

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLIAM PAGE, DEFENDANT-APPELLANT.

G.R. No. L-37507. June 07, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

William Page appealed from the decision of the Court of First Instance of Rizal dated July 21, 1973, convicting him of robbery with homicide, sentencing him to reclusion perpetua, and ordering him to pay the heirs of Veronica Villaverde-Bala-capo an indemnity of P12,000 plus P20,000 as moral damages (Criminal Case No. 5396). The judgment of conviction was based on the following facts:

According to Page's confession (Exh. C), at around four o'clock in the afternoon of February 13, 1972 Crisanto Campo-sano, alias Boy Sankay, a resident of Bagong Ilog, Baclaran, Parañaque, Rizal, went to the house of William Page y Ubiña located at 143 Pildira Street, near the Manila International Airport, Pasay City. They were friends since boyhood. Page was an eighteen-year old third year high school student at the Arellano University in Pasay City (Exh. H).

From Page's house, the two went to Camposano's house, where they met the latter's father who was drinking with a com-panion. Camposano's father gave Page some liquor to drink. Page and Camposano stayed at the latter's house up to ten o'clock in the evening (Exh. C).

At past ten o'clock, Page and Camposano went to the rotonda or intersection of Taft Avenue and F. B. Harrison Boulevard, where they boarded a Manila-bound jeepney. Page was armed with a balisong knife. Camposano had a revolver.

According to Page's confession, he seated himself beside a male passenger who was near the driver on the front seat. Camposano took a seat at the back of the jeepney where two female passengers were seated. (The male passenger turned out to be Randolph Scot, a thirty-year old employee of the Hyatt Regency Hotel who was on his way to work. The female passen-gers were the sisters, Veronica Villaverde-Balacapo and Cesarea Villaverde).

When the jeepney was in front of the San Antonio Savings Bank on Harrison Boulevard, Page and Camposano told the driver to turn left on Russel Avenue, going to M. Roxas Boule-vard, and then to turn left going to Parañaque. There, they held up the driver and the three passengers. They got the money and pieces of jewelry of the passengers and the driver. From the rear view mirror of the jeepney, Page saw Camposano dumping the two female passengers on Roxas Boulevard in front of Casa Marcos. Then, the two directed the driver to proceed to the airport. They left the jeepney at Pildira Street (where Page resided). Camposano gave Page a watch and a woman's ring as his share of the loot.

Page admitted that he had been charged with theft but the case was dismissed in the municipal court. He knew certain hoodlums named Remy, Manoling, Guerson and Edgar whose specialty was holding up taxicabs (Exh. C).

Scot gave a slightly different version of the holdup. He testified that when the jeepney reached that portion of

Harri-son Boulevard in front of the San Antonio Savings Bank, Page pressed a knife at the neck of Scot and shouted: "This is a holdup. Don't move." Page got Scot's diary book containing a one peso bill. Page ordered the driver, Eduardo Dilla, to shut off the lights of the jeepney, to turn left on Russel Avenue, and to proceed to Roxas Boulevard. Page and Camposano covered their faces with pieces of cloth.

Camposano told the women passengers to bring out their money and not to shout "or else there will be shots". They rep-lied that they had already given everything to Camposano.

When the jeepney was in front of Casa Marcos and El Presidente Hotel, one of the women jumped out of the jeepney. (The husband of one of the women was a waiter at Casa Marcos). The other woman shouted. Camposano kicked her, thus causing her to fall out of the jeepney. Camposano noticed that a car was following the jeepney. Believing that it was a police car, he ordered Villa (Dilla) to drive at full speed.

According to Scot, at an isolated place called Baltao Street near the airport, Page and Camposano told the driver to stop. Page robbed Scot of his other one peso bill and divested the driver of his earnings after boxing him for making some resistance. Then, the two malefactors fled to a dark alley. Scot and the driver re-ported the holdup to the police of Parañaque. It was already eleven o' clock.

