

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ARSENIO MIRANDA, DEFENDANT AND APPELLANT; THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EMILIANO DAJAY, R...

G.R. Nos. L-18508-09. February 29, 1964

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is a review of the decision of the Iloilo court which found Arsenio Miranda guilty of attempted murder against Alfredo Castellanes in Criminal Case No. 6783, and Arsenio Miranda, Euperto Principe and Emiliano Dajay, guilty of the murder of Clemonte Pastera in Criminal Case No. 6784. The said court sentenced Arsenio Miranda in the first case to not less than six months and one day of prison correctional and not more than six years and one day of prison mayor with the accessories, and to indemnify the offended party in the sum of P21.50 and to pay costs. In the second case, the three co-accused therein were given life imprisonment with the accessories, and ordered to jointly and severally indemnify the heirs of the deceased in the amount of six thousand pesos, and to pay costs. All the three accused in both criminal cases appealed to this Court. However, the appeals of Miranda and Principe in the murder case were late—beyond the fifteen-day period, beginning from March 27, 1961, when the sentence was read to them.

The prosecution witnesses Alfredo Castellanes, Aquilino Castellanes and Thelma Castellanes gave in court, under oath, the following account of the murderous assaults:

In the night of December 28, 1957, at about 11 o'clock, Clemente Pastera, 27, and his wife Thelma Castellanes, 22, were returning home from a dance at Barrio Calicuang, Dingle, Iloilo, followed by Aquilino Castellanes and Alfredo Castellanes, Thelma's brothers. The spouses were walking side by side, Clemente's right hand affectionately resting on Thelma's right shoulder and Thelma's left hand, resting on Clemente's left shoulder. After the party had covered about fifty meters from the dance hall, and reached the store of Esperidion Dayot, the three co-defendants suddenly emerged from a banana grove on the left side of the road. Then Emiliano Dajay tapped Clemente on the left shoulder and when the latter turned, Emiliano stabbed him in the abdomen with a knife, and then immediately ran away. Thelma shouted for help. And when Alfredo rushed to her aid, Arsenio Miranda approached and slashed Alfredo on the back. Arsenio also ran away. Wounded and bleeding, Alfredo hurried to the door of the dance hall where his wife Soterania Paatera was selling soft drinks, bread, cigarettes and other wares. He told her that Emiliano had stabbed Clemente and that Arsenio Miranda had wounded him (Alfredo). Soterania took her husband home, there to treat his wound.

Meanwhile, Thelma and her brother Aquilmo, brought Clemente to the house of Alfredo Rodriguez, thinking that the latter, being a school teacher, had some medicines for Clemente. When informed by Rodriguez's wife that Clemente was in her house, Soterania also took her husband Alfredo there. Later, the wounded men were conducted to the Polotan General Hospital, where in two days Clemente died of loss of blood and shock. Alfredo

was hospitalized for about five days, and received medical attention in the dispensary of the hospital up to January 13, 1958.

Partly corroborating the foregoing narration, Soterania Pastera, 29, told the lower court that her husband Alfredo left, that night, in the company of Thelma, Aquilino and Clemente to change a ten-peso bill; but Alfredo immediately returned with a wound in his back, saying he and Clemente had been attacked by Emiliano Dajay and Arsenio Miranda respectively. Jesus Sumagaysay, 48, also confirmed the testimonies, by declaring that as he was passing water that night, near the gumamela hedges, a few meters away from the dance hall, he heard and saw the three accused conversing: Emiliano said: "Tonight, I'll kill Clemente, even if he belongs to a prominent family."; Ruperto Principe in reply stated: "I'll not leave you," while Arsenio Miranda promised "Don't be afraid, we will not let you down."

Appellant Emiliano Dajay claims self-defense. He swore that on that occasion, he met Clemente outside the dance hall; that the latter asked why he (Emiliano) had been telling others that he (Clemente) had killed Juan and Pinoy; that although he denied having made such imputations, Clemente threatened him with death and immediately boxed him on the shoulder; that he retaliated by punching Clemente on the stomach; that the latter fell down, and as he (Clemente) stood up, he (Clemente) pulled a butcher's knife and chased Emiliano; that he ran away; that while thus running away, he came upon two men, and as he happened to grasp the waist of one of them, he felt a butcher's knife on the hip pocket of said man's trousers; that he immediately drew out said knife and faced his adversary; that even as Clemente raised his arms to kill him, quick as a flash, he (Emiliano) stabbed Clemente in the stomach; that as the deceased fell, he (Emiliano) escaped; that as he noticed somebody coming, he hid himself among the banana clumps; that he saw Alfredo Castellanes running to help his brother-in-law, Clemente; that as Alfredo raised Clemente, the latter accidentally hit Alfredo at the back with the butcher's knife, he (Clemente) was holding; that Alfredo at once released his hold on Clemente and returned to the dance-hall.

