

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FREDDIE BRANA, DEFENDANT-APPELLANT.

G.R. No. L-29210. October 31, 1969

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Automatic review of the decision of the Court of First Instance of Iloilo (in Crim. Case No. 11663) sentencing therein accused Freddie Braña to death for the slaying of Corazon Tabano.

The records show that at about 7:30 in the morning of 6 January 1967, 19-year old Corazon Tabano was found by her mother in their house at 178 Magdalo St., La Paz, Iloilo City, bleeding from several stab wounds. Rushed to the St. Paul's Hospital, she expired a few minutes after arrival. The autopsy report (Exhibit "A") revealed that the deceased sustained five stab wounds: (a) one in the thorax, penetrating in downward direction the right mid-clavicular line level of the first rib, perforating the upper lobe of the lungs through and through, with the point of the bladed instrument used hitting the 6th rib; (b) one 3-1/2 cm. wound in the abdomen, 2-1/2 cm. above the umbilicus, penetrating horizontally and perforating the jejunum and the aorta through and through, the point of the bladed instrument used hitting the spinal column (c) third stab wound, 3-1/2 cm. long, in the right middle portion of the abdomen, penetrating downward and perforating the right kidney through and through, exit at right posterior lumbar region, 1 cm. long; (d) one stab wound, 12-1/2 cm. long, on the left forearm, lateral aspect distal 3rd down to the wrist; and (e) a stab wound, 3-1/2 cm. long, passing through and through, from left lateral elbow to postero-lateral aspect, medial portion, with exit about 1 cm. long. The cause of death was certified to be shock due to hemorrhage from stab wounds.

For the aforementioned death of Corazon Tabano, Freddie Braña, a student, was formally charged with murder qualified by evident premeditation and abuse of superior strength, and attended by the aggravating circumstances of disregard to sex and dwelling.

The prosecution tried to establish its case through its witnesses:

CONCEPCION TABANO, mother of the deceased, testified that in the morning of 6 January 1967, while she was in the kitchen of their house at 178-A Magdalo St., she heard the cry of her daughter Corazon, "Help, help, Mother, help"; that she ran to the room from where the voice came, and there she saw the accused Freddie Braña stabbing her daughter by blows in rapid succession with a knife; that while Corazon was trying to parry the blows, she heard the accused say, "So, you don't want me? I better kill you"; that Corazon was able to get away from her assailant and ran towards the door, whereupon she pushed Corazon into another room and barred the door; that while they were inside the room she heard the accused (who was outside) saying, "If I could only enter the room I will kill all of you." This witness likewise declared having known the accused since 1962 because he used to go to their then place of residence at the Normal School site, and that thereafter said accused even became a boarder of her sister at No. 178-A Magdalo St., where she and her family also took residence.

Prosecution witness RAFAELA FORTALEZA, a first cousin of Corazon Tabano, declared in court that she came

to know the accused Freddie Brafia in 1962 when he boarded in their house at 178-A Magdalo St.; that Corazon Tabano started living in the same address in 1964; that she had heard the accused and the deceased talk about love, but Corazon did not accept Freddie's proposal because she wanted to finish her studies first; that on two occasions, the last being on 5 January 1967, Corazon informed her that Freddie Brana had threatened to kill her (Corazon) if she would accept other suitors; that on Corazon's request she did not reveal to the latter's parents the alleged threat of the accused upon the life of Corazon.

Patrolman FELIPE LORCA of the Iloilo City police force testified that on 6 January 1967 he met the accused Freddie Brana at the Iloilo Mission Hospital when the latter was brought in there in a stretcher; that upon inquiry the accused told him that he (the accused) had stabbed himself after stabbing a woman at Magdalo Street; that having verified that a woman was indeed stabbed and, in fact, was in serious condition at the St. Paul's Hospital he proceeded to 178 Magdalo St. to conduct an investigation. There he found the knife smeared with blood (Exhibit "B"), which he turned over to the corresponding police authorities.

ANDRES SUAREZ declared that on 6 January 1967, while on his way to school, he noticed a big crowd gathered near the railroad track at Magdalo street; that when he got near he saw the accused lying on his stomach pleading to a certain Leopoldo Hortinilla to bring him to the hospital; that as Hortinilla was alone, he helped him carry the accused to the main road; that on the way he asked the accused about his wounds at the stomach and the latter replied that he stabbed himself after stabbing a woman.

Upon the other hand, the defense presented witnesses to disprove the prosecution's theory that the accused was a rejected suitor of the deceased.

MARIA LUZ LAURO, an aunt of Freddie Brana and also a boarder at No. 178-A Magdalo St., declared that Freddie and Corazon were sweethearts; that she had seen them going out together, and in the house they took food from the same plate and using the same spoon; and that Freddie had in his possession a picture of Corazon with dedication at the back thereof addressed to "Dearest Freddie."

