

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE VICENTE, ERNESTO ESCOR-PIZO, ALFREDO BEDONIO AND AMBROCIO CABLES, JR., DEFENDANTS-APPELLANTS.

G.R. No. L-26241. May 21, 1969

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

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REYES, J.B.L., Acting C.J.:

Sentenced to life imprisonment by the Court of First Instance of Pangasinan (in Crim. Case No. 22747-I) for the slaying of one Jaime Mariano Soriano, accused Jose Vicente, Ernesto Escorpizo, Alfredo Bedonio, and Ambrocio Cabiles, Jr., appealed to this Court on the sole issue of credibility of witnesses.

The following facts are not in dispute:

On the night of 29 October 1965, Jaime Soriano was attacked and stabbed in front of the public market in Asingan, Pangasinan, as a consequence of which he died that same evening. The autopsy report of the Municipal Health Officer disclosed that Soriano sustained:

One crescent-shaped flap wound involving the entire thickness of the scalp over the right anterior parietal area, 7 cm. from edge to edge;

One 2.5 cm. stab wound over the left cheek exposing the cheek bone;

Five stab wounds in the chest and stomach (frontal), all 3 cm. wide, entering antero-posteriorly toward the right, two of them cutting the big vessels of the heart and injuring the lungs;

One stab wound, 2 cm. wide, penetrating into the right thoracic cage;

One 2 cm. wide stab wound, mid-section of left arm;

One clean-cut wound, 5 cm. long, between the thumb and the index finger of right hand almost severing thumb down to the base;

At the back, the deceased received:

One lacerated wound over the occipital area, 3.5 cm. long, involving the entire thickness of the scalp;

One stab wound at the posterior base of neck, 2.5 cm. long, 6 cm. deep, vertical in position;

One stab wound, 1.5 cm. long, 1 cm. deep, located over the right para-vertebral level of the third thoracic vertebra;

One 5 cm. scratch wound, 6 cm. below the left scapula, starting as a superficial gaping wound and ending as epidermal wound;

One stab wound over postero-lateral portion of the distal third of left arm, 3 cm. long, 5.5 cm. deep, penetrating

medially and passing posterior to the humerus; and

One clean-cut wound forming 4 cm. skin flap, located 2 cm. above elbow joint.

The stab wounds were found to have been inflicted by two kinds of sharp-edged instruments; the crescent-shaped wound, by a broken bottle; and the occipital wound could have been caused by a blunt instrument. The time of death was placed between 7 and 8:30 p. m. of 29 October 1965; the cause of death - shock due to severe hemorrhage secondary to multiple stab wounds (Exhibits E and E-1). Of the numerous wounds received by the deceased, six were fatal.[1]

On 30 October 1965, a criminal complaint for murder was filed in the Municipal Court of Asingan, Pangasinan, against Jose Vicente, Ernesto Escorpizo, Alfredo Bedonio, and Ambrocio Cabiles, Jr. The corresponding information, filed in the Court of First Instance of Pangasinan (Crim. Case No. 22747-I) on 18 April 1966, charged the above-named persons of having conspired in attacking and assaulting, treacherously, Jaime Mariano Soriano, inflicting upon him multiple wounds and injuries that caused his death.

The evidence for the prosecution, composed primarily of the testimony of eyewitness Virgilio Sarmiento, tends to establish that in the evening of 29 October 1965 Jaime Soriano, Florentino Arellano, and witness Sarmiento were in the store of one Arsing Fernandez in the public market of Asingan, Pangasinan, buying cigarettes; that while they were counting the change of their money accused Jose Vicente came, placed his hands on the shoulder of Jaime Soriano, and asked the latter in Ilocano, "Why are you always with Boy Cañaverall? It is possible that you were his companion when he shot Manong Idio".[2] To this remark Soriano answered, also in the Ilocano dialect, "of course not". But no sooner had he made this denial than Jose Vicente pulled a dagger from his waist and thrust it several times on the body of Soriano, who fell to the ground face down. Thereupon, Ernesto Escorpizo, a companion of Jose Vicente, stabbed Soriano with a small knife, hitting the latter a number of times. Vicente's other companions, Alfredo Bedonio and some-body who was later identified as Ambrocio Cabiles, Jr., picked up stones and stoned the prostrate man. Then, apparently noticing Soriano's companions (Sarmiento and Arellano who were witnessing the incident, they also threw stones at them. The two had to move away to a distance of about 6 meters, and later on fled from the scene.

