whole body.

Other signs and conditions: Forearm, amputated, right.

Date of Death: April 6, 1968, death occurred 8 P.M." (p. 22, tsn., October 29, 1969; Exhibit 'L', p. 30, Records).

Ernesto de Leon, 10 years old –

Cause of Death: Severe traumatic shock due to severe head injury, due to burn severe, generalized, covering

whole body.

Date of Death: April 6, 1968, death occurred 8 PM (p. 22, tsn., Ibid; Exhibit 'm', p. 31 Records).

Gil de Leon, 6 years old –

Cause of Death: Severe burns, generalized, covering whole body.

Date of Death: April 6, 1968, death occurred 8 PM (p. 22, tsn., Ibid; Exhibit 'N', p. 32, Records).

Henry de Leon, 5 years old –

Cause of Death: Severe burns, generalized, covering whole body.

Date of Death: April 6, 1968, death occurred 8 PM (p. 22, tsn, Ibid; Exhibit 'O', p. 33, Records). (pp. 9-10, Appellee's Brief)

At about two o'clock in the afternoon of April 7, 1968, the dead children of Fidel de Leon were finally laid to rest with almost one hundred people attended the interment. It was noticed that no one in the family of the Benaraba joined the funeral.

On April 15, 1968, Acting Chief of Police Norberto Ramos, who personally went to the scene of the fire to conduct an investigation of the case, took the statements of Marcialito de Leon, Alfredo Dequilla and Pablo Verzo. Spouses Fidel and Gregoria and the three accused were summoned for the purpose of taking their statements but all of them except Antonio refused to sign any statement.

During the investigation, Acting Chief Ramos observed that Fidel and his wife wanted to say something but were ashamed. Hence, Acting Chief Ramos brought them at the back of the municipal building where Fidel pleaded for help in the case and offered him a cow. Believing that it would help solve the case, he agreed. Fidel promised to deliver the money at the wharf. Thereafter, he went to the Municipal Judge and informed the latter that Fidel had offered him a bribe. He also informed Acting Mayor Renato Baldovino about the offer but the latter told him not to push through his plan. Later, said Acting Mayor went to the house of Benaraba. One and half hour after, the acting mayor informed him that the reason why Fidel and his wife offered bribe was because they were afraid.

Despite the reason relayed by the acting mayor to Acting Chief Ramos, an attempted bribery case was still filed by the Philippine Constabulary against Fidel Benaraba, but the same was provisionally dismissed for lack of interest on the part of the prosecution.

An autopsy of the exhumed bodies of Danilo, Ernesto, Gil and Henry was made. The Medical Necropsy Reports of Col. Zarraga read as follows:

"FOR DANILO DE LEON -

Pertinent findings: Portions of the left frontal and temporal bones are fractured extending to the right parietal, temporal and frontal bone, causing a filling defect of the skull (See attached anatomical outline with measurements indicated).

Advanced decomposition has softened most of the internal organs. There is also a filling defect on the external region of the chest.

Remarks: The body is charred to such extent that ante-mortem traumatic injuries could be possible in the case" (pp. 3-4, tsn., Ibid; Exhibits 'G', 'G-1', pp. 246-247, Records).

"FOR ERNESTO DE LEON -

Pertinent findings: Portions of the left parietal, temporal and frontal bones are fractured and extending to the right parietal, frontal and temporal bones, producing a filling defect of the skull as indicated in the attached anatomical outline with the measurements indicated.

Advanced decomposition has softened most of the internal organs that no traumatic injuries could be established from a study of the internal organs.

Remarks: The body is charred to such an extent that ante-mortem injuries could be possible in this case" (pp. 5-6, tsn., Ibid; Exhibits 'I', 'I-1', pp. 242-243, Records).

FOR GIL DE LEON -

Pertinent findings: A portion of the left parietal bone is fractured to the extent indicated in the attached anatomical outline (with measurements indicated) extending to the right and forward to the right temporal and frontal bones.

Advanced putrefaction of the internal organs is such that no definite traumatic injuries to the same could be established.

Remarks: The body is charred to such extent that ante-mortem injuries could be possible in this case " (p. 6, tsn., Ibid; Exhibits 'J', 'J-1', pp. 240--241, Records).

FOR HENRY DE LEON -

Pertinent findings: Portions of the left frontal, parietal and occipital bones are fractured extending over to almost the whole left side, leaving portions of the left frontal, temporal and occipital bones, causing a large filling defect of the skull (See attached anatomical outline with measurements indicated).

Right femur is fractured at the distal third. Trachea and internal organs are undergoing advanced de-composition and softening and there is a large filling defect of the sternum and ribs anteriorly.

