

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISABELO TRINIDAD, ALIAS "PEDRO DIPLAT," AND ROMEO CONDAYA, ALIAS "ROMY," ACCUSED-APPELLANTS.

G.R. No. L-38930. June 28, 1988

Ponente: CORTES, J.

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CORTES, J.:

Appellants were accused of the crime of murder on the basis of the following information:

That on or about the 16th day of April, 1973, at night, in barrio San Vicente, municipality of Umingan, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Isabelo Trinidad, alias "Pedro Diplat," and Romeo Condaya, alias "Romy," and Bonifacio Palding, alias "Pacio," and Wilfredo Mitrado, alias "Edo," who were discharged in the municipal court for insufficiency of evidence, conspiring together and mutually helping one another, armed with a shotgun and with intent to kill, with evident premeditation and treachery, did, then and there, wilfully, unlawfully and feloniously attack, assault and shoot Cristita Balancio Vda. de Angel inflicting upon her fatal gunshot wounds which caused her death as a consequence.

Contrary to Art. 248 of the Revised Penal Code. [Rollo, p. 4].

Upon arraignment, both accused-appellants, with the assistance of counsel, pleaded "Not Guilty."

In a decision dated May 27, 1974, the Court of First Instance rendered judgment convicting accused-appellants of murder and sentencing them to suffer the penalty of reclusion perpetua, to jointly and severally indemnify the heirs of the deceased Cristita Balancio Vda. de Angel in the amount of P12,000.00 and to pay the costs. The shotgun and the cartridges used in the commission of the crime were ordered confiscated and forfeited in favor of the government.

Not agreeing with the decision of the trial court accused-appellants appealed to this Court.

In his brief, accused-appellant Trinidad assigned the following errors:

- THAT THE LOWER COURT ERRED SERIOUSLY WHEN IT REFUSED TO CONSIDER THE EVIDENCE FOR THE DEFENSE.
- THAT THE LOWER COURT ERRED GRAVELY AND SERIOUSLY WHEN IT CONCLUDED WITHOUT GROUNDS THAT:
 - "It is undeniable that the initial holder of the gun was Isabelo Trinidad."
 - "Isabelo Trinidad made sufficient steps in trying to escape suspicion by giving the gun for safekeeping to Romeo Condaya."
 - "It is inconceivable for the police authorities to exactly know where the gun and the cartridges were hidden if not for the information furnished them by Romeo Condaya."

- Isabelo Trinidad's presence at the scene of the crime was established by even the evidence in his behalf [as] his house is a few meters away from the victim's house."
- "Such startling occurrence could have roused Isabelo Trinidad from his sleep. In fine, when Isabelo Trinidad, after the burst of gunfire returned to the victim's house it was only to shield himself from responsibility for the crime which he concocted."
- "That the evidence clearly establish that Isabelo Trinidad conveniently evaded direct confrontation with the police authorities at the initial stage of the police investigation."
- THAT THE LOWER COURT ERRED SO GRAVELY WHEN IT CONVICTED THE ACCUSED (YOUR APPELLANT) OF THE CRIME CHARGED CONTRARY TO LAW AND THE EVIDENCE.

On his part, accused-appellant Condaya assigned the following errors:

I

THE LOWER COURT ERRED IN HOLDING THAT THE EVIDENCE PRESENTED BY THE DEFENSE TO PROVE THE IRREGULARITY RESORTED TO BY THE POLICE AUTHORITIES TO EXACT ADMISSION BY MEANS OF VIOLENCE, INTIMIDATION AND DECEIT FROM THE ACCUSED WAS IRRELEVANT DESPITE THAT ITS MATERIALITY AND RELEVANCE TO THE CASE IS VERY CLEAR.

II

THE LOWER COURT ERRED IN HOLDING THAT THE INITIAL INVESTIGATION REVEALED THAT ISABELO TRINIDAD, ROMEO CONDAYA, BONIFACIO PALDING AND WILFREDO MITRADO IMMEDIATELY AFTER THE BURST OF GUNFIRE WAS HEARD, WERE SEEN A FEW METERS FROM THE HOUSE OF THE VICTIM CRISTITA B ALANCIO VDA. DE ANGEL HURRIEDLY WALKING TOWARDS THE NORTH AND THAT ROMEO CONDAYA WAS HOLDING A GUN, DESPITE THE CLEARLY IMPROBABLE AND INCONSISTENT TESTIMONIES OF THE WITNESSES WHO TESTIFIED ON THIS (SIC) POINTS.

