

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VALENTIN SALANGOSTE, ACCUSED-APPELLANT.

G.R. No. L-39447. August 08, 1990

Ponente: BIDIN, J.

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BIDIN, J.:

This is an appeal from the August 27, 1974 Decision of the then Court of First Instance of Northern Samar, 13th Judicial District, Branch X,* finding accused-appellant Valentin Salangoste guilty of the crime of Parricide, sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of victim Victoria Adato the sum of P12,000.00, and to pay the costs.

The factual background of this case as found by the trial court is as follows:

“The childless couple of Valentin Salangoste and Victoria Adato were living in a house in their farm outside the barrio proper of Bongliw in the municipality of Laoang, Northern Samar. Near their place was the abode of Primitivo Basarte and his wife. The Basarte residence consisted of a main structure and a camalig attached thereto. They were allegedly using the annex as their sleeping quarters because the other portion was in a state of dilapidation.

“In the morning of August 27, 1973, Victoria Adato was found lifeless in the main house of Primitivo Basarte sprawled in her own blood on the floor. She was definitely the victim of a foul play, for it was established that she suffered 16 lesions in different parts of the body. Dr. Benigno Evardone, who performed the autopsy in the G.B. Tan Memorial Hospital, said that the wounds were caused by a sharp-edged instrument like a bolo. Ten (10) were chopping wounds while the rest were incised. The doctor said that 3 of these were fatal, 6 were serious and the others were more or less superficial. Shown to be mortal were: a) a chopping wound, 10 x 5 cm. at the based of the neck, left side, cutting through a clavicle with the pleural cavity grazing the upper border of the apex of the left lung; b) a chopping wound, 26 x 10 cm. at the left chest, cutting through the lateral aspect of the 6th and 7th ribs into the pleural cavity; and c) a chopping wound, left chest, 28 x 10 cm., cutting the 6th and 7th ribs into the pleural cavity and incising half-way the lower lobe of the left lung (Exhs. “A” and “A-1”).

“Three days after the discovery of her cadaver, Valentin Salangoste was charged before the Municipal Court of Laoang. Assisted by counsel, he waived his right to present evidence in the second stage of the preliminary investigation so the case was remanded to this Court before which he was finally charged with Parricide in an amended information dated November 28, 1973 for having killed his wife at about 3:00 o’clock in the morning of August 27, 1973 in barrio Bongliw, municipality of Laoang. The fact that the accused and the deceased were legally married is admitted.” (Decision, Criminal Case No. 386; Rollo, pp. 18-19).

The amended information dated November 28, 1973, charging the accused with Parricide reads as follows:

“The undersigned 3rd Assistant Provincial Fiscal of Northern Samar, accuses VALENTIN SALANGOSTE of the crime of PARRICIDE, committed as follows:

“That on or about the 27th day of August 1973, at 3:00 o’clock in the morning, more or less, in Barrio

Bongliw, Municipality of Laoang, Province of Northern Samar, Philip-pines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and without any justifiable cause did, then and there wilfully, unlawfully and feloniously attack, assault and slash several times one VICTORIA ADATO his lawful wife with the use of a bolo locally called 'sondang' which the said accused had provided himself for the purpose, thereby inflicting upon the person of VICTORIA ADATO several chopping and incised wounds on the different parts of her body which wounds caused the instantaneous death of the latter.

“CONTRARY TO LAW.”

The prosecution presented the following witnesses whose testimonies, as culled from and summarized by the trial court in its decision, are as follows:

(1) Primitivo (Tiboy) Basarte, a farmer residing in Barrio Bongliw, Laoang, Northern Samar, stated that he and his wife were awakened from their sleep in the camalig by the barking of their dog in the early morning of August 27, 1973. He peeped through the nipa wall and saw Valentin coming to his house with a bolo in one hand and a torch in the other. Salangoste entered the camalig and shouted: “Tiboy, where are you now? Let’s fight. Let’s join our belts and intestine. I will kill both of you.” Standing on sawed lumber in the camalig, the accused allegedly continued swinging his bolo in the direction of the sleeping quarters and hit the finger and wrist of Basarte. Basarte kicked the accused but was in turn hit on the right foot. To defend himself, Basarte got his bolo and swung it against Salangoste who was hit on the forehead. The accused put down the torch enabling Basarte to jump down passing at the back, and, with his wife who had escaped earlier, crossed the ricefield to the direction of the house of the spouses Amado and Luciana Baluyot. Upon his call, the Baluyots let them in. They stayed there until morning when Basarte, accom-panied by barrio councilman Narding Acedera, went to town to have his wounds treated in the hospital.

