

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ISIDRO GUARNES, MONICO GUARNES AND HONORIO GUARNES, DEFENDANTS AND APPELLANTS.

G.R. No. L-12819. December 29, 1960

Ponente: PAREDES, J.

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PAREDES, J.:

The accused Isidro Guarnes, Monico Guarnes and Honorio Guarnes were sentenced each to reclusion perpetua, for the death of Eustiquio Jabonillo, to indemnify the heirs of the deceased in the sum of P6,000.00, without subsidiary imprisonment in case of insolvency, with the accessories of law and to pay the costs. They appealed.

The record discloses that at about 7:00 o'clock in the evening of June 6, 1956, Eustiquio Jabonillo, Remigio Gumban, Rufo Latosa, Alfonso Hisog, Dionisio Guro and Mariano Cabillos, coming from the public market of Pavia, Iloilo province, went to serenade in the house of Jovita Jaurequi, which was situated about 12 meters from the railway tracks. At about 8:00 o'clock, the group started for home walking in single file towards the railroad tracks, with Eustiquio at the tail and strumming a ukelele. Barely had Remegio Gumban and his companions crossed the railroad tracks, when he heard a noise caused by an object brushing aside some shrubs. Upon turning his face, Remigio saw the accused Isidro Guarnes stab Eustiquio on the chest, causing the latter to exclaim "Abaw". As Eustiquio staggered, the accused Monico Guarnes, armed with a galvanized iron pipe and his brother Honorio Guarnes, armed with a "bahi" (cane), struck Eustiquio on the back after which he fell to the ground face downwards. These brothers were first degree cousins of Isidro Guarnes. Marciano Gabillos who also saw the assault, attempted to help his companion, but Isidro, poised with an Indian target (sling shot), warned Cabillos not to approach. Cabillos, Gumban and Hisog ran to the municipal building and reported the matter. Cabillos likewise notified Eustiquio's brother who, in turn, notified his father policeman Gregorio Jabonillo. At the police station, Cabillos told policeman Eliseo Granfillo that the deceased was stabbed by Isidro Guarnes and ganged up on by Monico and Honorio Guarnes. Cabillos and Pat. Granfillo went to the scene of the assault and found the victim lying face downwards already dead and as they turned over the inert body, they found a butcher's knife (Exhibit B) on the ground where he lay. Dr. Jose Acosta, municipal health officer of Pavia who was summoned to the scene of the crime, found after a post mortem examination, that the deceased sustained a stab wound on the left chest just above the nipple, and two contusions on his back, which caused the victim's death in a matter of seconds (Exhibit A).

The evidence for the appellant Isidro Guarnes tends to show that before 7:30 P.M. of June 6, 1956, Isidro went to the house of Jovita Jaurequi where he used to pass the night to accompany her family, as her deceased husband was his cousin; that from a distance of 30 meters, he heard the strumming of a guitar; that when he was about 6 meters from Jovita's house, he saw a person going under Jovita's house and peeping up; and when the said person was reaching for a chicken, he (Isidro) called him for an answer, but as his call was twice ignored, he picked up a piece of wood and, struck him on the back. The would be chicken thief ran away pursued by Isidro, who upon overtaking him struck him again with the piece of wood. The unknown person faced him, with) his hand drawing

something from his hip pocket. At this moment Isidro recognized him to be Eustiquio Jabonillo, a person known to him to be of dangerous disposition. Isidro, became afraid, drawing his butcher's knife. The two grappled for the possession of Isidro's knife, but in the course of the struggle, Isidro was able to kick one leg of Eustiquio which felled the latter to the ground, with Isidro on top of him; that when he noticed Eustiquio was wounded, he ran away; that for lack of transportation, he could not surrender to the authorities in the same evening, but early on the following morning, June 7, 1956; and that nobody helped him during the struggle.

Appellant Monico Guarnes declared that after gathering (tuba) at 7:30 in the evening, he stayed home, never went out; he had visitors then, in the persons of Pablo Jauco and Julio Latosa who drank (tuba) with him; Aida Gulac, who went to get back her pliers; that he heard shouts and peeping thru the window, saw policeman Gregorio Jabonillo walking back and forth near the body of Eustiquio (his son) and that he wanted to go down but was prevented by his wife. It was also shown that the young man (Cabillos) investigated by the policeman that night, implicated only Isidro Guarnes but not his co-accused; that he had 9 children; that he did not keep any iron pipe in his house; that he never had any altercation, ill feeling or grudge against the deceased and that he was a peaceful and law abiding citizen.

Appellant Honorio Guarnes puts up also a denial and alibi. He testified that he was in his poultry watching 50 hens and cocks; that he was suffering from intestinal illness and he had to rest, upon the advice of Dr. Acosta; that he had no altercation or quarrel with or grudge against the deceased; and that he did not meet Isidro or Monico that night. It was shown also that Honorio is a midget, about 4 feet and 2 inches in height.

