

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANKISIO ARO, PEDRO LASALA, RODOLFO AVILA AND RAFAEL
ESCALONA, DEFENDANTS, FRANKISIO ARO AND PEDRO LASALA,
DEFENDANTS-APP...**

G.R. No. L-38141. May 15, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

This is an automatic review of the decision of the then Circuit Criminal Court of Rizal in its Criminal Case No. CCC-VII-1187-Rizal, the dispositive portion of which reads:

"WHEREFORE, finding the accused Frankisio Aro, Pedro Lasala and Rodolfo Avila, GUILTY, beyond reasonable doubt, of the crime of Murder as defined under Article 248 of the Revised Penal Code, as charged in the information, the Court hereby sentences them to suffer the penalty of DEATH, to indemnify the heirs of the offended party, the amount of P12,000.00; to pay the amount of P5,000.00 as moral damages plus P5,000.00 as exemplary damages; and to pay the costs." (pp. 29-30, Rollo).

The case against Rodolfo Avila y Solayao was dismissed in a resolution of this Court dated May 24, 1983, upon re-ceipt of the information from Acting Director of Prisons Brig. Gen. Vicente Eduardo that said defendant-appellant died on January 12, 1983.

The facts, as established by the evidence for the prosecution, are as follows:

The victim, Jose Mesina and defendants-appellants Frankisio Aro and Pedro Lasala are all inmates of the National Penitentiary at Muntinlupa, Rizal.

About 7:45 in the morning of April 10, 1973, Benjamin Gagui, also a prisoner, was inside the Iglesia ni Kristo Chapel located within the prison compound. He saw herein appellants, together with Rafael Escalona, enter the chapel compound and told him that they were looking for someone against whom they would take vengeance for the death of Visayan inmates which occurred in a riot at the prison compound. Just then, Jose Mesina came and sat down near Benjamin Gagui. All of a sudden, appellant Frankisio Aro stabbed Mesina. Gagui ran in fear towards the chapel, shouting for help. Mesina fell on the ground covered with blood.

Dr. Roberto Garcia, Medico-Legal Officer of the National Bureau of Investigation, conducted an examination on Mesina's body which sustained 17 stab wounds. In the trial, Dr. Garcia testified that considering the nature of the wounds, they could have been caused by sharp and blunt instruments; that there is the very remote possibility that the said wounds in the body of the deceased were inflicted by one person and by a single weapon; and, that the assailant could have been on the right side of the victim when the latter received the stabbing blows assuming that both were standing on the same level.

Investigation of the incident was conducted by the Prison Officials wherein sworn statements were given by appellants Frankisio Aro (Exhibit "G") and Pedro Lasala (Exhibit "M"). They admitted having inflicted the stab

wounds upon Jose Mesina.

During the trial, appellant Pedro Lasala denied any participation in the commission of the crime, saying that he did not enter the premises of the Iglesia Ni Kristo Chapel on the date of the incident; that he was only implicated by Rafael Escalona because the latter was only induced to say so by Tolentino Avelina; and that there was no commotion at all on April 10, 1973.

Appellant Frankisio Aro testified that he was pointed to by Benjamin Gagui because the latter was forced by de las Alas; and that he was coerced to admit having committed the crime in his statement, Exhibit "G", because he was beaten by the investigators.

In convicting herein appellants, the trial court observed that prosecution witness Benjamin Gagui "has shown consistency and sincerity in his testimony. He has shown courage in the face of a possible reprisal by the accused. It is highly improbable that he would falsely testify against the interest of the accused Aro, knowing fully well that this is not just an ordinary case but a very heinous crime for which he may be called upon to answer the necessary consequences if he would deliberately tell a lie. Besides, the accused Aro admitted that he does not know Gagui and that he met Gagui for the first time inside the courtroom. The defense of denial and alibi made by the accused Aro and Lasala cannot be given much weight because admittedly being inside the prison compound which is the scene of the crime, they have all the chances within which to perpetrate the crime imputed against them by reason of geographical proximity. Besides, the defense of denial and alibi interposed by the accused Aro and Lasala was not corroborated by any other evidence. Obviously, their testimonies are self-serving to evade criminal liability." (pp. 26-27, Rollo)

Indeed, appellants' defense is palpably and miserably weak. They were clearly identified by Benjamin Gagui whose testimony was corroborated by their own sworn statements, Exhibits "G" and "M". In their statements, Avila and Lasala pointed to Frankisio Aro as the person who inflicted the first stab wound on Mesina and they clearly stated that the idea of killing Mesina to avenge the death of their Visayan co-inmates was hatched two hours before the actual stabbing.

