

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMBROSIO GANZON, JR., DEFENDANT-APPELLANT.

G.R. No. L-6872. May 21, 1955

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

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This is an appeal from a decision of the Court of First Instance of Iloilo convicting appellant Ambrosio Ganzon, Jr. of the crime of robbery with homicide and sentencing him to reclusion perpetua, to indemnify the heirs of the deceased Federico Maitim in the sum of P6,000.00 without subsidiary imprisonment in case of insolvency, with the accessory penalties provided by law, and to pay the costs.

There is no dispute that taxi driver Federico Maitim died on the night of July 25, 1951, as a result of wounds and blows inflicted upon him by the appellant earlier that same evening when both were in the deceased's taxicab which was then parked in the campus of the Central Philippine College of Jaro, a district of Iloilo City. The theory of the prosecution is that appellant committed the homicide for the purpose of robbing, and did rob, the deceased of P3.45. The defense, on the other hand, admits the killing but denies the robbery.

The appellant had been noticed at the steering wheel of the deceased's taxicab by Gregorio Labordo, watchman of the Philippine Central College. When Labordo approached the vehicle, appellant threatened him with harm, for which reason the former summoned help with his whistle; but before help could come, appellant got out of the taxicab and fled towards the surrounding ricefield. As appellant reached one end of the Montinola Bridge in Jaro, he was spotted by Marcelino Landario, a member of the Jaro "Rondillo", who, seeing appellant's shirt and hands stained with blood, placed him under arrest and delivered him to the police authorities of Jaro; and upon verbal investigation of appellant, the police found in his person a pocket notebook (Exh. B) and P3.45 in paper bills, which appellant admitted to have taken from the deceased. Appellant was then taken to the police station of Iloilo City, where upon interrogation of three detectives of the police department, he executed a written confession Exh. E, sworn to early the next morning before the Clerk of Court of Iloilo, and wherein the appellant admitted having struck the deceased with an iron pipe, and then slashed his throat for the purpose of robbing the taxi driver because he was driven by hunger. Thereafter, appellant was taken to the scene of the crime in the campus of the Central Philippine College and there he reenacted the crime.

In defense, appellant denied in Court the voluntariness of the execution of the written confession, Exh. E, and gave his own version of the killing as follows: That on the early afternoon of the day in question, July 25, 1951, he arrived in Iloilo by boat from Bacolod City, to attend the town fiesta of the district of Molo; that in Iloilo City,

he met some friends, with whom he drank beer at the Dainty Restaurant; that from the restaurant, appellant boarded the deceased Maitim's taxicab, asked to be taken to Tanza to visit his girlfriend, but not finding her there, directed Maitim to proceed to Doane Hall, and thence to the Central Philippine College; that upon arrival at the College grounds, appellant asked Maitim to wait for him; that the latter said he could not wait, insisted on being paid, and even accused appellant of not having money to pay for his fare; that a brief altercation ensued, and as appellant was about to open the door to get out, the deceased turned back and boxed appellant on the mouth; that enraged by the blow, and still feeling a little dizzy because of the beer he had imbibed, appellant grabbed an iron pipe which he found on the floor of the taxi and gave Maitim several blows on the head, after which he also drew his knife and slashed Maitim's neck several times; that frightened because of what he had done, appellant fled from the taxi, intending to surrender to the police, but he was apprehended and arrested by Marcelino Landrio.

After a careful review of the evidence, we are convinced beyond doubt that the crime committed by defendant-appellant is robbery with homicide, as admitted by him in his extra-judicial confession Exh. E. Appellant's unsupported claim that this confession was obtained through duress and undue influence can not prevail over the combined testimonies of the three detectives who investigated appellant, as well as the clerk of court before whom the confession was sworn, that the confession was voluntarily made. Furthermore, as correctly pointed out by the Solicitor General, the confession Exh. E is full of details about his movements more than twenty-four hours prior to the commission of the crime, details that only appellant could have supplied, and which he reaffirmed on the witness stand. Finally, the appellant reenacted the crime the next morning after its commission, immediately following his investigation by the police, and it is noteworthy that he never denied the volutariness of this reenactment of the crime during the whole length of his testimony in the Court below.

