

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MACARIO A. ULEP, ACCUSED-APPELLANT.

G.R. No. L-36858. June 20, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

A man must love his wife. He must not lift a finger to hurt her. Indeed he must be her protector. When against this unwritten rule he beats her, he ceases to be a man. He becomes a beast. And the law imposes the supreme penalty when in the process he kills her. It is parricide pure and simple.

This is what Macario A. Ulep, was convicted of by the Court of First Instance of Ilocos Norte, Second Judicial District. He was sentenced to suffer the penalty of reclusion perpetua, and to indemnify the heirs of the deceased in the amount of P12,000.00 and to pay the costs in a decision of March 20, 1973.

The facts are undisputed. On May 21, 1970, at nine o'clock in the evening, in San Nicolas, Ilocos Norte, one Asuncion Pablo Ulep died as a result of physical injuries inflicted upon her on that very day by her husband, accused Macario Ulep. The following day, the Chief of Police of San Nicolas, Ilocos Norte received a report of the said death of Asuncion Pablo who allegedly died of a heart attack. The Chief of Police and the Rural Health Officer went to the house of the deceased and there they saw the body on a bamboo bed surrounded by relatives, friends, and the husband of the deceased, Macario Ulep. The Chief of Police suggested that an autopsy be conducted but the husband refused to allow the same. However, the daughter of the deceased by a previous marriage asked for a day or two to decide on her preference.

At the behest of the daughter, the request for an autopsy was made shortly before the burial. Accordingly, the police chief and Dr. Eliseo Bonoan, a physician, caught up with the funeral procession at the Catholic cemetery and thereupon conducted an autopsy on the deceased.

The autopsy reports read as follows:

"POSTMORTEM EXAMINATION

Name: ASUNCION PABLO ULEP

Age: 42

Nationality: Filipino

Address: No. 24, San Nicolas, Ilocos Norte

Date: May 25, 1970

PATHOLOGICAL DIAGNOSIS

SKIN:

A rectangular area of about 1" x 3" bluish black in color was noted on the upper half, anterior aspect of the arm, left.

SKELETAL SYSTEM:

Complete fracture of the 4th, 5th, 6th and 7th ribs, left. The 4th and 5th ribs fractured along the midclavicular line, left. The 6th and 7th ribs fractured along the anterior axillary line, left. Presence of extravasated blood and injuries of the surrounding tissues of the broken ribs areas, left.

Complete fracture of the 3rd and 4th ribs at the juncture of the rib and external cartilages with concomitant injury to its surrounding tissues and extravasated blood, right side.

THORACIC CAVITY:

Presence of about 200 cc. of a serous fluid found within the cavity. Pleura lacerated at the points of fractures.

CARDIO-VASCULAR SYSTEM:

Heart with small amount of clotted blood.

Coronary vessels congested.

The big blood vessels contained small amount of clotted blood.

ABDOMINAL CAVITY:

Presence of about 500 cc. of serous fluid within the cavity. DIGESTIVE SYSTEM: Apparently normal.

CENTRAL NERVOUS SYSTEM:

The meningeal vessels were congested.

CAUSE OF DEATH: CARDIAC ARREST PRIMARY SHOCK.

(Exh. D, p. 16, rec.)"[1]

Two weeks after the burial, two (2) constabulary sergeants investigated Macario Ulep. A statement was prepared and signed by the accused and was subsequently sworn to before Fiscal Cesar Abaya of Ilocos Norte. In this statement, marked as Exhibit "A", he admitted that he caused the death of his wife by elbowing her because his wife was then drunk and was uttering indecent words. The following day, PC sergeant Damian Bautista of Camp Juan, Laoag City conducted another investigation of accused Macario Ulep. His statement was reduced to writing and then subscribed to before Fiscal Abaya. He reiterated that the cause of death of his wife, Asuncion Pablo, was his elbowing her on her breast. This statement was marked Exhibit "B".

Ulep narrated that this elbowing and attack took place at their home at 5:30 in the afternoon. She vomitted and then went to bed. The accused then left for the fields and returned at around 9:00 in the evening and found his wife dead on her bed. He reported this death to their barrio captain.

Despite these statements, (Exhibits "A" and "B") admitting his guilt, Ulep retracted his statement in court by narrating that more than a year before that, and while his wife went to have their palay milled, their bulcart loaded with sacks of rice turned upside down and pinned his wife on her breast. With the pain in her chest, she was treated by a country quack doctor or "arbularyo."

The accused took exception to his conviction when he raised the following errors:

I

THE LOWER COURT ERRED IN HOLDING THAT THE CAUSE OF DEATH OF ASUNCION PABLO WAS DUE TO THE ELBOW BLOWS BY THE ACCUSED-APPELLANT ON HER BREAST, AS ADMITTED BY HIM IN HIS AFFIDAVITS, EXHIBIT "A" AND EXHIBIT "A-T ENGLISH

TRANSLATION, WHEN SUCH ADMISSION IS BUT A MERE BELIEF ON HIS PART.

