

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUFINO DE LA CRUZ, DEFENDANT-APPELLANT.

G.R. No. L-45485. September 19, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

Rufino de la Cruz appealed from the decision of the Court of First Instance of Bulacan, convicting him of robo con homicidio and sentencing him to life imprisonment and to indemnify the heirs of Celso Manahan in the sum of P12,000 (Criminal Case No. 0122-M).

Celso Manahan was a nineteen-year old tricycle driver residing with his widowed mother, Cresenciana Santos, at Barrio Tabang, Guiguinto, Bulacan. Having been a polio victim, his right leg was smaller than his left leg and he walked with a limp. On April 14, 1970, his mother bought a tricycle for P1, 750. He and his brothers had been driving that tricycle for seven months as a vehicle for hire. It had a push-button starter.

On December 14, 1970, Manahan operated the tricycle in order to transport passengers between Guiguinto and Malolos, Bulacan. He failed to come home in the evening. The next morning, his mother learned that he had been stabbed to death in an uninhabited place or sabana in Barrio Taal, Malolos. His tricycle was missing. His body was found in an irrigation ditch by Patrolman Romerico D. Flores of the Malolos police. It was brought to the chapel of the Aglipayan Church at Barrio Tabang where an autopsy was made.

There were four stab wounds on his chest and shoulder and two incised wounds on his head and right forefinger. Death was due to the shock caused by massive hemorrhage resulting from the stab wounds.

The sidecar of the tricycle was found in the store of Alfonso Espiritu at Malolos. It was left there by a man between four and five o'clock in the afternoon of December 14, 1970 after it was separated from the motorcycle. The man departed after saying that he was going to buy something but he never returned.

Two days after the finding of Manahan's body, or on December 17, 1970, four policemen of Malolos and Guiguinto, accompanied by Apolonio de la Cruz, the father of Rufino de la Cruz, went to the house of Loreto de la Cruz at Barrio Pasong Inchik, San Rafael, Bulacan to look for Rufino. Apolonio found his son, Rufino, in Barrio Kalyos four kilometers away. The policemen recovered the motorcycle in the house of Loreto de la Cruz. (The lower court in its order of October 22, 1974 directed the return of the motorcycle to Mrs. Manahan [p. 310, Record]. She sold the sidecar to Alfonso Espiritu).

Rufino was surrendered to the policemen and was brought to the Malolos police station in the early morning of December 18, 1970. A police lieutenant filed against Rufino de la Cruz on December 17, 1970 a complaint for robbery with homicide in the municipal court. At the preliminary examination, the municipal judge examined Loreto de la Cruz, Juanito Patiño, Cresenciana Santos Vda. de Manahan, and Simeon C. Ramirez. De la Cruz waived the second stage of the preliminary investigation. On January 4, 1971, the provincial fiscal filed against him in the Court of First Instance an information for robbery with homicide.

There is no question as to the corpus delicti or the commission of the robbery with homicide. The case has been simplified by the extrajudicial confession of De la Cruz, twenty years old, single, a former tricycle driver, a resident of Barrio Tabang (like the victim), and a laborer who worked in the Tobacco Industries of the Philippines at Barrio Tikay, Malolos. De la Cruz has never questioned the voluntariness and due execution of his confession.

When he surrendered, he orally admitted to Patrolman Romerico D. Flores the killing and the taking of the tricycle. In the statement of De la Cruz to the Malolos police dated December 18, 1970 (Exh. E or 1), which was sworn to before the municipal judge, he declared that he killed Celso Manahan, after boarding his tricycle, because he lost control of himself for having drunk beer, he was bothered by a big problem, and he had quarrelled with Manahan. De la Cruz's exact words are as follows:

"T. Ano naman ang naging dahilan at pinatay mo si Celso Manahan?

"S. Ako po noon ay nakainom ng beer at ako ay sumakay sa kanya na noon ay nagtatricycle siya at noon ay wala ako sa aking sarili dahil sa ako ay nakainom at sa laki ng aking problema at isa pa ay nakaalitan ko na itong si Celso, kaya naisipan kong siya ay patayin noon." (Exh. E or 1).

De la Cruz disclosed in his confession that he first hit Manahan in the nape (batok) with an iron bar, which he found in the tricycle, and then he stabbed Manahan with a knife. He dumped Manahan's body in a depression (labak) in an isolated place in Barrio Taal. He removed the sidecar of Manahan's tricycle and used its motorcycle in going to the house of his acquaintance, Loreto, in San Rafael, Bulacan, where he stayed for three days. While in San Rafael, he confided to his uncle named Sitong, that he had killed Manahan. Sitong informed his brother, Rufino's father, of what his son had done. De la Cruz in his statement affirmed his readiness to plead guilty and to serve the penalty for his transgression.

When De la Cruz was brought before the municipal judge to have his statement sworn to, he was asked why he had to kill Manahan and did not content himself with getting the tricycle. De la Cruz answered that he had to kill Manahan because the latter knew him (16 tsn June 19, 1972).

When De la Cruz testified more than two years later, or on March 29, 1973, he admitted that he told the municipal judge that he signed his confession voluntarily and that the contents thereof are true (79-80 tsn). However, during the trial, he modified his confession by invoking self-defense for the first time. His version is that at four o'clock in the afternoon of December 14, 1970, after drinking three bottles of beer, he hired the tricycle of Manahan at Barrio Tikay, Malolos. De la Cruz was acquainted with Manahan and knew that he limped because his right leg was smaller than his left leg. He directed Manahan to proceed to Barrio Taal, Malolos where he would see his friend, Francisco Sakay, in connection with his problem regarding Nora Cabrera of Barrio Santol, whom he was courting and with whom he had allegedly quarrelled.

