

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADRIAN D. LABRA, ACCUSED-APPELLANT.

Ponente: AZCARRAGA-JACOB, J.

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AZCARRAGA-JACOB, J.:

Before Us on appeal is the Judgment[1] dated 09 July 2012 of the Regional Trial Court, Branch 17, Cebu City, in Criminal Case No. CBU-85429, finding accused Adrian D. Labra (appellant) guilty of the crime of homicide, sentencing him to imprisonment of ten (10) years and one (1) day of prision mayor as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum, and ordering him to pay the heirs of his victim civil indemnity of P50,000.00.

The Information[2] dated 10 February 2009 alleged that at about 9:00 o'clock in the evening of 19 October 2008, in Barangay Napo, Carcar City, appellant, with the use of a firearm, with intent to kill, feloniously shot one Abraham Alforque, thereby inflicting upon the latter a gunshot wound on the head, which fatally caused his death shortly thereafter.[3]

The Antecedents

The prosecution's evidence came chiefly from the testimonies of Adonis Alforque, Dr. Nestor Sator, and Laureonilla Alforque.

Adonis Alforque, the brother of the victim Abraham Alforque, testified that at about 8:00 o'clock in the evening of 19 October 2008, he was at the waiting shed at Barangay Napo, Carcar City hanging out with a couple of friends when his brother arrived in the place in a motorcycle, along with a certain Jed dela Calzada and Juvy Wamar. After a while, he, together with Abraham, went home to take their supper. After dinner, Abraham went out of their house to buy cigarettes. He, too, left their house to go back to the waiting shed. Upon arriving at the place at around 9:00 p.m., he saw his brother and appellant talking to each other about 50 meters away. He also noticed the two walk towards a nearby closed store. Seconds later, he heard appellant demanding P17,000.00 from his brother. As appellant's voice grew louder, Abraham just stood still and kept his silence. He then saw Abraham and appellant move to the back of the store, with the latter continuously shouting angrily at the former. All of a sudden, he heard three (3) gun reports coming from the back of the closed store. Fearing that his life was also in danger, he immediately ran home for safety. At their house, he told his younger sister that their brother Abraham has been shot. Together, he and his sister returned to the area, and there they saw the bloodied and lifeless body of their brother on the ground.

Dr. Nestor Sator, the Medico-Legal Officer of the PNP Crime Laboratory who conducted the post mortem examination on the dead body of Abraham Alforque, testified to the existence of the death certificate[4] and autopsy report.[5] He also declared that the cadaver was already in the state of rigor mortis at the time he examined it at 1:00 o'clock in the morning of 20 October 2008. He thus concluded that the victim must have been dead twelve (12) hours earlier or at about 1:00 o'clock in the afternoon of 19 October 2008.

Laureonilla Alforque, the mother of the Abraham Alforque, testified merely as to her being the mother of the

victim, the burial and funeral expenses she incurred, and as to the moral damages she suffered.

In defense, appellant denied killing the victim Abraham Alforque. He claimed that on the date and time of the alleged incident, he was in their residence in Barangay Napo, Carcar City tending to his younger siblings as his parents were attending to their canteen inside Triple A Cockpit located at Barangay Poblacion, Carcar City. He said that when his parents came home around 7:30 in the evening of 19 October 2008, they all had supper together with barangay tanod Edilberto Gengoni who, at that time, was in their house to receive instruction from his father Mario Labra, then the Barangay Chairman. He only learned that Abraham Alforque was killed when he woke up the next morning of 20 October 2008.

To corroborate his story, appellant presented his parents, Mario and Geronima Labra, who both declared that on 19 October 2008 they were in their canteen in Triple A Cockpit in Poblacion, Carcar City from 10:30 in the morning until 7:30 in the evening when they went home together and saw appellant inside their house, along with his siblings. They later partook dinner together with their children, including appellant, and barangay tanod Edilberto Gengoni.

Appellant also presented Edilberto Gengoni who, in his testimony, averred that on 19 October 2008 he was in the house of Barangay Captain Mario Labra from 6:30 p.m. until 9:00 p.m. While he was there, he saw appellant together with his other siblings. At around 7:30 p.m., Barangay Captain Labra, along with his wife Geronima, arrived from the cockpit house in Poblacion, Carcar City where they had a store. Minutes later, he joined the Labra family in their dinner. After receiving instructions from Barangay Captain Labra, he left the house at about 9:00 o'clock in the evening, and saw appellant still inside their house lying in the sala watching television.