The defense of the accused is alibi: that all of them were at some place other than the scene of the crime when the stabbing incident happened.

Accused Ambrocio Cabiles, Jr., testified at the trial that at about 7:30 in the evening of 29 October 1965 he was in the Pantranco station in Urdaneta, Pangasinan, trying to get a ride back to Asingan after an unfruitful trip to Concepcion, Tarlac, in search of work. Finding that the last bus for Asingan had already left, he was about to leave the station when Jose Vicente, Ernesto Escorpizo, and Alfredo Bedonio arrived; that they decided to hike all the way to Asingan; that when they reached barrio Dumampot they were met by Asingan policemen who brought them to the municipal building and placed them in jail for the killing of Jaime Soriano; that on 1 November 1965 the police made him sign certain papers, telling him that he would be allowed to go home thereafter; that he did not read, nor was he informed of, the contents of the papers that he signed, which turned out to be a statement narrating his alleged participation in the killing of Jaime Soriano.

Alfredo Bedonio declared that from 6 o'clock until 7:30 in the evening of 29 October 1965 he was at the MGM canteen in Urdaneta, Pangasinan, drinking beer with Ernesto Escorpizo; that Jose Vicente was with them at the start, but he left to get some clothes in barrio Camantiles, Urdaneta, Pangasinan, and returned only after 7:30 in the evening; that after Jose Vicente drank one bottle of beer they all left the canteen and went to the Pantranco station to get a ride for Asingan; that there they met Ambrocio Cabiles, Jr., who informed them that the last bus for Asingan had already left; that they decided to hike up to their town; that when they reached barrio Dumampot

they were met and arrested by Asingan policemen who brought them to the municipal building and placed them in jail; that the police did not ask him to sign any written statement, probably because, when he was investigated, he denied participation in the slaying of Jaime Soriano.

Ernesto Escorpizo testified that in the morning of 29 October 1965, upon invitation of Jose Vicente, he and Alfredo Bedonio went with him (Jose) to barrio Camantiles, Urdaneta, Pangasinan, to go fishing; that they stayed in Camantiles until 5:30 in the afternoon, when they left for the poblacion (Urdaneta); that they went to the MGM canteen in Urdaneta to drink beer; that at about 7:30 in the evening they left the canteen and proceeded to the Pantranco station to get a ride home to Asingan, but they met Ambrocio Cabiles, Jr., who told them that the last bus for Asingan had left; that they agreed to walk all the way to Asingan; that at about 10:00 o'clock, when they were in barrio Dumampot, they were arrested by the Asingan police, brought to the municipal building and jailed, allegedly for having killed Jaime Soriano; that on the night of 1 November 1965, at about 9:00 o'clock, he was taken out of jail and brought to the plaza where he was maltreated; then they returned him to the municipal building where he was made to sign certain papers; that afraid of being subjected to further maltreatment he signed the papers (Exhibit C)[3] without knowing their contents.

Jose Vicente, on the witness stand, declared that in the morning of 29 October 1965 he went to barrio Camantiles, Urdaneta, Pangasinan, to visit his wife and child who were staying with her (the wife's) relatives; that he was accompanied in this trip by Alfredo Bedonio and Ernesto Escorpizo whom he invited to go with him; that they stayed in Camantiles until 5:30 in the afternoon when they left for Urdaneta; that in Urdaneta they went to the MGM canteen and drank beer; that remembering having left his clothes in Camantiles he returned for them, arriving in the barrio at 6:30 in the afternoon; that after getting the clothing he immediately left for the poblacion and joined his companions; that after drinking one more bottle of beer the three of them proceeded to the Pantranco station to get a ride for Asingan; that they were informed by Ambrocio Cabiles, Jr., whom they met at the station, that there was no more available trip for Asingan; that they decided to hike the distance to Asingan; that at about 10:00 o'clock in the evening, when they reached barrio Dumampot, they were stopped by Asingan policemen who brought them to the municipal building and jailed them for the killing of Jaime Soriano; that on 10 December 1965, at about 9:00 o'clock in the evening, he was brought out of the jail, where he found policeman Juan Cañaveral; that with his carbine pointed at him (the accused) Cañaveral directed him to go up the municipal building; that there he was required to sign a piece of paper; that when he protested and expressed the desire to consult first his lawyer before signing it Cañaveral retorted that there was no need for his lawyer; that when Cañaveral cocked his Carbine, and believing that the policeman would make good his threat, he signed the papers (Exhibit A),[4] the contents of which he did not know.

