

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PROTACIO AMONCIO AND FLORENCIO VALLESPIN, ACCUSED-APPELLANTS.

G.R. No. L-49069. June 22, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Protacio Amoncio and Florencio Vallespin were charged with the crime of murder in an information filed with the Court of First Instance of Bohol. The crime was allegedly committed in the following manner:

X X X X X X X X

"That on or about the 12th day of June, 1976 at about 9:00 o'clock in the evening, more or less, in barrio San Isidro, municipality of Mabini, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping each other, with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously club the back and stab several times by the use of a sharp-pointed bolo one Vicente Vallespin thereby inflicting upon the vital parts of the body of the latter various serious physical injuries which caused his immediate death; to the damage and prejudice of the heirs of the deceased; the crime having been committed with the aggravating circumstance of purposely seeking or taking advantage of nighttime to facilitate the commission of the crime.

"Acts committed contrary to the provisions of Article 248 of the Revised Penal Code." (Original Records, p. 26).

Upon arraignment the accused assisted by counsel pleaded not guilty to the crime charged.

The trial court summarized the conflicting evidence of the parties as follows:

X X X X X X X X

"The theory of the prosecution is that having previously decided to take away the life of deceased Vicente Vallespin, the two accused waylaid him in that isolated spot marked by the madre cacao tree where he used to pasture his carabao. Exactly as expected he went to the place at 7:30 p.m. on June 12, 1976 to fetch his carabao and while he was untying it from the madre cacao tree accused Protacio Amoncio attacked him from behind by hitting him at the back of his head with a piece of wood about two inches in diameter and one fathom long, then followed with a bolo hack by accused Florencio Vallespin. From thence, the two took turns in mangling him even in death. From that spot the dead body of the deceased was dragged by the accused to the bamboo groove fifteen meters from the house of accused Amoncio obviously in preparation of their present defense.

"The theory of the defense, on the other hand, is that the deceased, taking advantage of the absence of Protacio Amoncio who was then two kilometers away attending a barrio fiesta, entered the latter's house and into the bedroom where Amoncio's wife and seven-year old son (should be daughter) were sleeping and right then and there commenced to rape her. But before he could consummate his lewd design Amoncio arrived and surprised him in the act. Amoncio took no time in taking his bolo and in hacking him with it. After sustaining ten gaping stab wounds, the deceased jumped from the house to the ground then ran away. He was only able to run fifteen

meters. He fell on the ground dead." (Original Records, pp-167-168)

In its decision dated August 25, 1978, the trial court found the accused guilty as charged. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, the court declares accused Protacio Amoncio and Florencio Vallespin guilty beyond reasonable doubt of the crime of Murder, and after considering the mitigating circumstance of voluntary surrender as a set-off to the aggravating circumstance of taking advantage of night time, condemns each one of them to Reclusion Perpetua, to indemnify jointly and severally, the heirs of the deceased the amount of P12,000.00 and to pay the costs. (Original Records, pp-171-172)

The accused appealed the decision to this Court and assigned the following errors:

I

"THE LOWER COURT ERRED IN NOT GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF THE WITNESSES FOR THE ACCUSED WHICH ARE CREDIBLE AND NATURAL, BESIDES BEING CORROBORATED SUBSTANTIALLY WITH THE TESTIMONY OF THE WITNESS FOR THE PROSECUTION; and

II

"THE LOWER COURT ERRED IN FINDING ACCUSED GUILTY OF THE CRIME OF MURDER, CONDEMNING EACH ONE OF THEM TO RECLUSION PERPETUA, ORDERING THEM TO INDEMNIFY JOINTLY AND SEVERALLY THE HEIRS OF THE DECEASED THE AMOUNT OF P12,000.00 AND TO PAY THE COSTS."

The two assigned errors challenge the factual findings of the trial court.

The medical certificate issued by Dr. Nestor Ayag, the Municipal Health Officer of Mabini, Bohol who performed the post mortem examination on the body of Vicente Vallespin, reveals the following significant findings:

"1. Incised wound, clean-cut, gaping, located at the anterior aspect of the neck, at the level of the thyroid cartilage, directed posteriorly upwards, measuring 7" long, involving the sternohyoid muscles, sternomastoid muscles, sternothyroid muscles, trachea, common carotid artery, internal jugular veins, esophagus and 1/2" of the anterior aspect of the 3rd cervical vertebra.

"2. Stab wound, penetrating, located at the right anterior chest wall, at the first intercostals space, along the mid-clavicular line, measuring 1" long, involving the right lung.

