

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO CARIDO Y TONIDO, ACCUSED-APPELLANT.

*G.R. No. L-32242. November 18, 1988*

Ponente: GUTIERREZ, JR., J.

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### GUTIERREZ, JR., J.:

This is an appeal from the decision of the then Circuit Criminal Court of Manila, 6th Judicial District, finding appellant Rodolfo Carido y Tonido guilty beyond reasonable doubt of murder. The dispositive portion of the decision reads as follows:

"WHEREFORE, accused is hereby found guilty beyond reasonable doubt as principal of the crime of murder qualified by abuse of superior strength and there being no modifying circumstance to consider, the court sentences him to life imprisonment; to indemnify the heirs of the deceased the sum of P12,000.00 for the death of the deceased, the sum of P10,000.00 for moral damages; and to pay the costs." (p. 42, Rollo)

The information filed against the accused alleged:

"That on or about January 20, 1970, in the City of Manila, Philippines, the said accused, with intent to kill, evident premeditation and use of superior strength, did then and there wilfully, unlawfully and feloniously treacherously attack, assault and use personal violence upon one Norma Chua y Lim by then and there stabbing and slashing her with a bladed weapon several times on the head, neck, face and other parts of her body, thereby inflicting upon the latter mortal stab wounds which were the direct and immediate cause of her death thereafter.

"Contrary to law." (p. 4, Rollo)

The prosecution's evidence upon which the finding, of guilt beyond reasonable doubt was based is narrated by the trial court as follows:

"To prove its case, the prosecution presented the following witnesses:

"(1) Angelo Singian, aged 57 years, married, Assistant Chief, Medico-legal Division, Manila Police Department, whose qualification and competency were admitted, declared that on January 28, 1970, he autopsied the cadaver of the victim herein, Norma Chua y Lim. The body was first identified (Exhibit A) and then photographed (Exhibits B and B-1). He prepared a human sketch noting the external injuries (Exhibit C) and a certificate of death (Exhibit D). He also prepared a post-mortem findings (Exhibit E) showing as cause of death 'multiple stab wounds on the head, face and neck, one fatal lacerating the left common carotid artery and internal jugular vein and trachea.' Wounds 1 to 18 might have been caused by a sharp-pointed and bladed instrument. It is very probable that two or more bladed instruments were used because of the great difference in the measurement of the wounds particularly the depth. There is also a possibility that the wounds might have been caused by one instrument. The triangular shape of the wound might have been caused by the movement of the body like in Wound No. 10.

"(2) Solomon Young, 39 years old, married, physician and residing at 50 North Bay Boulevard, Balut,

Navotas, Rizal testified that he is a practicing physician with clinic at Room 303, 1259 Piedad St., Corner Benavidez St., Manila. On January 20, 1970, he was already maintaining said clinic and the victim was his secretary. His clinic hours were from 2:00 to 6:00 p.m., and he did not have any clinic hours in the morning. The victim was a medical technician on duty from 2:00 p.m. to 6:00 p.m. On January 20, 1970, he went to his clinic with a patient and his wife who is an associate in his clinic. His secretary and his wife hold the key to the clinic. The front door was closed but his wife's room was opened. The door to his wife's room was opened but his room was closed but not locked. The secretary receptionist's room was in the receiving room while the front of their rooms was separated by a wall and door and his clinic was completely air-conditioned. On January 20, 1970, he arrived in his clinic after 3:00 p.m., with two patients and his wife. The main door was closed and so he knocked but nobody answered. He commented that the victim was late again without calling them. Dr. Lee, a doctor in their neighboring clinic in the same building, opened his door and told him that the light in his clinic was on and so the victim might be inside. He went down the elevator and got the key from his wife who was downstairs as she was greeted by somebody. His wife did not give him the key but went up with him and opened the door and found all the inside doors open. His wife said that somebody might have broken it. After they entered the clinic, he went straight to his wife's office and went to the communicating door to his office. And when he looked in front of his table, he saw two legs coming out, and he thought that the victim might have fainted. At that time, his wife was in her office. Then he peeped and found the victim full of blood on the neck and face. He went closer and approached her and he found out she was already dead. He turned around and told his wife that the victim was murdered and his wife was surprised. The two patients then were still outside the main door. After informing his wife, the latter went to Dr. Lee and told him about it and they finally called up the police and they arrived. Norma had been his receptionist for eight months. He had also another female secretary but she was on vacation leave that time. He lost a wall clock hanging on the wall of the receiving room and a transistor radio on the table of the victim. He knows the accused by face as he was a boy in the neighboring office, the Chinese Hardware Merchant Association, in the same floor. He has known the accused since September 1966. He did not see him that afternoon in the immediate premises of his office even the following day. He saw the accused in the evening of January 20, 1970 being investigated by the police.

