

THE PEOPLE OF THE PHILIPPINES, PLAINTIFFS AND APPELLEES, VS. PEPITO ARGANA, ET AL., DEFENDANTS. PROCESO TANSIANCO AND MARCIAL SAMIANO, DEFENDANTS AND APPELLANTS.

G.R. No. L-19448. February 28, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

On the evening of January 21, 1960, the Police authorities of Pagsanjan, found on the side of a road in barrio San Antonio, Kalayaan, Laguna, the prostrate body of Manolo de Guzman, a jeepney driver, of Buenaventura Fernandez. He was brought to the hospital where he died on January 22, 1960, from lacerated multiple wounds on the right forehead and occipital region; puncture wound, supra clavicular region; multiple contusions, with hematoma on the occipital region; cerebral contusion with intracranial hemorrhage and skull fracture (Exhs. C & 14).

Captain Astilla of the PC and the Chief of Police of Pagsanjan, conducted an investigation which resulted in the filing of Criminal Case No. 80 with the Justice of the Peace of Kalayaan, for the crime of "robbery with Homicide", against Gonzalo Bandillo, alias "Otsi", and four. (4) others, "Does", upon the basis of the sworn statements of Buenaventura Fernandez, the owner of the lost jeep, Mrs. Elpidia Cabatan, Antonio Macatanga and Manolo Aguilar (Exh. 3-G). Pending service of the corresponding Warrant of Arrest for Bandillo, P.C. Lt. Carlos A. Tibayan, filed a complaint for "robbery with Homicide", with the same Justice of the Peace Court, Crim. Case No. 82 against Cornelio Nave, Pepito Argana, Proceso Tansianco, Marcial Samiano, Isidro Saliva and Guillermo Balcueva.

On May 4, 1960, Capt. Astilla, presented with the JP Court an unverified Motion to Dismiss, Criminal Case No. 80, on the ground:

That after meticulous study of the above entitled case, the undersigned believes that the evidence for the prosecution is not sufficient to Warrant the conviction of the accused beyond reasonable doubt.

On May 5, 1960, the JP granted the motion to dismiss. Upon the elevation of the second case to the CFI of Laguna, and before the trial commenced, the Provincial Fiscal presented a Motion for Dismissal, on the ground—

"That during the reinvestigation conducted in the above-entitled case it was established that the evidence now available to the prosecution is not sufficient to prove beyond reasonable doubt the guilt of the accused for the crime charged;

With respect to the accused Proceso Tansianco and Marcial Samiano, the written statement of a lone co-accused implicating them, but without any corroborative evidence, is insufficient. Other witnesses had retracted and would not testify against them.

* * * * *

Because oppositions were interposed to the above motion by the private prosecutors, resolution thereof was

deferred. The record does not-reveal; whether this motion was finally resolved, but the fact remains that the case proceeded.

During the first day of the trial, accused Argana changed his former plea of not guilty to that of guilty. Thereafter, he was presented to testify for the prosecution. The trial court rendered a partial judgment on October 3, 1961, against Argana, sentencing him to suffer— "

* * * to not less than six (6) years and one (1) day of prision mayor, as minimum, to not more than twelve (12) years and one (1) day of reclusion temporal, as maximum, with all the accessory penalties of the law, to indemnify the heirs of the deceased Manolo de Guzman in the sum of six thousand pesos (P6,000.00), and the owner of the unrecovered stolen jeep, Buenaventura Fernandez, in the amount of four thousand two hundred pesos (P4,200.00), both without subsidiary imprisonment in case of insolvency, and to pay the proportionate part of the costs."

