

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEMENTE AQUINO, DEFENDANT-APPELLANT.

G.R. No. L-32390. December 28, 1973

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

In Criminal Case No. 6404-M of the Court of First Instance of Bulacan, Clemente Aquino was charged with and found guilty of murder for the death of Pedro Cruz in the afternoon of April 29, 1967, at barrio Sibul, San Miguel, Bulacan. He was sentenced to reclusion perpetua, to pay an indemnity of P12,000.00 and P10,000.00 for actual expenses and moral damages suffered by the heirs of the victim. The case was thereafter elevated to this Court on appeal.

There is no dispute as to the fact of the killing. Aquino did it with a revolver, caliber .22, which he fired four times in succession. His plea is self-defense.

Cruz was an employee of the Farmont Mines and Aquino was working as truck driver for a certain Leoncio de Guzman, owner of a white clay mine adjacent to the Farmont property. It seems that there was some kind of rivalry between the two mining establishments, which somehow involved their respective personnel.

The case for the prosecution consists of the testimony of three principal witnesses, all employees of the Farmont Mines, namely, Priscila Corpuz, Jorge Cruz and Dominador Cruz. In the morning of April 29, 1967 they rode together with Pedro Cruz in the latter's jeep to go to the Farmont Mines site at Akle, San Ildefonso, Bulacan. On their way they passed Bo. Pinaod, where they saw a truck parked by the roadside and a jeep just behind. Clemente Aquino was at the driver's seat of the truck and Leoncio de Guzman was inside the jeep. Priscila Corpuz said she afterwards noticed the two vehicles following her group at a distance of about 100 meters. A half hour after she and her companions reached the mine site Clemente Aquino arrived in his truck and "passed thru the fence" of the Farmont Mines. Pedro Cruz was then inside the Farmont property, repairing his own jeep, and after Aquino rammed the truck through the fence, Cruz went directly to his jeep and drove it to intercept the other vehicle. When Cruz caught-up he alighted from the jeep and without any previous exchange of words between them Aquino immediately shot him.

Jorge Cruz related substantially the same story as that given by Priscila Corpuz, except that while the latter said she joined her companions before reaching Bo. Pinaod, where she got off the jeep for a while to buy some foodstuffs, Jorge Cruz said that it was in the said barrio that they picked up Priscila, he himself having joined Pedro Cruz in the latter's jeep much earlier in the day.

The third witness for the prosecution was Dominador Cruz, who was also in the group which rode in the jeep of the deceased Pedro Cruz in going to the mine site. The version of all three is that after alighting from his jeep, which he used to intercept Clemente Aquino's truck, catching up with the latter on the dry bed of the river near the Farmont property, Pedro Cruz walked to where the truck had stopped. He was standing some two or three meters from the truck, to the left of the driver's seat, when Clemente Aquino shot him four times, killing him on the spot.

