

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULY LACSAMANA ALIAS JULY, DEFENDANT-APPELLANT.

G.R. No. L-29061. October 29, 1970

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

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REYES, J.B.L., Acting C.J.:

Appeal by the accused, in Criminal Case No. 2712 of the Court of First Instance of Tarlac from the decision rendered there in finding him guilty of murder in the person of the late Norberto Aquino and sentencing him to suffer the penalty of life imprisonment, to indemnify the heirs of the victim in the sum of P4,000.00 and to pay the costs.

The records show that at about 10 o'clock in the morning of 29 September 1962, Norberto Aquino suspected of being mentally deranged and then being held in the municipal jail of Tarlac for custody, was found dead. The autopsy conducted by the Tarlac Municipal Health Officer revealed that the deceased sustained the following injuries:

"EXTERNAL EXAMINATION:

1. Head-bulging, temporal region, right; and temporo-occipital region, left;
2. Body-contusion one inch in diameter, upper shoulder, right;
3. Lumber region, left, multiple contusions about one inch in diameter;
4. Multiple contusions of both lower extremities about two (2) inches in diameter;
5. Contusions, multiple forearm, right.

"AUTOPSY FINDINGS:

1. Scalp –
 - a. Hematoma - temporo-parietal region, right;
 - b. Hematoma - temporo-occipital region, left;
2. Abdomen
 - a. ruptured viscus, ilium;
 - b. contused transverse colon;
 - c. intra-abdominal hemorrhage due to ruptured viscus.

"CAUSE OF DEATH

1. Severe traumatic shock

2. Massive intra-abdominal hemorrhage and peritonitis." (Exhibit "A")

For the above-mentioned death of Norberto Aquino, appellant her in, July Lacsamana, then a detention prisoner in the Tarlac municipal jail, was indicted for murder.

Through witness JUANITO BAUTISTA[1], the prosecution tried to establish that in the early morning of 29 September 1962, the accused July Lacsamana woke up to find his polo shirt thrown out of the men's cell and the twenty pesos allegedly placed inside the pocket of said shirt missing. Suspecting that these acts were committed by Norberto Aquino, a mentally deranged person who was confined in the jail for safe keeping, Lacsamana confronted Norberto about it. And when Norberto denied the acts imputed to him, Lacsamana dragged him to the women's cell which is adjacent to the men's cell where both were confined, and there boxed Norberto in the stomach several times. As a result of this beating, Norberto lost consciousness and collapsed to the floor. Thereupon, the accused filled a candy-can with water in the bathroom (which adjoins the men's cell), and poured it on the face of Norberto. When Norberto regained consciousness, the accused forced him to drink water from the can, and then jumped on the stomach of the prostrate Norberto until blood and water came out of his nose and mouth. Not content with this, the accused raised Norberto's body to a standing position and knocked his head against the cement wall several times.[2] After that, the accused left Norberto lying on the floor and returned to his bunk in the men's cell.[3] While Norberto was being maltreated by the accused, Diosdado Manaloto, another jail inmate, tried to intervene, but Manaloto had to desist because he was warned by the accused that he (Manaloto) would be maltreated next.[4] At about 10 o'clock in the morning or probably an hour after the incident, Manaloto found Norberto dead. So, Boy Dizon, another inmate, called for the guard, Patrolman Torres, and informed him of Norberto's death.

JAIME AQUINO, also a detention prisoner on the day in question, testified for the prosecution as follows:

In the morning of 29 September 1962, the accused July Lacsamana confronted the deceased Norberto Aquino in connection with the loss of Lacsamana's money in the pocket of his polo shirt. When Norberto denied having taken the money, Lacsamana started beating Norberto (right in the men's cell) with the wooden handle of a broom until it broke.[5] Then, the accused brought Norberto to the women's cell, tied the latter's hand to the iron bar of a bed, and boxed him in the abdomen.[6] When the accused saw that Norberto was already weak, he untied his hands and Norberto slid to the floor. Then, the accused went to the bathroom, filled a candy-can with water, held Norberto by the nape and poured water into his mouth.[7] Afterwards, the accused put Norberto down and jumped on the latter's stomach. The accused made a second trip to the bathroom, filled the can once more with water, returned to the women's cell, poured water into Norberto's mouth, and jumped again on Norberto's stomach.[8] Having done this, the accused left and went back to his bunk and slept.[9] This witness further testified that when the accused woke up, he returned to the place where Norberto was, pulled the latter up to his feet and knocked his head against the cement wall. Then, seeing that blood was oozing from the nose of Norberto, the accused brought him to the bathroom, cleansed him, and then left him lying on the floor. It was only after the accused had returned to his bunk that Manaloto, another inmate and the witness carried Norberto back to the women's cell. Norberto was then still alive.[10] Later, the witness checked on the condition of the maltreated man, and finding that Norberto was already dead, he called for the guard and informed him of the matter.[11]

The prosecution also placed DIOSDADO MANALOTO on the stand, who testified that, being a trusty, he was not in the men's cell when the alleged maltreatment of Norberto Aquino took place, and that he saw Norberto only when he was asked by the authorities to help bring the dead body out of the cell.[12] Understandably, therefore, this witness was taken out of the witness stand at the instance of the prosecution, for being a hostile witness.

