

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORMAN AMPARADO, DEFENDANT-APPELLANT.

G.R. No. L-48656. December 21, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

Accused-appellant Norman Amparado was found guilty by the then Court of First Instance of Zamboanga del Norte, Branch I, Dipolog City, of the crime of Murder for the death of one Manuel Maghanoy. He was sentenced to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the sum of P12,000.00 and the cost of suit.[1] On appeal, this Court affirmed said judgment with the modification that the civil liability should be increased to P30,000.00.[2] Accused-appellant now seeks a new trial, citing as grounds therefor: [1] the discovery of new and material evidence; [2] errors of law or irregularities committed during the trial prejudicial to his substantive rights as an accused; and, [3] interest of substantial justice and avoidance of a failure of justice. Plaintiff-appellee People of the Philippines thru the Solicitor-General opposes said motion.

The newly-discovered evidence relied upon by accused-appellant consists of the testimonies of Antonio Cachin, Jr., Manuel Henry Auza and Violeta Amparado. While, as contended by the Solicitor, the testimony of Violeta Amparado could not be considered as newly-discovered nor could it materially affect the judgment, said testimony being merely cumulative in character, We find the proposed testimonies of Antonio Cachin, Jr., and Manuel Henry Auza to be newly-discovered and of sufficient weight and character as to alter the outcome of the case.

In his affidavit attached to the motion under consideration, accused-appellant explained in detail why the evidence could not, even with the use of reasonable diligence, be presented at the trial and how he happened to discover them. The pertinent portion of his affidavit reads:

"Q - During the trial of said criminal case and the pendency of its appeal, where did you reside?

A - In Ilaya, Dapitan City.

Q - Where was your lawyer, Atty. Godardo Ad. Jacinto, also residing within that period?

A - In the Poblacion, Dapitan City.

Q - During the trial and the pendency of the appeal in said criminal case, did you and your counsel exert earnest efforts and reasonable diligence to locate, discover and produce evidence and witnesses for your defense?

A - Yes, sir.

Q - And, who were the witnesses that you were able to produce during the trial for your defense?

A - Only those witnesses who testified for the defense as shown in the case record.

Q - According to the evidence on record, the prosecution contended that late Manuel Maghanoy was stabbed by you, by means of treachery, while he was walking in the road; while you contended that you stabbed Manuel Maghanoy in self-defense and/or to repel his unlawful aggression in the house where you were staying as a boarder; during the trial were you able to produce or present as witness or witnesses any person or persons who were the first to render assistance to the deceased immediately after the incident in the house?

A - No, sir.

Q - During the trial, were you able to present any witness or witnesses who may be in the road while the incident was taking place in the house and when Manuel Maghanoy went out to the road after having been stabbed?

A - No, sir.

Q - Why, please state the reason when according to you, you exerted earnest effort and reasonable diligence to produce evidence and witnesses for your defense during the trial?

A - Because I did not know then of any person or persons who were in the road and able to render assistance to late Manuel Maghanoy after he was stabbed, considering that after the stabbing in self-defense, I was just inside the house; when I went with the Policemen that same evening, Manuel Maghanoy was no longer there and during the trial and the pendency of the appeal, I did not go back to the scene, premises and environment of the incident at Estaka, Dipolog City, to gather information as to the possibility of any person or persons who might have rendered assistance to Manuel Maghanoy after he was stabbed in the house or who could be present in the road when the incident happened, for fear of retaliation from his relatives and friends, especially that I received information that they were hunting me.

Q - As of April 1, 1969, did you already know Antonio Cachin, Jr. and Manuel Henry Auza?

A - I have seen Antonio Cachin, Jr. in Saint Vincent's College where I was studying but we were never friends; but I have never known Manuel Henry Auza.

Q - After that incident on April 1, 1969, have you seen again Antonio Cachin, Jr.?

A - No, sir, because I stopped studying in Saint Vincent's College for eight [8] years and I stayed and lived in our home place in Ilaya, Dapitan City and I did not go to Saint Vincent's College premises within those years due to my fear of retaliation. When I resumed my studies in the school year 1977-1978, Antonio Cachin, Jr. was no longer studying in said school. And I did not meet him again.

Q - When, for the first time did you discover that Antonio Cachin, Jr. and Manuel Henry Auza were present in the road in front of the home of Deling Velasco when the incident between Manuel Maghanoy and you happened in the house where you were boarding and that they were the first persons who rendered assistance to Manuel Maghanoy after he was wounded by you in self-defense or to repel his unlawful aggression?

A - Only after I received a copy of the decision of the Honorable Supreme Court on October 15, 1985.

Q - How did you discover it?

A - After I received the decision of the Honorable Supreme Court, I went to Dipolog City to look for a lawyer for an advice or consultation. Coincidentally, I met Roseller Ladera who was one of the prosecution witnesses and I regretably told him that I was convicted and sentenced to life imprisonment principally due to the testimony of Rogelio Patangan, and Roseller Ladera told me that it was surprising for the reason that Rogelio Patangan was not present during the incident, it was a certain Antonio Cachin, Jr. and his companion who were present based on what he knew.

Q - And so, what did you do then?

A - I exerted earnest effort to contact Antonio Cachin, Jr. When I have contacted him, he related to me everything about the incident of April 1, 1969 involving the late Manuel Maghanoy and he told me farther that he and Manuel Henry Auza were there present and they were the first persons who were able to render assistance to Manuel Maghanoy and that the person named Rogelio Patangan was not there present.

Q - When did you met [sic] Roseller Ladera?

A - On October 29, 1985, but it took me some few days until I was able to contact Antonio Cachin, Jr. and Manuel Henry Auza.

Q - How were you able to contact Manuel Henry Auza?

A - Through Antonio Cachin, Jr."[3]

Under these circumstances, there can be no doubt that the evidence sought to be presented are newly-discovered as defined by the Rules of Court. Furthermore, the proposed testimonies of Antonio Cachin, Jr. and Manuel Henry Auza, who aver to be the first persons to render assistance to the victim immediately after the stabbing incident, if admitted, would tend to show that the alleged eyewitness Rogelio Patangan, whose version of the crime was given full faith and credence by the trial court and sustained by this Court, was not present at the scene of the crime.[4] If this is true, then, the version of the prosecution might perforce fail and that of the defense prevail. Consequently, the judgment of conviction could be reversed, or at the very least, modified.

Finding that the evidence sought to be presented by accused-appellant conforms to the requisites laid down by Section 2[b] of Rule 121 of the Rules of Court, the Court Resolved to GRANT accused-appellant's motion for new trial.[5]

ACCORDINGLY, the judgment of this Court dated October 3, 1985 is reconsidered and set aside. The judgment of the trial court dated April 11, 1978 is likewise set aside and the records of the case are remanded to the lower court for new trial pursuant to Rule 121, Section 5[b] and [c] of the Rules of Court, at which the evidence already taken shall stand and the testimonies of Antonio Cachin, Jr. and Manuel Henry Auza and such other evidence of both prosecution and defense as the trial court may in the interest of justice allow to be introduced, shall be taken and considered with the evidence already in the record, and a new judgment thereafter rendered by the lower court.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 22

[2] 139 SCRA 71

[3] Rollo, pp. 141-143

[4] Joint Affidavit, Annex 1, Motion for New Trial, pp. 135-138, Rollo

[5] People vs. Gensola, 34 SCRA 383

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