Aquino's version as to the circumstances which led to the shooting contradicts that of the prosecution. He did not drive thru or ram the fence of the Farmont Mines. He was a truck driver for Leoncio de Guzman, his shift of duty being in the afternoon, while another driver, Melencio Guevarra, drove the truck in the morning. At 11:30 on April 29, 1967, he took over as driver at the clay stockpile in Bo. Akle and left for the mine site, together with Guevarra and Teofilo de Guzman. On the way he gave a lift to several persons, including an army soldier by the name of Conrado Ferma, the latter's wife and two children. To go to the mine site he did not have to pass thru the Farmont property because some distance from it a passageway to the dry river bed had been constructed by Leoncio de Guzman's laborers. While he was negotiating that passageway, however, he accidentally rammed three or four bamboo posts which were stuck into the ground. He proceeded on the dry river bed, stopped to unload the soldier and his family near their hut, and then continued on his way. He had covered a short distance when he saw a jeep speeding in his direction, with Pedro Cruz at the wheel and a companion, called "Moro," beside him. Cruz blocked his way with the jeep, got off and walked towards the left side of the truck. About two meters away Cruz stopped and asked him, "Why do you insist passing here when I am stopping you?" Aquino answered, "Why should you stop me here when I am already on the river?" Cruz did not answer, but gave a meaningful glance at "Moro," who was still inside the jeep, and touched something bulging at his waist. When he pulled the thing out, Aquino saw it was a "balisong" knife. Cruz stepped on the left running board of the truck, and hauled himself up with his left hand holding on to the windshield frame. Aquino moved towards the right side of the driver's seat but was not able to go to the extreme end because his thigh got wedged under the gear shift. Cruz thrust forward with his knife at him, but he leaned far to the right and at the same time parried the knife hand. Cruz switched his knife to a stabbing position and at that moment Aquino, who was already leaning almost prone on the driver's seat, got his gun from the tool box and fired at his antagonist. The first shot hit Cruz on the right side of the throat, the second on the right arm. Aquino fired four times in all and then jumped out of the truck on the right side, leaving Cruz slumped over the driver's seat. Aquino sought cover near the right front tire of the truck. "Moro," gun in hand, got off the jeep but ran away when he saw Aquino's gun trained on him. When Aquino again looked in the direction of his antagonist, he saw the latter already lying beneath the truck. There was a small army contingent nearby and he went to one of the huts of the soldiers and surrendered his gun to one of them.

The appellant's version was corroborated by Teofilo de Guzman, former employee of Leoncio de Guzman. He was one of those who rode with Aquino from Leoncio de Guzman's stockpile of white clay in Bo. Akle. Besides himself there were other persons who were given a lift in the same truck, including an army soldier with his wife and two children. They drove on a public road, and upon reaching a spot where there was a signboard marked "Farmont Property," Aquino made a detour toward Akle river. In negotiating the bend down to the river bed, the truck accidentally rammed and destroyed four bamboo posts. They stopped briefly to allow the soldier and his family to get off. Suddenly a jeep, which was running very fast, overtook them and stopped in front of the truck. Pedro Cruz, who was at the wheel, got down, leaving his companion named "Moro" inside. Cruz walked toward the truck and there was an exchange of words between him and Aquino. He pulled out a bladed weapon, stepped on the running board of the truck and lunged at his opponent, who evaded the attack by leaning down to his right. Both Aquino and Teofilo de Guzman testified that the blood from the bullet wounds Pedro Cruz received spilled on the driver's seat of the truck. De Guzman also testified that during the shooting the other passengers who were still inside the truck jumped out and that he saw Cruz slide down slowly from the running board, with his two legs finally going directly under the truck.

In view of the conflicting versions of the witnesses for the prosecution on one hand and the witnesses for the defense on the other, a number of physical and objective circumstances assume decisive importance.

First is the testimony of patrolman Ernesto Salazar of the San Miguel police. He was listed in the information as

one of the witnesses of the prosecution but was not called to testify although he was present in court all the time that the State was adducing its evidence. Presented instead by the defense, he said that in the afternoon of April 29, 1967, a policeman from San Ildefonso reported the death of Pedro Cruz to the Chief of Police of San Miguel. The Chief then ordered him and patrolman Sta. Maria to proceed to the scene of the incident. He could not recall how many persons were there when they arrived, but did remember a certain Victor Intacto and several army soldiers, headed by Sgt. Oscariz, standing near the dead body. It was then about 8 o'clock in the evening. He saw Pedro Cruz lying on his back by the left side of the truck, and had photographs of the body taken from different angles; he found blood stains on the driver's seat and had them also photographed; and then afterwards he found a dagger on the floor of the truck near the driver's seat, the scabbard of which he had previously seen tucked at Pedro Cruz' right hip. In the course of his testimony Salazar identified the eight photographs which had been taken, his on-the-spot report and the sketch of the scene which he prepared, the dagger and the scabbard. In particular the photographs of the body show that where he lay Pedro Cruz' two legs were directly under the truck.