Upon reaching the boundary of Barrios Taal and Niugan, where De la Cruz was to alight, he handed to Manahan a twenty-peso bill to pay for his fifty-centavo fare. Manahan allegedly cursed him, saying: "Putang ina naman, you have loose change. Why pay me with a 20-peso bill?" De la Cruz replied: "Putang ina ka rin. If I have loose change, why should I pay you with a 20-peso bill?"

Manahan allegedly hit him on his left shoulder with an iron bar one and a half inches in diameter and two feet long which he had taken from his tricycle. They grappled for its possession. De la Cruz was able to wrest it from Manahan. He hit Manahan on the head. Manahan was able to take hold of the iron bar and he hit De la Cruz seven times in the leg, arm and left side of his body. At that point, De la Cruz drew his kitchen knife and repeatedly

stabbed Manahan in the abdomen. Manahan fell to the ground.

De la Cruz admitted that he used the tricycle in "escaping" (91-92 tsn March 29, 1973). He proceeded to the Espiritu Motorcycle Center located at the Malolos crossing. There, he disengaged the sidecar of the tricycle from its motorcycle and left the sidecar with Espiritu. He rode on the motorcycle and went to the house of his uncle, Sitong de la Cruz, at Barrio Pasing Inchik, San Rafael. On reaching San Rafael, he tried to sell the motorcycle.

The confession of De la Cruz was confirmed by the testimony of Simeon Ramirez, an officer of a peasant organization, a labor leader, and a resident also of Barrio Tabang who knew both Manahan and De la Cruz. In the afternoon of December 14, 1970, while Ramirez was riding on a tricycle, coming from Malolos and going to Barrio Taal, he met in the vicinity of Barrio Look De la Cruz who was driving the tricycle of Manahan and was going in the opposite direction. When the tricycle wherein Ramirez was riding came alongside Manahan's tricycle being driven by De la Cruz, Ramirez noticed that Manahan was in the sidecar. He heard Manahan whispering "Ina ko po" as if he was in great pain. De la Cruz explained that Manahan was drunk. At the investigation of the case conducted by the police, Ramirez heard the admission of De la Cruz that he killed Manahan.

Juanito Patiño, a resident of Barrio Santol who knows De la Cruz testified that, at around four o'clock in the afternoon of December 14, 1970 De la Cruz was driving the tricycle with Manahan as a passenger in a stooping position in its sidecar, thus confirming the testimony of Ramirez (p. 12, Record).

Appellant's single assignment of error is that the trial court erred in convicting him of robbery with homicide. The issue is whether the trial court erred in rejecting his plea of self-defense. The case in its essential features is similar to *People vs. Villar, Jr.*, L-34092, August 21, 1974, 58 SCRA 512, a case of robbery with homicide involving a tricycle driver.

We hold that De la Cruz did not act in self-defense because, if he had done so, that circumstance would have been included in his confession. He never declared in his confession that he acted in self-defense. Had he acted in self-defense, he should have reported the incident to the police of Malolos, Baliuag or San Rafael. He passed the poblacion of these three towns when he fled from the scene of the incident.

The matter may be viewed from another angle. He was supposed to be going to see his childhood friend, Sakay, in Barrio Taal. If he had done nothing wrong, he could have still proceeded to the house of his friend and recounted to him that, to save his own life, he had to kill Manahan. He did not do so. Instead, he sought sanctuary in the house of his relatives in Pasong Inchik, San Rafael and he tried to conceal the robbery by offering to sell the motorcycle for P1,200 (p. 10, Record). The barrio captain of Taal declared that no person named Francisco Sakay resided in his barrio in 1970. Sakay could not be served with subpoena in 1973 by a Malolos policeman. He has turned out to be a fictitious person.

De la Cruz testified that he stabbed Manahan only twice. The autopsy revealed that he stabbed the victim four times. He said that Manahan hit him several times with the iron bar but he did not show to anyone any injuries or ecchymoses in his body to prove that he was bludgeoned by means of an iron bar. When he arrived at the house of his relative, Loreto de la Cruz, he did not confide to the latter that he acted in self-defense. The autopsy report does not confirm his version that he hit Manahan with an iron bar. No injuries caused by an iron bar were found in the victim's body.

Moreover, as sensibly observed by the trial court, it is highly improbable that Manahan, who had a physical defect and was younger than De la Cruz, would have dared to commit an unlawful aggression against the latter. Considering that Manahan, a polio victim, walked with a limp, it is quite unlikely that he would assume the role of an aggressor. He could walk only for short distances. If he had difficulty performing a normal bodily function

such as walking, it could not be expected that he would muster enough courage to challenge to a fight De la Cruz who was physically superior to him.

This is a clear case where appellant's extrajudicial confession is corroborated by evidence of the corpus delicti and is, therefore, a sufficient ground for convicting him of robbery with homicide (Sec. 3, Rule 133, Rules of Court). Appellant's culpability was established beyond reasonable doubt.

Treachery was not proven. The manner in which De la Cruz assaulted Manahan has not been established with certitude. What is certain only is that De la Cruz stabbed Manahan in order to be able to get his tricycle.

The trial court correctly appreciated the mitigating circumstance of voluntary surrender to the authorities. The surrender was made through the mediation of appellant's father before any warrant of arrest had been issued.

The penalty of life imprisonment, which should be denominated reclusion perpetua, was properly imposed by the trial court in accordance with articles 63(3) and 294(1) of the Revised Penal Code.

WHEREFORE, the lower court's judgment is affirmed with the modification that the penalty of life imprisonment should be denominated reclusion perpetua since that technical term is the penalty that carries with it the imposition of the accessory penalties. Costs against the appellant.

SO ORDERED.

Barredo, (Acting Chairman), Antonio, Concepcion, Jr., and Santos, JJ., concur.

Fernando, J., on leave.

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