

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO SEGALES, DEFENDANT-APPELLANT.

G.R. No. L-31938. February 20, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

The charge is murder. The qualifying circumstance averred is treachery. The Court of First Instance of Southern Leyte found defendant Rogelio Segales guilty as charged, sentenced him to reclusion perpetua, to indemnify the heirs of the victim Dionisio Oclaman in the sum of P12,000.00 and to pay the costs. Defendant appealed.

In the evening of May 11, 1963, there was a dance at the public market of barrio Consolacion, Sogod, Southern Leyte on the occasion of the selection of beauty queen. About nine o'clock, while the people were in the dance hall witnessing the canvassing of the votes cast for the candidates, a commotion ensued when Gorgonio Tinio stabbed Hilarion Sesbrenio. This incident was witnessed by Cornelio Supot following which he and the people around scampered for safety. Tinio ran away and was chased by Pat. Tomas Daclan, a member of the Municipal Police Force of Sogod.

Few minutes thereafter, another incident occurred on the road near the market place when Rogelio Segales stabbed the left chest of Dionisio Oclaman with a hunting knife. This was also witnessed by Cornelio Supot who testified that after the stabbing, the victim, Dionisio Oclaman, turned round and fell on the ground, blood oozing profusely from his body. Frightened because of what he had witnessed, Cornelio Supot went home.

This second stabbing incident which happened that evening, particularly when Rogelio Segales thrust a knife at Dionisio Oclaman, was also witnessed by Ruperto Cadano.

After about five minutes, Marcos Taba, a stepbrother of Dionisio Oclaman, arrived and upon being informed that the victim is his stepbrother, went near and saw him already hovering between life and death. Taba asked Dionisio Oclaman who stabbed him and the latter answered that it was "Rogie." Taba rushed home to inform his father and stepmother about the incident. When the latter arrived at the scene of the crime, Oclaman was already dead.

The body of the deceased was autopsied by the Municipal Health Officer of Sogod, Dr. Ranulfo Salazar, who found the victim to have suffered -

"One clean-cut stab wound on the left side of the thorax, about 2.5 centimeters long and 1 centimeter wide, vertically oblique. It is located at the level of left 6th rib. just left of the vertical left nipple line. When a metal probe is inserted into this wound, its direction is inward into the thoracic cavity.

"The left thoracic cavity is punctured through the 6th., left inter-costal space, and completely fracturing the left, 6th rib. The heart is punctured and penetrated through its left ventricle by a wound about 2.5 centimeters long. This wound on the heart is not thru-and-thru." (p. 4, Appellee's Brief)

Dr. Salazar testified that Dionisio Oclaman died due to "hemorrhage which was severe, internal and external, and severe shock."

Rogelio Segales denied the charge against him, although he admitted his presence at the public market that evening of May 11, 1963, playing bingo with several persons. He averred that he was playing bingo when all of a sudden a commotion occurred and the victim Dionisio Oclaman came to him and said: "Please help me, Rogie. I was stabbed by Gorgor." Oclaman even raised his shirt to show the wound but shortly thereafter, he fell. Afraid of what he had seen, he ran away to the house of his parents.

The defense presented other witnesses, among others, namely: Tranquilino Duran, Marcelino Mainit and the defendant's mother, Corazon Segales.

Tranquilino Duran testified that in that evening he was in the house of Flora Paza which was about seven meters away from the dance hall. At Paza's house, he saw Gorgonio Tinio pass by and go to the place where Hilarion Sesbrenio and Dionisio Oclaman were conversing. All of a sudden, he saw Tinio thrust a bayonet at Sesbrenio but the latter was able to parry the weapon which, instead, hit Oclaman on the left chest. Tinio continued to hack Sesbrenio several times. In the meantime, Oclaman, after being hit, ran towards the store of one Boholano which was about ten (10) meters away.

Marcelino Mainit declared that in the evening of May 11, 1963, while he, Ernesto Yu, Atty. Lucilo Regis, Atty. Cadavos, Manuel Palanca, Francisco Miter and Antonio Lao were riding on a motor banca on their way back from Consolacion, they saw a man swimming in the sea. They went near him and invited him to ride with them. When asked why he was swimming that evening, the man, who turned out to be Gorgonio Tinio, answered that he had stabbed two persons and that he was running away. Tinio was carrying with him a bayonet (Exhibit "5") which he admitted to be the weapon he used in stabbing his victims, Sesbrenio and Oclaman. Before the motor banca arrived at the town proper of Sogod, Tinio jumped into the water, leaving behind Exhibit "5." The following morning, he and Ernesto Yu reported the matter to the Chief of Police of Sogod and also surrendered the bayonet.

Corazon Segales, mother of Rogelio Segales, testified that she was in her store that evening of May 11, 1963 when Dionisio Oclaman arrived and informed her that he was stabbed by Gorgor. He even took off his shirt to show the wound in his left chest which was oozing with blood. Thereafter, the victim went to the bingo game which was about fifteen meters away from the store.

The defense claims that the trial court erred in giving credence to the testimonies of the witnesses of the prosecution and in not giving credit and weight to those of the defense.

We agree with the findings and conclusion of the lower court that it is herein appellant who is responsible for the death of Dionisio Oclaman.