In its decision of 8 June 1966, the court found the four accused guilty of murder as charged, the stabbing of the deceased Jaime Soriano having been characterized by treachery. And, in view of the absence of any mitigating or aggravating circumstance attending the crime, all accused were accordingly sentenced to suffer the penalty of life imprisonment; jointly and severally, to indemnify the heirs of the deceased in the sum of P6,000.00; and to pay the costs.

In interposing the present appeal, it is claimed for the accused-appellants that the lower court erred in giving credence to the testimony of eyewitness Virgilio Sarmiento; in giving weight to the extra-judicial confessions of Jose Vicente, Ernesto Escorpizo, and Ambrocio Cabiles, Jr., and in imposing upon them the penalty aforesated.

Clearly, the issue presented here is on credibility of witnesses. And the rule on this point, settled and well established to create any doubt, is that the factual conclusion reached by the trial judge, who was afforded the opportunity to observe the demeanor and conduct of the witnesses while testifying, is not to be disturbed unless there is proof of misappreciation of the evidence.[5]

In this case, we find no reason to disagree with the ruling of the court below. The identification of the accused as the persons who took part in the assault of Jaime Soriano was established by the direct and positive declaration of eyewitness Virgilio Sarmiento. The records show that in the evening of 29 October 1965, immediately after the incident, Sarmiento executed a statement before the police naming Jose Vicente, Ernesto Escorpizo, Alfredo Bedonio and another person, whose name he did not know then but whom he could recognize (as in fact he did during the trial), as the assailants of Soriano. It must have been because of this statement that about 2 hours thereafter the police authorities of Asingan were able to arrest the four accused walking together in barrio Dumampot. It is elementary that against the positive identification by an eyewitness of the accused as perpetrators of the crime their defense of alibi, recognized to be the weakest of defenses, cannot prevail. Indeed, the testimony of eyewitness Sarmiento on the circumstances surrounding the incident deserves credence. Not only does it appear clear, straightforward and convincing, but it is also corroborated on its material portions by other evidence. Thus, his declaration that the deceased, Jaime Soriano, was conversing with accused Jose Vicente when the latter pulled a bladed weapon from his waist and stabbed Soriano with it many times is supported by the number and position of the fatal stab wounds sustained by the deceased in the chest and stomach judging from the direction of the wounds and their seriousness, they must have been inflicted by a right-handed person located in front of the victim, by means of a sharp bladed instrument of 3 cm. width,[6] while the victim was in a standing position.[7] Sarmiento's testimony that when Soriano fell to the ground, face down, he was stabbed several times by accused Ernesto Escorpizo with a small knife is, likewise, corroborated by the superficial wounds appearing at the back and arms of the deceased and by the medical report that the stab wounds were caused by two different kinds of bladed weapons.[8]

It is true that the father of the deceased Jaime Soriano, as well as counsel for the accused, took the witness stand and testified that during the wake for the deceased, when asked as to the identity of the assailants, Sarmiento denied having knowledge of them. Such denial, even if actually made, does not detract from the identification he made before the police and in court; it could have been brought about by a number of reasons, not unlikely fear of retaliation from relatives or sympathizers of the offenders. The fact remains that the statement naming the four accused was already given when the alleged denial was made. And the identification of the accused by this witness, who knew them personally and who, admittedly, had no motive on record to testify falsely against them, withstood the extensive cross examination by defense counsel.

Upon the other hand, we find as unworthy of belief the allegation that the statements executed by Jose Vicente, Ambrocio Cabiles, Jr., and Ernesto Escorpizo (Exhibits A, B, and C) were prepared by the police and signed by them without knowing their contents. Mayor Leonardo Carbonell of Asingan, before whom the statements appear to have been signed, testified on their due execution, and all accused admitted that they knew of no valid reason[9] why said town official, or the police authorities, would accuse them falsely of so grave an offense as murder.

Considering the evidence herein presented, the ruling of the lower court finding Jose Vicente guilty of the crime of murder as charged must be sustained. There is ample proof that of the two who stabbed the deceased, it was this accused who inflicted the first and fatal injuries. That the attack was characterized by treachery cannot be denied. The victim, who was counting his money when he was approached by Vicente, could not have anticipated that the latter's queries would be followed immediately by successive bayonet stabs at his stomach and chest. Taking into account the suddenness of the attack and the seriousness of the injuries inflicted, it can safely be concluded that the victim, who was not armed, was never in a position to defend himself or offer resistance, nor to present risk or danger to the accused, when he was assaulted.

