

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GAVINO CUATON, ALIAS ONDO, DEFENDANT-APPELLANT.

G.R. No. L-31570. August 30, 1971

Ponente: DIZON, J.

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DIZON, J.:

Appeal by Gavino Cuaton from a decision of the Court of First Instance of Batangas finding him guilty of murder and, in the absence of any modifying circumstance, sentencing him to life imprisonment; to indemnify the heirs of the deceased Vicente Tandog in the sum of P12,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

The prosecution evidence has established the following facts:

In the evening of December 24, 1967, the spouses Vicente Tandog and Francisca Ilao were in their house located in sitio Ibayo, Wawa, Nasugbu, Batangas, the former asleep inside a room and the latter presumably cooking the family dinner. At about 8:00 o'clock that evening Francisca went to the room to awake her husband for dinner. As she was entering the room she saw a man by their window firing a shot directed at her husband. At that time the four minor children of the couple were in the house together with a nephew named Romeo Salanguit. The latter was, at that time, lying down but awake and also saw the man who fired a shot at his sleeping uncle. After firing the shot, the assailant disappeared. It turned out that to go up and be able to fire a shot at his victim he had used a short ladder of the family – later found by Sgt. of Police Villadelrey under the window.

After Francisco had recovered from her surprise, she ran to the aid of her husband then bleeding in the mouth and nose, and thereafter shouted for help. Some of their neighbors arrived and much later Police Lt. Hernandez and Sgt. Villadelrey to whom Francisca immediately gave the information that it was appellant who had fired a shot at her husband.

Vicente Tandog suffered a bullet wound in the neck, 7 cms. deep affecting the external carotid area which, according to the physician who performed the autopsy on his body the following day, was necessarily fatal giving the victim only a possible five to ten minutes to survive due to the perforation of important blood vessels.

The facts above set forth were fully established with the testimony of the widow, Francisca Ilao, and of her nephew, Romeo Salanguit, whose testimony appellant now assails as unreliable.

We do not agree with appellant's contention. In the first place the variance existing in the testimony of both witnesses as to the period of time during which the deceased survived the gunshot wound, even if true, would not be of sufficient importance to make their testimony entirely unreliable. That the widow testified that her husband died five or twenty minutes after he was shot, while Romeo stated that his uncle died suddenly does not necessarily show that both witnesses lied. As a matter of fact and in the very nature of things, it was understandable that Salanguit stated that his uncle died suddenly considering the latter's condition immediately after he was shot. The undeniable fact is that Vicente Tandog was shot and that he died soon thereafter.

Next, appellant claims that the widow and the nephew of the deceased are biased and therefore should not be believed. We find with the trial court, however, that there is nothing in the record to show that said witnesses deliberately falsified the truth and that they were motivated by unworthy motives in pointing to appellant as the killer of Vicente Tandog. Both appeared to have been extensively cross-examined, but this notwithstanding they stood their ground and insisted that they had seen and recognized appellant that night when he shot Vicente Tandog.

To be borne in mind in this connection is the fact that, at the time of the shooting, the house of the victim was well-lighted with a petromax lamp as the family was about to sit down for dinner; that appellant was a neighbor of the deceased, his house being hardly one hundred meters away from that of the latter; that Francisca had full opportunity to see and recognize the man who appeared through the window of the house and then fired a shot at her sleeping husband, because it was at that time that she was entering the room where her husband was asleep; that, similarly, Romeo Salanguit had a good opportunity to see the man who fired the shot because at that time he was lying down on the floor of the house facing the door of the room where the victim was lying asleep. His Honor, the trial judge, who saw and heard both witnesses while testifying, gave full credence to their testimony, and a careful search of the record has failed to disclose anything tending to show that His Honor's evaluation thereof was wrong.

Furthermore, in the record we have the testimony of Leticia Manzo, Forensic Chemist of the National Bureau of Investigation, to the effect that she was the one who had examined the casts in which the hands of appellant were placed for paraffin test purposes; that she found therein the presence of nitrates which could have come only from gunpowder; that such nitrates are very hard to wash away as they become deeply embedded in the pores of the skin. This completely unbiased testimony strongly corroborates the testimony of the two prosecution witnesses whose credibility is assailed by appellant.

Lastly, appellant desperately clings to the defense of alibi claiming that at the time of the commission of the crime he was in his house, with his wife Epifania Flores cooking their dinner; that at about 8:00 o'clock that evening Epifania left because they had heard commotion somewhere near their house, and that half an hour later she returned with the information that Vicente Tandog was in his house vomiting blood; that he learned later that evening that Vicente had died; that while his wife was away he was left behind to take care of the chicken that they were then cooking; that it was only the following day that he himself went to the house of the deceased but did not attend the funeral.

The discredited defense relied upon cannot be deemed established with such flimsy evidence, nor can such evidence overcome the clear and positive testimony of the prosecution witnesses mentioned heretofore clearly pointing to and identifying appellant as the killer of Vicente Tandog. In the first place, it is not denied that appellant's house was hardly one hundred meters away from that of the deceased, so that it was not very hard for him to be in the place where the crime was committed and then run back to his house. In the second place, it is quite strange that, to find out what was the commotion about, it had to be the wife who had to leave the house that night instead of the husband; stranger still is the fact that it was the husband who had to be left behind to take care of the chicken that was being cooked. Then again suspicion against appellant heightens because of his admission that while neighbors of the deceased went to his place that same evening he was shot, appellant waited till the following day to do so, and then failed to attend the victim's funeral.

In view of the foregoing, We find that the lower court committed no error in finding appellant guilty as charged and in sentencing him to the penalty mentioned heretofore.

WHEREFORE, the appealed judgment is affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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