

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME CABRERA ALIAS “JIMMY”; ACCUSED-APPELLANT.

G.R. No. L-31178. October 28, 1980

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In an information dated December 2, 1967, Jaime Cabrera was accused of double murder allegedly committed as follows:

"That on or about August 20, 1967, in the Barrio of Pinaring, Municipality of Nuling, Province of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the said accused, in company with Benito Villamor, who is now dead, John Doe, Peter Doe and Richard Doe whose names are not yet known and who are still at large, conspiring, confederating together and helping one another, armed with firearms of different calibers and with intent to kill and with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and shoot Mayor Datu Abdul Kadil Matalam and Guiabel Lintongan, thus inflicting upon them mortal gunshot wounds, and as a result thereof, caused their instantaneous deaths.

Contrary to law, especially Article 248 of the Revised Penal Code, and with the additional aggravating circumstances of superior strength and nocturnity which were purposely sought by the accused to insure the commission of the crime."

In a decision dated April 8, 1969, Cabrera was sentenced by the Court of First Instance of Cotabato in Criminal Case No. 4938 as follows:

"WHEREFORE, in consideration of all the foregoing facts and circumstances, the Court finds the accused, Jaime Cabrera, alias Jimmy, in conspiracy with the deceased Benito Villamor, guilty beyond reasonable doubt of the crime of murder, defined and penalized under Art. 248 of the Revised Penal Code, as co-principal by cooperation, with the qualifying circumstance of treachery (alevosia), with one mitigating circumstance of voluntary surrender, offset by one aggravating circumstance of evident premeditation, and hereby sentences said accused to suffer the penalty of Reclusion Perpetua for the death of Mayor Abdul Kadil Matalam; and another penalty of Reclusion Perpetua for the death of Guiabel Lintongan; to suffer the accessory penalties prescribed by law; to indemnify the heirs of Mayor Abdul Kadil Matalam the sum of P12,000.00; likewise, the heirs of Guiabel Lintongan the sum of P12,000.00; and to pay the costs."

Cabrera appealed the decision on the ground that the trial court erred in giving credence to the prosecution's evidence and not his own.

The following facts are not in dispute:

In the evening of August 20, 1967, at about 9:30 o'clock, Jaime Cabrera, a radio technician of the National Bureau of Investigation (NBI) in Cotabato City, together with NBI Agent Benito Villamor and other companions went to the Alta Vista Club in Nuling, Cotabato. They occupied a table at the left side of the main door of the club where they drank beer. Thirty minutes after their arrival, Mayor Abdul Kadil Matalam of Pikit, Cotabato, accompanied

by his body-guard-secretary, Guiabel Lintongan and several others, arrived at the same club and occupied a table some 3 or 4 meters away from the table of Cabrera and his companions.

After the lapse of several minutes, Matalam ordered the lights in the club to be brightened and then for no apparent reason he fired his gun three times in the direction of the doorway of the club. Thereupon Cabrera and Villamor approached Matalam and his group. Villamor, standing behind the mayor, tapped the latter's right shoulder with his revolver and then fired it, hitting the mayor on the right breast. Matalam fell from his seat. Villamor in turn was shot by Lintongan with whom he exchanged shots. Shots from several guns were also fired on that occasion as shown by the fact that in addition to .38 and .22 caliber bullets and cartridges (Villamor had a .38 caliber Smith and Wesson while Lintongan had a .22 caliber Smith and Wesson) also recovered from the scene were 9mm and .30 caliber (carbine type) cartridge cases. The incident resulted in the death not only of Matalam but also of Villamor and Lintongan. Dr. Rufino A. Uson of the Cotabato Hospital certified that Matalam died due to the gunshot wound in the chest (Exh. A-1); while Dr. Romulo G. Suleik, of the same hospital, said that Lintongan died due to five (5) gunshot wounds (Exh. B-1).

The resolution of this case hinges on whether the prosecution was able to prove the guilt of Cabrera beyond reasonable doubt. Time and again we have stated that when it comes to the question of credibility the findings of the trial court are entitled to great respect upon appeal for the obvious reason that it was able to observe the demeanor, actuations and deportment of the witnesses during the trial. But we have also said that this rule is not absolute for otherwise there would be no reversals of convictions upon appeal. We must reject the findings of the trial court where the record discloses circumstances of weight and substance which were not properly appreciated by the trial court.

The theory of the prosecution is that Cabrera fired successive shots at Lintongan when the latter shot Villamor who had shot Matalam. And Cabrera was held liable not only for the death of Lintongan but also for the death of Matalam because of a supposed conspiracy between Villamor and Cabrera to kill the mayor. Hence the charge for double murder. Two issues have to be resolved, namely (a) whether or not Lintongan was also shot by Cabrera; and (b) whether or not there was a conspiracy between Cabrera and Villamor to kill Mayor Matalam.

