

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISPIN FLORES Y DECAÑENTA, DEFENDANT-APPELLANT.

G.R. No. L-30169. February 16, 1982

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In an information dated December 2, 1968 filed with the Circuit Criminal Court of Manila, Crispin Flores y Decañenta was charged with robbery with homi-cide as follows:

"That on or about September 24, 1968, in the City of Manila, Philippines, the said accused, conspiring and confederating together with two others whose true names and identities are still unknown, and helping one another, at night time purposely sought to better accomplish their purpose, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of violence, take, steal and carry away from the person of one Ernesto Lam y Am one tear gas revolver valued at P150.00 and one Seiko wrist watch valued at P170.00 or a total value of P220.00, Philippine currency, to the damage and prejudice of the said Ernesto Lam y Am in the aforesaid sum of P220.00; that by reason and on the occasion of the robbery, the herein accused, in pursuance of his conspiracy with his said co-conspirators who are still at large, did then and there willfully, unlawfully and feloniously, with intent to kill and evident premeditation, treacherously attack, assault and use personal violence upon the said Ernesto Lam y Am by then and there stabbing him with a sharp bladed instrument on the left lateral thorax, thereby inflicting upon him mortal wounds which were the direct and immediate cause of his death thereafter.

"CONTRARY TO LAW."[1]

When arraigned, the accused pleaded not guilty.

After trial, Judge Manuel R. Pamaran, rendered judgment on December 26, 1968, the dispositive portion of which reads:

"WHEREFORE, accused is hereby found guilty beyond reasonable doubt as principal of the crime of robbery with homicide and there being proven the aggravating circumstance of abuse of superior strength without any mitigating circumstance to offset the same, sentences him to DEATH, to indemnify the heirs of the deceased the sum of P12,000.00, to restore to the heirs of the victim one tear gas revolver and one Seiko watch taken from said victim or to indemnify them the total amount of Two Hundred Twenty Pesos (P220.00) representing the value thereof if he fails to do so, and to pay the costs.

"SO ORDERED."[2]

Hence the present automatic review of the trial court's decision by this Court.

The facts, as narrated in the Brief for the Appellee, are:

"At about eight o'clock in the evening of September 24, 1968, a 36-year old Chinese, Ernesto Lam y Am, was found lying bleeding on Callejon Kipuya, near Teodora Alonzo St., in Sta. Cruz, Manila, by three young male teenagers who, upon questioning the wounded man, was told by the latter that 'he was robbed and stabbed by

two male persons, divesting him (victim) of his TEAR GAS and SEIKO WRISTWATCH' (Exh. "C"). The three young men rushed the wounded Chinese to the Metropolitan Hospital in a rig, but inspite of attempts of Drs. Ricardo Dy and Solomon Yang to save his life, he died that same evening (id.). According to Mrs. Cristina Acosta y Sumanga, the wife of the deceased, her husband was wearing a SEIKO wristwatch valued at P170.00 and carrying a tear gas gun valued at P150.00 that evening, both of which were not recovered (id.). Mrs. Acosta Lam also informed the police that the wallet of her husband containing cash money in the amount of P61.00 and other personal papers was not taken by his assailants, as it was turned over to her by the hospital authorities (id.).

"At past midnight that same evening, the crime was reported to the Manila Police Department and police operatives started investigating the case and fanned out to scan the vicinity for possible witnesses. The three teenagers who found the deceased and brought him to the hospital were invited to police headquarters and their statements taken. The police also found one Jose Valdez y Duria, a special watchman, who claimed to have seen two men walking in haste from the scene of the crime, one carrying a small gun and another a knife; that he failed to take action because he was not yet on actual duty and was still unarmed; and that he could identify both suspects at sight. An advance report was prepared by Det. Avelino Evangelista of the MPD of their preliminary findings (p. 5, t.s.n., Dec. 20, 1968; Exh. "C"). The cadaver of the deceased Chinese was examined by Dr. Camilo B. Casclang medico-legal examiner of the MPD, who reduced his findings into the autopsy report Exh. "D". According to Dr. Casclang, the deceased sustained only one stab wound inflicted by a bladed instrument about 12 cms. long, which pierced his left lung and left pulmonary artery, causing 'profuse exaginating hemorrhage in the left thorax' (Exh. "D"; pp. 10-11, t.s.n., Dec. 20, 1968).

"Two days after the robbery-homicide in question, police operatives found another witness in the person of a taxi-driver, David Escalderon, who took two passengers to the place where said crime was committed on the night of its commission and actually saw two men quarrelling with the deceased moments before the latter was killed (pp. 15-18, t.s.n., Dec. 23, 1968). Said taxi driver did not, however, see the actual killing because he left the place when one of the men, whom he identified at the trial as the accused Crispin Flores, confronted him and said, 'Tila mainit ang mata mo sa amin' (p. 16, id.).