Basarte also testified that Salangoste did not pursue them to the house of Luciana. With his torch burning, the accused returned and went around the dilapidated house several times before placing the light in the yard. Later, Salangoste got the torch and moved to the direction of the house of Emilio Irinco. (Decision, Criminal Case No. 388; Rollo, pp. 20-21; TSN, Hearing, Dec. 13, 1973, pp. 1-111).

(2) Luciana Baluyot, also a resident of Bongliw, Northern Samar, declared that at about 3:00 o’clock that morning, Primitivo Basarte and his wife called at their house and requested to be taken in. She saw that Primitivo was wounded in the right hand and in the foot. She washed his wounds with alcohol. While taking a piece of cloth to be used as bandage, Luciana narrated, she heard Victoria Adato shrieking in the direction of the house of Primitivo. She noted that Victoria’s voice was alarming. Luciana became apprehensive and after giving the cloth to Basarte went up again and looked out of the window. She noticed that there was a light under Primitivo’s house. The torch went around the house and then proceeded to the ricefield where it later disappeared. The following morning, she learned that Victoria was found dead in the house of Primitivo Basarte. (Ibid; Rollo, p. 21; TSN; Hearing, Jan. 30, 1974, pp. 114-153).

(3) Emilio Irineo, also known as Dicdic, and a resi-dent of the same place, about 100 meters from the house of the accused, declared that somebody challenged him from the doorway that morning. He recognized the challenger to be Valentin Salangoste who told him: “If you are really brave, come down. I’ll kill you!” Surprised, Irineo did not move at once. Valentin broke the nipa shutter covering the door, put his head inside and said: “Where are you now? You will be the second.” Dicdic bundled his two children and with his wife ran out passing through the kitchen. They went to the residence of Tito Acedera. When he returned after lunch, Dicdic found a bolo beneath his kitchen. He noticed that the weapon was stained with blood and that several strands of hair were attached to it, which he believed to have come from the head of a woman considering the length. Irineo inserted the bolo in a 4-year-old coconut palm in his yard where it laid until he gave it to a police posse that called several days later.

(Ibid; Rollo, pp. 21-22; TSN; Hearing, Jan. 31. 1974, pp. 248-249).

(4) Iluminada Ciray, residing by the bank of the Catubig river, testified that Salangoste went up their house at about 3:00 o'clock that morning by pushing the door. When she went out of their room, Valentin allegedly boxed her. She shouted: "Nanay, nanay, help!" They held each other and she was stained with his blood. When Yoyo Adato, her husband, got up from bed, he held Valentin and they scuffled. After Salangoste had been subdued, Yoyo inquired: "Papay, why are you doing this to us? We are still your nephews." Valentin answered: "You try to see your Mamay because she is dead." According to Iluminada, the "mamay" referred to was Victoria Adato, the aunt of Yoyo. (Ibid; Rollo, p. 22; TSN; Hearing, Feb. 1, 1974, p. 277).

(5) Patrolman Fausto Cerbito of the Laoang Police Force, testified that he had gone to barrio Bongliw several times in connection with this case. At first, accompanied by two policemen, he saw Valentin Salangoste in the house of Iluminada Giray. The barrio captain of Bongliw, Felimon Lapiad, who was also there, informed him that a statement of the accused had been taken and that Victoria Adato was lying dead in a house about 200 meters away. They went there and saw her lifeless body on the floor. He drew a sketch of the room before bringing the cadaver to town for autopsy. The next time, in company of the chief of police, he drew a sketch of the camalig attached to the house where Victoria was found. The sketches were marked Exhs. "B", "B-1" and "B-2". On that occasion, they also went to the house of Luciana Baluyot where Primitivo Basarte gave them the bolo he used against Salangoste, Exh. "E" the bolo which Emilio Irineo found under his kitchen stairs, Exh. "D" was handed to Cerbito in his third visit to the barrio. Cerbito declared that when delivered to him, Exh. "D" was still stained with blood. (Ibid., Rollo, pp. 22-23; TSN, pp. 328-342).

Aside from the testimonies of the aforementioned witnesses, the prosecution presented the following documentary and physical evidence:

Exh. "A" - Autopsy Report, first page

Exh. "A-1" - Autopsy Report, second page

"B" - Sketch

"B-1" - First figure in Exh. "B"

"B-2" - Second figure in Exh. "B"

"C" - Mat

"C-1" - Mosquito Net

"C-2" - Clothing with blood stains

"D" - Big bolo

"D-1" - Scabbard of Exh. "D"

"E" - Big bolo

"E-1" - Scabbard of Exh. "E"

(TSN Index Exhibits, p. 206)

"F", "F-1", "F-2", "G-1", and "G-2" - Affidavit of the accused and translation.