Lieutenant Casiano Eugenio, the precinct commander, showed them a photograph of Camposano. Dilla and Scot identified him as one of the two hoodlums. Eugenio and the two robbery victims repaired to the residence of Camposano at Bagong Ilog, Baclaran. They saw Camposano, whom Dilla fingered, but Camposano fired shots at them and was able to elude pursuit due to the darkness of the night. He was later killed by the Pasay City policemen while he was committing another crime.

The next day policemen went to Page's residence near the airport to apprehend him. He was not there. His father, in the presence of his aunt, promised to surrender him.

Page was arrested in the morning of February 24, 1972 at the Jose Abad Santos High School of the Arellano University in Pasay City. In the afternoon of that day, his statement was taken down by Patrolman C. Prepeña and sworn to before the municipal judge (Exh. C).

The woman, who jumped from the jeepney (according to Scot's story), was Veronica Balacapo. She was brought to the Philippine General Hospital by a good Samaritan, Manolo Daval Santos. She was already dead when she reached the hospital.

The other woman, Cesarea Villaverde (the sister of Veronica), who was pushed by Camposano out of the jeepney, was brought to the Ospital ng Maynila. The record is not clear as to whether she survived.

The postmortem examination of the body of Veronica Balacapo, a forty-two year old married woman, revealed that she suffered (1) abrasions on the left eyebrow, left shoulder, left elbow and sacral region; (2) bilateral severe hematoma on the occipital region of the scalp; (3) fractures on the base of the cranial fossa and the fourth and fifth ribs along the mid-clavicular line, and (4) hemorrhage in the posterior cranial fossa. Death was caused by the severe and traumatic meningeal he-morrhage (Exh. A and F).

On February 15, 1972 or before Page was arrested, the chief of police filed a complaint for robbery with murder in the municipal court of Parañaque against Camposano and John Doe (Criminal Case No. 30039). The complaint was based on the investigation of Dilla and Scot. Page did not present any evi-dence at the preliminary investigation. The case was remanded to the Court of First Instance where the fiscal filed an informa-tion for robbery with homicide against Page and Camposano.

After trial, the trial court rendered the judgment of conviction already mentioned.

In this appeal, appellant Page contends that the trial court erred (1) in relying on his repudiated confession, (2) in convicting him although he was not identified by Randolph Scot, the prosecution's eyewitness, and (3) in convicting him on the basis of weak circumstantial evidence.

1. Patrolman Prepeña, who took Page's confession, testified on its voluntariness. Lieutenant Eugenio, the precinct commander, and Patrolmen Manolito Miranda and Jose Elquero, the arresting officer, denied that Page was maltreated while he was in the custody of the police.

Page admitted that when he was brought before the muni-cipal judge for the administration of the oath on his confession, he could have complained to the latter about the alleged mal-treatment. He did not complain.

His aunt, Prudencia Alupit, and his own lawyer visited him in jail. He allegedly confided to them that he was maltreated. He requested them to take action against the policemen. They did not complain to the proper authorities about the alleged mal-treatment.

The learned trial court made a searching and conscientious analysis of appellant's evidence on the alleged duress employed by the police in extracting his confession. It concluded that the confession was voluntary.

We find no error in that conclusion. Page's confession, having been taken before the new Constitution took effect, is ad-missible although the requisites in section 20 of article IV were not observed (*Magtoto vs. Manguera*, L-37201-2, March 3, 1975, 63 SCRA 4).

Certain details found in the confession are strong indicia of its authenticity. Page specified therein that his residence was at 143 Pildira Street, an address which jibes with the address in his school record (Exh. I); that his maternal surname is Ubiña; that he met Camposano at four o'clock in the afternoon of February 13, 1972; that they went to Camposano's residence, where he (Page) was given liquor by Camposano's father; that he directed the driver to follow a certain route; that Camposano was from Sorsogon; that Page was acquainted with some hoodlums, and that he (Page) was charged with theft. These details would not have been embodied in the confession had not Page freely disclosed them to the police.