Patrolman WILFREDO TORRES of the Tarlac Police Department declared in court that he was the guard on duty

in the municipal jail from 6 A.M. to 12 noon, and from 6 P.M. to 12 midnight of 29 September 1962; that at 6:02 in the morning of that day, he made a head count of the jail-inmates, and Norberto Aquino was then still alive, sitting near the wall of the main (men's) cell;[13] that after said physical count, he brought out four prisoners to clean the yard, returning them only after one and a half hours;[14] that during his tour of duty, he used to peep at the jail and he did not notice anything unusual taking place therein.[15]

The Municipal Health Officer, DR. JOSE VILLAFLORES, who performed the autopsy examination on the body of Norberto Aquino, affirmed on the stand the findings contained in his report regarding the nature of the injuries found in the body of the deceased. He further declared that when he first examined the body inside the municipal jail at about 10 o'clock in the morning of 29 September 1962, rigor mortis had already incepted. From this condition of the body, he calculated that death must have come to the deceased between 3 to 6 hours earlier, or between 4 and 7 o'clock in the morning of that day.[16]

Testifying for the defense, the accused JULY LACSAMANA declared that at about 3 o'clock in the morning of 29 September 1962 he was awakened by the cries of pain of Norberto Aquino; that he saw Norberto near the entrance to the men's cell, his outstretched arms (probably inserted between the bars) being pulled by Patrolman Galang, Serrano and Baun and Sgt. Perez of the Tarlac municipal police force;[17] that he saw Sgt. Perez hitting Norberto with the butt of his gun, although he was not able to see clearly where the blows landed;[18] that Patrolman Baun left and when he returned, said policeman was carrying a club; that Patrolman Baun then thrust this club again and again into the belly of Norberto, who jerked backward and screamed in pain everytime the club hit him[19]; that when Sgt. Perez noticed that he and the other inmates were awake, they were told that Norberto was about to kill them without their knowledge; that Sgt. Perez showed them the placard made of iron sheet, usually placed atop the door of the cell, with which Norberto allegedly tried to cut their necks;[20] that when Norberto's cries abated, the accused went back to sleep; that he was roused again by the noise made by his cell-mates who were cleaning the cell[21]; that after the guard had made the morning physical count of the prisoners, he returned back to sleep, waking up only at about 9 o'clock in the morning[22]; that later, Jaime Aquino told Boy Dizon that Norberto was already dead, and Boy Dizon in turn informed the guard about it[23]; that after the municipal health officer who was called by the guard had ordered the removal of the body of the deceased from the jail, Sgt. Perez passed by and instructed them to tell the investigators that Norberto fell from the bicycle that was deposited in the women's cell[24]; that when the Chief of Police came and investigated the incident, they told him nothing.[25] The accused also declared that in the afternoon of that day he met Juanito Bautista, Jaime Aquino and Diosdado Manaloto outside the jail and Manaloto informed him that he (the accused) was being implicated in Norberto's death; that on 2 October 1962, he again met Juanito Bautista and Diosdado Manaloto near the canteen beside the municipal building,[26] and Bautista revealed that he could no longer endure prison life because of his asthma and the authorities had promised that his case would be settled; that Manaloto was equally promised settlement of his case and a job.[27] According to the accused, he wrote to the Municipal Mayor and the Municipal Attorney, with the intention of revealing to them what he knew of Norberto's death; however, the mayor did not come. The Municipal Attorney came, but only to offer his pro-fessional services to the accused, and when the latter showed reluctance in engaging his services, the said municipal official did not return anymore.[28]

AGUSTIN MANGABAT, also one of the more than 30 inmates of the Tarlac municipal jail on 29 September 1962, testified in court that at about 2 or 3 o'clock in the morning of that day, he was awakened by the shouts of pain of Norberto Aquino; that he saw guard Galang, Patrolman Baun and Sgt. Perez, who were all outside of the cell, pulling Norberto's hands[29]; that while Norberto's hands were being held by his companions, Patrolman Serrano thrust something into the stomach of Norberto and Sgt. Perez hit him with the butt of his gun[30]; that Sgt. Perez told them (the other inmates) that Norberto was about to cut their necks while they were asleep, and

showed a placard made of galvanized iron which Norberto allegedly was about to use on them[31]; that after Norberto was hit by the policemen, he was brought to the women's cell in a crouching position, his hands pressing his stomach[32]; that he did not tell the Chief of Police about Norberto's maltreatment because Sgt. Perez had previously instructed them to say that Norberto fell from the bicycle.[33]