"Two months later, or on November 22, 1968, the police took into custody one Ernesto Montezon alias Erning Dalag in connection with another robbery-holdup case. Brought to MPD Headquarters for questioning about this case, Montezon signed a sworn statement to the effect that a certain Boy Negro informed him sometime in October, 1968 that the killers of the Chinese Ernesto Lam were his friends Tinong Icepick and Totoy Hapon (Exh. "1"; pp. 25-26-A, t.s.n., Dec. 23, 1968). On the basis of this statement, police operatives, in the evening of November 30, 1968, picked up the accused Crispin Flores, a member of the Commando Gang and who had once already been convicted of the crime of robbery and had served sentence in the City Jail, for questioning regarding this case (Exh. "C-1"). When investigated, Crispin Flores readily admitted his guilt of the crime charged (id.), which confession was reduced into a signed statement duly sworn to and subscribed before Assistant City Fiscal Donato Guevarra (Exh. "A"). In said statement Exh. "A", Crispin Flores disclosed that he and two companions-Ernesto Montezon y Santos alias Dalag and Bernardo le la Cruz alias Benny-held up the deceased Ernesto Lam on the night in question; that when said deceased tried to resist, he stabbed him with his balisong knife; that he did not think his two companions also stabbed the deceased, although both were also armed with icepicks; that Dalag took the Seiko watch of the deceased, while Benny took his tear gas gun; that his two friends later gave him P30.00 as his share of their loot and that he threw away the knife he had used in stabbing the Chinaman because it was stained with blood.

"Later, in a line-up set up at police headquarters, the accused Crispin Flores was positively identified not only by taxi-driver Daniel Escalderon but also by the watchman Jose Valdez as one of the two men they saw at the scene of the crime on the evening in question (Exhs. "B", "C-1", pp. 4-5, t.s.n., Dec. 20, 1968). Thereafter, the Booking Sheet and Arrest Report Exh. "B" was prepared by Det. Avelino Evangelista against the accused Crispin Flores. Because the witnesses Escalderon and Valdez failed to identify the other suspect Ernesto

Montezon, the latter was not arrested and charged in connection with this case (Exh. "C-1")."[3]

In his brief the accused assigned the following errors:

"I

"THE COURT ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF INSUFFICIENT AND DOUBTFUL CIRCUMSTANTIAL EVIDENCE.

"II

"THE COURT COMMITTED AN ERROR IN GIVING TOO MUCH WEIGHT UPON THE ALLEGED CONFES-SION OF THE ACCUSED WHICH HE DISOWNED AND REPUDIATED IN OPEN COURT.

"III

"THE COURT ERRED IN COUNTING AGAINST THE ACCUSED THE AGGRAVATING CIRCUMSTANCE OF SUPERIOR STRENGTH."[4]

Anent the first error, the accused claims that the evidence against him is purely circumstantial, which admits the probability of his innocence as well as guilt, so that it does not establish his guilt beyond reasonable doubt. This submission has no merit.

The facts of record show that all the circumstances presented are consistent with the guilt of the accused. Moreover, the accused confessed having committed the crime charged.

The extrajudicial confession, Exhibit "A", duly identified by Detective Avelino Evangelista of the Manila Police Department who took down said statement and in whose presence the accused swore and subscribed to the same before Assistant City Fiscal Domingo Guevarra[5] has all the earmarks of voluntariness. In this confession, the accused admitted that he and two companions, Bernardo de la Cruz alias Benny and Ernesto Montezon alias Dalag, robbed the deceased Ernesto Lam of the latter's gun and watch and that when said deceased resisted and tried to pull a gun on them, the accused stabbed him in the breast with his knife. This confession is evidence of a high order which constitutes direct proof that the accused did commit the crime charged. There is the strong presumption that no sane person would deliberately confess the commission of a crime, unless prompted to do so by truth and conscience.[6]

The accused contends that the prosecution failed to present other competent witnesses who could have shed more light on the case, referring particularly to the three teenagers who, according to Exhibit "C", the Police Advance Report, found the deceased lying wounded but still alive and brought him to the hospital, and the watchman, Jose Valdez, who according to the same police report, saw two men walking in haste from the scene of the crime, one carrying a gun, and the other a knife.[7] The record shows that these witnesses were actually subpoenaed to testify but the subpoenas were returned unserved because they could not be located.[8]