II

THE LOWER COURT ERRED IN NOT HOLDING THAT THE CAUSE OF DEATH OF SAID ASUNCION PABLO WAS DUE TO A LONG STANDING PROCESS OR CONDITION IN HER BODY SYSTEM, AS TESTIFIED TO BY DR. PEDRO BLANCO FOR THE DEFENSE.

III

THE LOWER COURT ERRED CONSEQUENTLY IN NOT ACQUITTING HIM OF THE CRIME OF PARRICIDE."

Our primary concern is to determine the cause of death of Asuncion Pablo, the wife of the accused. Was her death a result of cardiac arrest and primary shock due to fractured ribs? The appellant alleges that the gradual weakening of the heart due to a long standing illness of the body system caused the cardiac arrest which claimed the life of Asuncion Pablo.

The post-mortem report on the deceased was prepared by Dr. Eliseo V. Bonoan who conducted an autopsy at the behest of a daughter of the deceased by a previous marriage. The husband who previously denied permission to conduct an autopsy was present when the autopsy was performed shortly before the body was buried at the cemetery of San Nicolas, Ilocos Norte. In the necropsy report of Dr. Bonoan, the cause of death was manifestly due to cardiac arrest and primary shock. We agree and see no fault in this finding made in the necropsy report of Dr. Bonoan.

The defense took exception to Dr. Bonoan's testimony that the fractures in the chest could have been caused by blows or physical pressure. Could such injuries not have been inflicted by elbow blows when the victim was standing or by knee or feet blows when the victim was lying on her back or was sitting with her back against the wall?

While the accused admitted that he delivered several elbow blows on the chest of his wife immediately before her death and the prosecution attributed these blows as the proximate cause of the cardiac arrest and primary shock which resulted in the wife's death, the defense assails this theory of the prosecution in the following manner:

"First, there were no contusions on the chest of the victim. This indicates that the elbow blows were not of sufficient force to fracture the ribs. This is so because a fracture necessarily results in the extravasation of blood in the fractured area and it is the extravasated blood that causes the swelling or contusion.[2] Dr. Blanco attributes the absence of swelling or contusion on the chest, where the fractures were found, to the fact that the fracture conditions were of long standing; that is, some repairs have happened and that sufficient time have elapsed for the swelling to disappear (t.s.n., p. 180).

"Second, even on the theory that fractures of the ribs as that found by Dr. Bonoan were present, the same could have not caused cardiac arrest and primary shock. This is so because only extravasated blood was present around the immediate area of the fractures. This means that the fractures were not depressed or that the fractured ends did not cave-in, so as to injure the heart and impede its functions to cause cardiac arrest. The claim of Dr. Bonoan that the chest is pliant and is like an accordion which can be compressed is puerile, to say the least. Even so, the elbow blows of the accused could not have caused a compression of the chest wall, no matter how pliant it could be. And even on the theory that the fractures were caused by stamping the foot on a piece of wood placed on the chest, while the victim was lying on her back, still the fractures could not have injured the heart or impede its functions to cause cardiac arrest, because the fractures, were not depressed fractures or cave-in fractures. The fractures merely caused the extravasation of blood within the fractured areas. And neither would the fractures cause primary shock because they were merely complete fractures; which means a mere breakage that would not cause the stoppage of the heart, because it does not tend to compress the heart.[3]

"And third, although the pleura or thoracic cavity was lacerated at the points of fracture, the same could not have caused cardiac arrest or primary shock because the lacerations were limited to the pleura. The points of fracture did not cave-in or were not depressed and they did not injure or impede the heart to cause cardiac arrest. Neither did the lacerations of the pleura cause primary shock because blood did not spill into the pleura, which indicates that the hemorrhage was nil. This is so because the serous fluid in the pleura was not reddish.

"On the contrary, the evidence of the prosecution shows that the deceased died of cardiac arrest because of the weakening of the heart due to a long standing process or condition in her body system.

Thus the theory of the defense is strengthened by the very evidence of the prosecution."[4]

Furthermore, both sides in this case took issue to the presence of 200 cc. of serous fluid in the pleura. The appellant claims that it is not normal whereas the prosecution says that the pleura normally contains 100 to 200 cc. of serous fluid and that this is normal. Anyway both agree that there should be enough serous fluid to lubricate the tissues.

The presence of 500 cc. of serous fluid in the abdominal cavity which, according to Dr. Blanco, the physician, witness it for the appellant, may be due to the chronic condition of the kidney like nephritis and edema or the hardening of the liver or a long progressively weakening of the heart.[5] Dr. Bonoan did not concur in this view when he said that the fluid was rather increased as a result of the diffusion of the medicine used in the embalming.[6] We find cogent basis in the explanation given by Dr. Bonoan.