Patrolman ANASTACIO GALANG, the guard on duty in the 12 midnight to 6 A. M. shift on 29 September 1962, declared that at 6 o'clock in the morning of that day, according to practice, he went with Patrolman Torres, who relieved him from duty, in making a head-count of the prisoners in the municipal jail; that at the time, Norberto was still alive.[34]

Patrolman SENON TABOGAN and PEDRO G. SERRANO of the Tarlac municipal police force and detainee ROGELIO DIZON also took the witness stand and testified that between 6:30 and 10:00 in the morning of 29 September 1962, they did not notice anything unusual taking place inside the municipal jail.

After receiving the evidence for both parties, the trial court rendered judgment on 12 February 1968, finding the accused July Lacsamana guilty of murder and sentencing him to suffer the penalty of reclusion perpetua, and to indemnify the heirs of the deceased Norberto Aquino in the sum of P4,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs. Hence the accused interposed this appeal.

From the evidence thus adduced in court, it has been established that at about 10 o'clock in the morning of 29 September 1962, Norberto Aquino was found on the floor of the women's cell, dead; that the guard on duty, Patrolman Wilfredo Torres, immediately summoned the Municipal Health Officer who was then in the second floor of the municipal building; that when said municipal health officer, who responded at once to the call of the guard, arrived in the jail, rigor mortis had already started on the dead body, thus leading him to conclude that Norberto must have been dead for three to six hours before he was called; that the deceased sustained both external and internal injuries, and the death could have been caused by the internal injuries. Since witnesses were positive that Norberto was still alive when the physical count of the prisoners was made at 6:02 that morning,[35] the only conclusion that can be made is that he must have died between 6:02 and 7:00 in the morning. The questions to be asked now are, who inflicted the injuries that caused his death, and when were they inflicted?

In sustaining the prosecution and holding the accused guilty as charged, the trial judge relied solely on the testimonies of alleged eyewitnesses Juanito Bautista and Jaime Aquino, former detainees in the municipal jail. Upon a diligent and painstaking scrutiny of the prosecution evidence, we can not agree with the trial court on the weight to be given the testimonies of witnesses Bautista and Aquino. According to Bautista, the maltreatment of the deceased by the accused appellant, consisting in the infliction of blow to the stomach, the pouring of water in the mouth, the stamping or jumping on the stomach of the victim, and the knocking or banging of his head against the cement wall, was one continuous and un-interrupted action the took place only in the women's cell.[36] After that, the accused retired to his bunk. As narrated by witness Aquino, on the other hand, the manhandling of the deceased commenced in the men's cell and ended in the women's cell; that the deceased was not only boxed in the stomach, he was also beaten with the handle of a broom, forced to take water and then jumped on on the stomach, then his head was banged against the wall. The maltreatment, according to this witness, was not continuous, but was carried out in two phases, with the accused finding time to sleep in between. The witness even declared that the accused brought the deceased to the bathroom presumably to wash off the blood from the latter's face, and then left him there lying on the bathroom floor. Note that the beating with the broom handle and the interval of sleep by the accused, and the subsequent bringing of the deceased to the bathroom to be washed, were never mentioned by the first witness. The inconsistency in the accounts by two alleged eyewitnesses of the incident that supposedly occurred in their presence, and within the confines of the enclosure where they were, can not but create doubt as to their truthfulness and sincerity. And such conflicts in their court versions can not simply be

dismissed as natural or trivial. For it is not everyday that one sees a person being forced to take in water and jumped on on the stomach until blood and water come out of his mouth and nose. Incidents of this nature should have attracted more than passing attention and observation of the spectators, so that if they indeed happened, they would have brought about a more or less similar account, at least of the manner in which they were carried out, from the onlookers.

Secondly, the testimony of Aquino that after manhandling the deceased the accused found time to sleep in his bunk only to resume the maltreatment after the nap, all between 6:02 and 7:00 in the morning of 29 September 1962, is inherently improbable and provokes disbelief, particularly considering that prosecution witness Bautista asserted that when Aquino peeped through the bars of the cell the alleged maltreatment had ended (t.s.n., pages 87-88, Session of 11 July 1963).