On the other hand, the defense presented the follow-ing witnesses:

(1) Dr. Benigno Evardone who also testified for the defense, having examined the accused at the G.B. Tan Hospital on August 27, 1973, stated that Salangoste was semi-conscious when brought to the hospital with two incised wounds in the right side of the head. The first was a 10 x 1.5 cm. lesion directed antero-posteriorly involving the whole thickness of the scalp and the other was a 4 x 1 cm. directed also antero-posteriorly above the other one. Both were caused by a sharp-bladed instrument. The doctor opined that only moderate force was employed (Decision, Crim. Case No. 388).

Among others, the doctor indicated in the sketch the exact location of the wounds stated in the autopsy report and testified that more wounds were sustained by the victim on the left side of her body from the left arm going up to the base of the neck, left side, all slash or chopping wounds involving the front and the back but more in front. The doctor further testified that it is possible that the assailant was standing at the back of the victim if he was right handed and if the victim was standing, it is also possible that the assailant was in front if he is left handed. Furthermore, he opined that Wound No. 8 located at the left forearm is a defense wound with the assailant possibly in front and the victim parrying the blow with her left forearm (TSN: Hearing, Dec. 12, 1973, pp. 317-324). The doctor further stated that about nine (9) wounds cut through some hard bones and opined that to inflict these wounds, an ordinary person of average health must have exerted much effort (Ibid.; TSN, pp. 326-327).

(2) Elena Tepace, a store keeper in the Laoang public market, stated that while tending her tienda on August 26, 1973, at 11:00 a.m. or a day before the incident, Primitivo Basarte whom she had known for quite some time, purchased a gallon of tuba and "sumsuman." He drank the tuba alone at first but he left and returned later with a companion. According to her, Primitivo stated that he is drinking because he has a sort of resentment against his neighbor, referring to the Salangoste spouses, Valentin and Victoria, who are trying to encroach on their boundary. Primitivo said, "I will kill them." The witness cautioned Primitivo to keep quiet because they were near the police station. Primitivo allegedly countered that he will be responsible and together with his companion, he consumed the one gallon of tuba and left at sunset for the farm (Hearing of March 18, 1974; TSN, pp. 366-389; Decision, Crim. Case No. 388, p. 90).

(3) Manuel Rosel, a tailor resident of Baybay, Laoang, testified that he saw Primitivo Basarte in the morning of August 27, 1973 at 6:00 o'clock holding something wrapped in his hand. When asked what happened, the latter told him that he fought with the accused (Decision, Crim. Case No. 388, Rollo, p. 90; Hearing of March 18, 1974; TSN, pp. 396-401).

(4) Felipe Deguia, 63 years old, wood cutter, stated that in the afternoon of August 26, 1973, he went to the house of Valentin and Victoria who contracted his services to cut lumber for P250.00 for the repair of their house which was already dilapidated. He stayed that night at the couple's house because it was getting dark. At 3:00 o'clock the following morning, he got up because he heard the lowing of the carabao. Valentin also got up at the suggestion of his wife to see the carabao. Valentin lighted a torch and went out with his bolo inside a scabbard. When Valentin returned, he passed near the toilet and saw Primitivo Basarte inside. The witness (Deguia) was by the window and the toilet was directly below. According to him, he heard Valentin saying, "What are you doing there 'Tiboy'" and then he saw Primitivo (Tiboy) slashed Valentin at the head two times using the left hand. After Valentin was slashed on the head, the torch was put out and Valentin left the place. Primitivo Basarte returned to his house and challenged Valentin to come saying: "Come here because I will finish you here." Against the advice of Deguia, Victoria Adato went down, after which the witness heard her shouting for help because she was being killed by Tiboy. Her voice was coming from the direction of the house of Tiboy which was twenty (20) meters away. After he heard the sound, he was frightened and so he boarded his banca and proceeded to town where he arrived at 5:00 o'clock a.m. When he arrived, he told Quiteria, "You better find out in Bongliw,

there may be somebody dead. Valentin was slashed by Tiboy.” Quiteria immediately went to the farm (Hearing, March 18, 1974, TSN, pp. 409-417; Decision, Crim. Case No. 388, Rollo, p. 91).

