

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JACOBO ALCANTARA, ACCUSED-APPELLANT.

G.R. No. L-74737. July 29, 1988

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The accused-appellant, Jacobo Alcantara, appeals from the Decision of the Regional Trial Court, Masbate, Masbate, Branch XLVI,[*] finding him guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of reclusion perpetua.

Also charged initially were Jose Ramilo and John Doe (both still at large), and Claudio Cabarles, who was acquitted by the Trial Court.

The prosecution marshaled its evidence as follows:

“On December 1, 1984 at about 1:00 o’ clock a.m., Wennie Agpalza was watching Manuel Ramirez and three other persons play ‘posoy’ in the house of Guillermo Arciete at batongan, Mandaon, Masbate, when he heard a gun shot. When he turned his head, he saw appellant Jacobo Alcantara from the window holding a gun locally known as a ‘lantaka,’ at waist-level, in a semi-squatting position who, immediately thereafter, stood up and fled (tsn, pp. 7-8, May 23, 1985).

“When Manuel Ramirez cried ‘I was hit,’ Wennie moved up to him and held the victim in his arms while exclaiming, ‘Maning (Manuel Ramirez) was shot by Coboy (Jocobo Alcantara).’ (tsn, p. 9, May 23, 1985).

“Wennie readily recognized appellant because the place where the ‘posoy’ game was played was sufficiently lighted with a ‘Coleman’ lamp and appellant was just a yard away from Wennie and two yards away from the lighted area. (Ibid.)

“Forthwith, Wennie reported the incident to the police authorities.

“The police immediately proceeded to the crime scene and found a pair of slippers and an empty sack (tsn, p. 27, May 22, 1985). The pair of slippers belonged to appellant (tsn, p. 28, May 22, 1985).

“After the investigation, Patrolman Ragot and the other policeman proceeded to the house of Jacobo Alcantara at Nasunduan, Managanaga, Aroroy, Masbate to arrest him but they did not find him (Ibid.). The police told his wife Lilia Alcantara that they were looking for her husband because he killed Manuel Ramirez, but she did not say anything, (tsn, pp. 29-30, May 22, 1985). At this juncture, the police inquired about the murder weapon and appellant’s 10-year old son answered that his father had already returned the same to one Claudio Cabarles. (tsn, p. 30, May 22, 1985.) The Child described the gun as an ‘armalite.’ (Ibid.)

“Meanwhile, the police saw a man outside the house. He was later identified by Lilia Alcantara as her husband, appellant herein. When appellant was about to run, the police swooped down on him and made the arrest.

“The gun used in the killing was found in the possession of Claudio Cabarles, who later surrendered it to the

police. (tsn, p. 31, May 22, 1985).

"Claudio would testify in court that appellant borrowed the gun from him two weeks before the incident. (tsn, p. 32, May 22, 1985).

"When the police examined the 'lantaka' they discovered fresh mud in the handle of the weapon and the muzzle smelled of gunpowder. (tsn, p. 31, May 22, 1985)." (pp. 3-5, Brief for the Plaintiff-Appellee)

As motive for the killing, prosecution witness, Estenely Ramirez, widow of the deceased, testified thus:

"... in the second week of November, 1984, there was a heated altercation between her husband and Jacobo Alcantara. And in the evening of that day, the latter kept on stoning their house. When Manuel Ramirez arrived, accused Jacobo Alcantara fired at him but missed him. The cause of their misunderstanding is that Manuel Ramirez asked Jacobo Alcantara to pay the 9 cavans of palay he borrowed from him which Jacobo Alcantara resented. Accused Jacobo Alcantara also harbored ill-feeling towards Manuel Ramirez because the latter ejected him as tenant from his land." Indeed, after his ejection from the land of the deceased, Jacobo Alcantara openly announced that he will shed blood in that land because he labored for it manifesting his intention to kill. It was established that the victim had no enemy before the incident, except accused Jacobo Alcantara." (p.11, *ibid.*)

For his part, appellant interposed the defense of denial and alibi. Thus, he denied: the commission of the crime imputed to him; the testimony of Estenely Ramirez that he had had a verbal altercation with the deceased in the second week of November, 1984; that on that occasion he had stoned their house and fired at Manuel Ramirez but missed him; that he had borrowed a gun from Claudio Cabarles and that he had used it in shooting the deceased; and that the pair of slippers and the empty sack found in the scene of the crime were his.

Appellant further claims that, at the time the offense was committed, he was in his house about ten (10) kilometers away from the scene of the crime attending to his wife who was delivering their child. To support that claim, appellant presented a Certificate of Live Birth (Exhibit "1") showing that Lilia Alcantara, his wife, delivered a child on 30 November 1984 at around 10:45 p.m.

The Trial Court lent more credence to the prosecution evidence and convicted appellant in its Decision of 28 October 1985, the decretal portion of which reads:

"WHEREFORE, premises considered, the court finds the accused Jacobo Alcantara guilty beyond reasonable doubt of the crime of MURDER and hereby sentences him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the late Manuel Ramirez the amount of P30,000.00; moral damages in the amount of P70,000.00; loss of income in the amount of P150,840.00 without subsidiary imprisonment in case of insolvency, together with all the accessory penalties provided for by law and to pay the costs. Considering that Jacobo Alcantara is detained he shall be credited in his favor the full period of his detention.