To corroborate Emiliano's theory, the following witnesses and testimonies were presented:

1. Elias Serrano, who testified that shortly before the incident, he saw Clemente (the deceased) zigzagging and apparently drunk; that he even advised the latter to go home; that the deceased ignored him saying that "if he (Clemente) did not kill somebody, he would be killed";
2. Alarico Cataluña, who said that while he and Amando Bandillo were drinking beer at the store of Dayot, he saw two men, one chasing the other; that the man ahead (whose identity he did not know) grabbed the butcher's knife in his (Alarico) hind pocket; that he clearly saw Clemente as the man chasing the one who had grabbed his butcher's knife; that the following morning he reported the loss of his knife to the police;
3. Ricardo Gulmayo, who declared that on his way home from the dance that night, he saw Emiliano and Clemente exchanging fist blows near the gate of the dance hall; that when Clemente was knocked down by a blow from Emiliano, Clemente immediately stood up and drawing his own butcher's knife chased Emiliano; and
4. Justiniano Guanco who swore in violation of the law of evidence that Alarico had told him that while he (Alarico) was drinking beer with another, someone snatched a butcher's knife from his hip pocket.

In our view, appellant Emiliano's story of self-defense is premised on a highly improbable circumstance: If at the time of the incident, Clemente, the deceased, was drunk and zigzagging, it was impossible for him to chase Emiliano, much less overtake and fight him.

Ordinarily in cases like this, the question is: Has the prosecution proved beyond reasonable doubt the guilt of the accused?

Appellants maintain the negative side, contending that the principal prosecution witnesses, Aquilino Castellanes and Alfredo Castellanes, brothers of Thelma Castellanes (widow of the deceased Clemente Pastera) and Thelma herself, were prejudiced and biased, since they were related to the victim.

On this point, we find that the testimonies of said prosecution witnesses as revealed by the record, are clear and convincing. Their narration of facts bears no positive indication of exaggeration or falsity. Despite rigid and lengthy cross-examination, their story remained consistent, and free from material contradictions. Moreover, their testimonies are sufficiently corroborated by other witnesses. Besides, no reason has been shown why they should falsely accuse Ruperto Principe, their uncle, of a serious offense.

Alfredo Castellanes' revelation to witness Soterania Pastera of the identity of the assailants of Clemente and of himself, was a statement deserving great credibility for being part of the *res gestae*.^[1] And the fact that these accused were prosecuted and arrested on the next day, quite clinches the Government's position.

The corroborative testimony of prosecution witness Jesus Sumagaysay - appellants contend - has all the earmarks of falsehood, because he admitted to having memorized the alleged conversation among the accused in their conspiracy to kill Clemente.

We do not regard this circumstance to be unnatural. Something out of the ordinary was involved a - plot to kill a man. So, he wanted to be accurate, and forced his mental faculty to remember the exact words.

Appellant Arsenio Miranda interposes the defense of alibi. His wife, Enriqueta Daras and one Rogelio Dao-Ang testified that on said night, Arsenio stayed at home all the time. However, this defense needs no special discussion, because as he failed to appeal on time, the decision as to him in the murder case has become final - and that decision says he was there on the spot that night.

Relative to Arsenio's denial of participation in the crime, it also claimed that some affidavits contain the statement that according to Alfredo Castellanes, it was Clemente, the deceased who had stabbed him (Alfredo). It is contended that as these affidavits of Ruperto Mercado, Perpetuo Dajay and Timoteo Gulmayo, had been offered by the prosecution as part of the testimony of Alfredo Castellanes, the prosecution is bound by the contents thereof.

We believe that, as explained by the lower court, the said affidavits were submitted by the prosecution for the sole purpose of showing to the lower court that the Chief of Police of Dingle, was partial to these accused' persons.

Now, what did Ruperto do? In pursuance of the conspiracy, and according to Alfonso Castellanes, 27 years, he threw a stone and hit Clem onto the head immediately after Dajay had stabbed him. And his participation is not now open to review because he did not appeal on time, as stated hereinbefore.

The motive for the crime was described by the trial judge, Hon. Arsenio Nañawa as follows:

"It also appears that in 1955 both the deceased Clemente Pastera and the accused Emiliano Dajay made love to Thelma Castellanes; that Ruperto Principe favored the love suit of Emiliano Dajay; that contrary to her uncle's wishes, Thelma Castellanes accepted the love of, and subsequently married Clemente Pastora; that since then Ruperto Principe and Thelma's family ceased to be on speaking term. * * *"

Considering all the above findings, we must hereby approve the verdict of guilt on both counts. And as to the Question as to the correctness of the penalty is at issue, the appealed decision is affirmed, with costs.

Padilla, Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Barrera, Paredes, and Regala, JJ., concur.

[1] The victim's statement immediately after receiving the wounds naming the accused as the author of the aggression, is legal evidence as part of the res gestae. (People vs. Quiamson, 62 Phil., 162.)

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