(a) Was Lintongan also shot by Cabrera?

To start with it should be noted that Cabrera was a mere radio technician in the NBI who had never been issued a firearm nor a permit to possess a personal firearm (Exh. C). In fact, the prosecution was not able to present in evidence the gun he was supposed to have used.

There is no evidence except the testimony of Alicia Abella and Osin Sinsuat that Lintongan was also shot by Cabrera.

Alicia Abella was a hostess living at the Alta Vista Club when the incident happened. She was questioned about it soon thereafter and in her testimony she admitted that when she was then asked, "What did you do when the companions of the Mayor and those of the NBI stood up?" Her answer was, "I ran away." In other words, she could not have seen Cabrera shoot Lintongan. It was only during the trial that she fingered Cabrera as having also shot Lintongan. But at that time she had transferred her residence to Pikit, Cotabato, where the deceased Matalam was the mayor and where she worked as a salesgirl. Considering the circumstances of persons, time and place which need not be spelled herein, Abella's testimony that she saw Cabrera shoot Lintongan is obviously unreliable.

As to Osin Sinsuat it suffices to say that he was one of Matalam's men and, therefore, a naturally highly biased witness. Moreover, he could not have seen Cabrera shoot Lintongan because he testified that immediately after

Villamor had shot Matalam, he sought cover by going to the combo stand with his back of course turned from Villamor, Matalam, Lintongan and Cabrera.

The bullet wounds sustained by Matalam and Lintongan point to Villamor as the only killer of the two. Matalam had one bullet wound and Lintongan had five for a total of six. The .38 caliber Smith and Wesson revolver of Villamor has six chambers for six bullets which account for the wounds of Matalam and Lintongan.

(b) Did Cabrera and Villamor conspire to kill Matalam?

The prosecution's evidence on this point consists of the testimony of Paglas Guiapal and Alicia Abella, the former hostess.

Paglas Guiapal testified that he used to operate the Paradise Night Club in Nuling, Cotabato. According to him in the evening of July 19, 1967, Cabrera who was with Villamor met Matalam at the Paradise Night Club where they had an "altercation" as described in the decision of the trial court. While Cabrera and Matalam did indeed meet that evening at the aforesaid nightclub and spoke to each other, the meeting can by no means be described as an altercation which means a quarrel. According to Guiapal, Cabrera asked Matalam if he was "Mayor Tutin" and the latter answered that he was "Mayor Abdulcadil of Pikit." There was said to be insistence by Cabrera and equal denials by Matalam. In any event, to describe the meeting as an "altercation" is grossly inaccurate. In fact, on this point there is a denial by Cabrera. His version is that Matalam wanted to talk to Villamor but since Villamor was talking to somebody, he told Cabrera to talk to Matalam. When he approached Matalam he was asked about the status of a Valdez case but he declined to answer because he was not an NBI agent.

Guiapal also testified that at about 9:00 o'clock in the evening of August 20, 1967 (the night of the incident), Cabrera, Villamor and their companions went to Paradise Night Club to ask if there were girls available and if Matalam was there. When given a negative answer, they left. This incident as well as that of July 19, 1967, were construed by the trial court as evidence of the conspiracy to kill Matalam. Not so. There is nothing in the actuations of Cabrera and Villamor on July 19 and August 20, 1967, as narrated by Guiapal to show conspiracy to kill Matalam. When Cabrera and company went to the Paradise Night Club on August 20, 1967, they were not hunting for Matalam but looking for feminine company and on being told that there were no more girls available they left and went to the Alta Vista. True, they asked if Matalam was in the Paradise Night Club but their reason was possibly to avoid an encounter with Matalam who was a notorious troublemaker as the event at the Alta Vista was to prove.

As to Alicia Abella, she said that in the first week of August, 1967, she met Villamor and Cabrera for the first time at the Alta Vista who confided to her that they were going to kill Mayor Matalam. Alicia's statement is too crude to be convincing. For why should Villamor and Cabrera reveal their supposed intent to a person they had just met?

When Matalam without apparent reason, but probably due to drunkenness, fired his gun several times at the Alta Vista Club, Villamor and Cabrera had to intervene for they were with the NBI. They would have been remiss in their duty if they did not. True, Villamor shot Matalam who died as a result thereof. But we would be doing injustice to a deceased agent of the law who cannot now defend himself to state that when he approached the trouble making Matalam he had a preconceived notion to kill. We have to presume that he acted pursuant to law when he tried to discharge his duty as an NBI agent and that the killing of Matalam was justified under the circumstances. We can do no less for Villamor and by the same token for Cabrera.

WHEREFORE, we cannot agree with the trial court that the guilt of the appellant Jaime Cabrera has been proved beyond reasonable doubt. Accordingly, the judgment of conviction is hereby reversed. No costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Guerrero, and De Castro, JJ., concur.
Aquino, J., did not take part.

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