(5) Tomas Acuin, 58 years old, farmer, alleged that Primitivo Basarte is her nephew-in-law. According to her, in the morning of August 27, 1973, while waiting for a ride to her farm in Barrio Tarusan, in front of Carpio Phua’s house, Primitivo alighted from a motorboat and she asked him, “Why is it that you are bloody?” Primitivo allegedly answered that “We have a fight with Valentin and his wife.” Later, he (Primitivo) added, “We fought and they are there dead in the house.” Shortly thereafter, her husband arrived with a banca, she boarded the banca and headed for Tarusan where she was informed on arrival that the wife of Valentin was dead (Hearing of March 19, 1974, TSN, pp. 438-441; Decision, Crim. Case No. 388, Rollo, pp. 91-92).

(6) Felimon Lapiad, a barrio captain and a resident of barrio Bongliw, Laoang, Northern Samar, testified that he was called by Concordio Adato to the latter’s residence in the early morning of August 27, 1973 because the accused was there and was wounded. He claimed that he took the statement of the accused with the help of Mr. Adora, a teacher, who took down the accused’s answers on paper which was later thumbmarked by the latter before the same was given to the Chief of Police Artemio Sacaguig. The witness observed that the accused had difficulty answering the questions because he was wounded and was bleeding. (TSN, pp. 178-185). He also confirmed the fact that in the statement he took, the accused stated that it was Primitivo Basarte who slashed him when he went down to see his carabao and that he gave said statement to the Chief of Police (Hearing of March 19, 1974; TSN, pp. 434--436; Decision, Crim. Case No. 388, Rollo, p. 92).

(7) Mr. Telesforo Adora, public school teacher, and a resident of Laoang, Northern Samar, testified that it is true that he was the one who wrote down the statement of the accused on a grade four paper. He mentioned that the accused was at the beginning unconscious but then he regained consciousness later, he answered the questions in the dialect. He was not forced, his answers were responsive to the questions and the statement was first read to him before the accused aided by the barrio captain, thumbmarked the same with blood. The witness further attested that the statement was in his handwriting and without any insertions (Ibid., pp. 185-189). He stated that four (4) questions were asked by the Barrio Captain from the accused: (1) Who are you and he answered that he is Valentin Salangoste; (2) Who slashed you? and the accused answered that it was Primitivo Basarte; (3) Who was that Primitivo and he answered it is Primitivo Basarte; and (4) Where were you slashed? and he said he went to his carabao and when he was returning home, he was slashed near the toilet (Hearing, March 20, 1974; TSN, pp. 210-245).

The defense also presented the following documents and physical evidence:

Exh. “1” - Autonomical Sketch

“ “2” - Big bolo

“ “3” - Another big bolo

(TSN Index Exhibits, p. 206)

“ “5”, “F-1” and “F-2”, “5-A” and “5-C” - Affidavit of Valentin Salangoste and translation.

After hearing, the then Court of First Instance of Northern Samar found the accused-appellant guilty of the crime charged. The decretal portion of the said decision, reads:

“Premises considered, the Court finds the accused Valentin Salangoste guilty of the crime of Parricide beyond reasonable doubt and is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the heirs of Victoria Adato in the sum of P12,000.00, and to pay the costs.”

In this appeal, accused-appellant relies on a single assignment of error, to wit:

THAT THE LOWER COURT ERRED IN CON-VICTING THE ACCUSED-APPELLANT MERELY ON THE BASIS OF WRONG AND WEAK INFERENCES.

The instant appeal is impressed with merit.

There is no eyewitness to the crime of parricide supposed to have been committed by the accused. No positive and direct evidence was introduced to show who killed the victim who sustained sixteen (16) chopping and incised wounds, inside the house of Primitivo Basarte. The prosecution rested its case against the accused-appellant on the basis of merely circumstantial evidence (Brief for Accused--Appellant, Rollo, p. 73; Decision, Crim. Case No. 388; Rollo, p. 98).

Finding the version of the prosecution more credible, the trial court convicted the accused of the crime charged.

It is axiomatic that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons (Chase v. Buencamino Sr., 136 SCRA 365 [1985]; People v. Cruz, Sr., 151 SCRA 609 [1987]; People v. Acelajado, 148 SCRA 142 [1987]).

But while it is the established rule that appellate courts will not generally disturb the factual findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, this does not apply where the lower court overlooked certain facts of substance and value which if considered, would affect the result of the case (People v. Royeras, 130 SCRA 259 [1984]; People v. Martinez, 144 SCRA 303 [1986]).

