

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ROGELIO CALDERON Y ORTEGA, ACCUSED-APPELLANTS.

Ponente: TIJAM, J.

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TIJAM, J.:

Accused-appellant Rogelio Calderon filed an appeal from the Judgment[1] of the Regional Trial Court (RTC) of Pasig City, Branch 271 convicting him of simple carnapping and sentencing him to a penalty of imprisonment for the indeterminate sentence of 14 years and 8 months, as minimum to 17 years and 4 months, as maximum, and to pay the amount of P5,000.00 to private complainant Fe Galangera, by way of moral damages.

Accused-appellant was charged under the following criminal Information:

“That, on or about the 28[th] day of June 2008, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without the knowledge and consent of the owner, did, then and there, willfully, unlawfully and feloniously take, steal, and drive away a motor vehicle particularly described as a Calvinized (sic) Isuzu Passenger Jitney with Chassis no. MAR200116016-D, Engine no. C240263596 and Plate number TYG-653 belonging to Fe S. Galangera, to the damage and prejudice of the latter.

CONTRARY TO LAW.”[2]

When arraigned, accused-appellant pleaded not guilty to the charge.[3] During the pre-trial conference, the prosecution and the defense agreed on (1) the jurisdiction of the court a quo over the person of the accused, and (2) the offense charged and the identity of the accused as the one charged in the information.[4]

The facts are the following:

The motor vehicle subject of the crime is a passenger jeepney with Plate No. TYG-653, owned by spouses Jovencio and Fe Galangera. The jeepney was under the care of its regular driver Julito Figueroa when the complained incident of carnapping took place.

Julito Figueroa, testified that while he was driving the jeepney along FTI Taguig at 3 A.M. of June 28, 2008, accused-appellant, whom he identified as his fellow jeepney driver, boarded the subject jeepney. At about 4 A.M., he parked the jeepney at FTI Shell Gasoline Station in Taguig City so he could eat at the nearby eatery. He invited accused-appellant to join him but the latter declined and told him that he wanted to just sleep inside the jeepney. Figueroa left the accused-appellant and proceeded to the eatery. As soon as he returned, the jeepney was gone. At around 6:30 A.M., Figueroa went to Fe Galangera's house to report the incident.

Teofilo Pascasio, another prosecution witness, testified that he saw accused-appellant at about 4 A.M. of June 28, 2008. He was opening his store located along the service road of C-5 in Brgy. Pembo, Makati City, when he noticed a jeepney with Plate No. PYJ 653 passed by his store.[5] The jeepney was being pushed by 3 male persons while accused-appellant was seated on the driver's seat. He heard the engine of the jeepney being started when it was about 75 to 100 meters away from the store.[6] Later that day, he learned about the alleged

carnapping of the subject jeepney pointing to accused-appellant as the culprit. Teofilo Pascasio testified that accused-appellant was a regular customer of the store he owns.

Jovencio Galangera, the owner of the subject jeepney testified that he learned about the carnapping at 6:30 A.M. of June 28, 2008. He was at his house then when the driver Joselito Figueroa arrived to report the incident. Forthwith, they went to the City Hall of Taguig City to report the loss of the jeepney[7] and proceeded to the house of the accused-appellant. He confronted the accused-appellant and asked about the whereabouts of the jeepney but accused-appellant suddenly fled. Accompanied by the Barangay Bantay Bayan of Makati City, they chased the accused-appellant and intercepted him; then they brought accused-appellant to Precinct 8 in Makati City.[8] Later, the Makati City police received a call informing them that the missing jeepney was in Malabon City. Once the information was verified, Jovencio Galangera, Joselito Figueroa and the assisting policemen proceeded to Malabon City where they recovered the jeepney in a cannibalized condition.[9] Jovencio Galangera also testified that the jeepney was registered under his wife's name, Fe Galangera.[10]

The defense presented accused-appellant as witness, who testified that, on June 28, 2008, at about 7:30 A.M., while he was at the house of his brother in East Rembo, Makati City, 3 Barangay Tanods arrived and invited him to the Barangay Hall for investigation about the reported missing passenger jeepney. The jeepney was allegedly owned by one Fe Galangera. When they reached the Barangay Hall in Pembo, Makati, he was incarcerated and beaten up by policemen.[11] On cross-examination, accused-appellant stated that his brother's house in Makati is approximately 17 kilometers away from the place where the jeepney was parked by the driver Joselito Figueroa before the complained incident of carnapping took place.

On the basis of the foregoing evidence adduced by the prosecution and the defense, the RTC ruled that ?