In the third place, both witnesses testified that while the accused was abusing the deceased, only Diosdado Manaloto tried to intercede with the accused on his behalf. But Manaloto belied this evidence, testifying that he, being a trusty, did not sleep in the prison cells (t.s.n., 28 August 1963 pages 4-5)

Fourthly, the rest of the more than 30 inmates of the jail were either looking, or making drawings,[37] or reading comic books, or telling stories in boisterous or loud voices,[38] according to the prosecution "eyewitnesses". Even assuming that these inmates were accustomed to sights of violence, or that they were indeed afraid of the accused, it runs counter to the pattern of behavioral reactions of human beings that they should just watch, or continue drawing or telling stories, while a helpless mentally deranged individual is being beaten up, without anybody even trying to call the attention of the authorities. What makes this more in-credible is that the maltreated man should not have screamed or called for aid, when the office of the Chief of Police is merely adjacent to the jail. The door of the men's cell, according to the evidence, is only about 5 meters away from the door of the office of the Police Chief.[39] It is also highly unlikely that an incident involving the manhandling of a person should not have attracted the notice of any one in the municipal building, considering that it supposedly happened after 6 o'clock in the morning, and after the guard had counted the prisoners.

Of course, no motive has been shown why witnesses Bautista and Aquino would contrive lies that might send the accused to death or to a long stretch of prison years. But the absence alone of such motive to prevaricate would not make an otherwise improbable and incredible declaration true. And the improbability of the testimonies of these witnesses is further exposed by the prosecution's own evidence. For the findings of the municipal health officer (Exhibit "A", negative the prosecution's theory. The prosecution witnesses asserted that aside from the blows thrown by the accused against the stomach of the deceased, the former further stepped or jumped thereon while the latter was lying prostrate face up on the floor. If that had been so, the marks left by the accused's fists or by his feet would have appeared in the epigastric region. Yet none were found there, but in the lumbar region of the victim's body.[40] These marks are thus left unexplained in the record.

The flaws in the evidence of the prosecution above pointed to, that make such evidence weak and incredible, sufficiently raise a reasonable degree of doubt as to the probability of the occurrence of the incident as presented by the State. It is to be observed that the unusual features attending the alleged crime, to wit, the non-intervention and indifference of the fellow prisoners, and the failure of any prison guard to appear while the maltreatment was in course, are more consistent with the version of appellant, that the deceased was maltreated by police officers and not by him. Under the circumstances, We certainly can not return a verdict of guilt against the accused for the crime for which he has been prosecuted.

WHEREFORE, the offense charged against him not having been proved beyond reasonable doubt, the accused appellant is hereby acquitted thereof. The decision appealed from is reversed, without costs.

Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur. Concepcion, C.J., and Villamor, J., did not take part.

[1] A detention prisoner in the municipal jail on 29 September 1962.

[2] Pages 30-32, t.s.n., hearing of 13 February 1963.

[3] Page 37, id.

[4] Page 40, t.s.n., hearing of 13 February 1963.

[5] Pages 134-135, t.s.n., hearing of 25 September 1963.

[6] Page 136, id.

[7] Page 137, id.

[8] Page 138, id.

[9] Page 140, t.s.n., hearing of 25 September 1963.

[10] Pages 144-151, id.

[11] Page 152, id.

[12] Pages 3, 9, t.s.n., hearing of 26 August 1963.

[13] Page 48, t.s.n., hearing of 26 August 1963.

[14] Page 53, id.

[15] Pages 55-56, id.

[16] Page A-17, t.s.n., hearing of 19 July 1963.

[17] Pages 380, 382, t.s.n., hearing of 26 July 1966.

[18] Page 384, id.

[19] Page 389, t.s.n., hearing of 26 July 1966 .

[20] Pages 385-386, id.

[21] Page 393, t.s.n., hearing of 14 December 1966.

[22] Page 394, id.

[23] Pages 398-399, id.

[24] Pages 401-402, id.

[25] Page 404, id.

[26] The accused was then confined in the provincial building and was brought to the municipal building only to attend the hearing of his case.

[27] Page 408, t.s.n., hearing of 14 December 1966.

[28] Pages 410-412, id.

[29] Pages 331, 336, t.s.n., hearing of 15 February 1966.

[30] Pages 339-340, id.

[31] Page 332, id.

[32] Pages 343, 345, id.

[33] Page 356, t.s.n., hearing of 13 May 1966.

[34] Page 106, t.s.n., hearing of 12 February 1964.

[35] Page 98, t.s.n., hearing of 11 July 1963; page 48, hearing of 12 September 1963; page 106, hearing of 12 February 1964; page 321, hearing of 15 February 1966.

[36] Page 80, t.s.n., hearing of 11 July 1963.

[37] Page 143, t.s.n., hearing of 25 September 1963; page 60, t.s.n., hearing of 21 October 1963.

[38] Pages 51, 53, 73, t.s.n., hearing of 11 July 1963.

[39] Exhibit "7", page 212, CFI Record.

[40] In the "left side of the lower back", according to Dr. Villaflor, the examining physician (t.s.n., page A-16, July, 1963).

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