The exceptions, therefore, to the rule on conclusiveness of trial court findings, are, among others: that the inference made is manifestly mistaken, absurd or impossible and that the judgment is based on misapprehension of facts (People v. Ale, 145 SCRA 50 [1986]; People v. Canada, 144 SCRA 121 [1986]).

Thus, where a careful review of the records shows some misapprehension of facts, findings actually grounded not on what transpired, but conjectures about what transpired, and other discrepancies, this Court held that the appeal must be granted and the accused-appellant acquitted (People v. Ale, supra, p. 57).

In the case at bar, the following conjectures and misapprehension of facts are noted:

I.

The prosecution would have this Court believe that the accused on that fatal morning, went on a rampage, challenging his neighbors for no apparent reason and failing to kill any of them, he vent his ire on his hapless wife and brutally killed her.

It will be observed, however, that neither the prosecution nor the defense made any serious attempt to show that the accused was suffering from a mental ailment at the time preceding the act or at the moment of its execution. In fact, the trial court made it of record that it is not aware of the condition of the mind of the accused, so that for all legal intents, the latter was considered sane and that he acted in his ordinary state of mind (Decision, Crim. Case No. 388; Rollo, p. 103).

Neither was it shown that the accused had a quarrel with his wife before or during the incident, nor was she included among those the accused allegedly challenged in that incident. On the contrary, the harmonious relationship between husband and wife has never been put in question. As shown by the records, the deceased exhibiting an intense wifely concern, went down from their house and followed her husband whom she obviously knew was in danger. The accused, on his part, was shown by the testimony of Iluminada Giray, a prosecution

witness, to have asked her to see her Mamay (his wife), before he collapsed in the house of the witness due to his wounds. Thus, the violent action which ended the life of the deceased cannot by any stretch of the imagination be alluded to the accused who has not been shown to have any complaint against his wife.

II.

On the other hand, from the testimony of the prosecution witness Primitivo Basarte, to the effect that the accused barged in his camalig, demanding: “Tiboy, where are you now? Let us fight...” can be reasonably implied that there was a previous encounter between the accused and Basarte, followed by a hot pursuit by the accused, giving credence to the version of the defense that the accused went down at 3:00 o’clock that morning of the incident to check on his carabao and while he was passing the toilet of his house, he was slashed on the head by an assailant, said to be Basarte.

In fact, in the offer of the statement of the accused allegedly taken by the Chief of Police in the investigation he conducted in his office, as evidence both by the prosecution and by the defense, the prosecution admitted that it is very clear that the accused was slashed by somebody in the toilet, although it was not prepared to agree that it was Primitivo Basarte who did it. Otherwise stated, it is evident that the accused was already slashed and wounded before he proceeded to the camalig of Basarte, and not afterwards, supposedly in self-defense by the latter.

More specifically, the arguments of the prosecution and the defense are as follows:

“FISCAL:

We are presenting this as rebuttal evidence to the evidence of the defense Your Honor.

ATTY. AGATON:

If only for the purpose we do not object Your Honor.

COURT:

Exhibits “F, F-1, F-2, G, G-1 and G-2” are admitted.

FISCAL:

With the admission of our exhibits we close our case.

ATTY. AGATON:

May we formally offer in evidence Exhibit “5” which is also Exhibit “F” for the prosecution, consisting of three pages; also Exhibits “F-1 and F-2”, the translation Exhibits “5-A” and “5-C” is question number twelve and the answer. We offer this particularly to show that indeed Valentin Salangoste the accused, was slashed already by Primitivo Basarte when the said accused was still in the toilet.

FISCAL:

It is an additional translation already Your Honor. It is very clear that he was slashed by somebody in the toilet but he did not say Primitivo Basarte.

ATTY. AGATON:

And further to corroborate to the testimony of Felipe Giray and also to the testimony of the barrio teacher, Mr. Adora with respect to the ante mortem statement which is missing, that Valentin Salangoste was slashed.

COURT:

Slashed where?

ATTY. AGATON:

In the toilet.

Exhibits “5-D” and “5-E” are presented particularly of showing that when the deceased wife of Valentin Salangoste went up the house of Teboy, Valentin was already in the field looking for Teboy because according to this statement of Valentin Salangoste his wife followed him and Teboy at that time was in the ricefield. And Exhibit “5-G” is presented particularly to show that from the time the accused Valentin Salangoste saw his wife entered the house of Primitivo Basarte he has not seen his wife anymore.