"3. Stab wound, penetrating, located at the left anterior chest wall, at the level of the 3rd rib, 2" from the sternal border, measuring 4" along, involving the 3rd rib (out) and the left lung.

"4. Incised wound, curcilinear, located at the anterior aspect of the right shoulder, measuring 4"x1".

"5. Stab wound, located at the anterior aspect of the left arm, upper 3rd, measuring 1"x1".

"6. Stab wound, located at the proximal 3rd, clavicle, measuring 1/2"x1/2".

"7. Stab wound, located at the posterior lumbar region at the level of the 10th rib, 2" from the midline, measuring 4"x1 1/2".

"8. Stab wound, located at the posterior axillary line, at the level of the 7th rib, measuring 3"x2 1/2".

"9. Stab wound, located at the medial aspect of the right arm, upper 3rd, measuring 2"x2 1/2".

"10. Stab wound, located at the left iliac crest, directed laterally upwards measuring 4"x1 1/2".

"11. Contusion, measuring 2"x1", located at the occiput.

Cause of Death: Hemorrhage, severe, secondary to multiple incised and stab wounds."

The testimony of Dr. Ayag, belies the appellant's version of the killing. The doctor testified that as municipal health officer of Mabini, Bohol he was with the chief of police, two patrolmen, and a civil defense employee when they examined the victim's body, which they initially saw near the bamboo grove about 30 meters from the house of Protacio Amoncio. Dr. Ayag explained that the wounds sustained by Vicente Vallesin were caused by more than one instrument. He distinguished between the wounds caused by a sharp edged instruments and the wounds caused by the pointed instrument. He further explained that the contusion at the oc-ciput was caused by a blunt instrument and that a severe blow to that part of the head above the nape of the neck or to the medulla oblongata would cause unconsciousness. Explaining wound No. 1, the doctor stated:

x x x x x x x x

"ATTY. PAULIN CLARIN:

Q. Under the first finding it says: "Incise wound, clean-cut, gaping, located at the anterior aspect of the neck. Where is this place, Doctor?

A. This one. (Witness pointing to his Adams apple).

Q. What is meant by incise wound, Doctor?

A. That is an open wound caused by a sharp instruments.

Q. And what is meant by a gaping wound?

A. Open.

A. The findings continues: At the level of the thyroid cartilage, directed posteriorly upwards. What do you mean by that, Doctor?

A. That is, going backward and upward (Witness pointing to a portion below his adams apple with the direction going upward towards the right side).

"COURT:

Q. In other words, in layman's language, wound number 1 in your findings is a wound across the throat of the victim?

A. Yes, your Honor.

Q. Did the wound cut obliquely the throat of the victim?

A. Yes, sir.

Q. Also the globular vein was cut?

A. Yes, your Honor."

and later added that wound No. 1 was fatal and would cause the immediate death of Vicente Vallespin. Asked if a person sustaining ten wounds with his esophagus "almost being cut" could travel 30 meters, the doctor stated that with the wound in the neck alone, he could not walk that far. He could not walk ten meters because both lungs had been hit and if a wound penetrates into the lungs of a person, he would collapse. According to the defense version,

the victim received the ten wounds, especially the seven inches wound that cut his neck up to and including the esophagus and the wounds that penetrated the right lung and the left lung, in the sala of the house and in spite of these ten wounds, was able to get out, go downstairs, and proceed to a grove thirty meters away.

There are other circumstances evidenced by the records:

"1. The supposed scene of the incident as theorized by the defense, which was the sala in the house of accused-appellant Protacio Amoncio was not spattered with blood which, owing to the ten gaping stab wounds inflicted on the victim necessarily would have been noticeably seen as a result of the bloody en-counter between Protacio and the latter.

"2. An ocular inspection conducted by the Municipal Health Officer, the barangay captain and the Chief of Police at about 3:00 o'clock in the morning of June 13, 1976, a few hours after the incident, of the premises near where the victim's body was found, reveals that about 100 meters away from the victim's body, more specifically near a madre cacao tree where the carabao was tied, there was a pool of blood. The victim's body was found in a bamboo grove, more or less 30 meters away from the house of accused-appellant Protacio Amoncio.

"3. Samples of the blood found near the madre cacao tree, and among the surrounding grass were taken as well as from the bamboo grove and these samples fitted the victim's type of blood."

There is furthermore the testimony of the eyewitness Leopoldo Vallespin, the son of the victim, who described how his father was struck by a piece of wood from behind by Protacio Amoncio while the victim was untying the rope of the carabao from the madre cacao tree causing his father to fall face downward on the ground and how this was followed by appellant Florencio Vallespin's stabbing his father with a bolo. (TSN January 30, 1978, pp. 114-115). The witness was able to recognize the appellants because both were his neighbors and during the incident the "moon was round". (TSN January 30, 1978 p. 113).