"On cross examination, this witness declared among other things, that Exhibit "I" is the sketch of his clinic. At pre-sent, he is no longer occupying the clinic because he left it a week after the incident. He saw his surgical glove in the sink or bowl of the toilet at that time. He was interviewed by the police in the headquarters as they told him that he was a suspect. He was the one who personally called the police and they went to his clinic. He, his wife and Dr. Lee went to the police to give their statements. Before January 20, 1970, accused had gone to his office because he was delivering newspapers to their office and their receptionist, the victim herein received the same;

"(3) Nora Nobleza y Go, 33 years old, married, dressmaker and residing at Amoyngon, Boac, Marinduque, testified that on January 20, 1970, they were in Manila having her father treated by Dr. Solomon Young in his clinic at Benavidez Street. At past 3:00 p.m., of January 20, 1970, she saw Dr. Young ahead only of her for a short time outside his clinic knocking but nobody opened the door. Thereafter, he called for his wife who was still downstairs and both of them went up and opened the doorknob with a key. Dr. Young entered first and then the wife who was a little bit behind followed. When Dr. Young was about to enter, he noticed that the lights were on and the secretary was not around. Dr. Young called for the victim and nobody answered and he went to an open door and they followed him in the room of his wife. Thereafter, Dr. Young said that Norma was probably killed. She proceeded to the communicating door of the room of the wife of Dr. Young and Dr. Young peeped at the room and saw the victim lying in front of a table directly opposite the door. The victim was sprawled on the floor with blood and then she went out. A man somewhat wet and with soap suds who looked like the accused approached her and asked her what happened. She just stood at the door as she was afraid that the killer might be around. She saw also Dr. Lee because the wife of Dr. Young went to him and knocked at his door.

"On cross-examination, this witness declared, among other things, that the wife of Dr. Young was the one who opened the door. She had met Dr. Young before, New Year of 1970 or probably December 1969. She went to the office of Dr. Young to ask him when her father may be brought out of the hospital. She does not know very well the victim. She had talked to her only once. She met only the accused that time and saw him again in the police headquarters one or two days after the incident. When she left the incident, there were no police-men yet.