Remarks: The body is charred to such extent that ante-mortem traumatic injuries could be possible in this case" (pp. 4-5, tsn., Ibid; Exhibits 'H', 'H-1', pp. 244-245, Records). (pp. 13-14, Appellee's Brief)

Considering the injuries suffered by these little ones, particularly their fractured skulls, it is no wonder that they were not able to run away from a burning house. In fact, they would have died even if the house was not set on fire.

The defense asserts that neither Fidel nor his three sons were angry at Marcialito de Leon and his family, otherwise they would have taken the law in their own hands instead of filing estafa and tenancy cases against them; that before and during the fire, the three accused were all in the house of Eutiquio Morada at barrio Rizal, Perez, Quezon attending the reading of the Passion of Christ or "Pabasa" from late afternoon of April 6, 1968 until the following day; that it was physically impossible for Aniceto Cañazares and Cesar Magsino to have seen them immediately before the incident and during the precise moment when the children's agonizing voices were heard because there were thick underbush and obstructions consisting of citrus trees, banana hills, madre cacao and other plants between the barrio trail and the house of Marcialito; and, that the Medico Legal Necropsy Reports and the Death Certificates of the victims do not even state the exact causes of death.

Accused Antonio, Cesar and Virgilio were thereafter charged with Multiple Murder in an information as follows:

"The undersigned Provincial Fiscal, accuses ANTONIO BENARABA, CESAR BENARABA and VIRGILIO BENARABA of the crime of Multiple Murder, defined and punished under Article 248, paragraph 3 of the

Revised Penal Code, committed as follows:

"That on or about the 6th day of April 1968, in the Municipality of Alabat, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused with the intent to kill and with evident premeditation and treachery, conspiring and confederating together and mutually helping each other, armed with bolo and blunt instrument, did then and there, wilfully, unlaw-fully and feloniously attack, assault and wound DANILO DE LEON, ERNESTO DE LEON, GIL DE LEON and HENRY DE LEON in the different parts of their bodies, thereby inflicting upon the latters several mortal wounds and burned the victims inside their house which cause their instant death.

"That in the commission of the above-described crime, the aggravating circumstance of nighttime and inundation of burning the victims are present." (p. 200, Rollo)

After going over the records of the case We find no reason to disturb the finding of the trial court that Virgilio Benaraba is guilty of the crime for which he has been charged and convicted. Cesar Magsino categorically and positively identified him and his two brothers as the persons who were inside the house of the de Leons when the children Danilo, Ernesto, Gil and Henry were crying. Hereunder, is the testimony of Cesar Magsino on this point:

"Q What time did you reach home?

A More or less six o'clock.

Q On your way to your house were you able to witness an unusual incident?

A Yes, sir.

Q What was that unusual incident you have witnessed?

A I heard voices of children in agonizing (palakatan).

Q Where did you hear children crying in agony?

A In their house.

Q In whose house was that?

A Marcialito de Leon.

Q After you heard the children crying in agony at the house of Marcialito de Leon what did you do if you did anything at all?

A I went nearer.

Q How far more or less from the house?

A About thirty meters.

COURT:

Q Show to the window how far is that 30 meters?

A About thirty meters.

FISCAL:

Q After you have approached the house within the distance of thirty meters what did you do if you did anything at all?

A I stopped (tumahan).

Q After you stopped what did you do?

A I was observing.

Q Were you able to observe anything?

A I heard the agonizing of children.

Q After you have heard the agonizing of children what else have you observed if you have observed any-thing at all?

A Nothing else.

Q Have you seen any person in the house where the children were agonizing?

A Yes, sir.

Q Do you know those persons you have seen in the house where the children were agonizing?

A Yes, sir.

Q Can you please name to this Honorable Court who they were?

A I saw Cesar Benaraba, Antonio Benaraba and Virgilio Benaraba.

FISCAL:

Q In what place of the house have you seen these three persons?

A In the house of Marcialito de Leon.

Q What part of the house of Marcialito de Leon?

A Inside.

Q After you have seen these three persons inside the house of Marcialito de Leon what else did you do?

A After they left I went home.

COURT:

Q What time more or less did they leave?

A More or less seven o'clock.

FISCAL:

Q Were you able to know ... After the three accused have left the place, the house of Marcialito de Leon did you inquire of what had happened in the house of Marcialito de Leon?

ATTY. OMAÑA:

I would object this witness declared that after they have left he left also.

COURT:

Reform your question.

Q Did it not become very unique and unusual that you did not even bother to see what happened in the house?

A No, sir.

Q Why not?

A Because I was afraid.

Q To whom were you scared?

A To the three.

Q Are those three persons in the courtroom and if they are please point to the Honorable Court?

ATTY. OMAÑA:

Please make it appear on record that there is no other but the three accused.

A Witness pointed to the accused who answered to their respective names.

