

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLITO CAINDOY, ACCUSED-APPELLANT.

Ponente: BARRIOS, J.

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BARRIOS, J.:

The long arm of the law catches up with criminals sometimes by chance and in circuitous ways. It was by the adventitious confluence of events that the appellant Pablito Caindoy (or Caindoy) was caught, charged and convicted with the violation of Republic Act No. 6539 for having asported with an armed group on January 17, 2002, in West Fairview, Quezon City, Philippines, the Toyota Corolla with Motor No. 2E-2792377, Chassis No. EE100-95345902, and Plate No. UAB 620, owned by the spouses Benjamin and Liliosa Borbon (vide: p. 197, record).

This was filed before the Regional Trial Court of Quezon City where it was docketed as Crim. Case No. Q-02-107352 and assigned to Branch 219. This was jointly tried with Crim. Case No. Q-02-107351 where Caindoy was charged with the same offense for asporting in Quezon City on September 10, 1994 the Yamaha motorcycle of Rana Harnek Singh. However Crim. Case No. Q-02-107351 was since dismissed in the Order of June 2, 2004 (p. 197, record), provisionally and with Caindoy's consent.

At the trial, the prosecution presented as witnesses the arresting officer P/Chief Inspector Lorenzo Holanday (or CI Holanday) and the complainant Benjamin Borbon (or Borbon), and LTO Certificate of Registration (Exh. "E") and Official Receipt (Exh. "G") issued to Liliosa Borbon (or Liliosa) covering a Model 1994 Toyota Corolla with Motor No. 2E-2792877 and Plate No. UAV-620. Caindoy testified, but presented no other evidence for his defense.

According to the prosecution, at about 10:00 in the evening of January 17, 2002, Borbon and his wife Liliosa reached home at West Fairview, Quezon City after coming from a church meeting. As their maid was opening the gate, Liliosa had stepped out while Borbon stayed at the wheels of their said Corolla. Suddenly a car blocked their way, and he thought it was just a friend who was bringing some things. He was wrong. Five (5) persons alit, two (2) went to his wife, two (2) approached and poked a gun at him, while the fifth went to the front of their car holding a rifle. Borbon was made to get out, and they took his wallet and one went behind the wheel, and the two then drove off with their car. Borbon identified Caindoy as the man who took his wallet and was at the wheel of their stolen car. The other three (3) boarded and drove away in their car which had the plate of "UUY..." but the complete number of which Borbon could not recall. He reported the incident to the police. In the afternoon of the next day, Borbon received a call from CI Holanday informing him that his car has been recovered, and this he found in Camp Crame with the plates, his driver's license, wallet and personal papers scattered inside.

It turned out that earlier that January 17, 2002 at about noon, CI Holanday received information that there were motor vehicles parked under suspicious circumstances in a place in Paenaan, Antipolo. The informant was Elmer Lectura, a jeweler and recent robbery victim, and among the cars parked there was the car used when he was robbed. CI Holanday organized a team and went to the place. This was tended by an old man, and they saw a Toyota Corona with plate number UUY-751 which on verification by text messaging showed that the plate was

not issued for this Toyota Corona but for one which is listed as a stolen car. They staked out the place and at about 7:00 p.m. five (5) men arrived in a green Honda Civic from which they then removed rifles and handguns and transferred these to the Toyota Corona. They left the Honda Civic with the old man and drove off on the Toyota Corona towards Antipolo City. They were followed by the lawmen, but their car or driver or both were not good enough and so they lost their quarry.

Nonetheless the assiduous lawmen called for reinforcement and set up a mobile checkpoint in Brgy Cabading, Antipolo City. This paid off. At 11:00 p.m. the Toyota Corona was about to pass it when it made a quick U-turn and its occupants fired at the policemen. They fired back and chased the Toyota Corona until this was driven to the side of the road fronting the gate of Angeles Compound, Sitio Inlungan, Brgy. Inarawan. There was a further exchange of shots, and the occupants of the car retreated towards a hilly portion of the area chased by some members of the team. The others searched the vehicle and found a hand grenade and blood stains. They followed the trail of blood and 200 meters away they found a wounded and unconscious person later identified as Gary Borja. He was brought to a hospital but was dead on arrival. The other occupants of the car eluded arrest, reportedly they were spirited away by cohorts in a motorcycle and a white Toyota Corolla.

Helped by local residents, the policemen were able to trace the motorcycle. They combed the area until they reached Inarawan proper and there they saw and approached a white Toyota Corolla parked at the side of the road near the St. Anthony Parish Church. Its only occupant was Caindoy. He jumped out and ran, but the policemen caught him. He squealed that one of his comrades was shot in the leg and was being taken care of in a house. They went to that house and found Vicente Magusara (or Magusara) with a gunshot wound on the leg and he informed them that it was inflicted by his gangmate, Oliver Sambilay, a man wanted by the law. It was learned from Caindoy and Magusara that there were still two other motorcycles that they used and which they then surrendered. When verified, the white Toyota Corolla and the two motorcycles turned out to be included in the lists of stolen vehicles. Their owners were traced, the Toyota Corolla is owned by the spouses Borbon and one of the motorcycles belongs to the Indian national Rana Harnek Singh who have respectively reported their loss and to whom these were released after verification. Caindoy was arrested, booked and inquested.