"x x x x x" (p. 86, Original Records)

Appellant faults the Trial Court for convicting appellant despite the lack of sufficient evidence and for "giving too much probative value to the evidence for the prosecution while discrediting that for the defense."

The submission is not well-founded.

No error was committed by the Trial Court in convicting appellant on the basis of circumstantial evidence. Direct evidence is not the sole basis upon which an accused's guilt may be predicated. Guilt may also be established through circumstantial evidence provided that the requisites therefor are present, namely: (1) there must be more than one circumstance; (2) the inferences must be based on proven facts; and (3) the combination of all the circumstances produces a conviction beyond reasonable doubt of the guilt of the accused (Sec.5, Rule 133, Rules

of Court; *People vs. Cruz*, L-54183, February 25, 1985, 134 SCRA 512).

Those requisites are attendant in this case. For the circumstances and proven facts: (1) Wennie Agpalza testified that no sooner had he heard the gun report, he turned his head towards the direction of the window where the gun fire emanated and he saw appellant at the back of the victim, a yard away from the latter, holding a gun locally known as "lantaka" on the level of his stomach, and, from a semi-squatting position, he stood up and ran towards the road. The witness recognized appellant because the place where he saw the latter was lighted by a Coleman lamp installed above the persons playing "posoy" and appellant was just a yard away from him and around two (2) yards from the Coleman lamp. The witness was also well acquainted with appellant before the incident because he was their former tenant. (2) Said witness had no hesitation whatsoever in reporting to the authorities soon after the incident that appellant had shot the deceased. (3) Near the scene of the incident, the authorities found one (1) empty sack and a pair of slippers and after investigation they came to know that the slippers were left in the crime scene by appellant while the gun used in killing the deceased was placed in the empty sack. (4) Appellant was the only person clutching a gun about a meter away from the crime scene and running away following the shooting. The foregoing combination of circumstances rationally leads to the inference that he was the culprit.

The denials made by the accused do not ring with truth. That he had, in fact, borrowed a gun from his co-accused, Claudio Gabarles, was testified to by the latter. Appellant's own son declared that his father had returned the gun to Claudio. When investigated, the latter voluntarily surrendered the gun to the authorities. When the latter examined the same, they discovered fresh mud in the handle of the weapon and the muzzle smelled of gunpowder. Besides, mere denials constitute self serving negative evidence, which cannot be accorded greater evidentiary weight than the declarations of credible witnesses who testify on affirmative matters (*People vs. Dagangon, et al.*, G.R. Nos. 62654-58, November 13, 1986, 145 SCRA 464).

The defense of alibi interposed by appellant is legally unavailing. In the first place, the information given in the birth certificate constitutes only prima facie and not conclusive evidence since the Civil Registrar merely receives the information and does not look into its veracity. Secondly, the child's birth was reported to the Local Civil Registry only on 23 April 1985 by appellant's wife after appellant had been charged with Murder, thus, giving rise to the legitimate suspicion that the data supplied therein was an after-thought to lend credibility to appellant's defense.

Moreover, prosecution rebuttal witness, Thelma Adlawan, sister of appellant's wife, testified that on 17 November 1984 when she went to visit her sister, it was then that the latter had just given birth to a baby boy, thereby, absolutely belying appellant's claim that his wife had given birth on 30 November 1984. Appellant has given no explanation as to why his own sister-in-law should contradict him on an important point relevant to his defense.

More, appellant's house is only about ten (10) kilometers away from the crime scene, and appellant has not proven that it was physically impossible for him to be at that place at the time of the commission of the offense.

In the final analysis, the issue revolves around the credibility of witnesses, in respect of which, the findings of the Trial Court are entitled to great respect because of its vantage point from which to gauge the same. Appellant has not shown, nor have we found, that the Trial Court had overlooked certain facts of substance and value that, if properly considered, would affect the result of the case.

The crime was committed with treachery and was, therefore, correctly categorized as Murder. No other modifying circumstances attended the commission of the offense.

Pursuant to Article 248 of the Revised Penal Code, the imposable penalty should be reclusion perpetua, as

imposed by the Trial Court. However, with the abolition of capital punishment in the 1987 Constitution, the penalty for Murder is now reclusion temporal, in its maximum period, to reclusion perpetua. In the absence of any modifying circumstances, the penalty is imposable in its medium period, or from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years.

For purposes of the Indeterminate Sentence Law, the penalty next lower in degree is prision mayor, maximum, to reclusion temporal, medium, or, from ten (10) years and one (1) day to seventeen (17) years and four (4) months (Article 61, parag. 3, Revised Penal Code).

WHEREFORE, the appealed judgment is hereby modified in that the accused, Jacobo Alcantara, shall suffer an indeterminate penalty of ten (10) years and one (1) day of prision mayor, as minimum, to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal, as maximum. Except for the award of moral damages, which is hereby reduced to P10,000.00, the rest of the judgment is affirmed. With costs.

SO ORDERED.

Paras, Padilla, and Sarmiento, JJ., concur.

[*] Judge Zosimo Z. Angeles, Presiding.

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