

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PONCIANO AMON AND MELCHOR AMON, DEFENDANTS-APPELLANTS.

G.R. No. L-48929. November 28, 1984

Ponente: DE LA FUENTE, J.

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DE LA FUENTE, J.:

Appeal from the judgment in Criminal Case No. TG-233-74, Court of First Instance of Cavite, wherein the accused Pon-ciano Amon and Melchor Amon were found guilty beyond reasonable doubt of murder, as charged in the indictment, and were sentenced "to suffer reclusion perpetua, with the accessory penalties prescribed by law", etc.[1]

Said judgment, it appears, is predicated mainly on the testimony of Filomeno Poblete, brother of the deceased Isidro Poblete, alleged to be the lone eyewitness to the commission of the crime. The prosecution also presented Dr. Jesus Manalo, the Municipal Health Officer who autopsied the cadaver of the victim, and Mrs. Leonida Poblete Alejandro, half sister of the said deceased, who testified on the alleged altercation between the deceased and the accused Melchor Amon in front of her house in Silang, Cavite.

As narrated by the trial court in its decision, the facts established by the evidence for the prosecution are:

"..... at about 7:00 p.m. on October 10, 1973, Isidro Poblete and Melchor Amon had a heated argument in front of the house of Leonida Poblete situated at the Poblacion, Silang, Cavite, regarding the palay allegedly stolen by Melchor's son Ponciano Amon. At about 10:30 p.m., while (Filomeno) Poblete was on his way to the Poblacion to meet his brother Isidro Poblete, and when he was somewhere along the road in Bo. Tibig, (Filomeno) saw four (4) persons attacking and mauling another person whom he did not recognize. Filomeno hid himself and saw Melchor Amon holding the victim from behind, while the two other assailants were each holding the victim's hands. The fourth assailant was Ponciano Amon, who was then standing in front of the victim, with a long firearm pointed at the victim. At this juncture, Filomeno saw that Ponciano Amon fired a shot at the victim. After the four (4) assailants fled, Filomeno returned home. The next morning, Filomeno learned that it was his brother Isidro who was the subject of the attack and mauling by Melchor and Ponciano and their two other companions. Filomeno reported the incident to the PC authorities, and gave his written statement (Exh. 'C') on October 14, 1973.

"The victim's corpse was examined by Municipal Health Officer Jesus Manalo, M.D. on October 11, 1973. Aside from several abrasions, the victim Isidro Poblete also sustained a gunshot wound, whose point of entrance was on the upper front teeth and a point of exit somewhere on the right side of the mouth. (Exhs. 'A' and 'A-1'.) The victim's death was caused by hemorrhage, severe with shock due to gunshot wound. Exhs. 'A' and 'B'.") [2]

In appealing the said judgment, the accused-appellants assail the sufficiency of evidence adduced by the prosecution as proof of their guilt beyond reasonable doubt.

Instead of a brief, the Solicitor General filed a manifestation[3] wherein he recommends acquittal of both appellants upon the submission that the testimony of the lone eyewitness not being clear, explicit and positive,

does not measure up to the legal yardstick of proof beyond reasonable doubt.

After careful examination of the entire record of this case, We are convinced that said submittal is well taken.

It is settled that factual findings and conclusions of the trial court on the credibility of witnesses are entitled to great weight and respect and will not be disturbed on appeal considering its vantage point in observing and hearing the witnesses.[4] However, whenever some indubitable facts and circumstances favoring the accused-appellants have either been overlooked or misinterpreted by the trial court, adherence to such rule is not proper. Mere deference to the conclusion reached by the trial court would not negate or override the constitutional presumption of innocence[5] and the superior and immutable rule that the guilt of the accused must be proven beyond a reasonable doubt.[6]

As pointed out by the Solicitor General in his said manifestation,

"A close scrutiny of the testimony of Filomeno Poblete reveals the following circumstances which cast serious doubts on his credibility.

"1. He was not able to identify the victim of the alleged shooting incident which he allegedly witnessed. (T.S.N., pp. 12-13, November 26, 1975.) He only came to know that his brother was shot in the morning of October 11, 1973. (T.S.N., pp. 13-14, *ibid.*)

"2. He was supposedly on his way to meet his deceased brother, Isidro Poblete, when he allegedly witnessed the shooting incident. (T.S.N., p. 4, *ibid.*) Yet, he did not attempt to go near and view the victim's body, after the assailants had left, to identify who it was. In fact, he went home immediately and forgot all about his avowed meeting with his brother.

"3. There appeared no sign of apprehension on his part, that his brother was the victim, even when the latter was not able to arrive at their house that night. Filomeno Poblete was in fact going to the market to sell bananas when he was informed that his brother had been killed. (T.S.N., p. 14, November 26, 1975.) The obvious lack of concern about his brother's whereabouts, despite allegedly having witnessed the shooting of his brother is highly unnatural.

"4. On direct examination, Filomeno Poblete testified that his brother was held by three persons. (T.S.N., p. 9, *ibid.*) Santiago Velando was allegedly holding the right hand of the victim, Jaime Pumaran was allegedly holding the left hand while Melchor Amon was embracing the victim from the right side. (T.S.N., pp. 9-10, November 26, 1975.) Santiago Velando and Jaime Pumaran were respectively on the left and right side of the victim. (*ibid.*)

"On cross-examination, he stated that Melchor Amon was holding the right hand of the victim that the former was on the left side of the latter. (T.S.N., p. 12, April 6, 1976.) Moreover, he testified that he was not able to recognize two others because they had their back against him. (T.S.N., p. 11, *ibid.*)

"These material inconsistencies cast serious doubts on Filomeno Poblete's reliability as a witness.