Another point raised in the necropsy report pertains to the presence of clotted blood in the heart and blood vessels as well as the congestion of the meningeal vessels. The appellant bares that this is a sign of the hardening of the heart. Dr. Bonoan of the prosecution disclosed that there were no signs of circulatory weakening and that blood clots were not found adherent to the heart and such being the condition there could be no abnormality and thus he further declares that such clots are normally found in the heart of a dead person or in any part of the circulatory system.[7]

There is an admission by Dr. Blanco, the appellant's witness. that he has not "attended a case of fractured ribs"[8] and that he explains cardiac failure as a "failing of the heart" and his further concept is that it is "the stopping of the heart." He says that such stoppage could be due to trauma, such as a fracture of the ribs.[9]

A resume of the evidence presented by the parties establishes the fact of death of Asuncion Pablo on May 21, 1970. She was legally married to Macario Ulep, the appellant herein. The death, established in two affidavits, Exhibits "A" and "B", was caused by said accused. In these affidavits, the appellant admitted that he elbowed and attacked his wife. This attack caused the complete fracture of the 4th, 5th, 6th and 7th ribs on her left chest and the 3rd, and 4th ribs, right chest of Asuncion Pablo on the same evening of May 21, 1970. The trial judge observed: "There was never any attempt on the part of the accused to repudiate the sworn statements wherein he admitted that the cause of death of his wife was his having elbowed her many times on her breast."[10]

Having realized the gravity of his act. the appellant presented a witness to prove that sometime in February or March. 1969 his wife was pinned down by a sack of rice and the side portion of a bullcart and was attended to by a town quack doctor called an arbularyo. This witness said that two (2) ribs on each side of the chest were fractured, without stating which particular ribs were so affected.

From all these observations, findings, and an incisive study of the necropsy report, the cause of death of the wife-victim in this case is cardiac arrest and primary shock caused by the strong pressure applied on the upper front chest bone. This happens when one steps, kneels or presses the body of a victim against a wall, The man-size blows coming from the elbow of the aggressor upon a thin-framed woman can only bring about fatal

results.

We find relevance in Wharton and Stilles' findings in their book. Medical Jurisprudence under the title of "SHOCK," to wit:

"Sec. 225. Shock. — Death may also be due to the shock associated with the injury. The possibility of a person dying from the shock attendant upon an injury which, by itself appears to be unimportant is attested by experience. No satisfactory explanation of the cause of the shock seems to have been found, though it is due in some way to the upsetting of the nervous equilibrium of the body. Shock from an injury may be fatal even when the blow leaves no trace behind it; as, for instance, when a person receives a violent blow upon the pit of the stomach, or behind the ear, or to the larynx, x x x. In the case of Reg. v. Slane, et al., [11] the deceased had received injuries to the abdomen by kick and blows, but there were no marks of bruises present, or anything to show the cause of death. Death however, had followed twenty minutes after the maltreatment and was evidently due to the shock. The prisoners were convicted of murder." [12]

We have previously stated that:

"Even if the victim is suffering from an internal ailment, liver or heart disease, or tuberculosis, if the blow delivered by the accused—

(a) is the efficient cause of death; or

(b) accelerated his death; or

(c) is the proximate cause of death; then there is criminal liability." [13]

Apropos to all these is that time-respected doctrine: "He who is the cause of the cause is the cause of the evil caused." This is the rationale in Article 4 of the Revised Penal Code which provides that "criminal liability shall be incurred by a person committing a felony (delito) although the wrongful act done be different from that which he intended."

Again, We elucidated that: even though a blow with the fist or a kick does not cause any external wound, it may easily produce inflammation of the spleen and peritonitis and cause death, and even though the victim may have been previously affected by some internal malady, yet if the blow with the fist or foot accelerated death, he who caused such acceleration is responsible for the death as the result of an injury willfully and unlawfully inflicted. [14]

We are, therefore, convinced that there is no fundamental disagreement between the two medical witnesses as to the cause of the victim's death and that cardiac arrest and primary shock took away the life of the victim, Asuncion Pablo.

There is that clear and categorical showing that on the appellant fell the blame for these inhuman acts on his wife. He should answer for her tragic death.

The indemnity to the heirs of his deceased wife should be increased to P30,000.00.

WHEREFORE, with the above modification as to indemnity, the judgment appealed from is hereby **AFFIRMED** in all other respects.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino, and Medialdea, JJ., concur.

- [1] Page 56, Rollo,
- [2] Page 36, Rollo; page 7. Appellant's Brief.
- [3] Page 36, Rollo; page 8, Appellant's Brief.
- [4] Page 36. Rollo: page 9. Appellant's Brief.
- [5] Page 36. Rollo; page 1 1. Appellant's Brief.
- [6] Page 56, Rollo: page 15. Appellee's Brief.
- [7] Page 56, Rollo; page 16. Appellee's Brief.
- [8] Ibid.
- [9] Page 56. Rollo; page 16. Appellee's Brief.
- [10] Page 13. Rollo: page 13. Decision of the Court of First Instance.
- [11] Citing Derham Wint. Ass. 1872.
- [12] Wharton & Stille's Medical Jurisprudence, 5th Ed.
- [13] People vs. Ilustre, 54 Phil. 594.
- [14] United States v. Rosalind Ridriguez, 23 Phil. 22.

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