

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
TEODULO RIVERAL, JUAN ROMENA, SILVESTRE ADVINCULA,
ALFREDO ROMENA AND FERMIN REDULME, DEFENDANTS AND
APPELLANTS.**

G.R. No. L-14077. March 31, 1964

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Statement.—This is an appeal from the decision of the Ilocos Sur Court of First Instance finding Teodulo Rival and Juan Romena guilty as principal, and Alfredo Romena, Silvestre Advincula and Fermin Redulme guilty as accomplices, of the crime of murder.

The case began with an information charging that said defendants had unlawfully shot and killed Vitaliano Argel on October 28, 1951, in San Vicente, Ilocos Sur.

Upon arraignment, all of them pleaded not guilty. But after hearing the evidence, the trial court rendered the judgment of conviction, sentencing the principals to Reclusion Perpetua, and to indemnify jointly and severally the heirs of the deceased Vitaliano Argel, in the sum of P3,000.00 etc., and sentencing Alfredo Romena, Silvestre Advincula and Fermin Redulme, as accomplices, to an indeterminate penalty of six years and one day of Prison Mayor as minimum, to twelve years and one day of Reclusion Temporal, as maximum, plus the accessories of the law, etc.

Facts.—We have carefully reviewed the testimonies of the prosecution witnesses, Daniel Baltazar and Petronio Rigunay, the principal evidence on which appellants' conviction rested. Their narration, tallying on the essentials, appears to be coherent and convincing. According to them, at about 4:00 in the afternoon of October 28, 1951, with Petronio Rigunay at the wheel, Daniel Baltazar and Vitaliano Argel went in a Jeep to campaign in Barrio Ermita, San Vicente; that Rigunay was candidate for mayor; that on their way to Ermita, they passed by the houses of accused Teodulo Rival, Juan Romena and Silvestro Advincula in Barrio San Sebastian; that Teodulo Rival and Juan Romena were at the time in their front yards, while Silvestre Advincula was in his own house looking out of the window; that on their return, the trio were seated exactly as they were on their way to Ermita; that as they approached the isolated section of the barrio road, near the place where it forked with another road to Bo. Mindoro, they saw the accused Teodulo Rival and Juan Romena both armed with a carbine and a pistol respectively, standing a few meters from the junction; that after they had passed said armed men, with their jeep running slow (because of the bad condition of the road), successive gun reports fell upon their ears; that as Petronio looked back, he saw Teodulo Rival who had a carbine and Juan Romena, Alfredo Romena, Fermin Redulme and Silvestre Advincula, all armed firing at them; that as Petronio stepped on the accelerator, additional shots came from the direction of the gun holders; that because Petronio lost control, the vehicle swerved to the right side of the road and fell into a ditch; that Daniel and Vitaliano Argel sought cover from the rain of bullets; that Vitaliano was fatally hit; that when the jeep fell into the ditch, Petronio Rigunay and Daniel Baltazar jumped

therefrom, sought cover behind the jeep and observed the five armed accused who continued firing at them; that even as the five accused kept firing at them, Petronio Rigunay dropped into the canal and followed its course northwards; that after quite a distance, he got out and, zigzagging he ran to his house; that Daniel likewise managed to escape unhurt.

Defense of alibi.—As is ordinarily the case, the defendants pretended they were somewhere else when the shooting took place. Their evidence tended to establish different alibis, namely,

Silvestre Advincula: At 3:30 o'clock that afternoon of October 28, 1951, he and his children left Barrio San Sebastian for Vigan where his children were studying. They arrived in Vigan at about 4:00 o'clock in a calesa. There he waited for his wife who had gone to Narvacan with her niece to attend a novena. His wife and niece arrived in Vigan at about 5:00 o'clock, and together, they all returned to Bo. San Sebastian in a calesa.

Urbano Riduca, a neighbor of Silvestre Advincula, corroborates the latter's story that he rode a calesa for Vigan about 3:30 that afternoon. Urbano even gave Advincula P1.00 to buy some batteries for him. It was after Advincula had left with his children that Riduca heard the loud reports followed by successive gun shots.