FISCAL:

Q On the morning of April... Were you able to know of what had happened in the house of Marcialito de Leon?

A Yes, sir.

Q What had happened to that?

A It was burned.

Q Do you know who were burned?

ATTY. OMAÑA:

I would object to the question because there is no basis.

FISCAL:

Q Which do you know have been burned?

A The house of Marcialito de Leon.

Q Besides the house do you know of anything that is including being burned in the house?

ATTY. OMAÑA:

I would object, your Honor, he is incompetent.

COURT:

Objection sustained, incompetent.

Q At about 7:00 p.m. when you left that house of Marcialito de Leon it was not yet burned?

A Not yet burned, your Honor.

COURT:

Q How far is your house from the house of Marcialito de Leon?

A More or less 200 meters away.

Q Did you reach home that evening?

A Yes, your Honor.

Q Did you mention this matter to anybody else upon your arrival?

A Nobody, your Honor.

Q Why not?

A Because I was scared to report the matter.

Q Did you not even intimate this to your wife?

A No, your Honor.

Q The following day did you not volunteer to give any information?

A Yes, I did.

Q To whom?

A To my co-workers in harvesting.

Q Not to any government officials or authorities?

A I reported.

Q To whom?

A Alberto Ramos.

Q Who is he?

A Ex-chief of police.

COURT:

Anybody else?

A No more, your Honor.

FISCAL:

Q Do you know being the neighbor of Marcialito de Leon do you know his children before that incident?

A I do not know the younger ones.

COURT:

Q How many do you know?

A Only Ernesto and Danilo.

FISCAL:

Q Do you know where this Ernesto and Danilo are at present?

A Yes, sir.

Q Where?

A They are already dead.

Q Do you know the cause of their death?

A Yes, sir.

Q What was the cause of their death?

A They were burned." (pp. 9-13, tsn., October 29, 1969 hearing)

The claim of the defense that appellant and his brothers were not angry at the de Leons is hard to believe. The fact is, Marcialito de Leon had offered his land for sale to Fidel Benaraba who advanced the total sum of P1,165.30 but, despite the agreement, De Leon sold the property to Leon Caparros and did not return the money to Benaraba. As a consequence, Fidel Benaraba filed a estafa case against Marcialito de Leon with the then Court of First Instance, but it was dismissed. Thereafter, a case was filed with the Court of Agrarian Relations to recover cost of improvement and labor performed on De Leon's property. Fidel Benaraba even testified that his family and that of the de Leons were very close. In fact, the de Leon children used to stay at their house and were entrusted to their care. It is therefore unnatural if they did harbor no grudge or ill-feeling against the latter for what they had allegedly done. Thus, it is clear there was reason for the Benarabas to take vengeance against the de Leons.

Prosecution witness Cesar Magsino saw Virgilio and his brothers inside the house of the de Leons that afternoon of April 6, 1968. While it is true that Magsino did not enter to see what happened, he satisfactorily explained that he was afraid of the Benarabas.

For the defense of alibi to prosper, it is not enough to prove that the accused was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime. In the case at bar, de Leon's residence was about 400 meters away from Morada's house where appellant Virgilio and his brothers were at the time of the fire. The distance could have been easily reached by walking. Besides, the testimony of Virgilio was not corroborated by Morado in whose house they alleged to have stayed during the time of the incident. It is surprising that not a member of the Benaraba family attended the funeral of the four dead innocent children of the de Leons. As aptly stated by the trial court:

"x x x If according to them they never left their house from April 6 to May 23, 1968 when arrested, why did they not even condole or attend the funeral of the victims as an elementary gesture of thoughtfulness in consonance with Filipino tradition or custom? Did their conscience bother them at the sight of their ugly victims? This attitude militates against their denial that they were not angry at Marcialito. Indeed they were not only angry, they were mad, very mad.

x x x x x x x x

"After considering all the facts and circumstances of the case, and viewing strictly the totality of the evidence on each side through the mirror of judicial scrutiny, like the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as they appeared during the trial, and after a deeper perspective we find the evidence for the Prosecution more convincing and deserving of superior weight. The requirement of moral certainty or that degree of proof which produces conviction in an unprejudiced mind has been amply shown without any iota of doubt not only through direct but also by circumstantial evidence." (pp. 248-250, Record).

WHEREFORE, the appealed decision is **AFFIRMED** with the modification that, for lack of necessary votes, appellant Virgilio Benaraba is hereby sentenced to suffer four reclusion perpetua, there being four victims herein, and to indemnify their heirs in the sum of P30,000.00 each and to pay the costs.

SO ORDERED.

Makasiar, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Gutierrez, Jr., and De La Fuente, JJ., concur.

Fernando, C.J., and Aquino, J., in the result.

Teehankee, J., no part.

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