It appears from the testimony of Argana, and other evidence adduced by the State that at about 3:30 o'clock in the afternoon, of January 21, 1960, Argana went by bus to Sta. Cruz, Laguna, together with Cornelio Nave, Marcial Samiano and Proceso Tansianco. Their purpose was to grab a jeep, the plan of which had been conceived before January 21, by the four of them, together with Isidro Saliva and Guillermo Balcueva, who agreed to buy any stolen jeep. On arriving at Sta. Cruz, at 7:00 o'clock in the evening of said day, the four alighted in front of the Soriano's Studio, where they saw a passenger jeep parked nearby. Tansianco and Nave immediately contacted the jeep driver, telling him that they wanted to hire the jeep to bring them to Paete. The driver, Manolo de Guzman, agreed to transport them for P9.00. On their way, the driver stopped at Pagsanjan to take in gasoline and at the house of Buenaventura Fernandez, to deliver the day's earning of de Guzman. After these stops, the jeepney with de Guzman at the wheels, and the four, accused as passengers, resumed its journey towards Paete. At a secluded place along the road, at barrio San Antonio, Kalayaan, Samiano took out his .45 caliber pistol and told the driver to slow down; that when the driver said "I thought we are bound for Paete", Argana told him that "This is a holdup", and ordered the driver to stop the vehicle. When the jeepney came to a stop, the driver was told by Samiano to alight, whereupon after walking some distance from the jeepney and Argana having informed him (driver) that they were taking the jeep and to which de Guzman replied "It is up to you", Samiano ordered Argana to strike the driver on the head. Argana did so, as commanded, hitting the driver twice on the nape, with the butt of the pistol given to him by Tansianco. The two blows applied upon de Guzman caused him to slump down, face downward. This, condition notwithstanding, Samiano ordered Argana to keep hitting the driver to prevent any further investigation. Argana did not obey the order of Samiano, but proposed to leave the place. Before doing so, Tansianco turned the prostrate body of de Guzman and stepped on it. Samiano and Nave stayed in the jeepney all along; but it was Samiano who drive the jeep towards barrio Paeta, Calamba, where the prospective buyers of the same waited. Saliva, on the same night gave P100.00 to Nave and P50.00 to Argana, telling them that they (Saliva and Balcueva) would take care of the shares of Tansianco and Samiano. Balcueva told them before they separated, that he would pay the balance, after he has sold his crop of garlic. The balance pertaining to them (Argana and Nave) was paid later by Saliva and Balcueva by installments, of P30.00 to P50.00.

Beside the testimony of Argana, the prosecution presented his extra-judicial confession (Exh. 1). Nave, who likewise executed an extra-judicial confession (Exh. B), on March 9, 1960, also implicating the appellants Tansianco and Samiano, was not presented by the prosecution. Accused Nave refuted the statements attributed to him in the extra-judicial confession Exh. B, claiming that those were not his; that the investigators wrote the statement in their own words and later told him (Nave) to sign the document for his own good that the Justice of the Peace did not read to him the contents of the document. Appellants Samiano and Tansianco Vehemently denied participation in the crime charged. Both claimed that at the time and date the crime was supposedly being planned and committed, they were on their way from Barandal, Calamba, to Ambulong, Tanauan, Batangas, to

visit Tansianco's girl friend, Candida Panganiban; they left the place at midnight, arriving in their homes at 2:00 or 3:00 o'clock in the morning of January 22, 1960; that Argana's only means of income was derived from mulcting jeepney drivers, and among his victims were the appellants. Before March 5, 1960, while appellants were waiting for passengers to board their jeep for Barandal, Laguna, Argana approached them asking for P3.00. When Argana asked Samiano, the latter pointed to Tansianco; and when Argana went to Tansianco, the latter pointed to Samiano. This dilly-dallying angered Argana who remarked: "Some day you will pay for what you did to me".

The trial court, on November 8, 1961, rendered the following judgment:

* * * * *

- Proceso Tansianco, Marcial Samiano and Cornelio Nave to reclusion perpetua, with all the accessory penalties of the law, to indemnify the heirs of the deceased Manolo de Guzman, jointly and severally, in the sum of Six Thousand Pesos (P6,000.00), to indemnify Buenaventura Fernandez, jointly and severally, in the amount of Four Thousand Two Hundred Pesos (P4,200.00), the value of the unrecovered jeep, both without subsidiary imprisonment in case of insolvency, and to pay the proportionate part of the costs; and

- Isidro Saliva and Quillermo Balcueva to four (4) months of arresto mayor, with all the accessory penalties of the law, to indemnify Buenaventura Fernandez, jointly and severally with their principal co-accused, in the sum of Four Thousand Two Hundred Pesos (P4,200.00), with subsidiary imprisonment in case of insolvency but not to exceed one-third (1/3) of the principal penalty and to pay the proportionate part of the costs."

Proceso Tansianco and Marcial Samiano interposed the instant appeal, urging reversal thereof, in so far as they are concerned, on five (5) errors allegedly committed by the trial court, all of which pose the dominant issue of whether the evidence adduced by the prosecution is sufficient to warrant their conviction.