DELIA BRAÑA, sister of the accused, testified that she and her brother Freddie had stayed in the house at No. 178-A Magdalo street not as boarders, because they cooked their own food; that she knew Freddie and Corazon were sweethearts because they saw movies together, they used to eat from one plate and using only one spoon; that when Freddie and Corazon were in the house they always stayed in the receiving room whispering to each other; that she even saw Freddie keeping a picture of Corazon with the dedication "Always love you" and signed "Neneng" (Corazon); that her brother left the house at 178-A Magdalo street on 3 January 1967 because the parents of Corazon were often scolding the latter for seeing movies frequently with Freddie; that when Freddie was still in the hospital she brought to him his notebooks that were left in Magdalo, and from one of the notebooks she saw Freddie get the picture of Corazon and tear it to pieces.

Accused FREDDIE BRAÑA took the witness stand and testified that he and the deceased, Corazon Tabano, were sweethearts from 1962 to 1967; that they often went to church, attended novenas, and saw motion pictures together; that at one time, while coming out of the balcony section of the Ever Theatre in Iloilo City, they were seen by a cousin of Corazon, Mamerto Donato, who upbraided her for missing her classes and took her home; that during the Christmas vacation of 1966 he asked Corazon to allow him to go to Janiuay, Iloilo; that she consented, although he was advised to behave well; that when he returned to Iloilo City on 1 January 1967 Corazon told him to transfer to another house because her parents had learned of their relationship and they were always quarreling; that following her suggestion he moved to a house at the back of the Mission Hospital, although his sister was left behind at the house in Magdalo street; that in the morning of 6 January 1967 he had taken a bus for Iloilo City to see Atty. Quirico Defensor; that the bus passed Magdalo street and in front of Corazon's house the vehicle stopped

to allow a passenger to get off; that at that instance he saw Corazon going up their house; that he alighted from the bus and followed her; he found there was nobody in the house except the deceased; that he first went to the kitchen to light his cigarettes, but as he could find none, he proceeded to the room of Corazon; there, he caught her and kissed her without the latter offering a resistance; that while thus kissing they heard footsteps coming from the main stairs, so Corazon pushed him away; that when the footsteps they heard did not go to the place where they were he tried to kiss her again, but Corazon held his hair, pushed him back and ran away; that she returned holding a knife, remonstrating, "I told you not to court anyone. You court Inday Lala" (referring to Rafaela Fortaleza); that he retreated laughing and saying to her, "So, Ling, you are going to stab me?"; that as he had reached the wall and could back no farther he jestingly raised his shirt, whereupon Corazon stabbed him with the knife; that his vision became blurred, and unknowingly wrestled away the knife from Corazon's hand and stabbed her. The accused also declared that upon his discharge from the hospital he stayed for a few days in the house near the Mission Hospital until he was brought to the house of Atty. Rico Defensor, who surrendered him to the police authorities. The accused confirmed the testimonies of the defense witnesses that he and Corazon used to take their meals sharing one plate and using the same spoon, and that he destroyed to pieces Corazon's picture, the only evidence of their relationship, not knowing that it will be needed.

RIZALINO VILLANUEVA of the Iloilo City Police Department testified for the defense and declared that at about 2:45 in the afternoon of 31 March 1967 the accused, Freddie Brana, was surrendered to him by Atty. Quirico Defensor, which fact was duly entered in the police blotter.[1]

On 15 April 1968, the trial court rendered judgment, finding Freddie Braña guilty of murder for the killing of Corazon Tabano, aggravated by the circumstances of commission in the dwelling of the victim and of insult or disregard of respect due the offended party on account of her sex, without any mitigating circumstance to offset them. Accordingly, the accused was sentenced to death and to pay the costs. Hence, this automatic review of the case.

The accused does not deny that in the morning of 6 January 1967 he inflicted multiple stab wounds on Corazon Tabano by means of the knife, Exhibit "B", from which wounds the latter succumbed on the same day. It is his contention, however, that the trial court erred in considering the killing to have been qualified by the circumstance of evident premeditation.

In holding that the slaying was deliberate and premeditated, the lower court relied on the sole testimony of prosecution witness Rafaela Fortaleza that on two occasions, the last one being on 5 January 1967, or the day before the killing, she was informed by Corazon that the accused Freddie Brana had threatened to kill her (Corazon) should she accept other suitors.

It must be remembered in this connection that to justify a finding of evident premeditation it is not enough that there be a threat on the life of the victim; it must be proved that the accused not only had decided to commit the crime but also that the decision was the result of meditation, calculation, and reflection.[2] And these elements: (1) the time when the offender determined to commit the crime; (2) the act manifestly indicating persistence or determination to commit it; and (3) sufficient lapse of time to enable meditation and reflection between the moment when the offender determined to commit it and the actual execution of the crime, have to be established by evidence as clear as the proof of the crime itself.[3]

In the case herein, aside from the fact that the testimony of witness Fortaleza on the alleged threat is uncorroborated and its admissibility open to question, such declaration alone would not stand to support a ruling of evident premeditation. Even assuming that the testimony that the accused had threatened the deceased at noontime of 5 January 1967 were true, the record is devoid of any proof that concrete steps have been taken by

the said accused to carry out that threat and that he had sufficient time to reflect and meditate on his planned action, between the moment when he decided to execute it and the early morning of 6 January 1967, when the killing actually happened.