Thus, Frankisio Aro, in his statement, Exhibit "G", admitted, among others:

"4. T. - Noong Abril 10, 1971, humigit kumulang sa 7:45 ng umaga saan ka naroroon?

S. - Nasa harap ng simbahan ng Iglesia ni Kristo,

5. T. - Ano ang ginagawa mo roon?

S. - Nang mayroon po akong makitang tao na hindi ko kilala ay sinaksak ko.

6. T. - Tinamaan mo ba?

S. - Opo.

7. T.- Ilang beses mong sinaksak?

S. - Minsan lang po.

'8. T.- Sino-sino ang kasama mong nanaksak kay Jose Mesina, iyong taong hindi mo kilala na nasaksak mo?

S.- Sina RAFAEL ESCALONA, RODOLFO AVILA at PEDRO LASALA po." (p. 108, Record)

And, Pedro Lasala, in his statement, Exhibit "M", said:

"5. T. - Bakit mo siya sinaksak?

S. - Basta nakita kong sinaksak ng kasama ko sinaksak ko na rin.

6. T. - Sino-sino ang mga kasama mong sumaksak kay Jose Mesina?

S. - Sina bilanggong Boy Escalona (Pris. Rafael Escalona, #68535-P), Aro (Pris. Frankisio Aro, #42187-P) at si Avila (Pris. Rodolfo Avila, #33964-P)

7. T. - Kailan ninyo binalak na saksakin si Jose Mesina?

S. - Hindi ko alam dahil sa nang makita kong sinaksak ng mga kasamahan ko sumaksak na rin ako.

8. T. - Ano ang ginamit mong panaksak?

S. - Matalas hong gawang bilibid." (p. 114, Record)

Time and again We have ruled that where several accused, without collusion, made extra-judicial confessions which are identical in essential details and corroborated by other evidence, each confession is admissible against the other.

Appellant Frankisio Aro was at the time of the incident serving sentence for the crime of robbery with homicide and Lasala of the crime of robbery. Thus, the aggravating circumstance of quasi-recidivism (Article 160 of the Revised Penal Code) cannot be offset by any mitigating circumstance and the offenders "shall be punished by the maximum period of the penalty prescribed by law for the new felony." However, for lack of necessary votes, We have to impose the penalty of reclusion perpetua.

WHEREFORE, the appealed decision is hereby AFFIRMED, with the modification that the accused appellants Frankisio Aro and Pedro Lasala are hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify, jointly and severally, the heirs of Jose Mesina in the amount of P30,000.00, to pay the amount of P5,000.00 as moral damages, and P5,000.00 as exemplary damages. With costs. SO ORDERED.

Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Gutierrez, Jr., and De La Fuente, JJ., concur.

Fernando, J., concurred in the result and the statement of J. Aquino about the partiality of Article IV of the Constitution.

Teehankee, J., files a brief concurring opinion.

Makasiar, J., joins with the J. Aquino in his concurring opinion.

Aquino, J., I concur on the basis of the testimony of Benjamin Gagui, an eyewitness. Defendants' confessions, Exhibits G and M, are inadmissible under the Miranda doctrine, now found in section 20, Article IV of the Constitution which applies to this case.

CONCURRING OPINION

TEEHANKEE, J.:

The accused's extrajudicial confessions taken without ad-monition as to their constitutional rights to silence and to counsel are inadmissible in evidence as admissions of guilt (People vs. Duero, 104 SCRA 379). I concur in their conviction, however, since it is sustained by other competent evidence of record, particularly the eyewitness testimony of Benjamin Gagui.

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