The learned trial court pronounced in the affirmative, and after a careful review of the evidence of record, having in mind the seriousness of the crime committed, We find no plausible reason to hold otherwise. The trial judge, after having minutely observed Argana on the witness stand, declared that he gave his testimony "in a natural and straightforward narration that was worthy of belief". The conclusions of the trial judge, regarding the credibility of witnesses, command great respect and consideration, specially when, as in this particular case, they are supported by the evidence of record.

As heretofore stated, Argana and Nave, upon apprehension, confessed (Exhs. 1 and B). Nave, at the trial, did not deny the contents of his confession, implicating his co-accused, describing, as did Argana, the participation of each accused, in the same manner as exposed in the statement of facts by the trial court. On the contrary, Nave's confession (Exh. B), corroborated that of Argana (Exh. 1).

The alibi of appellants Tansianco and Samiano consist of their testimonies, corroborated by two witnesses, that in the evening of July 21, 1960, they were in Ambulong, Tanauan, Batangas, to visit a girl and went home in Barandal, Calamba, at midnight. Not having presented credible and tangible evidence, that it was physically impossible for them to be in Kalayaan, at the time of the commission of the offense, such defense can not prosper. It is almost trite to be repeating here, the ruling that an alibi, which is easily and conveniently manufactured, must be so convincing as to preclude any doubt that the accused could not have been physically present at the place of the crime or its immediate vicinity, at the time of its commission. The motive alluded to by appellants why Argana implicated them is, in our opinion, not enough ground to impute to them the commission of a very grave crime, if they had not really perpetrated it. In the face of Argana's positive identification of the appellants and the other accused, as participants in the crime, the alibi dwindles into nothingness. One should be convinced of the

veracity of Argana's story when he takes into account the fact that he pleaded guilty to the information and is now serving his term in the penitentiary. His testimony was completely corroborated by accused Nave's confession Exh. B. Of course, Nave's testimony in Court was a repudiation of said confession, stating that he just signed a prepared statement, without knowing its contents. It appears, however, that its contents were sworn to by him to be true, before the Justice of the Peace of Kalayaan, a disinterested officer, who affirmed that Nave understood it and swore to the truth thereof. The doubt as to the guilt of Nave was completely dispelled, when he had chosen not to appeal any more from his conviction.

Granting for the purposes of argument that Argana's testimony, was not corroborated, as contended, still the same is sufficient to convict his co-accused, if and when the court give it full faith. In the determination of the values and credibility of evidence, witnesses are to be weighed and not numbered (*People vs. Marasigan*, 85 Phil., 427; 47 Off. Gaz. No. 7, p. 2529). The testimony of only one witness, if credible and positive; an unsupported evidence of an accomplice, if it satisfies the court beyond reasonable doubt, is sufficient to convict. And Argana's testimony is not wanting of corroboration. Nave's confession, as heretofore adverted to, fully substantiates Argana's story. The physical and medical findings on the body of the victim, confirm Argana's testimony that the victim was struck with the butt of a revolver, kicked and badly mauled by the accused. Parts of the stolen jeep were found at the fence and in the kitchen of accused Saliva, a fact admitted by Saliva himself.

Concededly, the extra-judicial confessions of Argana and Nave are not admissible against the appellants. They, however, serve as strong indication that appellants were participants in the crime. Interlocking confessions, as they are, they are confirmatory to the imputable physical facts involved in the present case. They support the oral testimony of Argana, thereby strengthening the trial court's conviction of the latter's trustworthiness and credibility. The appellants warn that Argana being an accomplice, his testimony, coming as it does from a polluted source, should be received with great caution and carefully examined. We were alerted, as warned, and We find his testimony in court admissible and competent, against the appellants (*People vs. Zipagan*, 64 Phil. 757; *People vs. Serrano*, 56 Off. Gaz. 4414). There being no proof of collusion, and being identical with each other in their essential details and are corroborated by other evidence of record, as shown heretofore, Exhs. 1 and B are admissible to prove conspiracy among them and to establish their participation in the crime (*People vs. Cariño, et al.*, G. R. No. L-9580, Sept. 30, 1957). But as things stand now, there is not even a necessity to invoke this doctrine, for Argana himself had testified in court.

We have gone over the alleged circumstances and contradictions imputed by the defense against the principal State witnesses, and We are perfectly convinced that they were not generated from a perverted and perjured mind; they were merely the product of human imperfection.

The decision appealed from being in accordance with the law and the evidence, is hereby affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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