Nevertheless, we must affirm the lower court's decision that the crime committed is murder, in view of the existence of the qualifying circumstance of abuse of superior strength. For it cannot be disputed that when the accused attacked the unarmed 4 feet, 11-inch girl with the knife, Exhibit "B," the former had abused that superiority which his sex and weapon employed afforded him, and from which the deceased would be unable to defend herself.[4]

The court below appreciated two circumstances that allegedly aggravated the offense: dwelling of the victim and insult or disrespect due to her sex, the killing having taken place in the house of the deceased and said victim being a woman. While we sustain the consideration of the first, there being no question that the incident happened in the house at 178-A Magdalo street where the victim and her family resided, and that by then the accused had ceased living therein, the same thing cannot be said of the second circumstance. The fact that the victim is a woman does not per se constitute disregard of the respect due her sex that would aggravate a crime. For this circumstance to be properly considered, it must be proved that in the commission of the crime the accused had particularly intended to cast insult or commit disrespect to the sex of the victim.[5] No evidence to that effect has been presented here.

On behalf of the accused, counsel de oficio urges the consideration of three mitigating circumstances—sufficient provocation by the victim, lack of intent to commit so grave a wrong, and voluntary surrender.

The defense of previous provocation, said to consist in Corazon's act of assaulting the accused with a knife and eventually wounding him, was overruled by the trial court, not only for being improbable but also because it was contradicted by the testimonies of Patrolman Felipe Lorca and witness Andres Suarez that the injuries found on the body of the accused were self-inflicted.

There is no reason for us to disagree with the foregoing judgment. To challenge the conclusion of the lower court, that the deceased did not provoke the assault upon her person, is to raise the question of credibility of the witnesses; and it is the rule in this jurisdiction, well-settled by its consistent observance, that the ruling of the trial judge on the weight to be accorded to testimonies of witnesses will not be disturbed by the appellate tribunal, unless the same is not supported by evidence. There is nothing in the record to show that the melodramatic, implausible and unsupported version of the accused is at all true, and its very improbability belies his story.

As regards the claim of lack of intent to commit so grave a wrong, we find it to be without merit. Intention is a mental process, an internal act, a state of mind, that generally can be determined or deduced from the acts of the offender and the effects resulting therefrom.[6] In this case, the inflicting by the accused of five (5) stab wounds caused in rapid succession, three of the blows finding their mark in the victim's thorax and abdomen and damaging vital internal organs, brings forth in bold relief the intention of the accused to snuff the life of the deceased, and definitely negates any pretense of lack of intention to cause so serious an injury.[7]

But we have to appreciate in favor of the accused the mitigating circumstance of voluntary surrender. For while it is true that the warrant for his arrest was dated 7 March 1967 and the police authorities were able to take custody of the accused only on 31 March 1967, there is nothing on record to show that the warrant had actually been served on him, or that it had been returned unserved for failure of the server to locate said accused. Upon the other hand, there is direct evidence that the accused voluntarily presented himself to the police on 31 March 1967.[8] And the fact that it was effected sometime after the warrant of arrest had been issued does not in the least detract from the voluntary character of the surrender, in the absence of proof to the contrary. Thus, in one case,[9] this

Court considered voluntary surrender in favor of the accused, notwithstanding that he showed up 16 days after the order for his arrest was issued, on the ground that the law does not require that before the privilege may be availed of the surrender should take place prior to the issuance of the arrest order.

The crime committed by herein accused is murder, punishable by reclusion temporal in its maximum period to death. With the aggravating circumstance of dwelling offset by the mitigating circumstance of voluntary surrender, the imposable penalty should be that in its medium period. life imprisonment.

WHEREFORE, the decision of the lower court is hereby modified; the accused is sentenced to life imprisonment and to indemnify the heirs of the deceased in the sum of P12,000.00, and to Dav the costs.

Conception, C. J., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando and Teehankee, JJ., concur.

Sanchez and Barredo, JJ., did not take part.

[1] Page 76, t.s.n., hearing of 4 January 1968.

[2] People vs. Diokno, 63 Phil. 601; People vs. Carillo, 77 Phil. 572; People vs. Custodio, 97 Phil. 698; People vs. Mendova, 100 Phil. 811; People vs. Torrecampo, L-5161, 7 Sept. 1953.

[3] People vs. Diva, L-22946, 29 April 1968, 23 SCRA 332; People vs. Custodio, supra.

[4] People vs. Quesada, 62 Phil. 446; People vs. Guzman, L-13340, 30 April 1960, 107 Phil. 1122; People vs. Reyes L-21445, 30 May 1967, 20 SCRA 304.

[5] People vs. Mangsant, 65 Phil. 548; People vs. Metran, 89 Phil. 543; People vs. Jaula, 90 Phil. 379.

[6] People vs. Yu. 1-13780, 28 January 1961.

[7] See People vs. Orongan, 58 Phil. 426; People vs. Flores, 50 Phil. 548; People vs. Reyes, 61 Phil. 341; People vs. Yu, supra.

[8] See Note 1, supra.

[9] People vs. Diva, L-22946, 29 April 1968, 23 SCRA 332, citing People vs. Valera, L-15662, 30 August 1962.

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