2. It is true that Scot during the trial did not point to Page as the person who sat beside him on the front seat of the jeepney and who pressed an open knife at his neck. Testifying nine months after the occurrence, Scot could not remember the face of Page. He recalled only that Page's hair was thick.

Patrolman Ruben Cruz Santiago, one of those who investigated Page, testified that the latter was sporting long hair and looked like a hippie at the time of the investigation (2 tsn November 21, 1972). The photographs of Page taken in July, 1971, or about seven months before the holdup, when Page was booked for theft, show that he had long hair (Exh. G).

Scot's failure to identify Page during the trial is of no moment because the crucial fact is that Page in his own confession admitted his participation in the holdup. Page stated in his confession:

"Iyong jeep na pampasahero na aming sinakyan sa may Rotonda ng Baclaran patungong Maynila, biaheng Harrison, ay may sakay na dalawang babae sa hulihan at isang lalaki sa unahan sa tabi ng driver at ako ay naupo sa harapan katabi ko iyong lalaki at si Boy Sangkay (Camposano) ay sa gawing hulihan.

"Pagdating namin sa may tapat ng San Antonio Bank ay hinoldap namin iyong jeep pati ng mga pasahero at pinaliko namin sa Russel Avenue patungong M. Roxas Blvd. Pagdating namin sa M. Roxas Blvd., ay pinakaliwa namin patungong Parañaque at noong kami'y nasa M. Roxas Blvd. na, ay kinuha namin ang mga pera at alahas noong mga pasahero at tsuper ng jeep at matapos noon ay nakita ko na lang sa salamin na inihulog ni Boy Sangkay iyong dalawang babae sa may tapat ng Casa Marcos sa M. Roxas Blvd.

"At pagkatapos ay nagpahatid kami patungong MIA at bumaba kami sa Pildira sa Pasay City." (No. 13, Exh. C).

Scot's testimony and the necropsy report (Exh. A) prove the corpus delicti or the fact that robbery with homicide was committed. Page's extrajudicial confession was corroborated by the evidence on the corpus delicti (Sec. 3, Rule 133, Rules of Court).

3. Appellant's third contention that his guilt was not proven beyond reasonable doubt, because the prosecution's evidence is mainly circumstantial, is not meritorious.

Once it is conceded, that his confession is voluntary, then there cannot be any doubt as to his guilt. We have already shown that his confession was not vitiated by compulsion or constraint.

The alibi, which Page interposed during the trial and which his counsel did not bother to discuss in his brief, appears to be a complete fabrication. Page testified that at the time of the commission of the holdup, he was residing with his aunt at 26 Simbo Street, Fort Bonifacio, Makati, Rizal and that he was sick.

That testimony was squarely belied by Page's school record (Exh. I) which shows that, when the holdup was perpetrated, he was residing with his father at 143 Pildira Street, Pasay City near the airport (or at 101 Interior Rivera Village near the airport, Exh. H) and that on February 11, 1972, or two days before the holdup was committed, he was not sick because on that date he was not absent from school.

In any event, even if he was a Makati resident at the time of the holdup, that would not have precluded his participation in the commission of that offense at Baclaran, Parañaque, which is not very far from Fort Bonifacio.

To establish an alibi, the accused must show that he was in another place for such a period of time that it was impossible for him to have been at the place where the crime was committed at the time of its commission (*People vs. Resayaga*, L-23234, December 26, 1973, 54 SCRA 350, 354). Page's alibi does not satisfy that requirement.

The more important point to consider is whether the trial court correctly ruled that Page, as a fellow conspirator of Camposano, could be held liable for robbery with homicide or for robbery only. In his letters to this Court, Page, not being a lawyer and not knowing the rules on conspiracy, insisted that he had nothing to do with the death of Veronica Villaverde-Balacapo.

Of course, it was Camposano alone who directly brought about Veronica's death. Whether Veronica jumped whether from the jeepney, as testified by Scot, or whether Camposano kicked and pushed her and her sister, Cesarea, out of the jeepney, as stated by Page in his confession, Camposano's culpability for that flagitious deed cannot be disputed.