Appellant likewise presented witness Juvy Wamar to disprove the account of prosecution witness Adonis Alforque. Juvy testified that at about 2:00 or 3:00 o'clock in the afternoon of 19 October 2008, he heard a gun report near his house at Barangay Napo, Carcar City. He claimed that he was not alarmed by the gunfire as he was busy washing the dishes in the kitchen. He later learned the following day that Abraham Alforque was killed when policemen came to his house to ask for some information about the killing.

The Ruling of the Trial Court

After pre-trial, followed by trial and presentation of the parties' respective evidence, the trial court, basing on circumstantial evidence, rendered a verdict holding appellant for the death of the victim Abraham Alforque, as follows:

WHEREFORE, premises considered, accused ADRIAN LABRA is hereby adjudged guilty beyond reasonable doubt of the crime of Homicide. Accordingly, he is sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of prison mayor as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum.

Accused ADRIAN D. LABRA is further ordered to indemnify the heirs of the victim in the amount of P50,000.00.

SO ORDERED.

The Issues

In this appeal, appellant alleges that the court a quo erred: (i) in giving credence to the testimony of prosecution witness Adonis Alforque despite its incredibility; (ii) in finding circumstantial evidence sufficient to convict him despite the failure of the prosecution to prove its elements beyond reasonable doubt; and (iii) in not declaring that the evidence of the prosecution is weaker than his defense of denial and alibi.[6]

Appellant contends that Adonis Alforque is not a credible witness. He asserts that various inconsistencies and incredible allegations of witness Adonis Alforque regarding the killing of Abraham exist so that his conviction on the basis of circumstantial evidence is totally unwarranted. In particular, appellant mentions the following circumstances: (a) Adonis' reaction when he heard gun reports emanating from the closed store where his brother and appellants were, as he claimed, was unnatural as he immediately ran home, instead of going to the place to see and check his brother; (b) the declaration of Adonis that there were three gun reports is palpably contradicted by the autopsy report showing that the victim sustained only a single gunshot wound; (c) Adonis did not divulge to the policemen what he has seen and witnessed when the latter arrived at the crime scene; (d) Adonis was inconsistent in his direct examination, where he testified that there was no other person around him when he saw his brother and appellant talking at the closed store, and in his cross-examination, where he stated that he was with a certain Peter Cyro, Dandave Dayagan, and Exequias Labra at the time; (e) Adonis' claim that he heard appellant demanding a certain amount of money from his brother, assuming it is true, is highly improbable considering his distance from them of about 100 meters; and (f) Adonis' declaration that the incident happened around 9:00 o'clock in the evening is belied by the testimony of prosecution witness Dr. Sator that the victim was already dead twelve (12) hours earlier at the time he conducted the post mortem examination.

Appellant further argues that the elements of circumstantial evidence, which the trial court heavily relied upon in convicting him of the crime charged, are not proven by the prosecution through proof beyond reasonable doubt. He emphasized the following points: first, none of the prosecution witnesses actually saw him shoot the victim; second, witness Adonis Alforque indulged in mere presumption or speculation in detailing the killing incident; third, the testimony of Adonis Alforque, particularly where he stated that he saw him (appellant) and his brother walk towards the back of the closed store and that seconds later he heard three gun shots emanating from the place, is highly incredible considering the ambient facts as above-discussed; and fourth, there was another suspect in the person of Juvy Wavar who could have authored the killing of the victim.

The Ruling of this Court

The appeal is unmeritorious.

Prosecution witness Adonis Alforque could not have been mistaken as to the identity of appellant because he has known the latter since childhood, coupled with the fact that appellant is a son of Barangay Captain Mario Labra in Barangay Napo, Carcar City, where they are both residents.

Without any vacillation, witness Adonis Alforque ably recognized appellant as the person whom his brother Abraham Alforque had talked to near the closed store at around 9:00 o'clock in the evening of 19 October 2008, and then later on angrily demanded the proceeds of their illegal drug trade, which the victim failed to give. This witness also positively saw appellant and his brother move towards the back of the store with the former continually shouting angrily at the latter, and after a while, heard gun reports coming from the back of the store where appellant and his brother were. As the witness vividly recalled:

Q.