Florencio Ribianes, another neighbor of Silvestre Advincula, also said that he saw the latter in a calesa with his children; he saw Urbano Riduca give Silvestre P1.00 for batteries.

Alfredo Romena: In the afternoon in question, he played mahjong continuously from 1:00 o'clock until about 5:30 p.m. with his aunt Catalina Ruaro, his sister Magdalena Romena, and Marina Rubianes. At about 5:30 p.m., they saw Eusebio Redulme walking a little bit fast by their place. Said Eusebio informed them that something had happened (the shooting). Magdalena Romena and Catalina Ruaro corroborate Alfredo's alibi.

Fermin Redulme: He had been a permanent resident of San Narciso, Zambales since 1946 and returned only to Bo. San Sebastian, on the morning of October 28, 1951, aboard a freight truck up to Narvacan. From the latter place (Narvacan), he took a jeep to Vigan where he ate his lunch. Thereafter, he boarded a calesa for Bo. San Sebastian. On his way (and while passing Bo. San Vicente), he saw Gregorio Reyes who informed him of a political meeting at San Sebastian that afternoon. Upon reaching San Sebastian, he unloaded his valise in the house of his cousin, Florencia Redulme, and from there proceeded to the house where his sick mother was staying. While in the said house, Gregorio Reyes, with Gorgonio Rosal and Teodoro Navarrete came in a jeep which took them to the political meeting place. While still on their way, they heard gun reports about 4:00 o'clock that afternoon of October 28, 1951. They all went down from the jeep upon reaching their place of meeting. And there, they saw Placida Diego pass by, telling them that Vitaliano Argel was dead. He also saw Petronio Rigunay and Daniel Baltazar running one after the other to the gates of their respective houses which were adjacent to each other.

Gregorio Reyes and Gorgonio Rosal corroborate this story.

Juan Romena: He spent the whole morning of October 28, 1951 taking passengers in his calesa in Vigan. At noontime, he went home to San Sebastian. At about 4:00 p.m. he dressed up to attend the political meeting for their candidate Fermin Tabanda in front of the barrio chapel (in San Sebastian). While thus dressing up, he heard a gun report followed by other gun reports. Immediately, he and his wife looked out of their window and saw Eusebio Redulme pass along the road. Later they saw, coming from the opposite direction, Petronio Rigunay who was running and firing his revolver into the air. Not long afterwards, they saw, also coming from the same direction, Daniel Baltazar following Rigunay. Because of the excitement, Juan and Eusebio Redulme went into his yard, and they talked.

Eusebio Redulme supported Juan Romena's story. He even stated that when Petronio Rigunay met him (Eusebio),

Petronio stated, "Please Sonny, if someone is pursuing me, stop him."

Teodulo Rival: At about 11:00 a.m. on October 28, 1951, he went to San Vicente to request Mayor Fermin Tabanda to get him a recommendation for employment from Congressman Floro Crisologo. He did not find Mayor Tabanda. Instead, he met Carlos Rillanos who, upon his invitation, accompanied him (Rival) to the house of Congressman Crisologo, where they lunched. As the latter was leaving for a meeting in the town of Cabugao, he told Rival to just wait in the house until his return so that they could attend together the meeting in San Sebastian that afternoon. At about 4:00 p.m., he saw Restituto Reclusador and Gregorio Ridor in the Congressman's house. As he (Rival) could no longer wait for the Congressman, he and Rillanos left for San Vicente aboard a calesa. From the poblacion, he walked to his barrio, arriving at his place about dusk. On arrival, his wife informed him that Vitaliano Argel had been killed. At once, he went to Segundino Lucero, a neighbor, to inquire for more details about the incident.

Gregorio Ridor and Restituto Reclusado corroborate Teodulo Rival's alibi.