Another significant piece of evidence is the biology report and testimony of Mercedes Bautista, Chief of Forensic Chemistry of the National Bureau of Investigation, to the effect that she analyzed the blood stains on the driver's seat of the truck in question upon request by the Chief of Police of San Miguel and found them to be of human blood.

Similarly significant is the necropsy report of Dr. Aristeo Tantoco, Municipal Health Officer of Angat, Bulacan, which shows the locations of the wounds and trajectories of the bullets in the body of the deceased, as follows:

"1.

Located at occipital region of the head, left, measuring 0.3 cm. with a length of 1.1 cm.

2.

Entrance - located at the base of the neck anterior right, 2 inches from the anterior median line 54 inches from the right heel.

Size - 0.4 by 0.3 cm.

Description - Ovaloid with inverted edges with an abrasion collar measuring 0.1 cm. at its upper part.

Direction - Downward posteriorly and to the right.

Involvement - Skin, soft tissues, and muscles of the neck, upper lung, right, muscle of the lumbar region, right, a lead bullet was recovered just beneath the skin on the lumbar region.

3.

Entrance - located at the upper chest left, 3.5 inches from the anterior median line, 48 inches from the left heel.

Size - 0.4 by 0.3 cm.

Description - ovaloid with inverted edges, with an abrasion collar measuring 0.1 cm. at its upper part.

Direction - downward posteriorly and to the left.

Involvement - Skin soft tissues, muscles of the chest, grazing the third rib piercing the thoracic wall, the lungs left posterior wall of the chest. Slug was recovered just beneath the skin of the posterior chest.

4.

Entrance - located at the palmar region of the left forearm anteriorly.

Size - 0.4 by 0.3 cm.

Description - Ovaloid with inverted edges with an abrasion collar measuring 0.1 cm. at its lower part.

Direction - Upward and posteriorly

Involvement - skin, soft tissue and muscle of the forearm.

Exit - located at the proximal 3rd of the forearm medially, measuring 0.5 by 0.5 cm. with inverted edges."

The physical, objective facts enumerated above are not only consistent with but indeed confirm strongly the plea of self-defense raised by the appellant. The direction of three of the four bullets which hit the deceased shows that he must have been in a forward stooping position at the time, with his left forearm raised some-what in front of him, as would be the case if he was holding the windshield frame with his left hand. Thus the slug which entered the base of the neck, in front and to the right, plowed downward through the upper lung and the muscle of the lumbar region, where it was recovered just beneath the skin. The slug which entered the body at the left upper chest also followed a downward direction and was recovered beneath the skin at the back. And the slug which hit the left forearm near the palm of the hand took both an upward and posteriorly direction and exited "at the proximal 3rd of the forearm medially." The bullets could not have had these trajectories if the deceased had been standing upright two or three meters to the left of the truck, as the witnesses for the prosecution testified.

The evidence of the dagger or knife, which was retrieved by patrolman Salazar from the floor of the truck below the driver's seat, and the evidence of the blood stains on the seat itself, not only find no explanation in but directly contradict the version of the prosecution. It should be noted that although the chemical examination of the stains was done eleven days after the incident, they were photographed shortly after it happened and the driver's seat itself was placed in the custody of the Chief of Police of San Miguel.

The trial court took a cavalier attitude toward these evidences, hinting that they might have been planted. But the one who found the knife and had photographs of the blood stains taken was the police officer assigned to conduct an official investigation. And he did so in the presence of several persons. The appellant himself surrendered to an army soldier and was taken away immediately after the shooting; and the premises where it happened, including the truck and the body of the deceased, were under guard by army soldiers before patrolman Salazar arrived to conduct the investigation. The very position of the body as testified to by the same patrolman and confirmed by the photographs shows that after being shot Cruz must have slid down the running board of the truck where he was said to be standing, thus accounting for the fact that he was found lying on his back with his two legs under the truck. Such a position could hardly have been possible if he had been shot while standing two or three meters away from the vehicle.