"(4) Ildefonso Laboa, aged 50 years, married, and a detective-lieutenant of the Manila Police Department declared that he came to know the accused in the night of January 20, 1970 as he was brought to him for investigation in connection with the killing of the victim. He talked to the accused regarding the death of the victim inside the office of the Homicide Division where there were many operatives. He showed him a copy of the Daily Star showing the pictures of the victim in a sprawled position (Exhibits L and L-1). He watched the accused closely which he was showing him the copy of the Daily Star and he seemed to be afraid. He was covering his face like this (witness covered his face by placing the side of the right palm on his right eyebrow and inclined to the right more on the back) as if he had seen a ghost. He picked up the copy of the Daily Star with the pictures and brought it nearer to him but accused shoved it away as if he does not like to look at it. His suspicion was aroused and so he investigated him, first, verbally. Accused requested him that he will eat first before he tells him every-thing as it was already 2:00 a.m. He brought him to the Plaza Cafe in Sta. Cruz. Accused partook rice, beef steak and coffee. Then he asked him what happened in Benavidez and he told him that he was the one who stabbed Norma Chua. There were plenty of Customers in Plaza and accused said it in a tone enough for him to hear. He inquired why he killed and he said 'Nakagalit ko na siya. Masyadong tsuplada at masungit.' Accused told him the whole story how he killed Norma up to the time that he ran away from the crime scene. According to the accused, he was the one who stabbed and killed Norma. He used only a small weapon (witness demonstrating a 4-inch instrument) for nail cutting. He asked him where he can get it and he told him that he threw it away. He asked him where and he answered in a canal leading to a building in Benavidez. He asked the accused if he had any companion and accused said that he was alone. At that precise moment, he paid the bill and Detective Javier arrived. Accused also told him that he took also a lady's bag and a wall clock and he threw the knife and the bag in the estero and the wall clock was wrapped in a news-paper and placed underneath a TV set in his aunt's house in Benavidez. He inquired what was his attire at that time. He got the attire of the accused by telling him to remove the clothes he was wearing when he stabbed the victim. Accused told him that he was in the attire as he appeared before him when he killed the victim (Exhibit G, his shirt and Exhibit H, a pair of pants). He submitted Exhibits G and H to the CILAB for blood examination. They proceeded to his auntie's house in Benavidez but they did not recover any-thing. While searching the auntie's house, accused was asked by his auntie and uncle and their children if he really killed the victim. Accused was first hesitant but later on he admitted that he was the one who stabbed and killed Norma Chua. His aunt reminded him of the consequence of his admission and accused was in a deep mood saying he was already afraid. From Benavidez, they proceeded to the Homicide Division but there were many people there because of a shooting incident and so they proceeded to the Luneta Park police station where he took the statement of the accused. Present there aside from him were Pat. Javier and other members of the Luneta police. He knows Jess Niespla and Ruther Batuigas as they are police reporters who were in the Homicide Division when they brought the accused there. In the Luneta, the statement of the accused was taken (Exhibits I-1). Exhibit "I-1" was prepared by the accused. All the annotations in Exhibit "I-1" was not signed because according to the accused, he will sign it only in the presence of his lawyer and it was only at 5:30 a.m., when Atty. Lopez came. The statement was already finished but not yet corrected. Atty. Lopez talked to the accused and then he advised the accused to sign a waiver during the investigation of the case and he left. Accused said he will not sign and he will read it again together with his lawyer but his lawyer already left.

"On cross-examination, this witness declared among other things, that on the left side of the sink is a wet surgical glove. He found two pieces of linen bed sheets which were taken by the operatives of the Homicide Division and were submitted to the CILAB for examination. Exhibit "K" is a linen sheet 1-1/2 meters by 3. Exhibits "K-1" and "K-2" are two pieces of linen sheets stained with blood. Before going to the Plaza Cafe, the

accused did not make any denial but said he be allowed to eat first before he talks. He had never seen Nora Nobleza. When he went inside the clinic, he did not see any evidence of struggle. They searched the estero as pointed by the accused and they did not find anything.