COURT:

Any objection?

FISCAL:

We object Your Honor to the purpose for which it is presented because he cannot just select a portion of the affidavit, we are presenting it in whole for clari-fying doubts.

COURT:

Exhibits are admitted.

The parties must submit their memorandum.”

(Hearing of March 27, 1974; TSN, pp. 245-247).

III.

It will be noted that while the trial court is not prepared to admit the aforementioned statement of the accused as indicative of the latter’s state of mind, yet it incon-sistently considered the same to establish the motive of the accused in the supposed killing of his wife. Thus, the trial court ruled, that the motive of Salangoste in killing his wife, in challenging Basarte, Irineo and Yoyo and in boxing Iluminada had been provided by the accused himself in his statement that he was like a “juramentado” looking for his enemy (Rollo, p. 103).

The records do not show that the accused was given the opportunity to explain his statement before it was used against him, nor was it shown that he was assisted by counsel when he made the same.

The accused, in the statement in question, candidly described the circumstances which led him to describe himself as like a “juramentado.”

He declared:

“Q. 12. What happened when you went down at around 3:00 o’clock, early morning of August 26, 1973?

A: When I went down, I saw a man in our toilet. When I got near, he immediately slashed me that is why I slashed him and maybe he was hit a little because he run away. Due to my anger, I pursued him up to the house of Tiboy - saying, ‘Tiboy, let us now join our intestines’, but I did not see him, and I became more angry because I was already wounded.

x x x x x x x x

Q: 15. Where did you go after that?

A: I went to my house after which I went directly to the house of Dikdik. Due to my intense hatred, I was like a

‘juramentado’, and I went to look for my enemy. When I was in front of the house of Dikdik, I immediately challenged him saying, ‘Dikdik, come down now because we will fight, you are the one stealing my coconuts.’ Due to my anger because no one answered me, I destroyed their door and went up, but I could not slash Dikdik, because he jumped out. Then I went direct to their kitchen and as I was going down, I fell and my bolo was lost which I tried to search by touching the ground, but I could not find it because it was dark. After that I went to the house of Yoyo Adato and when I arrived there, I also challenged him. Due to my anger and even if he was the nephew of my wife, I pushed also their door and entered and boxed Dading, wife of Yoyo, then I grappled with Yoyo. He said, ‘What is this, Papay, I am your nephew, you are fighting me?’ But I said, ‘Because you are debtors, you do not pay your debts.’ But I said, never mind that, you look after your Mamay, because she is there dead, I was slashed by Tiboy. After that I lost my senses and I slumped inside the house of Yoyo.”

(Rollo, pp. 94-96).

It will be observed that as shown above, the accused had a standing grievance against the people he was supposed to have challenged in that incident, such as: Basarte, for having slashed him; Irineo, for stealing his coconuts; and Yoyo, for not paying his debts. But at no instance was it shown that the accused challenged his wife, berated her, or gave vent to his anger on her after Basarte escaped. Without proof of these facts, there a number of important missing links in the chain of circumstances which raise grave doubts as to the culpability of the accused. More than that, the records show that aside from the superficial wounds he allegedly inflicted on Basarte, as well as the fact that he boxed Iluminada, he did not harm anyone. Consequently, no logical reason could be found to support the conclusion that he savagely attacked his wife who is not even his enemy and of all places, in the house of Basarte.

IV.

Dr. Benigno Evardone, a witness for the prosecution, opined that nine (9) wounds of the deceased cut through some hard bones which would have required an ordinary person of average health to exert much force to inflict them.

Thus, on re-cross examination, the doctor stated:

“ATTY. AGATON:

Q What wounds in particular while (sic) inflicted which cut hard bones or injury?

A Wound No. 1, wound No. 2, No. 3, Nos. 4,5, 6, 7, No. 11 and No. 16.

Q If that will be the case Doctor wherein about 9 wounds were inflicted in such a way that hard bones according to you were hit, what amount of force do you think in your honest opinion did an ordinary person of average health exert in order to inflict these wounds?

A It exerted much force.”

(Hearing, Dec. 12, 1973, TSN, p. 327).

It will be recalled that the time pinpointed by the prosecution as the probable time when the accused must have killed his wife, was after Basarte left his camalig and was already in the house of prosecution witness Luciana Baluyot which is also after the accused was already mortally wounded on the head and bleeding profusely. In such condition, it is beyond doubt that he would not have the strength required to inflict those fatal wounds on his wife, not to mention the effort to overcome the resistance that ordinarily would have been offered by the victim.