The following question are posed in the briefs submitted by the parties: (1) whether the evidence of record warrants the conviction of the appellants, which necessarily involves the question of credibility; (2) Whether the appellants Monico and Honorio Guarnes had been fully identified; and (3) Whether the penalty imposed is in accordance with the evidence and the law.

There is no doubt in our mind that the crime had been committed in the manner and fashion described by the witnesses for the prosecution. No less than 3 eye-witnesses have identified and saw the assault upon Eustiquio. Gumban declared that just after he had crossed the railroad tracks, he heard the noise caused by some object brushing against some shrubs and turning his face, he saw appellant Isidro Guarnes stab the deceased and as the latter staggered, appellants Monico Guarnes with a galvanized iron pipe and Honorio Guarnes, with a "bahi" (cane), struck the deceased until he fell. Hisog testified to the same effect. Cabillos corroborated Gumban's testimony. They knew fully well whereof they spoke, because they were the companions of the deceased before, during and after the serenade and they were the ones who notified the police authorities. And when Cabillos was investigated that very night, he told Pat. Granfillo that the deceased was stabbed by Isidro and ganged up on by Monico and Honorio. Of course, appellants claim that these witnesses committed self contradictions, inconsistencies and exaggeration. We find, however, that they refer to inconsequential and minor details. There is absolutely no motive shown why these witnesses had implicated Honorio and Monico, and tergiversate the truth. The appellants were neytier foes nor friends of the witnesses. The trial court gave full credit to their testimonies, and the record of the case supports the opinion of the trial court in this regard.

We are of the firm belief that appellant Isidro Guarnes' claim of self defense, has not been substantiated. His story is unbelievable, not to say fantastic. As appropriately commented by the Solicitor General, the deceased "must have been a tenacious chicken thief who after being accosted for no less than three times did not flee until he was hit by a piece of wood. Furthermore, said version lacks candor for appellant did not even state the obvious, to wit, that he plunged that knife on the deceased, limiting himself to saying that as he fell on top of the deceased, he noticed that the latter was already wounded (p. 101, t.s.n.). Certainly, such pretension cannot prevail over the positive testimony of three witnesses who have not been shown to have any improper motive for so testifying".

Appellant's claim was not at all corroborated.

The same thing may be said of the alibi and denials offered by appellants Monico Guarnes and Honorio Guanaes. The three witnesses heretofore mentioned declared in a positive, direct and straightforward manner that they saw these two appellants ganged up on Eustiquio which account for the two injuries received by the latter on tie back, produced by the cane and iron tube. Notwithstanding the darkness of the night, they were positively identified by the three witnesses who testified that the light from the wick lamp on the window of the house of Jovita reached the place of the incident which was barely 12 meters away. The identification was so clear that appellant Isidro Guarnes, could not but admit that he was there on the night in question. The places where the appellants were alleged to have stayed were so near the scene of the crime that it was not impossible for them to have been in said places and be at the scene of the offense when the latter was committed. The fact that Honorio was a dwarf or midget could not have been a handicap which would have prevented him from holding a cane and beat the deceased.

We find that treachery (alevosia) and conspiracy attended the killing of Eustiquio. The attack was sudden and unexpected. Barely had Gumban turned his face, attracted by the noise of an object brushing against some shrubs, when appellant Isidro Guarnes, without saying a word, stabbed the deceased on the chest. So sudden was the attack that all that the deceased could utter was "abaw". The appearance and attack of the two brothers Monico and Honorio were also sudden, for none of the witnesses knew where they came from before attacking. The concerted action was manifested by the fact that the attack was almost simultaneous and that when Cabillos attempted to help the deceased, Monico and Honorio were at the back of Isidro, ready to attack Cabillos, in case the latter persisted in approaching (People vs. Tamayo, 44 Phil. 38). The aggravating circumstances of abuse of superior strength, is, however, absorbed by the qualifying circumstance of treachery (People vs. Balines, et al., G.R. No. L-9045, Sept. 28, 1956).

Prior to the incident the appellant Isidro Guarnes was heard to have made a threat that the deceased was number one in his list. He had an altercation with the deceased way back in 1951. He resented the serenade in the house of Jovita, the widow of his first cousin, Manuel Guarnes. And the two other appellants were drawn into the assault, by a natural desire to help their cousin Isidro.

With respect to appellant Isidro Guarnes, the mitigating circumstance of voluntary surrender, should be appreciated in his favor, with no aggravating circumstance to offset it. He is hereby sentenced to an indeterminate penalty ranging from 10 years and 1 day of prison mayor to 17 years, 4 months, and 1 day of reclusion temporal. As thus modified, the decision appealed from, is affirmed in all other respects, with costs.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, and Dizon, JJ., concur.

Judgment affirmed with modification.

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