

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LORENZO MANA-AY ALIAS ROLLY AND WILFREDO PEREZ ALIAS FRED, DEFENDANTS AND APPELLANTS.*G.R. No. L-26192. July 31, 1968*

Ponente: DIZON, J.

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Early in the evening of October 3, 1964 the now deceased Rudy Postrado and two thirteen year old neighbors Alfredo Ga-a and Francisco Pastera went to see a movie show at the St. Pius Institute in the poblacion of Pototan, Iloilo. Inside the theater while Postrado was seated between Ga-a and Pastera, three men seated immediately behind them demanded twenty centavos from him, which he was kind enough to give them. This notwithstanding, once the show was over and while they were on their way out of the theater, appellant Perez, who was one of the three men who sat immediately behind them, held Postrado by the arm and more or less forcibly dragged him towards the premises of the Roman Catholic Church of the town, with Postrado's companions, appellant Lorenzo Mana-ay and the other companion of the latter who was not fully identified, following them. Perez, Mana-ay and their unidentified companion succeeded in dragging Postrado to a place behind the church where while Postrado's arms were held by Perez and their unidentified companion, Mana-ay stabbed him at the back with a kitchen knife. Perez followed suit by stabbing him with an ice pick on the left side of the abdomen, while the third of the trio also stabbed him with a butcher's knife on the right side of the abdomen. After this the three ran away.

Ga-a and Pastera reported the incident to the Chief of Police of Pototan, but as they could not give the names of the assailants no immediate action could be taken for their apprehension.

About an hour after the assault, Dr. Felix Catoto, a rural physician, accompanied by the municipal mayor, the Chief of Police and several policemen went behind the church premises where they found Postrado already dead because of the two stabs and one incised wound inflicted upon him as above described.

Two of the culprits - the appellants herein - were identified several months later purely by accident. One day, as Ga-a and Pastera happened to pass by the building where the municipal jail was located they saw appellant Mana-ay inside talking to a visitor, who turned out to be his co-appellant Perez. At that time, Mana-ay was in jail in connection with the killing of another person by the name of Oris Paredes. Ga-a and Pastera lost no time in informing the police authorities that the person in jail and his visitor were two of the trio who had killed Postrado. Thereupon the investigation regarding Postrado's death was resumed and resulted in the filing of the corresponding charge for murder against them.

After due trial upon a plea of not guilty, the lower court found them guilty of murder and there being neither aggravating nor mitigating circumstances proven, sentenced each of them "to suffer the penalty of reclusion perpetua, to indemnify, jointly and severally, the heirs of Rudy Postrado the sum of P6,000.00 for his death, and in addition thereto the sum of P7,200.00 as nominal damages for loss of earning capacity, plus moral damages of P5,000.00 and the costs".

From the above judgment both defendants appealed and urge its reversal claiming that the trial court erred: (1) in giving credence to the unbelievable and coached testimony of Alfredo Ga-a; (2) in finding that Ga-a and Pastera immediately reported the killing of Postrado to the Chief of Police; and (3) in convicting both of them.

As is obvious, the two main questions raised are purely factual.

In connection with the first - the credibility of witness Ga-a, the lower court "found Alfredo Ga-a to be very intelligent for his age. He understands the nature of his oath and of sufficient intelligence and discernment. He testified in a clear and satisfactory manner, and no motive has been shown which would have impelled him to impute the commission of such a grave felony on the accused aside from the promptings of his conscience and of his de-sire to state the truth. His facial expressions, the move-ments of his mouth and eyes, and the tone of his voice while on the stand and when answering the questions of the defense counsel in a long, exhaustive and severe cross-examination, fully satisfied the Court that Alfredo Ga-a was sincere and telling the truth. The Court has no reason to doubt the veracity of the testimony of Alfredo Ga-a. His testimony is worthy of full faith and credit".

The lower court arrived at the above conclusion inspite of the long and extensive cross-examination to which Ga-a was submitted by the defense. In the course thereof, however he remained steadfast in his narration of the facts of which he had been an eye-witness. While it is true that he admitted that before the trial his father and mother had reminded him of the contents of his affidavit, this is really of little importance end utterly insufficient to destroy his credibility. His admission could be reasonably construed merely in the sense that his parents, perhaps knowing his tender age, had occasion to remind him of the contents of his affidavit. This, of course, is quite different from any direct or indirect attempt to induce him to tell falsehoods.

As regards the second point - chat Ga-a, as found by the trial court, informed the Chief of Police immediately about the commission of the crime - all We can say is that the finding is in accordance with the evidence and particularly supported by the fact that not long after the commission of the crime, the Municipal Mayor of Pototan, the Chief of Police, several policemen and Dr. Catoto arrived at the scene thereof where they found Postrado dead.

WHEREFORE, the decision appealed from being in accordance with law and the evidence, the same is hereby affirmed, with costs.

Concepcion, C.J., Reyes, JBL, Makalintal, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Ruiz Castro, J., did not take part.

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