Aside from the confession Exh. E, however, we also agree with the Solicitor General that appellant's story of how the killing came about is inherently improbable. In the first place, the extent and seriousness of the injuries inflicted by appellant on the deceased disproves his claim that he was merely provoked into harming the deceased because the latter had struck appellant first with his fist. The fact that appellant not only gave the deceased several blows on the head with an iron pipe, but also slashed him repeatedly at the throat, shows a deliberate and premeditated intent to kill.

The unexplained possession of the deceased's notebook and money justifies by itself the finding that the slaying was connected with the robbery, and that the crime committed was that of robbery with homicide as defined in Article 294 of the Revised Penal Code (Peo. vs. Kagui Malasugui, 63 Phil. 221).

The defense argues that it was unlikely that appellant would plan the crime of robbery with homicide in a school campus where there would expectedly be many people as well as lights. There may be some point in this argument, if the prosecution had not satisfactorily shown that the crime had in fact been committed in such a place. In any case, court records bear witness to the perpetration and occurrence of crimes under circumstances that would generally be regarded as improbable. Besides, it is quite possible that appellant purposely selected the campus of a school for the commission of the crime in order to avoid suspicion about his actions from anybody, especially since he had planned his attack to be, as it was, silent and noiseless as it was sudden and deadly.

The defense further points out that according to witness Landrio, he searched the appellant's pockets and found therein some eight or nine pesos in paper bills, but did not find the pocket notebook of the deceased with the amount of P3.45, that the police detectives claimed to have discovered in appellant's person when they investigated him latter (t.s.n. pp. 14-15). This testimony of Landrio does not necessarily contradict the theory of the prosecution, for it is possible that Landrio failed to inspect or search all of appellant's person in his haste to place him in the custody of the police, whom he knew would conduct a more rigid and searching investigation.

Appellant also makes much in his brief of the affirmative answer of Landrio to a question in cross-examination whether appellant told him that he (appellant) was boxed by the driver of the taxicab (t.s.n. p. 14); it is averred that it corroborates appellant's story that he was merely provoked by Maitim himself into killing him. That the driver boxed the appellant does not necessarily imply that the former was the aggressor, or that he did not act in self-defense; much less does it explain why the accused had to cut Maitim's throat after fracturing his skull or take away the driver's notebook and money. Moreover, not much importance can be attached to said answer, given in response to a leading question, considering that in direct examination, the witness clearly stated that when he questioned appellant as to the blood stains on his hands and clothes, appellant replied that he met with some enemies who ganged up against him (t.s.n. p. 12).

Finally, it is insisted that appellant was only 16 years old at the time of the commission of the crime charged, and entitled to get the benefit of the privilege mitigating circumstance of minority. We see no reason, however, to reverse the finding of the Court below that appellant was already 18 years of age when he committed the crime, judging from his physical appearance and also from his extra-judicial confession Exh. E, wherein the appellant stated that he was 18 years old. The Court below had the unequalled opportunity to observe and examine the appellant's features and behaviour; and in the absence of any strong reason shown, its own appraisal of appellant's age and appearance is binding on this Court. Upon the other hand, the only evidence introduced by the defense on the question of appellant's age, is the testimony of his mother, who claimed that her son was only 16 years old at the time the crime was committed, without other corroboration; and while it is understandable and natural for a mother to testify in her son's favor, if only to get the penalty imposable upon him considerably reduced, it does not satisfy the burden of proof that lay upon the accused.

Finding no reason to reverse or in any way modify the decision appealed from, the same is hereby affirmed, with costs against defendant-appellant.

Pablo, Bengzon, Reyes, Montemayor, Labrador, Bautista Angelo, and Concepcion, JJ., concur.

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