1. There is the direct and positive testimony of Cornelio Supot, a 26-year old farmer from Bo. Mahayahay, Sogod, Southern Leyte, that he saw appellant stab Dionisio Oclaman on his left chest. Oclaman turned around, and fell down as blood came out profusely from his body. Thereafter, Segales drew the knife from the body of the victim and ran away. (pp. 13-14, Sept. 28, 1965 hearing, Vol. I)
2. Ruperto Cadano also witnessed the incident and even demonstrated before the lower court how appellant stabbed the victim "by placing his hand first parallel to his body then the right hand facing his forearm 45 degrees at the elbow. With that position he made the thrust forward to the person of the deceased." (tsn., p. 8, November 12, 1965 hearing, Vol. IV)
3. Likewise, prosecution witness Marcos Taba testified on his conversation with his wounded stepbrother Dionisio Oclaman, few minutes before the latter died, as follows:

"Q And then what did you do when you saw Dionisio Oclaman staggering?

A I ran to approach him and placed him between my arms.

Q What else did you do, if any?

A He was then wounded on the left chest just near the nipple and when he was in the act of lying on his abdomen I held him because of his wound. I asked him and his voice was already faint and in answer to my question he said 'Rogie.'

Q You said you asked him, what question did you ask him?

A I asked him, who stabbed you?

Q Do you know who is this 'Rogie' referred to by the deceased Dionisio Oclaman?

A I know him. He is Rogelio Segales.

Q Is this Rogelio Segales, the accused in this case?

A Yes.

Q Then what happened after that if anything happened at all?

A While I was then covering his wound the people came around us but I could not recognize them.

Q Then what happened next?

A While I was then holding my brother between my arms and around us were plenty of people I was poked three times on my back. On the third time I turned my face and I saw that he was the Chief of Police and I said to him, this is my brother chief.

Q Then?

A And after that the Chief of Police got his pistol and pushed me and so I ran home.

Q Why did you run home?

A I ran home to inform my father and my stepmother.

Q To which place did you run, where is your home?

A To barrio Slide.

Q Is this Bo. Slide the same place as the Mahayahay referred to in the common parlance in the town of Sogod?

A Yes.

Q Were your parents at home when you reached home that evening?

A Yes.

Q And then what did you do when you reached home?

A I told my father and my stepmother that Dionisio Oclaman had been stabbed.

Q And after telling them that Dionisio Oclaman was stabbed, what did you do, if any?

A My father, stepmother and I went to the place where Dionisio Oclaman was stabbed.

Q And what happened when you were in that place already where Dionisio Oclaman was stabbed?

A As Dionisio Oclaman was no longer in the place where I left him because he was brought to Sogod we went to Sogod Dispensary.

Q And what did you find in the dispensary when you reached there?

A Nonoy and Dionisio Oclaman were in the dispensary.

Q Were they still alive when you reached the dispensary?

A Dead already." (tsn. pp. 26-29, Nov. 12, 1965 hearing, Vol. IV)

The ante-mortem statement made by the victim hours before his death pointing to appellant as the one who stabbed him partakes of the nature of a dying declaration because of the serious nature of the wound he sustained, which in fact resulted in death shortly after the statement was made.

4. We find no ill-motive on the part of the prosecution witnesses to testify falsely against herein appellant; neither did appellant impute any motive why they did testify against him. Fact is, appellant Rogelio Segales is the son-in-law of the Chief of Police of Sogod, Southern Leyte and, because these prosecution eyewitnesses could not report the matter to the local peace officers, they had to go to the Philippine Constabulary at Maasin, Leyte, some 70 kilometers away.

5. Defense witness Tranquilino Duran declared that it was Gorgonio Tinio who inflicted the victim's wound with the bayonet (Exhibit "5") which has a single blade. However, according to Dr. Salazar who examined the wound of the deceased, the weapon used is double bladed. Thus, it could not be the bayonet, Exhibit "5", which was used in the stabbing of the victim.

6. The story given by Marcelino Mainit and Atty. Lucilo Regis that they saw Gorgonio Tinio swimming in the sea carrying with him the bayonet, Exhibit "5", is manifestly artificial and unworthy of credence. The first thing an assailant would do would be to throw away the weapon used in his assault of another; further, he would not immediately admit that he was escaping because he had stabbed two persons. The fact that he was avoiding criminal liability is inconsistent with his voluntary revelation regarding his authorship of the crimes of double murder. And, if it was true that he was carrying with him the bayonet while swimming, he would not leave it behind in the banca but, instead, would bring it with him again when he jumped back into the sea. Further, the story given by appellant's mother, Corazon Segales, that Dionisio Oclaman went to her store showing the wound on his chest following which he walked to the place where the bingo game was being held is an evidence which is not credible in itself. As stated by this Court in *People vs. Dayag*, 56 SCRA 439, "[w]e have no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of juridical cognizance."

7. If Duran actually saw Tinio stab the deceased Oclaman and even reported the matter immediately to the chief of police, it is surprising why he executed his written statement only on September 6, 1963. It appears that appellant Rogelio Segales is the son-in-law of the Chief of Police of Sogod, Southern Leyte. That must be the reason why a case was filed by the said chief of police against Gorgonio Tinio for the killing of Sesbrenio and Oclaman. The case was filed in the Municipal Court of Sogod and docketed as Criminal Case No. R-271. As stated by the Solicitor General, "the filing of the double murder charge before the Municipal Court of Sogod would not be taken as evidence that Gorgonio Tinio was the assailant of Oclaman because, as already stated, the investigation in said court never went beyond the first stage of the preliminary investigation. x x x" (p. 13, Appellee's Brief)

WHEREFORE, with the modification that an indemnity of P30,000.00 be ordered paid to the heirs of the victim Dionisio Oclaman by appellant Rogelio Segales, the judgment appealed from is **AFFIRMED** in all other respects, with costs.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, and Gutierrez, Jr., JJ., concur.

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