If Veronica jumped out of the jeepney, it must have been because she was in mortal dread that Camposano would shoot her. As fear gripped Veronica, she, in desperation, thought of scampering out of the moving jeepney. Her head struck the pavement. It was broken. A hemorrhage ensued. She died before medical assistance could be extended to her.

The rule is that if a man creates in another person's mind an immediate sense of danger, which causes such person to try to escape, and, in so doing, the latter injures himself, the man who creates such a state of mind is responsible for the resulting injuries (*People vs. Toling*, L-27097, January 17, 1975, 62 SCRA 17, 33).

We find that the trial court's conclusion as to conspiracy is borne out by the evidence. Page and Camposano were boyhood friends. About six hours before the crime was committed, they were already together. They were in the Baclaran rotunda at around ten o'clock in the evening or shortly before the holdup was committed. They boarded

the jeepney in that place. Inside the jeepney, they coordinated their actions. They directed the jeepney driver to go near the airport or in the vicinity of Page's residence, a place which was well-known to the two malefactors. They left the jeepney together and fled in the same direction.

There is not a scintilla of doubt that a conspiracy to commit robbery existed between Page and Camposano. The fact that the two armed themselves with deadly weapons, a knife and a revolver, signified that they were determined to kill their victims in order to consummate their nefarious objective.

The conspiracy may be inferred from the acts of Page and Camposano. Those acts reveal that they had agreed to commit robbery inside a passenger jeepney (Art. 8, Revised Penal Code). This Court may take judicial notice that that kind of robbery has been frequently committed since the liberation when the jeepney came into existence as a public conveyance.

Page and Camposano implemented their agreement when they waited for a passenger jeepney at the Baclaran rotunda and boarded it at the same time. If they had no evil intention, they could have sat together at the back. But, they did not do so. Obviously, as previously planned by them, Page took the front seat so that he could control the driver and at the same time extort money from him and the other passenger in the front seat. Camposano took a seat at the back of the jeepney so that he could rob the two female passengers.

The behavior of Page and Camposano inside the jeepney disclosed a synchronization of their actions, evincing a prior concert and plan to commit robbery with violence against and intimidation of persons. Page should answer for all the consequences of the conspiracy, including the homicide which was intertwined with the robbery committed by his co-conspirator. The homicide was committed on the occasion or by reason of the robbery.

The rule is that where the conspiracy to commit robbery was conclusively shown by the concurrent and coordinate acts of the accused, and homicide was committed as a consequence, or on the occasion, of the robbery, all of the accused are guilty of robo con homicidio whether or not they actually participated in the killing (*People vs. Lingad*, 98 Phil. 5; *People vs. Puno*, L-31594, April 29, 1974, 56 SCRA 659, 663).

Generally, when robo con homicidio has been proven, all those who had taken part in the robbery are guilty of the special complex crime unless it appears that they endeavored to prevent the homicide (*U.S. vs. Macalalad*, 9 Phil. 1). The same rule is followed in Spanish jurisprudence:

"Son responsables de este delito (robo con homicidio) en concepto de autor no solo todos los que cooperen a la muerte, siquiera sea con su presencia, sino tambien todos los que intervienen en la ejecucion del robo aun cuando no tomen parte en el homicidio" (2 Cuello Calon, *Derecho Penal*, 1975 Edition, p. 876).

"Cuestion II. Cometido un robo con violencia e intimidacion en las personas por dos sujetos, uno de los cuales dispara un trabuco, dejando muerto en el acto a un tercero que acude en auxillio de los robados, el que no disparo sera solo responsable del robo, o al igual que su consorte, incurrira en la pena del robo con homicidio, previsto en el numero 10 del art. 516 que comentamos?