V.

Witness Luciana Baluyot narrated that while attending to the wounds of Primitivo Basarte, she heard the deceased shrieking from the direction of the house of Basarte and that when she looked out of the window, she saw a light under said house and then a torch going around the house and the camalig before it finally disappeared in the ricefield.

She testified as follows:

“FISCAL:

What did you do when you saw that Primitivo was wounded?

A I got the alcohol and asked Primitivo to place it on the wound.

Q When you were up to look for a piece of cloth what happened?

A I heard the voice of Victoria Adato the sound was almost bad. Then I was afraid I even dropped the cloth I was holding.

Q - Where did you hear that voice of Victoria from what direction?

A - From the house of Pimitivo Basarte.

Q - Now after that, after you heard the shout of Victoria Adato what did you do?

A - I continued to look for a piece of cloth and brought it down and went up again.

Q - When you went up your house again what did you do?

A - I opened the window towards the house of Primitivo Basarte and looked to that direction.

Q - What did you see?

A - I saw under the house of Primitivo Basarte a light.

Q - After that what happened?

A - After that there was a torch.

Q - What was that torch?

A - The torch was in that house then it goes around.

Q - After going around the house what happen?

A - Then that torch went around the house. I mean the camalig.

Q - My question is after they went around what happen?

A - The torch went towards the ricefield and went towards the place called Caloocan then disappeared.

Q - Where did the torch disappear?

A - In the ricefield.”

(Hearing, January 30, 1974, TSN, pp. 117-118).

It will be observed that apart from the fact that Luciana saw a light going around the house and camalig of Basarte which was presumed to be a torch carried by the accused, she did not state that she saw any sign of scuffle or

struggle that must necessarily ensue if the accused, assuming that he had the strength for such encounter, is to accomplish his purpose. In any event, at the cross-examination, the witness insisted that she only saw the torch going around the house and such fact can hardly be a valid basis of the assumption that at the same time the accused was assaulting his wife.

More specifically, the witness stated:

“Q - Did Primitivo Basarte say that Valentin Salangoste was running after them?

A - They said that.

Q - But you did not see Valentin Salangoste?

A - We did not.

Q - And even after you closed the door?

A - We did not.

Q - During the whole night you did not see Valentin Salangoste?

A - I only saw that the torch was going around the house.

Q - Yes, but you did not see Valentin Salangoste the whole night?

A - No, sir.”

(Hearing, January 30, 1974, TSN, p. 125).

In the same instance, while her window was still closed, the witness declared that she heard a shriek, which she identified as the voice of the deceased coming from the house of Basarte. On ocular inspection, said house was established to be 235 meters away from her house. Even assuming that because of the silence of the place at 3:00 o'clock in the morning, the trial court is correct in finding that the distressed cry could be distinctly heard, it is hardly persuasive that at such distance it is possible to identify the voice that must have considerably changed under the circumstances and which as testified by the witness “the sound was almost bad.”

In addition, Luciana testified that there is no house at the back of her house (Hearing, January 30, 1974, TSN, p. 120), when in fact during the ocular inspection, it was clearly observed that “there is a house at the back of her big house” (Hearing, Feb. 6, 1974, TSN, p. 3) which in fact obstructed the view from her to the ricefield and across to the far houses of Basarte and Salangoste.

Hence, it is equally probable that it was accused who uttered the distress cry when he came upon the body of his dead wife.

At any rate, it is an established principle that “Every circumstance favoring the innocence of an accused must be duly taken into account. The proof against him must survive the test of reason. Suspicion should not be allowed to sway judgment.” (People v. Roa, 62 SCRA 51 [1975]).

VI.

Emilio Irineo testified that when he returned to his residence, he found a bolo beneath his kitchen with blood stains and several strands of hair believed to have come from the head of a woman. However, no effort was shown to have been exerted to surrender said bolo immediately to the authorities or to preserve the evidence in order to help the court arrive at the truth. Instead, it was merely inserted in a coconut palm in witness' yard until retrieved

by the police several days later.

In any event, no such “long strands of hair” were ever presented in court to constitute the best evidence on the matter, nor did it appear on record that Irineo told the police about them.

That the trial court, therefore, should find a valid inference from such testimony in establishing the guilt of the accused is but another demonstration of the shaky foundation of the accused’s conviction.

