

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SANTIAGO RAQUEL, DEFENDANT AND APPELLANT.

G. R. No. L-17401. November 28, 1964

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Following a Filipino custom, Francisco Dador and his wife, Julita Arboso, went on June 1, 1959 to barrio Tinambacan, Jaro, Leyte to attend its fiesta on the following day. They left their place in barrio Catubuan between three and four in the afternoon, arrived in Tinambacan before dark, and stayed in the house of Segundina Arboso, sister of Julita Arboso.

At about eight that evening, Francisco Dador was taking supper with twelve other guests in the above-stated house. He was at the head of the table. The house was small, it had no room but the sala, and the floor was about 30 inches above the ground. Shortly after eating started, a gun report was heard. Francisco Dador exclaimed "Aray!" and fell from his seat. Commotion broke inside the house.

When Francisco Dador fell, his wife was a meter away from him, lying on a mat, feeding her infant. Realizing that her husband had been shot, she immediately took a flashlight and ran to get help from the police. However, upon going out of the door and on her way downstairs, she saw the accused, Santiago Raquel, aiming at her a gun "two feet" long. The accused then told her in the dialect: "Deri man iton imo asawa sosog-on," or as translated, "Your husband will not live again." She ran to her husband and told him that it was Santiago Raquel who shot him. The latter answered: "Yes, I know, formerly he promised that he will kill me if I would testify as government witness in the case against them because they were accused in that case of the killing of Tuazon."

Soon after, two policemen arrived. They questioned Francisco Dador and Julita Arboso on what transpired, and searched for the accused but could not find him. After taking a signed statement from Francisco Dador, the policemen carried him in a hammock to their headquarters in the poblacion, and from there to the Leyte Provincial Hospital in Tacloban City.

Francisco Dador was admitted to the hospital on June 2, 1959 where he was treated and confined for his injury, described in his medical certificate as:

"Wound, gunshot

Point of Entrance — oval to circular shape with contusion collar, posterior lumbar, left.

Point of Exit —none." (Exh. D)

On June 11, 1959 an operation was performed. The result appears in the medical certificate thus: "Slug removed from the level of the 3rd lumbar." (Exh. D) Francisco Dador was discharged from the hospital on July 2, 1959 upon the instance of his wife. She took him to the house of her brother in Carigara, Leyte, where on the next day, July 3, 1959, he died.

Dr. Francisco O. Ronda, the attending physician, testified (unrebutted) that Francisco Dador's wound was fatal

enough to cause his death.

Prosecuted for murder before the Court of First Instance of Leyte, wherein the foregoing facts were established by the evidence for the prosecution, the accused interposed an alibi, his version being as follows:

From seven in the morning to four in the afternoon on June 1, 1959 lie and ten others were cutting grass in a field in barrio Oguiao, municipality of Jaro. After working, he went to his house in said barrio, two kilometers from the above-stated field, lie did not stay long in his house, for upon the request of Fernando Cabelin, the overseer, he gathered some coconuts and bananas and then went with him to the poblacion to deliver them to his landlady, Catalina Zabala-Lopez, in her residence. They reached the poblacion at about five in the afternoon and went first to Fernando Cabelin's house therein.

Later, they proceeded to the house of Catalina Zabala-Lopez, arriving at seven in the evening. Defendant delivered the four coconuts and two bunches of bananas to his landlady and borrowed from her money to purchase viands for the men working in the field. Leaving the house of Catalina Zabala-Lopez at eight-thirty that evening, defendant and Fernando Cabelin repaired to the latter's house and passed the night there.

Finding for the prosecution, the trial court convicted the accused of murder and sentenced him "to suffer the penalty of reclusion perpetua, with all the accessories provided for by law, indemnify the heirs of the deceased, Francisco Dador, [in] the amount of P5,000.00, and to pay the costs."

Here on appeal, the accused assigns only one error: The court erred in basing its judgment on the unlikely, unbelievable and unusual testimony of the deceased's wife, Julita Arboso, and on Francisco Dador's statement on accused's motive in shooting him.

It is argued that for Julita Arboso to take a flashlight and courageously go out to seek help from the police upon seeing her wounded husband, is against the natural and ordinary course of things and thus incredible. Appellant contends that her natural reaction should have been to come to the side of her husband.