"(5) Generoso Javier, aged 29 years, married, and a patrolman of the Manila Police Department, declared that on January 20, 1970, he responded to the crime scene and conducted an on-the-spot investigation. Exhibit "J-1" is an approximate replica of the premises in question. He prepared an advance information report (Exhibit J). In Exhibit "J-1", the drops of blood he found are shown by the red marks. He prepared his own sketch (Exhibit J-1). He found the wet surgical glove (Exhibit M) on top of the wash basin and submitted it to the CILAB. There was a piece of cloth soaked with blood on the left side, head of the victim (Exhibit K-2). He came to know the accused in the afternoon of January 20, 1970 as he was brought by his companion to his car downstairs. They brought him to the Luneta police station regarding the death of Norma Chua and had him as a suspect after interviewing other witnesses like Nora Nobleza, Yan Evan, Dr. Solomon Young, Dr. Lee and the wife of Dr. Young. They interviewed them in the crime scene at 4:00 p.m., and invited them to the police headquarters. Nobleza was not able to go to their office until the next day and they reduced to writing the statements of Mrs. Young as it will only corroborate the statement of Dr. Young. Exhibit "I" is the statement of Carido but was not signed by him but the corrections were made. The accused refused to sign the statement as that is the advice of his lawyer, Atty. Lopez. Exhibit "I-1" was made by the accused and signed by him and all annotations were made by him. In Exhibit "I" the questions were propounded by him and some by Labao. The answers were all given by the accused and he was present. Atty. Lopez arrived when they were through with the statement and at the Luneta, accused said he will sign in the presence of his lawyer. Accused and Atty. Lopez conversed and Atty. Lopez left advising the accused not to sign. They requested Carido to make a waiver of his detention which Carido gave voluntarily (Exhibit N). Atty. Lopez even advised Carido to make a waiver. After the execution of Exhibit "N" they brought the accused to Fiscal Dizon on January 23 and Fiscal Dizon interviewed Carido on how he executed Exhibit "I." Fiscal Dizon asked him the truth of the statement and accused said they are all true. Fiscal Dizon asked him why he did not sign and he said upon advise of his lawyer. Dizon asked him if the answers were given by him and accused said he gave them voluntarily. Thereafter, they brought him to their headquarters. Dizon asked him to sign the statement but accused refused. Dr. Young is no longer working in his clinic for he vacated the premises without the permission from them after the incident.

"On cross-examination, this witness declared, among other things, that Dr. Young admitted that the glove (Exhibit M) is his. There were many police reporters interviewing and asking questions from the accused. The weapon, a nail cutter with knife, Exhibit "O" was recovered by them in the office of the Philippines Hardware Merchant Association Incorporated. They went to Carido's uncle, Miguel Advincula, because he left his dirty clothes there and they recovered dirty clothes (Exhibits G & H). Accused told him that his uncle came to his office and so he requested him to bring his dirty clothes.

"(6) Baltazar Dizon, aged 43 years, married, Assistant Fiscal of Manila, declared that on January 23, 1970 at 2:00 P.M., he reported for work and Sgt. Mallari and Pat. Generoso Javier went to his office with the accused for an inquest. He talked to the accused when the two MPD officers showed his statement to him (Exhibit I) unsigned. He asked the accused if he is going to sign and he answered in the negative as he wanted the presence of his lawyer. He inquired about the statement and accused said he gave that statement to the police authorities and he noticed some corrections with counter signatures which accused admitted as his. When accused refused to sign he told the police authorities that he cannot do anything about it and he cannot compel him and before they left he investigated the whole body of the accused to see if he was subjected to maltreatment. But he did not find any trace of maltreatment. Accused admitted to him the commission of the crime. And when he noticed a sketch attached to the statement, he asked him what is that and accused said that that is his and even pointed to his signature.

"On cross-examination, this witness declared that accused said he will sign the statement if his lawyer is

present.

"(7) Ruther Batuigas, aged 31 years, single, newspaperman columnist, police reporter of the Daily Star declared that on January 20, 1970, he was already covering the police department. In the evening of January 20, 1970, he was in the Homicide Division, MPD and was informed of the case in question and was able to talk to the suspect at the Homicide Division. He asked the accused why he killed the victim and he said that he has a grudge against her. He assumed at once that accused killed the victim because he supposedly gave a statement before the police admitting the crime and he was just curious why he killed the victim. He read the statement (Exhibit I) that he supposedly gave. There were then several media people around asking questions in the presence of the police. According to the accused, the grudge is that everytime he delivers copies of newspapers specially the Fookien Times, the victim shouts at him and scolds him because he just throws copies of news-papers inside the room.

"On cross-examination, this witness declared that he was detained with Carido as he was held regarding the slaying of a security guard in the New Europe restaurant. He was then in the office of Lt. Labao when he asked him.