Motive.—The evidence established the motives of appellants in committing the crime. Acute political rivalry was the principal cause. Petronio Rigunay was then the opponent of Fermin Tabanda, for the office of mayor of San Vicente, Ilocos Sur. And all the herein accused were the leaders and staunch supporters of Tabanda. The election was a few days off. Moreover, the accused Teodulo Rival is related to Juan Romena by affinity, and the latter (Juan Romena) is a relative of the accused Alfredo Romena. A brother of defendant Alfredo Romena, one Mariano Eomena had allegedly been killed by a brother of Petronio Rigunay, (Tomas Rigunay). The son of the accused Fermin Redulme had been allegedly shot at (but missed) by a brother of Petronio Rigunay,

The contention that as the prosecution witnesses were affiliated with the political party opposing that of the accused, their testimonies had to be biased and partisan has no merit, considering that the said witnesses immediately after the commission of the crime reported the incident to the Constabulary and in the extra-judicial declaration taken by the P. C. on the next day, they candidly pointed to all the appellants as the assassins.

Considering that the attack occurred in the barrio of San Sebastian where his opponent was scheduled to hold a meeting, it is very likely, as stated, that Rigunay's death was motivated by violent partisan feeling, the accused here being followers of said opponent.

Comment on alibi.—It is trite, but true, that alibi as defense is weak, where the prosecution witnesses positively identify the accused. And in this case, this Court also observes:

As to accused Teodulo Rival: His witnesses Gregorio Ridor and Restituto Reclusado tried to corroborate his alibi by fixing 4:00 p.m. as the time when they met him in the house of Congressman Crisologo at Vigan. But Vigan is only about seven kilometers from the scene of the crime, which was accessible by motor car. So it is not impossible for the said accused to be at Vigan at 4:00 p.m. and yet be at the place of the ambush at about 4:30 p.m.

As to accused Juan Romena and Alfredo Romena: Their houses were barely 200 or 300 meters away from the place of ambush. They could have easily gone there.

As to accused Silvestre Advincula: He is a close neighbor of all the accused.

As to accused Fermin Redulme: Being allegedly a resident of Zambales, it was rather unusual that he should be in San Vicente on the afternoon of the ambush. His alibi is corroborated by the testimony of political affiliates which should be received with some reservation. He himself admits he was near the place when the shooting occurred.

In other words, all of the accused could have been at the fatal sitio at the moment of assassination. So it is not

improbable that, as the prosecution showed, all of them took part in the ambush.

With respect to the contention that mere presence at the scene of the crime is not sufficient to prove complicity in the execution thereof, it must be observed that this crime was committed in an isolated part of the barrio road from San Sebastian to Ermita, with trees, shrubs and thick bamboo clumps shrouding the place. Appellants were seen at the intersection of the road, armed, ready and waiting for their prey. It is highly improbable that accused Silvestre Advincula, Fermin Redulme and Alfredo Romena were with the said appellants, Teodudo Rival and Juan Romena, without being aware of the criminal intention of the latter. Their presence there with the armed men evinced culpable association which crystallized into action when they fired at Petronio Rigunay, Vitaliano Argel and Daniel Baltazar. That way, Fermin, Silvestre and Alfredo participated in the ambush by simultaneous acts. They helped in the commission of the offense not only by way of moral aid but also through material assistance.

However, lack of complete evidence of conspiracy, that creates the doubt whether they had acted as principals or accomplices in the perpetration of the offense, impels, this Court to resolve in their favor the question, by holding like the court below, that they were guilty of the "milder form of responsibility" [1]; i.e., guilty as mere accomplices.

WHEREFORE, there being no question as to the penalty to be imposed upon the offenses thug committed by these accused-appellants, we hereby, as we must, affirm the appealed decision in toto, with costs.

SO ORDER.

Bautista Angelo, Labrador, Concepcion, Reyes J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

Padilla J., took no part.

[1]People vs. Tamayo, 44 Phil. 38.People vs. Bantagan, 64 Phil. 834. People vs. Tangbaoan, et al. G.R. No. L-5113, Aug. 31, 1953.

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