While at the waiting shed, was there any unusual incident that transpired?

A.

At that time, we were sitting at the waiting shed nothing happened until I came back.

Q.

After you came back, was there any unusual incident that happened?

A.

Yes.

Q.

Tell the court what was that all about?

A.

When I came back, I saw my brother walking towards the closed store.

Q.

What was your brother doing at the store?

A.

He was talking to Adrian Labra.

Q.

What was the distance when you saw your brother and the accused in this case talking?

A.

50 meters.

Q.

Did you hear them talking?

A.

At first, they were talking softly. Then it became louder.

x x x x

Q.

Did you hear what was [sic] the subject of the conversation?

A.

Yes.

Q.

Tell the court what was the subject of the conversation.

A.

Adrian Labra demanded from my brother payment of the proceeds of illegal drugs.

Q.

How much was the accused asking?

A.

P17,000.00.

Q.

What was your brother's response when the accused demanded the sum of P17,000.00?

A.

He was just standing and did not say anything.

x x x x

Q.

What was the reaction of the accused when your brother failed to give the amount asked by the accused?

A.

He got angry.

Q.

He was angry?

A.

Yes.

Q.

Why do you say so?

A.

Because his voice became louder.

x x x x

Q.

Did you actually see the accused got [sic] angry?

A.

They were at the back of the store. But I was familiar with their voices.

Q.

Are you familiar with the voice of the accused?

A.

Yes.

Q.

Why did you claim that you were familiar with the voice of the accused?

A.

He used to come to our place.

Q.

You said that while the two were talking you have not seen them?

A.

No.

Q.

The defense counsel is correct that you have not seen the two talking?

A.

When I arrived at the place, I saw them talking. Later, they went to the back of the store.

Q.

Let us clarify about this matter. When the accused demanded P17,000.00, you have not seen the two persons, the accused and the victim talking?

A.

Yes.

Q.

After that conversation with your brother and the accused, what happened next?

A.

I heard burst of gunfire three (3) times.

Q.

How many times?

A.

Three (3) times.

Q.

Can you determine the kind of caliber used from the sound of the firearm?

A.

I am not familiar.

Q.

After you heard the burst of gunfire, what did you do, if any?

A.

I ran away because I was afraid.

Q.

What happened to your brother after this incident?

A.

I ran home and informed my younger sister that Bobby was shot. My younger sister ran towards the place of

the incident. I followed her because I was afraid something bad might happen to her and we saw our brother bathed with his own blood and lying on the ground.[7]

As to the postulation of appellant that it was unnatural for Adonis to run home instead of checking the back of the closed store where the sound of gun fire came from, this prosecution witness has explained that he succumbed to the shelter of their house out of fear that he too will be shot by appellant.

It is settled that people react differently under emotional stress.[8] The workings of the human mind when placed under emotional stress are unpredictable. There is no standard form of behavior when one is confronted by a shocking incident-- one person's spontaneous or unthinking, or even instinctive response to a horrid and repulsive stimulus may be aggression, while another person's reaction may be cold indifference. Thus, in a given situation, some may shout, some may faint; some may be shocked into sensibility, while others may yet welcome the intrusion.[9]

Here, witness Adonis was merely reacting to such startling situation in the way his psyche had condition him to react. He ran home when he heard gun shots fired coming from the back of the closed store because he thought that his life was also in danger, as he believed it was his brother who was the object of the gun fire.

While the statement of Adonis Alforque that there were three (3) gun reports did not jibe with the autopsy report indicating that the victim sustained only a single gunshot wound, this circumstance does not alter the essential fact that appellant indeed shot the victim on that dreadful evening of 19 October 2008 which fatally caused the latter's death.

Besides, it is not farfetched that of the three gun shots that appellant fired, only one was directed to the victim causing him to sustain a single gunshot wound on the back of the head and an exit wound on the forehead.

As for the other remaining circumstances on which appellant harped on the alleged incredibility of prosecution witness Adonis Alforque, particularly (a) where the witness failed to divulge any information to the policemen at the crime scene, (b) where the witness was inconsistent as to the presence of other persons at the time he saw his brother and appellant talking to each other at the closed store, (c) where the witness allegedly heard appellant demanding certain amount of money from his brother despite the distance between them of about 100 meters, and (d) where Dr. Sator belied the witness' declaration that the incident happened at around 9:00 p.m., these circumstances merely refer to minor or collateral matters which do not impair the credibility of prosecution witness Adonis Alforque regarding the death of the victim in the hands of appellant.