"(8) Servillano David, aged 64 years, married, Senior Chemical Analyst, CILAB, Manila Police Department whose qualification and competency were admitted, declared that on January 20, 1970, he conducted an examination on a blue shirt (Exhibit G) and a pair of pants (Exhibit H), surgical glove (Exhibit N), a piece of white linen (Exhibit K) and two pieces of white linen (Exhibits K-1 and K-2) and a nail cutter with knife (Exhibit O). He found them to be positive with human blood. He prepared a written examination to that effect (Exhibits P and P-1)." (pp. 111-125, Rollo)

Appellant Carido raised the following assignment of errors in this appeal:

## I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PURPORTED STATEMENT OF APPELLANT, EXH. "I", WHICH IS UNSIGNED, REPUDIATED, DISOWNED, AND DISAVOWED BY APPELLANT.

## II

THE TRIAL COURT LIKEWISE GRAVELY ERRED IN GIVING CREDENCE TO SAID EXH. "I" NOTWITHSTANDING THE FACT THAT ITS RECITALS ARE UNTRUE AS WAS UNCOVERED IN THE INVESTIGATION.

## III

THE TRIAL COURT SERIOUSLY ERRED IN NOT FINDING THAT WITHOUT THE CORPUS DELICTI, EXHIBIT "I", BY ITSELF ALONE, CANNOT SUPPORT APPELLANT'S CONVICTION.

## IV

THE TRIAL COURT ALSO GRIEVOUSLY ERRED IN NOT FINDING THAT THE NAIL CUTTER-KNIFE, EXH. "O", IS NOT THE MURDER WEAPON AND COULD NOT HAVE PRODUCED THE STAB WOUNDS RESULTING IN THE DEATH OF THE DECEASED.

## V

THE TRIAL COURT FURTHER ERRED IN NOT ACQUITTING APPELLANT, HIS GUILT NOT HAVING BEEN PROVED BEYOND REASONABLE DOUBT. (p. 94, Rollo)

A careful review of the records shows some misapprehensions of facts, findings and other discrepancies which constrain us to grant this appeal and acquit the accused-appellant.

The alleged confession although reduced in writing and marked as Exhibit "I" was not signed by the accused. He

does not deny having answered some questions propounded to him by the police investigators but he denies having confessed to the commission of the crime. (p. 35, Rollo)

Thus, the presumption of voluntariness of confession which is a precondition for admissibility of extrajudicial confessions cannot attach to the alleged confession even if executed before the 1973 Constitution. (See *Magtoto v. Manguera*, 63 SCRA 4 [1975]). Although the fiscal testified that he found no signs of mal-treatment (p. 26, Rollo), this does not automatically give rise to a presumption of voluntariness considering that the alleged "salaysay" remained unsigned even when it was presented for marking as evidence for the prosecution.

The prosecution itself harbored doubts as to the admissibility of said Exhibit "I" as it deemed it necessary to present the testimonies of Lt. Ildefonso Labao, Generoso Javier, Asst. Fiscal Baltazar Dizon and Ruther Batuigas before whom the accused was said to have admitted the commission of the crime.

The alleged confession is then treated as an oral one established through the testimonial evidence of the person who heard it or the person who conducted the investigation.

This Court has rulings that confessions need not be in writing. (*People v. Feliciano*, 58 SCRA 383 [1974]; *People v. Bantagan*, 54 Phil. 834 [1930]; *People v. Macaso*, 47 O. G. 6172; *People v. Pardo*, 45 O. G. 2023). But the importance and necessity of a sworn statement of the accused should not be underplayed. The truth of admissions made in a verbal confession must be established. We cannot just accept the statement of a person who says that the accused confided the commission of a crime to him and who then narrates what the accused supposedly admitted. Such testimony cannot be the sole basis of conviction.

The lower court principally based its finding of guilt on the testimonies of the persons before whom the accused was said to have admitted the killing. These were given great weight as no motive nor partiality was proven against any of these witnesses. However, their testimony that Carido admitted a crime is entirely different from the issue of whether or not the story told to them is true. Insofar as the truth of the killing by Carido is concerned, their testimonies are hearsay.