As sole defense witness, Caindoy denied that he was one of those who robbed the Borbons in the evening of January 17, 2002 as well as the specifics of the robbery testified to by Borbon. After he was arrested, Caindoy said that the police called for the complainants and when Borbon came he was told by the police that Caindoy was the one who took his car. Borbon then only mouthed what the policemen told him. Caindoy said he was arrested in the morning of January 18, 2002 at the St. Anthony Compound in Cogeo, Antipolo after coming from the house of his friend, Magusara. They poked a gun at him for reasons he was not aware of and they said “ito ang taong matagal na naming hinuhuli si Angelo Hiyo”. He told them that his name is Pablito Caindoy, and not Angelo Hiyo, but they did not give him a chance to explain and was immediately handcuffed and brought to Camp Crame. Caindoy said he has no knowledge as to the imputation of the police that Magusara was the mastermind of a syndicate and denied being a member of any group or gang involved in illegal activities. He was investigated at Camp Crame and forced to admit that he was a member of the criminal group. After four (4) days he was brought to the Department of Justice (DOJ) for inquest and there he professed his innocence but the arresting officers insisted that he was responsible for all the crimes. Magusara was also taken in and investigated, but they were not able to get any information from him, so they released him. He does not know of a certain Mario Gratuito, Oliver Sambilay, or an alias Manny and Raffy. He denied that he is the same person as Angelo Hiyo although his nickname is Lito. When the police could not find Angelo Hiyo, they filed cases against him instead in Manila, Makati and Quezon City. The case filed against him in Manila was dismissed because the complainant failed to identify him, and that case filed against him in Makati City is already submitted for resolution and he stood a good chance of being acquitted, with the thought that “Bale sa taas na lang po ang nakakaalam nyan”.

Weighing the proofs, the court a quo rendered judgment finding Caindoy guilty as charged, and disposing that:

WHEREFORE, the prosecution having proved beyond reasonable doubt the criminal culpability of accused, PABLITO CAINDOY, He is hereby found GUILTY of having violated the provisions of RA 6539, as amended, and hereby sentences him to suffer the penalty of imprisonment ranging from SEVENTEEN (17) YEARS and FOUR (4) MONTHS as MINIMUM to TWENTY-TWO (22) YEARS as MAXIMUM.

SO ORDERED. (p. 209, record)

Appealing this, Caindoy alleges that:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. (Appellant's Brief, p. 40, rollo)

He is wrong.

Carnapping is defined in Sec. 2, par. 2, RA 6539, as the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons or by using force upon things. The elements of carnapping therefore are: (a) the taking of a motor vehicle which belongs to another; (b) the taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; and, (c) the taking is done with intent to gain (People vs. Calabroso, G. R. No. 126368, Sept. 14, 2000).

All the elements of the crime charged were proven by the clear and convincing testimony of Borbon detailing how he and his wife were robbed by five (5) armed men in front of their home. He positively identified Caindoy as the one who took his wallet and drove off with their car. CI Holanday testified on how later that evening and under different criminal circumstances they apprehended Caindoy seated alone inside the car of the Borbons that they have stolen earlier. The guilt of Caindoy of the crime charged was thus proven beyond reasonable doubt.

Striving for an acquittal, Caindoy set up the defense of denial which he embellished with the tale that the policemen mistook him for a much wanted criminal, and that they instructed Borbon to falsely accuse him.

Denial of course is essentially the weakest form of defense (People vs. Mendoza, G. R. Nos. 152589 & 152758, Jan. 31, 2005), one which is a self-serving negative evidence that cannot be given greater weight than the declaration of credible witnesses who testified on affirmative matters (Roque vs. People, G. R. No. 138954, Nov. 25, 2004). Nothing was presented to defeat or attenuate the testimonies of the offended party Borbon and arresting officer CI Holanday, except the bare and uncorroborated yarn of Caindoy. He claimed that the police mistook him for Angelo Hiyo, a criminal that the police have been hunting for so long. Then in their zeal they instructed Borbon to falsely finger him as the one who robbed them.

Such is a cock-and-bull story that cannot pass muster. If Angelo Hiyo was a notorious criminal that the police had been itching to get their hands on, it is incredible that they would mistake Caindoy for him and maintain that gross error all through out the trial and up to the present. This is even made more incredible by the claim that the policemen sidled up to Borbon and he went along with their instruction to falsely point to him as one of their robbers. Caindoy has not shown that Borbon had any ulterior motive in testifying against him. Human experience tells us that a person, in the absence of a showing of any ill motive, would not impute a grave crime upon another unless the same is true. In the absence of evidence or any indicium that the prosecution's main witness harbored ill will towards petitioner, his testimony must be presumed to be true (Sevalle vs. Court of Appeals, G. R. No.122858, Feb. 28, 2001).

As there is no showing of that reversible error assigned by Caindoy, but finding on the other hand that his guilt

was proven beyond reasonable doubt –

WHEREFORE, the appeal is DENIED and the appealed Decision is AFFIRMED.

SO ORDERED.

Guariña, III and Tagle, JJ., concur.

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