Verily, these noted variances are only minor and trivial, which certainly do not impair the veracity of testimony of Adonis Alforque. If at all, the discrepancies are peripheral matters which do not weaken his credibility as a witness. While the witness' account of the killing of his brother may not be flawless, its entire substance, veracity, and weight are unaffected by the triviality of such alleged variances and inconsistencies.

By and large, We sustain the court a quo on the credibility of prosecution witness Adonis Alforque. The trial court has aptly found witness Adonis Alforque to have testified in a categorical, straightforward, spontaneous and frank manner.

It is a fundamental legal aphorism that conclusions of the trial court on the credibility of witnesses command great respect and consideration, and will not ordinarily be disturbed or interfered with, especially when they are duly supported by the evidence on record, absent any showing that the trial court overlooked certain facts and circumstances of weight and influence which, if considered, will materially alter the result of the case.[10] Quite unfortunate for appellant, the homicide case at bar is no exception.

It is also worth noting that no evidence whatsoever was adduced to show that the witnesses for the prosecution,

particularly Adonis Alforque, had ulterior motives to testify falsely against appellant or mendaciously implicate him if indeed he was not the author of the killing.[11]

Moreover, the circumstantial evidence established by the prosecution, in which the trial court entirely based its verdict of conviction, sufficiently constitutes an unbroken chain leading to one fair and reasonable conclusion that appellant, to the exclusion of all others, was the perpetrator of the crime.

Rule 133, Section 4 of the Rules on Evidence provides that circumstantial evidence is sufficient for conviction of an accused if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.

In *People v. Madriaga*,^[12] the theoretical concept of circumstantial evidence was illustrated in this wise:

Where the events constitute a compact mass of circumstantial evidence, the existence of every bit of which was satisfactorily proved, and the proof of each is confirmed by the proof of the other, and all without exception leading by mutual support to but one conclusion, the circumstantial evidence are sufficient to establish the culpability of the accused beyond reasonable doubt.

...In determining the sufficiency of circumstantial evidence to support a conviction, each case is to be determined on its own peculiar circumstances and all the facts and circumstances are to be considered together as a whole, and, when so considered, may be sufficient to support a conviction, although one or more of the facts taken separately would not be sufficient for this purpose. No general rule has been formulated as to the quantity of circumstantial evidence which will suffice for any case but that matters not. For all that is required is that the circumstances proved must be consistent with each other, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt.^[13]

In the case at bar, the following pieces of evidence clearly point to appellant, and none others, as the author of the crime charged, to wit: (a) appellant and the victim were positively seen by witness Adonis Alforque talking to each other near the closed store at around 9:00 o'clock in the evening of 19 October 2008; (b) that appellant demanded from the victim P17,000.00 as proceeds of their illegal drug trade, which the victim failed to give, was clearly heard by witness Adonis Alforque; (c) appellant and the victim later moved to the back of the closed store, while the former continuously shouting angrily at the latter; (d) witness Adonis Alforque then heard gun fire coming from the back of the closed store where appellant and his brother were; and (e) witness Adonis Alforque ran home out of fear for his life after he heard the gun bursts, and after he came back, together with his younger sister, he saw his brother lying bloodied and lifeless on the ground.

The trial court likewise correctly rejected the defense of denial and alibi proffered by appellant which are not only inherently weak and feeble, but which became more dubious when they were sought to be established by appellant himself with the aid of his parents, a neighbor, and a barangay tanod, and not by disinterested, unbiased persons who would, in the natural order of things, be best situated to support the denial and alibi.

It is a well-settled rule that alibi is a defense easily fabricated especially among parents, children and relatives, or even among those not so related, so that great caution must be exercised in accepting it. For alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed but it must likewise be demonstrated that he was so far away that he could not have been physically present at the place of the crime or its immediate vicinity at the time of its commission.^[14]

Here, the house of appellant, where he claims he was at the time of the killing, is also in Barangay Napo where the incident took place. The possibility for him to have gone to the scene of the crime at the time of its commission was thus not remote.