Moreover, as explained by the Appellee in its brief,[9] even without the testimonies of the additional witnesses mentioned by the accused, there is sufficient evidence on the record to prove the guilt of the accused apart from his confession, Exhibit A. The introduction of the testimonies of the three teenagers who found the deceased lying wounded but still alive would not add anything more to the Police Advance Report, Exhibit "C". According to the said report, the only information that the deceased gave to them on the way to the hospital and before he died was that he was robbed and stabbed by two male persons, divesting him of his Tear Gas and Seiko Wristwatch". As for the watchman, Jose Valdez, Exhibit "B", the Booking Sheet and Arrest Report indicates that when the accused was arrested and brought before this witness for identification in a line-up, Valdez positively identified him as one of the two men whom he saw leaving the scene of the crime on the night in question. Thus, even

without the testimony of Valdez, said “Booking Sheet and Arrest Report” already shows and establishes that the accused was positively identified by witness Jose Valdez as one of the two armed men whom he saw leaving the scene of the crime in haste immediately after its commission. Exhibit "C" and Exhibit "B", the Police Advance Report and the Booking Sheet and Arrest Report, respectively, being official records of the investigation made by the police authorities of this case and in the nature of public documents, are prima facie evidence of the truth of the facts stated therein,[10] which the accused failed to dispute or rebut by contradictory evidence.

Another substantial circumstance is the categorical statement of prosecution witness, Daniel Escalderon, during the trial that he saw the accused with a companion quarrelling with the deceased immediately before the latter was robbed and killed on the evening in question.[11]

Clearly, the facts established by the documents, Exhibits "B" and "C", together with appellant's confession, Exhibit "A" and the testimony of Daniel Escalderon constitute evidence beyond reasonable doubt of the guilt of the accused of the crime charged. These circumstances are not only consistent with each other, but likewise consistent with the guilt of the accused and inconsistent with his innocence. This Court has ruled in a very early case that “if the inference of guilt rests solely upon circumstantial evidence, such evidence must be 'grave and conclusive,' and 'the conviction which the combination of such evidence produces must be such as to leave no room for reasonable doubt of the criminality of the accused in the ordinary and natural order of things.’”[12] In the instant case, there is no room for such doubt especially since the defense consists merely of an alibi which, as observed by the trial court, is not only inherently weak but also did not show the physical impossibility of the accused's having committed the crime charged[13], and was supported only by his own brother-in-law who not only contradicted the testimony of the accused on material points[14] but who, like the accused, also failed to impress the trial court as to his truthfulness.[15]

As to the second error assigned, the claim of the accused that the trial court erred in giving too much weight to his confession, Exhibit "A" which he repudiated at the trial and therefore, should have been rejected by said court is not meritorious.

As shown earlier, the extrajudicial confession, Exhibit "A" was identified by Pat. Avelino Evangelista of the MPD, who testified that the said confession was readily and voluntarily made and signed by the accused, and that he was also present when the accused voluntarily subscribed and swore to the said confession before Assistant City Fiscal Domingo Guevarra.[16] As noted by the trial court,[17] Detective Evangelista did not have any evil motive in testifying against the accused which is an earmark of voluntariness of the extrajudicial confession in question.[18] Likewise, as also correctly observed by the trial court,[19] the said extrajudicial confession is so rich in detail about which the police authorities could not be much interested or which could have been known only to declarant, factors indicating voluntariness.[20]

As regards the inconsistency between the extrajudicial confession and the testimony of prosecution witness Daniel Escalderon as to the number of companions of the accused in the commission of the crime charged, the confession stating that the accused had two companions in robbing the deceased, while Escalderon testified that he saw only two men, one of whom was the accused, quarrelling with the deceased moments before he heard the latter was robbed and killed,[21] this very inconsistency, as correctly pointed out by the Solicitor General in the Brief for the Appellee,[22] belies the claim of the accused that the police investigators manufactured the confession, Exhibit “A”, for if it were so, said confession could have been as perfectly tight as the agents could have done it leaving the accused no possibility of escape.

Moreover, it is notable that the police did not get any similar confession from the other suspect, Ernesto Montezon, who, in fact, was the one first taken into custody and questioned regarding this case. He was also

mentioned by the accused in his extrajudicial confession, Exhibit "A" as one of his companions in the commission of the crime. The Solicitor General's reply[23] to the allegation of the accused that the members of the MPD who investigated this case were set to write *finis* to this case upon his arrest and manufactured evidence against him to assure his conviction[24] is well-taken, for if it were true that the police merely fabricated Exhibit "A", the extra-judicial confession of the accused, they could have likewise fabricated a similar confession from Ernesto Montezon. However, the records show that Montezon was not included in the information filed in the instant case because the witnesses Daniel Escalderon and Jose Valdez failed to identify him during their confrontation at the police headquarters.[25] In effect, this brings to the fore the good faith and objectivity of the members of the MPD in the investigation and reporting of this case contrary to the accused's allegations.