The three elements of self-defense are here present. There was unlawful aggression on the part of the deceased when he attacked the appellant with a deadly weapon, especially in the rather cramped quarters of the driver's compartment of the truck, where the space was too limited for effective maneuvering. The means employed to repel that aggression was reasonable. As repeatedly held by this Court, "(I)n emergencies of this kind, human nature does not act upon process of formal reason but in obedience to the instinct of self-preservation; and when it is apparent that a person has reasonably acted upon his instinct, it is the duty of the courts to sanction the act and hold the act irresponsible in law for the consequences." [1] And upon a review of the evidence we find that the appellant did not give any sufficient provocation for the attack against him.

In ruling that there was such provocation the court a quo relied on the testimony of Priscila Corpuz to the effect that the appellant rammed the closed gate of the Farmont compound. However, this testimony is of doubtful credibility: Corpuz gave conflicting versions on this point which she failed to explain satisfactorily. In her affidavit (Exhibit 4) which she executed before a certain Atty. Ernesto Catimbang, she stated:

"6. That we saw the actual shooting incident, when without any warning the accused driver of the cargo truck upon arriving at the gate ordered Mr. Pedro Cruz to move his jeep away from the road in order to pass by and the deceased Pedro Cruz answered that the truck can pass because he is parked by the side of the road but instead of passing by the cargo truck driver suddenly and without warning pulled a gun hidden in the compartment of the truck and shot at Pedro Cruz, who because he was hit had to climb the truck but was

repulsed by the succeeding shot fired at him and fell to the ground dead."

In the preliminary investigation conducted by the Acting Provincial Fiscal of Bulacan, Priscila Corpuz gave another version. On direct examination she testified as follows:

"Q. What happened when the truck arrived at the site?

A. He went to the post.

Q. What post are you referring to?

A. Post behind our laborers in the mine site.

Q. Now, what happened after that?

A.

Then he maneuvered and went down the river where Mr. Pedro Cruz was standing.

Q. What happened when the truck went down the river where Mr. Pedro Cruz was standing?

A. He fired without notice.

Q. To whom did he fire?

A. Pedro Cruz.

Q. What happened with Pedro Cruz when he was fired at?

A.

He fell down and he was dead.

Q. How many times did you hear the shot rang out?

A. There were plenty, sir. It continued the shots." (Exhibits 24-C and 24-D, pp. 21-23 of Exhibit 24)

"Atty. Hill:

Q. You were referring to a post, is that part of the gate which was smashed by the truck of the respondent?

"Atty. Castillo:

Objection. Leading question.

"Atty. Hill:

Q.

What was that post which was smashed by the truck?

A. It was behind the Farmont Mines' laborers, sir.

Q. What was that post?

A. To serve as fence, sir.

Q. Was that fence destroyed?

A. Yes, sir."

(Exhibit 24, pp. 27-28)

In her two versions quoted above Priscila Corpuz did not say that the appellant forced his way through the closed gate of the Farmont Mines or that he went inside its premises in going down the river bed.

On the other hand, the appellant clearly testified, with the aid of a sketch (Exhibit 1) and with corroboration from Teofilo de Guzman, that before reaching the gate of the Farmont Mines he made a detour to the river bed by using the passageway which had been constructed by the men of Leoncio de Guzman and that while negotiating the

descent he accidentally bumped three or four bamboo posts stuck into the ground. The existence of the passageway, which according to the defense was constructed purposely to avoid passing through the contested road, was not controverted by the prosecution.

IN VIEW OF THE FOREGOING CONSIDERATIONS We find the plea of complete self-defense sufficiently established. The judgment of the Court a quo is reversed and the appellant is acquitted, with costs de oficio.

Ruiz Castro, Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] People vs. Encomienda, No. L-26750, August 18, 1972 (46 SCRA 522); People vs. Lara, 48 Phil. 153.

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