The fact that Dr. Ayag found some smudges of blood described by him as "not very many" on the second step of the stairs of the house, on the floor of the kitchen, and in one of the pillows in the bedroom (TSN September 24, 1976, pp. 21-24) does not destroy the prosecution's theory of the incident. It is possible that Protacio Amoncio went up his house just after the incident and considering the nature and number of wounds inflicted on the victim could have brought the blood inside the house. The Chief of Police testified that there was no blood under the house. The house had bamboo slats for flooring. The blood on the bamboo handle bar of the stairs consisted of smudges as if caused by the hands.

The appellants assert that Leopoldo Vallespin, the lone eyewitness to the crime made some inconsistencies in his testimony. Leopoldo's story about the incident which he related consistently all throughout his testimony was substantiated by the material evidence on record. We do not find his reaction of going home immediately and upon reaching home lying down and covering himself with a blanket (TSN January 30, 1978 p. 116) without waking up his mother and brothers and sisters to inform them about the incident he just witnessed, as necessarily incredible. There is no standard form of behavior when one is confronted by a shocking incident. In this case, Leopoldo who was fourteen (14) years old in 1976, rationalized his behavior after witnessing the incident in the following manner:

x x x x x x x x

Q. Upon reaching your house what did you do?

A. I lay down and covered my body with a blanket.

Q. Why did you do that?

A. Because I was afraid.

Q. When you arrived home where was your mother?

A. She was there in the house.

Q. What was she doing when you arrived?

A. She was asleep.

Q. How about your elder brother Rogelio, where was he when you arrived home?

A. He was out of the house.

Q. How about your elder sister Angelina, where was she when you arrived home?

A. He was out of the house.

Q. How about your elder sister Angelina, where was she when you arrived home?

A. She was in Manila.

Q. How about your younger brothers and sisters, where were they when you reached home?

A. They were there in the house sleeping.

Q. You said, you lie down and covered yourself with the blanket. Were you able to sleep?

A. No. I was not able to sleep.

Q. Why?

A. Because I was afraid.

Q. What were you afraid of?

A. I was afraid because sup-posed the criminals will come to my house.

x x x x x x x x

Q. You said that after seeing your father stabbed by accused Florencio Vallespin, you ran towards your house. Is that correct?

A. Yes.

Q. And your mother was in your house sleeping?

A. Yes.

Q. Now, did you not wake up your mother to tell her about what happened to your father?

A. No. I did not wake up my mother because she is suffering of a heart disease.

Considering that the issue raised by the appellants refers to the credibility of Leopoldo Vallespin as a witness, we rely on the trial court's findings that:

x x x Aware of the gravity of this case involving, as it does, capital punishment, the court observed closely the behaviour of the prosecution's star witness' stand. The court however failed to discern any sign of falsehood in his testimony. Not only did he demonstrate genuine sincerity but all his material assertions were confirmed by the court's subsequent findings. Hence the court could not but believe his allegations.

We apply the well-settled rule that trial courts' findings of facts carry great weight for the courts have the privilege of examining the demeanor of a witness while on the witness stand, and, therefore, can discern if such witness is telling the truth or not.

Moreover the "attempted rape" theory of the defense is not substantiated by any credible evidence. The medical report, Exhibit (1) which states:

June 23, 1976

TO WHOM THIS MAY CONCERN:

This is to certify that MRS. BIBIANA V. AMONCIO, 39 year old, female, married, a resident of San Isidro, Mabini, Bohol, was physically examined by the undersigned and found her suffering from the following injury.

Contusion: Brownish black in color, 1 1/2"x1" located at the anterior aspect kneejoint left. Complains of pain in the neck - but there is no apparent appreciable sign or symptom referable to the complaints.

That the above stated physical injury will require medical attendance for a period of 3-5 days more or less.

Date Examined: June 14, 1976.

NESTOR C. AYAG, M.D., CPH

Municipal Health Officer

was secured to bolster the appellants' defense but it does not in any way insinuate that Bibiana Amoncio, the wife of appellant Protacio Amoncio, was a victim of an attempted rape. The choice as to who should be believed, the appellants or the appellee, is not a difficult one. The records show beyond reasonable doubt that the lower court did not err in convicting the accused-appellants.

WHEREFORE, the judgment appealed from is hereby affirmed with costs against the appellants.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Vasquez, and Relova, JJ., concur.

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