In regard to appellant Ernesto Escorpizo, there seems to be no dispute that he stabbed Soriano several times with a

small knife only after the latter had fallen to the ground seriously wounded, if not already dead. There is no showing that this accused had knowledge of the criminal intent of Jose Vicente against the deceased. In all likelihood, Escorpizo's act in stabbing the fallen Soriano with a small knife was not in furtherance of Vicente's aim, which is to kill, but merely to "show-off" or express his sympathy or feeling of camaraderie with Vicente. For such act, which is certainly unnecessary and not indispensable for the consummation of the criminal assault on Jaime Soriano, Escorpizo should be found guilty only as an accomplice.[10] It is well to recall here the rule established by this Court to the effect that conspiracy must be shown to exist, by direct or circumstantial evidence, as clearly and convincingly as the commission of the offense itself, and that neither joint nor simultaneous action is per se sufficient indicium of conspiracy, unless proved to have been motivated by a common design,[11] which, in the case now before us, is not satisfactorily shown.

In connection with the accused Alfredo Bedonio and Ambrocio Cabiles, Jr., witness Sarmiento declared having seen them throw stones at the deceased after the latter fell to the ground; then, having noticed him and Arellano, said accused also threw stones at them. In his signed statement (Exhibit B), Ambrocio Cabiles, Jr., admitted having thrown stones only at the person who he allegedly saw coming to him, probably referring to either Sarmiento or Florentino Arellano, the companions of the deceased; and in Exhibits A and C, accused Jose Vicente and Ernesto Escorpizo stated that Bedonio and Cabiles did not do anything. It is noteworthy that although Bedonio was already mentioned in Sarmiento's statement as one of the companions of Vicente when Soriano was slain and, in fact, Bedonio was arrested with the three other accused, the Asingan police did not take his statement, nor was he forced to make one, after he denied participation in the killing.[12] In view of the dearth of evidence[13] as to the specific roles of accused Bedonio and Cabiles in the slaying of Jaime Soriano, we entertain doubt on their guilt, which doubt must be resolved in favor of the said accused.

WHEREFORE, the decision of the lower court, sentencing Jose Vicente to life imprisonment, is affirmed; Ernesto Escorpizo, as accomplice, is sentenced to imprisonment from 10 years and 1 day of prison mayor, as minimum, to 17 years and 4 months of reclusion temporal as maximum. On the ground of reasonable doubt, Alfredo Bedonio and Ambrocio Cabiles, Jr., are acquitted of the charge and set at liberty. Jose Vicente and Ernesto Escorpizo are further ordered, jointly and severally, to indemnify the heirs of the deceased, Jaime Soriano, in the sum of P12,000.00 and to pay 2/4 of the costs.

Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

Concepcion, C.J., and Ruiz Castro, J., on leave.

[1] T. s. n., page 63 hearing of 5 May 1966.

[2] The "Manong Idio" referred to was Jose's elder brother, Remedio Vicente, who was shot in the public market on 26 March 1965 allegedly by Juan Cañaveral, a policeman of Asingan.

[3] Statement dated 29 October 1965 and said to have been executed before Asingan Mayor Leonardo Carbonell, wherein Escorpizo narrated his and Jose Vicente's respective roles in the slaying of Jaime Soriano

[4] Statement of Jose Vicente dated 29 October 1965, said to have been signed before Mayor Leonardo Carbonell of Asingan, relating his part in the killing of Jaime Soriano.

[5] People vs. Tatlonghari, et al., L-22094, 28 March 1969, and cases cited therein.

[6] In his statement, Exhibit A, Jose Vicente declared that he used a bayonet in stabbing Soriano.

[7] T. s. n., page 68, hearing of 5 May 1966.

[8] Exhibits E, E-1.

[9] The claim that they were charged because the police hated the Vicente family does not seem to be plausible. The police will not just fabricate a murder charge because they dislike one's family.

[10] People vs. Santiago Tatlonghari, et al., supra.

[11] People vs. Portugueza, L-22604, 31 July 1967, 30 SCRA 901; Peo. vs. Tividad, L-21469, 30 June 1967, 20 SCRA 549, and cases cited therein; Peo. vs. Clemente, L-23463, 28 Sept. 1967, 21 SCRA 26; Peo. vs. Ibañez, 77 Phil. 664.

[12] T.s.n., pages 97-98, hearing of 20 May 1966.

[13] Sarmiento's observation as regard the movements of these two accused could have been affected by the excitement that essentially should have attended the incident.

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