The contention would ignore the fact that different persons respond to crises differently. The impulse to call the police upon the occurrence of an incident like the one described above is, rather than extraordinary, quite natural. And this is especially so with regard to Julita Arboso, whose courage, presence of mind and practical, independent judgment are shown in the record.

When asked on cross-examination why she was not afraid as the others were, she answered: "I was not scared because I am the wife." (Tsn., p. 14, Reyes.) When her husband was taken by the policemen to the poblacion and then to the hospital, she remained in the barrio to attend to her infant, following her husband the next day (Tsn. pp. 30-31, Reyes). And a month later, she took her husband out of the hospital, although the doctor advised further confinement, and brought him to her brother's house, following her own judgment of how to care for him. Thus it cannot be deemed incredible that Julita Arboso, upon realizing that her husband had been shot, should act in the manner depicted by the prosecution.

Needless to add, we cannot agree with appellant's view which would find it difficult to concede acts of valor and courage on the part of women in the face of crisis. Our history is full of such instances. Not that we here propose to range Francisco Dador's wife with heroines. But merely to show the fallacy of appellant's argument, v/e may refer to the well known role played by women in the Katipunan, which has been aptly recorded by historian Zaide thus:

"... The women supported the Katipunan with all the ardor and sincerity of their hearts and souls, working for its success with Spartan valor and patriotism, and inspired their husbands and brothers to carry on the cause for freedom and happiness. Their was not merely a moral support to the Katipunan nor lip-patriotism of the

vociferous kind, but a genuine, daring, and death-defying adherence to the national aspiration and libertarian cause of the fatherland. The women of the Katipunan were truly great women—worthy daughters of a fighting race."

We cannot therefore subscribe to appellant's reasoning that what is not ordinary is not credible.

Appellant would also deem incredible Julita Arboso's testimony that she saw him near the door after the shooting, and would contend that his being there would have been a deliberate disclosure of identity on his part. On this, it would suffice to mark that accused's position near the door in fact concealed him, and Julita Arboso saw him only because she defied danger by attempting to go out to look for help.

As to the filing of the complaint on August 8, 1959 or two months after the shooting, this is understandable. Francisco Dador died only on July 3, 1959, the medical certificate (Exh. D) was issued on August 5, 1959, and the death certificate on August 7, 1959.

Appellant's last argument is that Francisco Dador's statement regarding the accused's motive for killing him cannot be properly taken into account. Accused's motive for killing the deceased is not important here because he was clearly and positively identified as the perpetrator of the crime by a witness, Julita Arboso, whose testimony we find no reason to disbelieve. She named him spontaneously and without hesitation, first to her husband, then to the policemen when they investigated her soon after the shooting. And it may be mentioned in this regard that appellant admits lack of motive on the part of Julita Arboso to falsely impute the crime against him. (U. S. vs. McCann, 4 Phil. 561; U.S. vs. Carlos, 15 Phil. 47; People vs. Paladin, 54 Off. Gaz., 1440; People vs. Solaña, L-13967, Sept. 29, 1962.)

The defense of alibi was correctly rejected by the court a quo. Coupled with the fact that appellant has been clearly and positively identified as stated above, it must be noted that the accused's own witnesses testified that the distance from the poblacion of Jaro and the barrio of Tinambacan is about four and one-half kilometers only. There was therefore no physical impossibility for accused to be at the scene of the crime at the time of its commission. While defense witnesses testified that the accused left the house of Catalina Zabaia-Lopez at eight-thirty in the evening of June 1, 1959, the exact and uniform time given by said witnesses, their having noticed said time without special reason for doing so, and their close association with the accused, Catalina Zabala-Lopez as his landlady and Fernando Cabelin as his friend since childhood days (Tsn., p. 25, Gaviola), render their testimony unconvincing.

Appellant having shot the victim from behind during nighttime and while the latter was taking his supper, the act was attended with treachery, qualifying the offense to murder. There being no mitigating or aggravating circumstance, the penalty under Article 248 of the Revised Penal Code is reclusion perpetua, which was properly imposed below. The indemnity of P5,000.00, however, should be raised to P6,000.00. (People vs. Segovia, 92 Phil. 1080).

Wherefore, with the modification indicated above, the judgment appealed from is hereby affirmed, with costs.

So ordered.

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

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