"El Tribunal Supremo ha declarado que siendo ambos procesados autores del robo, lo son igualmente del homicidio que ocurrio en el mismo acto, al tempo de ser perseguidos por el interfecto; porque este ultimo delito esta de tal manera enlazado con el de robo, que a no haber mediado este, ni los robados hubieran pedido auxilio, ni al prestarselo el tercero hubiese sido muerto como lo fue; y que por consiguiente, habiendo tornado parte directa en la ejecucion del robo ambos procesados, son autores uno y otro, segun el art. 13 del *Codigo penal*, y por lo mismo responsables los dos de todas las consecuencias de su accion." (*Sentencia de 30 de Abril de 1872*; 3 Viada, *Codigo Penal* 347).

"El propio Tribunal Supremo ha resultado: 'que si resulta probado la delincuencia del procesado en el hecho generador, que es el robo, con ocasion del que se cometio un homicidio, basta esto, en conformidad a lo

dispuesto en, el num. 1. del art. 516, para considerarle tambien responsable del homicidio; resolucion cuya justicia evidencia aun mas el parrafo se-gundo del art. 518, en el que se declara que los malhechores presentes a la ejecucion de un robo en despoblado y en cuadrilla son autores de cualquiera de los atentados que está cometa, si no constare que procuraron impedirlos". (Sentencia de 23 de Febrero de 1872; 3 Viada, Codigo Penal, Cuarta Edicion, p. 347).

It may be added that the presence of Page in the front seat, armed with a balisong, must have emboldened Camposano to threaten Veronica Balacapo and to cause her death with impunity.

The lower court failed to order the accused to pay the sum of P95 as the value of the things taken by Camposano from the deceased victim.

The case of Page, a former high school student, now twenty-four years old, the child of estranged parents (he lived with his father), who at the age of eighteen years, was implicated in robbery with homicide, undoubtedly by reason of poverty, should ordinarily excite some sympathy and might evoke compassionate justice.

Pressed by his lawyer to examine his conscience and to state truthfully whether he was implicated in the holdup, Page cried and said: "Before the eyes of God, I really do not have anything to do with it. That is why I am very sad, sir. I am being charged for a crime which I have not done. I have been in jail. I have nothing to do with it" (19 tsn December 19, 1972).

Of course, he did not kill the victim. But, under the rules of conspiracy, he is deemed to be a co-principal in the robbery with homicide.

He testified that he was single. However, Rosita Lareza, claiming to be his wife, and Teresita Cordero, posing as his girl friend, filed written requests for the early disposition of his case (pp. 125 and 140, Rollo).

We have already mentioned that he was charged with theft in the municipal court but the case was dismissed. At the time the instant case was filed in 1972, he was charged also in the municipal court with simple robbery and two cases of robbery with murder (Criminal Cases. Nos. 30000, 30001 and 30038) (p. 12, Expediente of Criminal Case No. 5396). He was also charged in Criminal Cases Nos. 5395 and 9765 of the Court of First Instance of Rizal. (See I. S. No. 73-5054 for robbery filed in the fiscal's office at Pasig, Rizal, pp. 63, 70 and 78 of Rollo). What happened to those cases is not shown in the record.

His behavior in prison has not been exemplary. On October 7, 1975 Page and five other prisoners commandeered the truck, which was delivering foodstuffs at the prison compound, held as hostages the driver and the kitchen supervisor, and tried to escape. Page and four others were recaptured (p. 119, Rollo).

Page in his letter to the Chief Justice dated April 14, 1977 manifested that, inasmuch as he could not endure the discomforts of prolonged confinement, he was amenable to be electrocuted (he was only sentenced to reclusion perpetua by the trial court).

This is a case where considerations of leniency are out of place. The full force of retributive justice should be brought to bear upon the accused. Many persons have been victimized in extortions or holdups committed in buses, taxicabs and jeepneys. The courts should cooperate with the agents of the law in making these public conveyances a safe means of travel.

WHEREFORE, the lower court's judgment is affirmed with the slight modification that appellant should further pay the heirs of the victim the sum of P95 representing the value of the watch, earrings and necklace taken from her. Costs against the defendant-appellant.

SO ORDERED.

Barredo, Antonio, and Martin, JJ., concur.

Fernando, J., (Chairman), in the result.

Concepcion, Jr., J., on leave.

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