“There could not be any other interpretation of the evidence presented by the prosecution than the guilt of the accused of the crime charged. The witness Teofilo Pascasio, Sr. saw the accused driving the jeepney of the private complainant Fe Galangera at about 4:00 o'clock in the morning of June 28, 2008 at the service road of C-5 towards the direction of Pasig. Said circumstance could not be interpreted in favor of the accused because at about 4:00 o'clock in the morning of said date Julito Figueroa had already parked the jeep at the Shell gasoline station, FTI and had left Rogelio Calderon sitting beside the driver seat of said jeep. x x x[12] (Emphasis Ours)

The prosecution had failed to present any proof of the accused having taken the jeep by force or intimidation or with the commission of any other crimes in the course of or on the occasion thereof. The crime committed by the accused is therefore, simple carnapping.x x x

x x x However, moral damages can be awarded under Article 2220 of the Civil Code. The Court deems it equitable, under the circumstances of this case and of the parties, that the moral damages be to the amount of Five Thousand Pesos (P5,000.00).”[13]

The RTC ruling is now being assailed in this appeal on the following grounds:

“I.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II.

THE COURT A QUO GRAVELY ERRED IN AWARDING MORAL DAMAGES.”[14]

Accused-appellant argues that since the elements of the crime of carnapping are not all present in this case, he

should, therefore, be acquitted.

The appeal is without merit.

Accused-appellant has been charged with and convicted of the crime of carnapping under Republic Act No. 6539 or the Anti-Carnapping Act of 1972. Section 2 of the Act defines “carnapping” and “motor vehicle” as follows:

“Carnapping” is the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things.

“Motor vehicle” is any vehicle propelled by any power other than muscular power using the public highways,
x x x

The elements of carnapping as defined and penalized under the Anti-Carnapping Act of 1972 are the following: (1) That there is an actual taking of the vehicle; (2) That the vehicle belongs to a person other than the offender himself; (3) That the taking is without the consent of the owner thereof; or that the taking was committed by means of violence against or intimidation of persons, or by using force upon things; and, (4) That the offender intends to gain from the taking of the vehicle.[15]

The evidence strongly shows that all elements of carnapping were alleged and proved in this case. As established by the prosecution, there is an actual taking of the jeepney from where it was parked by its driver Julito Figueroa at FTI Shell Station in Taguig City in the morning of June 28, 2008. The testimonial evidence established that when Julito Figueroa returned to FTI Gasoline Station where he parked the jeepney, the same was no longer there. The prosecution also established through documentary evidence[16] that the jeepney is owned by and registered under the name of Fe Galangera, married to Jovencio Galangera. Further, the prosecution had established that the taking of the jeepney was without the consent of the owner. Accused-appellant's intent to gain is already presumed from the unlawful taking of the same. Intent to gain or animus lucrandi is an internal act. The term “gain” is not merely limited to pecuniary benefit but also includes the benefit which in any other sense may be derived or expected from the act which is performed. Thus, the mere use of the thing which was taken without the owner's consent constitutes gain.[17]

Having established that the elements of carnapping are present in this case, We now go to the arguments of the accused-appellant in his Brief.

Accused-appellant argues that there is a seeming inconsistency as regards Teofilo Pascasio's identification of the plate number of the jeepney and the one that appears in the criminal Information. What was described in the Information was a motor vehicle with plate number TYG-653. This is different from the one described by Teofilo Pascasio in his testimony in court where he mentioned that he saw a passenger jeepney with plate number PYJ 653 passed by his store at about 4 A.M. of June 28, 2008. It is therefore the accused-appellant's supposition that the one proven to have been taken and stolen by him was different from that charged in the Information.[18]

Accused-appellant's argument cannot contradict Our finding that the inconsistency in the testimony of Teofilo Pascasio refers only to minor details and collateral matter that do not affect the totality of the prosecution's evidence. The discrepancy on minor details - the testimony of Teofilo Pascasio that the jeepney's plate number was PYJ 653, while in the Information it was TYG-653 – does not destroy the substance of the testimony of Teofilo Pascasio.

In *People v. Lindo*[19], the rule was restated holding that the “testimonies of witnesses need only to corroborate each other on important and relevant details concerning the principal occurrence. Minor contradictions and inconsistencies are normal infirmities that result from individual differences in the appreciation of events, time, place and circumstances. The rule is that inconsistencies on minor details do not destroy the probative value of the

testimonies of the witnesses because they may be due to an innocent mistake and not to a deliberate falsehood. Slight contradictions in fact even serve to strengthen the sincerity of the witness and prove that his testimony is not rehearsed. They are safeguards against memorized perjury.”

Accused-appellant was convicted based on circumstantial evidence. Under Section 4, Rule 133 of the Rules of Court, circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances results in a moral certainty that the accused, to the exclusion of all others, is the one who has committed the crime.