Finally, the claim of the accused that he was merely forced to sign the extrajudicial confession, Exhibit "A" is unsupported by the evidence on record. His testimony in this regard consists solely of the fact that he was brought by police operatives to a certain place blindfolded and there made to sign still blindfolded a statement that Detective Evangelista had typed.[26] There is no claim, whatsoever, that he was subjected to any kind of ill treatment, violence, or threat or promise of reward or leniency. Neither has accused presented any evidence to show that he was under influence of some fear or threat when he signed and subscribed to said confession before Assistant City Fiscal Donato Guevarra. The defense of alibi of the accused, the inherent weakness of which was previously shown, weakened the evidentiary weight of his extrajudicial confession.

It is clear, therefore, that the extrajudicial confession, Exhibit "A" is admissible as evidence against the accused.[27]

As regards the third and last error assigned, the accused contends that the trial court erred in considering the aggravating circumstance of superior strength. This contention is meritorious.

In the extrajudicial confession, Exhibit "A", the accused states that he was the only one who stabbed the deceased when the latter tried to resist and pull a gun, and that his two companions did not cooperate in stabbing the deceased, although both were armed with icepicks. The autopsy report, Exhibit "D", shows that the deceased sustained only one stab wound.[28] This court has held that the mere fact that one person was attacked by two or more aggressors does not constitute the aggravating circumstance of abuse of superior strength, if the relative physical strength of the parties does not appear. There must be evidence that the accused were physically stronger and abused such superiority,[29] or cooperated in such a way as to secure advantage from superiority of strength.[30] Likewise the mere fact of there being a superiority of numbers is not sufficient to constitute the aggravating circumstance of abuse of superior strength.[31] Similarly, the fact that only one of the alleged aggressors inflicted the fatal wound is a circumstance negating the existence of abuse of superior strength.

The crime committed by the accused is robbery with homicide punishable under Art. 294, paragraph 1 of the Revised Penal Code. There being no aggravating or mitigating circumstance which attended the commission of said crime, the penalty to be imposed should be *reclusion perpetua*.

WHEREFORE, the decision of the Circuit Criminal Court of Manila in Criminal Case No. CCC-VI-1, entitled "The People of the Philippines, plaintiffs versus Crispin Flores y Decañenta alias 'Boy Negro', accused," is hereby affirmed with the sole modification that the accused is sentenced to *reclusion perpetua*; to indemnify the heirs of the victim in the amount of twelve thousand pesos (P12,000.00); to restore to the heirs of the victim one tear gas revolver and one Seiko watch taken from said victim or to indemnify them in the amount of Two Hundred Twenty Pesos (P220.00) representing the value thereof if he fails to do so; and to pay the costs.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur.

- [1] Rollo, p. 1.
- [2] CCC Decision, p. 11; Rollo, p. 15.
- [3] Brief for the Appellee, pp. 2-5, Rollo, p. 46.
- [4] Brief for the Accused-Appellant, p. 4; Rollo, p. 22.
- [5] TSN, pp. 2-3, Dec. 20, 1968; Brief for the Appellee, p. 6, Rollo, p. 46.
- [6] United States vs. De Los Santos, 24 Phil. 329.
- [7] Brief for the Accused-Appellant, p. 9, Rollo, p. 27.
- [8] Brief for Appellee, p. 7, Rollo, p. 46.
- [9] Id., pp. 7-8.
- [10] Sec. 38, Rule 130.
- [11] TSN, pp. 15-18, December 23, 1968.
- [12] U.S. vs. Santos, 1 Phil. 222, 224.
- [13] CCC Decision, p. 9, Rollo, p. 13.
- [14] Ibid., pp. 13-14.
- [15] Idem.
- [16] TSN, Dec. 20, 1968, pp. 2-3.
- [17] CCC Decision, p. 6, Rollo, p. 43.
- [18] People vs. Puesca, 87 SCRA 130, 149.
- [19] CCC Decision, p. 6, Rollo, p. 43.
- [20] People vs. Barrios, 92 SCRA 189, 194.
- [21] TSN, Dec. 23, 1968, pp 16-17.
- [22] p. 10; Rollo, p. 46.
- [23] Brief for the Appellee, p. 11; Rollo, p. 46.
- [24] Brief for the Accused-Appellant, pp. 3, 8; Rollo, pp. 21, 26.
- [25] Brief for the Appellee, p. 11; Rollo, p. 46, citing Exhibit "C-1".
- [26] TSN, December 23, 1968, p. 31.
- [27] Sec. 29, Rule 130, Revised Rules of Court.

[28] see also TSN, Dec. 20, 1968, p. 9.

[29] People vs. Diokno, et al., 63 Phil. 601.

[30] People vs. Elizaga, et al., 86 Phil. 364.

[31] People vs. Cortes, 55 Phil., 143.

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