Given all these premises, the Court fully subscribes to the trial court's finding that appellant is guilty beyond reasonable doubt of the crime of homicide, and should thus be sentenced to an indeterminate penalty of imprisonment of 10 years and 1 day of prison mayor as minimum, to 14 years, 8 months and 1 day of reclusion temporal as maximum.

The Court, however, hastens to alter or modify the civil aspect of this case. First, We have to increase the award of civil indemnity from P50,000.00 to P75,000.00 to conform with prevailing jurisprudence.[15]

Second, in addition to the award of civil indemnity, an award of moral damages, which was left out by the trial court, should be given to Laureonilla Alforque considering that she testified on her moral suffering and pain. It is now doctrinally settled that upon finding of death, court must award moral damages, separate and distinct from civil indemnity, they being based on different jural foundations.[16] The amount of P50,000.00 as moral damages is proper, reasonable, and consistent with ruling case law.[17]

Third, We deem it just to award actual damages in favor of Laureonilla in the amount of P25,000.00, which the trial court failed to grant, as she has presented proof of the expenditures she incurred in the wake and burial, and other funeral services.[18]

Fourth, appellant is liable to pay legal interest of 6% per annum on the damages to be computed from 19 October 2008, the date of the killing, up to the finality of this decision.[19] The total amount due on damages shall further earn interest at 12% per annum from the finality of the decision until fully paid.

WHEREFORE, premises considered, the appealed Judgment dated 09 July 2012 of the Regional Trial Court, Branch 17, Cebu City, finding accused-appellant Adrian D. Labra guilty beyond reasonable doubt of the crime of homicide is **AFFIRMED** with the **MODIFICATION** that the award of civil indemnity is increased to P75,000.00.

Accused-appellant is furthered **ORDERED** to pay the heirs of the victim Abraham Alforque the amounts of P50,000.00 as moral damages and P25,000.00 as actual damages, plus interest at 6% per annum from 19 October 2008 until the finality of this decision, and 12% per annum from such finality until full payment.

SO ORDERED.

Hernando, and Quijano-Padilla, JJ., concur.

[1] Penned by Judge Silvestre A. Maamo, Jr.; Records, pp. 129-138.

[2] Records, p. 1.

[3] The full text of the Information reads:

“That on or about 19[th] day of October 2008, at around 8:00 o'clock in the evening, more or less, in Barangay Napo, Carcar City, Philippines, and within the jurisdiction of this Honorable Court, said accused, with the use of a firearm, with intent to kill, did then and there willfully, unlawfully and feloniously shot one ABRAHAM ALFORQUE @ Bobby, inflicting upon the latter a gunshot wound on his head, which caused the death of the aforementioned ABRAHAM ALFORQUE @ Bobby shortly thereafter.

CONTRARY TO LAW.”

[4] Exhibit “B”; Folder of Exhibits, p. 69.

[5] Exhibit “C”; Folder of Exhibits, p. 70.

- [6] See Assignment of Errors, Brief for Accused-Appellant, pp. 1-2.
- [7] Transcript of Stenographic Notes, 03 November 2009, pp. 4-7.
- [8] *People v. Hacbang*, G.R. No. 75293, August 17, 1988.
- [9] *People v. Abonada*, G.R. No. 50041, 27 January 1989, 169 SCRA 530; *People v. Fernandez*, G.R. No. 80228, 12 September 1988, 165 SCRA 302.
- [10] *People v. Villanueva*, G.R. No. 77396, 20 July 1992, 211 SCRA 602.
- [11] *People v. Pascua*, G.R. No. 100990, 27 February 1992, 206 SCRA 628.
- [12] G.R. No. 73057, 8 March 1989.
- [13] Citations omitted.
- [14] *People v. Cadag*, G.R. No. 93899, 8 May 1992, 208 SCRA 781.
- [15] *People v. de Jesus and Morales*, G.R. No. 186528, 26 January 2011.
- [16] *People v. Laut*, 351 SCRA 93 (2001); *People v. Caldon*, 353 SCRA 308 (2001).
- [17] *Seguritan v. People*, G.R. No. 172896, 19 April 2010.
- [18] Exhibit “A”; Folder of Exhibits, p. 68.
- [19] See *People v. Torres*, G.R. No. 190317, 22 August 2011.

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