Circumstantial evidence, under established jurisprudence, is described as evidence which proves a fact or series of facts from which the facts in issue may be established by inference. Such evidence is founded on experience and observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved.[20]

Here, the accused-appellant's conviction is justified by the circumstantial evidence, which, taken together, points to accused-appellant as the culprit. First, accused-appellant was left alone in the jeepney because the driver Julito Figueroa had to eat in a nearby eatery. Despite Julito Figueroa's invitation to join him in the eatery, accused-appellant chose not to go with him on the pretext that he wanted to just sleep inside the jeepney. Second, it was unfortunate that accused-appellant was seen by Teofilo Pascasio in the driver's seat while 3 other male person were pushing the jeepney. The testimony of Teofilo Pascasio creates a clear picture of accused-appellant, who took advantage of the time that while Julito Figueroa was away, he took control of the jeepney and executed his plan to rob the same. Carnapping is essentially the robbery or theft of a motorized vehicle, the concept of unlawful taking in theft, robbery and carnapping being the same.[21] Third, when Jovencio Galangera and Julito Figueroa went to the house of the accused-appellant and confronted him about the missing jeepney, the latter suddenly fled. Accused-appellant was chased by the Barangay Bantay Bayan of Makati City and was intercepted; then they brought him to Precinct 8 in Makati City. If indeed accused-appellant was not guilty of a wrongdoing, he would not have fled when he was confronted by Jovencio Galangera and Julito Figueroa. It is an established principle in criminal law that flight is evidence of guilt. For as the proverb says, “the wicked flee when no man pursueth; but the righteous are as bold as a lion.”[22] Fourth, the jeepney was recovered in a cannibalized condition in Malabon City upon an information received by the policemen. All these circumstantial evidences remained rebutted by accused-appellant.

Accused-appellant also contends that the RTC erroneously found him liable to pay for moral damages. However, this contention is unavailing in view of the fact that the amount of P5,000.00 imposed by the RTC is too insignificant to compensate the owner of the jeepney for the mental suffering she endured.

The foregoing premises considered, there is no way to consider the accused-appellant's defense of alibi and denial. Denial and alibi are inherently weak defenses; unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the prosecution witnesses[23], who in a simple and straightforward manner convincingly identified the accused-appellant as the one who carnapped the passenger jeepney of Fe Galangera on June 28, 2008 while said jeepney was parked by its driver Julito Figueroa at the FTI Shell Station in Taguig City. Further, for the defense of alibi to prosper, it must be sufficiently convincing as to preclude any doubt on the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[24] The accused-appellant in this case admitted on cross examination that his brother's house in Makati where he was at on June 28, 2008 is approximately 17 kilometers away from the place where the jeepney was parked by the driver Joselito Figueroa on the day the incident of carnapping took place.

Thus, We find no reason to disturb the trial court's reliance on the testimony of the prosecution witnesses.

Findings and conclusions of trial courts on the credibility of witnesses enjoy, as a rule, a badge of respect, for trial courts have the advantage of observing the demeanor of witnesses as they testify.[25] Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath — all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial court's findings are even accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case.[26]

As regards the penalty imposed by the RTC, We affirm the same, it being in accord with law and jurisprudence.

WHEREFORE, the appeal is hereby DISMISSED. The Judgment of the RTC of Pasig City, Branch 271, is AFFIRMED in toto.

SO ORDERED.

Baltazar-Padilla and Reyes-Carpio, JJ., concur.

[1] Record, pp. 78-91.

[2] Record, p. 1.

[3] Certificate of Arraignment; Record, p. 20.

[4] Pre-Trial Order; Record, pp. 17-18.

[5] TSN, December 2, 2008, p. 5.

[6] TSN, December 2, 2008, pp. 8-9.

[7] TSN, August 13, 2008, pp. 4-5.

[8] Id., p. 6.

[9] TSN, August 13, 2008, p. 8.

[10] Id., p. 10.

[11] October 29, 2008, pp. 4-6.

[12] Judgment, p. 12; Record, p. 89.

[13] Judgment, p. 13; Record, p. 90.

[14] Brief for the Accused-Appellant, p. 1; Rollo, p. 52.

[15] People v. Garcia, G.R. No. 138470, April 1, 2003.

[16] See Exhibit "B", Deed of Sale of Motor Vehicle; Record, p. 36.

[17] People v. Bustinera, G.R. No. 148233, June 8, 2004.

[18] Brief for the Accused-Appellant, p. 9; Rollo, p. 60.

[19] G.R. No. 134506, December 27, 2002.

[20] People v. Lagat, et al., G.R. No. 187044, September 14, 2011.

[21] People v. Bustinera, G.R. No. 148233, June 8, 2004.

[22] People v. Naag, G.R. No. 123860, January 20, 2000.

[23] People v. Sulima, G.R. No. 183702, February 10, 2009.

[24] Id.

[25] People v. Dela Peña, G.R. No. 183567, January 19, 2009.

[26] Id.

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