It is well-settled that findings of the trial court on the issue of credibility of witnesses are entitled to great respect, it being in the best position to observe the deportment and demeanor of the witnesses. This rule is however, subject to exceptions as when the court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case (*People v. Cruz*, 151 SCRA 609 [1987]; *People v. Ramos*, G. R. No. 76744, June 28, 1988). In this case, the witnesses were eyewitnesses to a story telling or admission but not to the commission of a crime.

Moreover, evidence to be believed must not only be proved from the mouth of a credible witness, but it must be credible in itself. (*People v. Dimacali*, 153 SCRA 454 [1987]).

The first thing to consider is the alleged murder weapon - a nail cutter with a 1 & 3/4 inch blade (Exhibit "J").

The victim suffered multiple stab wounds - 18 all in all. The fatal wound which lacerated "the left common carotid artery and internal jugular vein and trachea" had a depth of three inches. Another wound which was designated as Wound NO. 10 had a depth of 5-1/2 inches. (Exhibit "E").

The prosecution witness Medico-legal Asst. Chief Angelo Singian, testified that it was impossible for even a 3-inch blade to have caused Wound NO. 10 (tsn., April 23, 1970, pp. 13-14).

This point was dealt with by the trial court as follows:

xxx xxx xxx

"x x x In the Memorandum of the accused, additional intriguing facts were pointed out, such as the accused stabbed the vic-tim only once and that accused used only a combination of nail cutter and knife about 1-1/2 inches long and 1-1/2 centimeters wide when Wound No. 4 of Exhibit "E" is around 5 inches deep. All these do not augur well the acquittal of the accused but instead make the court conclude that accused might have not been the only one who killed the victim. As to who are the co-conspirators or co-principals of the accused and why there will be a conspiracy to kill the victim, they cannot be known as there is no eyewitness. The investigation conducted by the Manila Police Department miserably failed to unravel the mystery. Only when the accused himself unseal his lips that the true and complete facts of the case will be known. If the accused, however, so decides to be a martyr to his co-conspirators for reasons known to him alone, then this case will remain a closed one with so many loose ends left behind." (pp. 41-42, Rollo)

The doubts entertained by the trial court did not end there. It further stated:

"The court is however intrigued by certain facts attendant to the killing of the victim. The victim was killed not in her reception room but right in the room of Dr. Young (Exhibits G-1 and F) near his table. A surgical glove (Exhibit M) positive of human blood (Exhibit P-1) was found in the toilet of the office of Dr. Young and in said toilet, there were some bloodstains. At that time, Dr. Young reported in his office at 3:00 p.m., instead of 2:00 p.m., and the office was still locked. x x x ." (p. 41, Rollo)

The fact that one of the polo shirts of the accused and the nail cutter were found positive with blood is not altogether indicative of guilt. (Exhibits "P" and "P-1"). The mere circumstantial fact that the accused had bloodstains on his shirt is not sufficient to prove guilt beyond reasonable doubt absent any findings on the bloodtype on the shirt. (People v. Tolentino, 145 SCRA 597 [1986]).

The handbag and wall clock which were taken from the victim's office were never recovered despite Labao's testimony that the accused confessed that he hid the clock under the television set in his aunt's place. (p. 118, Rollo).

The presumption that official duty has been regularly performed must yield to the constitutional presumption of innocence of the accused. (People v. Flores, G. R. No. 65647, August 30, 1988; People v. Pancho, 145 SCRA 323 [1986]).

There is a likelihood that the appellant may indeed have been the killer. However, the evidence against him is too sketchy. It is not sufficient to establish guilt beyond reasonable doubt.

As held in the case of People v. Flores, supra:

"As has been oft repeated, every circumstance favoring the innocence of the accused must be taken into account and the proof against him must survive the test of reason. Only when the conscience is satisfied that the crime has been committed by the person on trial should the sentence be for conviction."

WHEREFORE, the decision appealed from is hereby REVERSED and judgment is entered ACQUITTING the accused-appellant of the offense charged for failure of the prosecution to establish guilt beyond reasonable doubt.

**SO ORDERED.**

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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