"5. Dr. Jesus Manalo, Municipal Health Officer of Silang, Cavite, conducted a post-mortem examination of the cadaver of Isidro Poblete. He testified that the bullet entered the mouth of the deceased and exited on the right cheek. (T.S.N., p. 8, September 10, 1975.) Considering the testimony of Filomeno Poblete, on direct examination, that Melchor Amon and Jaime Pumaran were on the right side of the victim, it is incredible that neither of the two were hit when the bullet made its exit on the right cheek of the victim.

"6. Filomeno Poblete executed two sworn statements in connection with the death of his brother. One was executed on October 14, 1973 and the other on November 9, 1973. Material discrepancies between the two statements were brought out by the court itself as borne out by the following questions, to wit:

"COURT:

Question number 9 in exhibit 'C', 'sabi mo na dumaan sila sa tabi ng iyong pinagtataguan, ano-ano ang kanilang dala', ang, 'sagot - wala po akong nakitang dala-dala nila Melchor at Ponciano, ngunit ang isa nilang kasama na hindi ko kilala ay may bitbit na baril na hindi ko matiyak kung carbin o garand'. Was that question asked of you and was that the answer you gave?

A: Yes, your honor.

"COURT:

Question number 9 in your statement of November 9, 1973, reads: 'At sino ang may bitbit ng baril ng sila ay magsitakbuhan pagkabaril ng iyong kapatid?' Sagot - 'Ang may bitbit ng baril ay si Kapitan Velando dahil kinuha niya agad ang baril kay Ponciano Amon ng matapos mabaril ang aking kapatid.' Was that question asked of you and was that the answer you gave?

A: Yes, your honor.

x x x x

"COURT:

Question number 18, 'tanong - Hindi ba si Santiago Velando ang isa sa mga kasama nila Melchor at Ponciano Amon na bumaril sa iyong kapatid? Sagot - Hindi ko matiyak kung siya ang isa na may bitbit na baril dahil halos sabaysabay sila sa mabilis na paglakad at malayo-layo ang may bitbit ng baril at natakpan nila Melchor at Ponciano Amon.' Was that question asked of you and was that the exact answer you gave to that question? (The wit-ness reading again the answers)

A: Yes, your honor.

"COURT:

If according to you, the answer you gave to question number 9, in the statement you gave on November 9, 1973, was already stated by you on October 14 when Exhibit 'C' was given by you, why is your answer to question number 18 very different from your answer to question number 9 in the statement of November 9?

A: Because it was not on the same day when I made the statement. (t.s.n., pp. 32-35, November 26, 1975).

"If Filomeno Poblete really had witnessed the shooting incident, and at such vantage position as testified to by him (around ten meters), it is inexplicable why he would make inconsistent statements on such a material point. His explanation to the trial court betrays a lack of respect for truth.

It is apparent that the testimony of the alleged eyewitnesses is vague. It is not clear, explicit and positive. Hence, the principle that alibi is a weak defense loses its applicability to the instant case."[7]

It is pertinent to mention, at this juncture, that We find in the record un rebutted testimonies of Federico Brigionia and Francisco Seda that the alleged eyewitness, Filomeno Poblete, had been playing bingo in the house of Federico Brigionia from 6:30 o'clock in the evening of October 10, 1973, until 4:00 o'clock in the morning of the following day. It is not improbable Filomeno Poblete did not witness the commission of the crime, which explains the inconsistencies noted in the manifestation.

Self-contradictions and inconsistencies on a very material and substantial matter seriously erodes the credibility of a witness.[8]

For evidence to be believed "must not only proceed from the mouth of a credible witness, but must be credible in

itself -- such as the common experience and observation of mankind can approve as probable under the circumstances. There is 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 judicial cognizance."^[9]

Additionally, apart from the weakness of the evidence for the prosecution, the defense of alibi which was brushed aside by the trial court appears to be supported by clear and convincing evidence. We refer to the testimonies of Vicente Gonzales and Nicasio Revilla; but it would be a superfluity to discuss the same under the circumstances.

WHEREFORE, the appealed judgment should be, as it is hereby, REVERSED and SET ASIDE for insufficient proof of the appellants' guilt beyond reasonable doubt. Another one shall be entered acquitting said appellants, Ponciano Amon and Melchor Amon. Cost de officio.

SO ORDERED.

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

Relova, J., on leave.

[1] and "to jointly and severally indemnify the heirs of Isidro Poblete in the sum of P12,000; and to pay the costs", p. 7. Rollo.

[2] pp. 5 and 6, Rollo.

[3] p. 80, Rollo; in view of which the appellants were provisionally released on bail by resolution of this Court, p. 109, *ibid*.

[4] *People vs. Repato*, 91 SCRA 488; *People vs. Salazar*, 93 SCRA 796; *People vs. de la Cruz*, 97 SCRA 385.

[5] *People vs. Andag*, 96 SCRA 861.

[6] *People vs. Robles*, 92 SCRA 107.

[7] pp. 83-86, Rollo.

[8] *People vs. Carzano*, 95 SCRA 146; *People vs. Pampaluna*, 96 SCRA 787.

[9] *Italics supplied*; *People vs. Alto*, 26 SCRA 342, 357; *People vs. Dayag*, 56 SCRA 439, 450; etc.

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