

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AMIRIL ASMAWIL, DEFENDANT AND APPELLANT.

G. R. No. L-18761. March 31, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Amiril Asmawil was convicted by the Court of First Instance of Sulu for robbery with homicide under Paragraph 1, Article 294, Revised Penal Code.

As found by the trial court, the facts are: At about seven o'clock of Saturday evening, December 29, 1956, Amiril Asmawil went looking for Sanadi fiakon in the house of the latter's first wife, Pullong, located in Tipo-tipo, municipal district of Talipao, province of Sulu. Sanadi's daughter, Anti, who was then with Halid Majid in the balcony of the house, informed accused that her father was in the neighboring house of Anang, his second wife. Thereupon, Asmawil went to Anang's house.

Sanadi Bakon and Asmawil, subsequently came down from Anang's house and proceeded towards Pullong's house. Upon reaching the gate, which was more than three fathoms from the balcony, Sanadi called Halid Majid to open it. Halid Majid got a key and descended the stairs to open the gate, but, before he could do so, Asmawil hacked Bakon with a barong, hitting him across the breast. The victim fell backward. Asmawil then picked up the .45 caliber pistol which Bagon held in his hand and ran away with it. Anti and Halid Majid saw and recognized the accused by the light of a lamp in the balcony.

Halid Majid hurriedly took a barong from the house and, together with Kamlon, Sabdani, Abdulsail and Sawadi, pursued Amiril Asmawil. They did not overtake him. Anti rushed to her severely wounded father, who died before he could be brought inside the house.

Anang and some companions reported the incident to Mayor Usman Asgal and the Philippine Constabulary in Talipao. At 6:20 a.m., December 30, 1956, Philippine Constabulary soldiers headed by Lt. Angal P. Garcia arrived in the scene of the crime. They interrogated Halid Majid and Anang who informed them that it was Amiril Asmawil who killed Sanadi Bakon and robbed him of his pistol. Lt. Garcia sent to the Provincial Commander of Sulu the following radiographic report:

"SPOT REPORT PD ROB WITH HOMICIDE AT ABT ONE NINE ZERO ZERO HRS TWO NINE DEC FIVE SIX TIPTIPON GC 979246 TALIPAO PD AT ABT ZERO SIX ZERO FIVE HRS THREE ZERO DEC FIVE SIX CMA EX MAYOR USMAN ASGAL RPTD THAT COUNCILOR SANADI BAKKON WAS KILLED YESTERDAY NIGHT NEAR HIS HOUSE AT TLPTIPON PD ALFA INVEST PATROL UNDER LT ANGEL PAPA GARCIA WAS DISPATCHED ZERO SIX TWO ZERO HRS THREE ZERO DEC FIVE SIX PD INTERVIEW WITH WITNESSES REVEALED THAT AT ABT ONE NINE ZERO ZERO HRS SEVEN ARMED PERSONS SURROUNDED HOUSE OF COUNCILOR SANADI BAKKON PD ONE IDENTIFIED AS AMERIL ASMAWIL BEARING BLADED WEAPON ONLY INQUIRED WHERE COME SANADI BAKKON WAS AND WERE TOLD HE WAS IN HIS OTHER HOUSE ABT FIFTY YARDS AWAY PD AMERIL ASMAWIL WENT TO NEXT HOUSE WHERE THEY ATE WITH SANADI

AFTER WHICH THEY WENT DOWN PD ABT TEN YRDS AWAY FROM S AN A DPS HOUSE COUNCILOR SANADI WAS HACKED BY AMERIL ASMAWIL AT THE UPPER BREAST RESULTING TO HIS IMMEDIATE DEATH PD HIS PISTOL CAL FORTY-FIVE LICENSED WAS TAKEN PD MOFIVE PERSONAL GRUDGES PD COMPLAINT VS AMERIL ASMAWIL ET ALS BEING READIED PD WRITTEN RPT FOLS PD"

Sanadi Bakon was buried on December 30, 1956. On the basis of affidavits executed on December 31 by Halid Malid and Anang before Lt. Garcia, a criminal complaint was in the Justice of the Peace Court of Talipao against Amiril Asmawil. The accused pleaded not guilty and waived his right to the second stage of the preliminary investigation. After the records of the case were transmitted to the Court of First Instance of Sulu, an information was filed therein against Asmawil for robbery with homicide.

After trial, or on July 7, 1961, the court a quo rendered the following judgment:

"WHEREFORE, the accused, AMIRIL ASMAWIL, is hereby found guilty beyond reasonable doubt of the crime of ROBBERY WITH HOMICIDE, defined and penalized in Paragraph 1, Article 294, Revised Penal Code. He should be, as he is hereby, sentenced to suffer the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law; to indemnify the heirs of the deceased, Councilor Sanadi Bakon, In the sum of P6,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs."

The accused has appealed to this Court.

Appellant's defense is alibi which he tried to prove with his own testimony that at about the time the crime was committed, he was at his house in Sitio Lambayong, about four kilometers from the scene of the crime; that he never left home that evening; that he came to know, from his mother, of the death of Sanadi Bakon on December 30; and that he attended the funeral of Sanadi Bakon.

As a rule, alibi is a weak defense since it is easy to concoct. Courts view it with caution and accept it only if proved by positive, clear and satisfactory evidence. (U.S. v. Olais, 36 Phil. 828; People v. Pili, 51 Phil. 965; People v. Dizon, 76 Phil. 265, People v. Bautista, L-17772, Oct. 31 1962.) Alibi cannot prevail over the clear, explicit and positive identification of the accused by credible witnesses. (People vs. Palomos, 49 Phil. 601; People vs. Rafanan, L-13289, Sept. 29, 1962.) Accordingly, the uncorroborated testimony of appellant in support of his alibi cannot be given credence in the face of his clear and positive identification by prosecution witnesses Anti and Halid Majid. Prosecution witnesses also stated that they did not see appellant in the funeral of Sanadi Bakon and that if he were there he could have been killed by the relatives of the deceased.

Appellant would impugn the credibility of Anti and Halid Majid, stating that being blood relatives of the deceased they were interested in the success of the prosecution. Suffice it to state in this regard that this Court has ruled that where no improper motive—such as personal grudge against the accused—has been shown, relationship to the victim does not render the clear and positive testimony of witnesses less worthy of full faith and credit. (People vs. Valera, L-15662, August 30, 1962.)

This Court, moreover, will not interfere with the conclusion of the trial court concerning the credibility of witnesses, in the absence of a showing that some fact or circumstance of weight and influence in the record was overlooked or misapplied, or its significance misunderstood by the court (U.S. v. Ambrosio, 17 Phil. 295; U.S. v. Estrada, 24 Phil. 401).

Anang, testifying for the defense, repudiated her affidavit of December 31, 1956. Appellant emphatically relies upon this repudiation to press for the reversal of the judgment. However, such disavowal took place after she married appellant and after she attempted to bribe Halid Majid to recant. She stated in her affidavit that she saw appellant cut down her husband and that the latter, while cradled in her arms and dying, told her that it was

appellant who hacked him. It is not strange, therefore, that having subsequently married appellant, she should choose to defend him and repudiate her affidavit. Such a repudiation, however, cannot overcome the testimonies of Anti and Halid Majid that they saw appellant commit the offense in question.

WHEREFORE, the judgment appealed from is hereby affirmed, with costs against appellant.

IT IS SO ORDERED.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, Makalintal and Zaldivar, JJ., concur.

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