By and large, a careful study of the records shows that the prosecution evidence in this case leaves much to be desired. Aside from the fact that the testimonies of the prosecution witnesses are inconsistent on material points, they are based on surmises and conjectures which have no basis on proven facts. More than that, there is an obvious attempt to suppress evidence as shown by the loss of the statement of the accused taken by the barrio captain with the assistance of a school teacher early that morning which if available maybe considered as part of the *res gestae*. No less important is the fact that the statement of the accused in his affidavit was interpreted out of context by the trial court so that the sincerity of his declaration was lost in giving way to a conjecture consistent with guilt. Relative thereto, this Court ruled: “If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction”(People v. Ale, *supra*, p. 64).

On the other hand, the testimonies of the witnesses for the defense are more candid, direct, spontaneous and without any hint of prevarication. Despite grilling cross-examination, they never wavered in their declarations. In an uncontroverted statement, Elena Tepace maintained that she remembered the exact date when Primitivo Basarte bought tuba from her because that was the time when Basarte declared that he will kill the Salangoste spouses and the following morning the wife was indeed killed (Hearing, March 18, 1974; TSN, pp. 384-385).

The accused was consistent in his statement that he was slashed by Basarte in the toilet of his house, as appearing in his affidavit and in his statement which was confirmed by Felimon Lapiad, a barrio captain who took said statement and Telesforo Adora, a public school teacher who wrote them down.

The trial court discredited the testimony of Felipe Deguia, a 63-year-old woodcutter, for his failure to identify Basarte in court. But Deguia’s testimony was based on facts that actually happened such as: (a) that the accused went down at 3:00 o’clock in the morning of that fatal day; (b) that the accused was slashed on the head by Basarte who admitted the slashing although on a different place; (c) that Basarte challenged the Salangoste spouses to come to his house because he will finish them; (d) that the deceased cries for help because she was being killed by Basarte came from the house of the latter; and (e) that she was in fact found dead in said house of Basarte. While such testimony cannot be used to convict Basarte, it none-theless threw light in an otherwise bemuddled situation. More than that, it cannot be denied that the circumstances narrated are more consistent with simple logic and more in accord with the ordinary course of human experience than those presented by the prosecution. Otherwise stated, the testimony of Deguia established as a fact that the accused who was slashed and wounded by Basarte before entering the *camalig* of the latter was behaving like any normal person in search for the enemy who had wounded him and not one who ran amuck, mad enough to kill his own wife.

The rule is already well established that “the testimony of witness may be believed in part and disbelieved in part, depending upon the corroborative evidence and the probabilities and improbabilities of the case. The court may accept such of the witness’ testimony as it may deem proper notwithstanding his false statements. If parts of a witness’ testimony is found true, it cannot be disregarded entirely” (People v. Pacabes, 137 SCRA 159 [1985]).

Likewise, the trial court found the testimony of Elena Tepace and Tomasa Acuin as incredulous and

untrust-worthy, finding it hard to believe that Basarte would broad-cast his intention to kill within the hearing distance of Tepace or that upon slaying two of his neighbors should nonchalantly give the information he would ordinarily with-hold when not drunk.

On the other hand, Acuin is not just a passing ac-quaintance. As established at the hearing, Basarte is her nephew-in-law and there is nothing wrong or unusual for the latter to confide to her whom he can reasonably believe would not testify against him because of their relationship.

Finally on rebuttal, Basarte could not show any motive why said witnesses would testify against him except again on the basis of another conjecture that they have been paid (Hearing, March 26, 1974, TSN, pp. 474-480).

Apart from the fact that the financial condition of the accused would not support such supposition, the fact that said witnesses have been paid, have never been proven. Be that as it may, the Supreme court is not neces-sarily bound by the credibility which the trial court attaches to a particular witness (People v. Burgos, 144 SCRA 1 [1986]).

In addition, it is an established precept that “when the evidence for the prosecution and the evidences for the accused are weighed, the scales must be tipped in favor of the accused.” (People v. Pecardal, 145 SCRA 647 [1986]). “Circumstantial evidence as a basis for conviction of crime should be acted on and weighed with great caution, particularly when the crime is heinous x x x.” (People v. Jara, 144 SCRA 516 [1986]), as “our jurisprudence is built around the concept that it is prefer-able for the guilty to remain unpunished than for an innocent person to suffer a long prison term unjustly.” (People v. Alcaraz, 136 SCRA 74 [1985]; People v. Ale, supra).

WHEREFORE, the judgment appealed from is hereby REVERSED and SET ASIDE and the accused-appellant is ACQUITTED on reasonable doubt.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

* Presided by Hon. Rafael B. Hilao

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