III

THE LOWER COURT ERRED IN HOLDING THAT ROMEO CONDAYA LED THE AUTHORITIES TO THE "COLIBANGBANG" TREE AND THE BAMBOO GROVES WHERE THE SHOTGUN (EXH. C) AND THE CARTRIDGES (EXHS. D, D-1, D-2 AND D-3) WERE ALLEGEDLY RESPECTIVELY RETRIEVED DESPITE THE UNRELIABILITY AND THE INADMISSIBILITY OF THE EVIDENCE UPON WHICH IT WAS BASED.

IV

THE LOWER COURT ERRED IN CONCLUDING THAT ROMEO CONDAYA WAS THE GUN WIELDER AND THAT HE DID SO UPON THE ACTIVE INDUCEMENT OF HIS CO-ACCUSED ISABELO TRINIDAD, DESPITE THE TOTAL LACK OF EVIDENCE TO SUPPORT IT.

V

AND, FINALLY, THE LOWER COURT ERRED IN CONCLUDING THAT THE CRIME CHARGED IN THE INFORMATION WAS PROVED AND THAT BOTH THE ACCUSED ARE GUILTY THEREOF DESPITE THE TOTAL LACK OF SUFFICIENT EVIDENCE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

Ultimately, however, as pointed out by accused-appellant Condaya, the issue boils down to whether or not the prosecution has proven beyond reasonable doubt that accused-appellants Trinidad and Condaya were the persons responsible for the death of the victim.

To support its judgment of conviction, the trial court relied on the following findings:

The evidence for the prosecution tends to establish that in the evening of April 16, 1973, one Cristita Balancio Vda. de Angel was asleep by the balcony of her house situated at Barrio San Vicente, Umingan, Pangasinan. With her at that time were her son, Juan Angel, her daughter-in-law and two (2) grandchildren. Suddenly, there was a burst of gunfire, rousing Juan Angel and his wife from their sleep. Juan Angel then peeped out from the window to find out what happened as his carabao was tied just below the said window. As Juan Angel peeped, he saw Isabelo Trinidad, Romeo Condaya, Wilfredo Mitrado and Bonifacio Palding about five (5) to six (6) meters away hurriedly walking towards the North.

Shortly, as Juan Angel's wife shouted. Romeo Condaya who was then holding a gun, Isabelo Trinidad, Bonifacio Palding and Wilfredo Mitrado ran farther towards the North.

It turned out that Cristita Balancio Vda. de Angel was hit by her neck which caused her death. (Exhibits "A" and "A-1"). So, Juan Angel proceeded to call for help. He asked somebody to fetch Ignacio Dopale, the Barrio Captain of San Vicente, Umingan, Pangasinan, who immediately responded to Juan Angel's call for help. Initial inquiries from Juan Angel, revealed the information that Immediately after the burst of gunfire, Romeo Condaya, Wilfredo Mitrado, Isabelo Trinidad and Bonifacio Palding, were seen hurriedly walking towards the North. So that, Barrio Captain Ignacio Dopale proceeded to the Umingan Municipal Building in Order to report the matter.

Corporal Dominador Barwel of the Umingan Police Force to whom the case was referred must fetched Sergeant Casio of the Fallopien Constabulary at Umingan, Pangasinan. Then, they proceeded to the scene of the incident in order to investigate.

Arriving at the premises, they saw Cristita Balancio Vda. de Angel, already dead as a result of gunshot wounds suffered at the back of her neck. This investigation again revealed the information that Isabelo Trinidad, Romeo Condaya, Bonifacio Palding and Wilfredo Mitrado, were seen within the vicinity immediately after the gunfire. As Isabelo Trinidad was then on the premises, he was apprehended and brought to the Municipal Building of Umingan, Pangasinan. On the way, Isabelo Trinidad revealed that he had caused the death of Cristita Balancio Vda. de Angel, as in fact he offered to pay Romeo Condaya the amount of Five Hundred Pesos (P500.00) to do the job. However, the intended victim was Juan Angel, because, of Isabelo Trinidad's carabao.

Accordingly, Sgt. Casio and Cpl. Dominador Barwel on April 17, 1973 took steps to apprehend Romeo Condaya. Wilfredo Mitrado and Bonifacio Palding at Sta. Rosa, Umingan, Pangasinan. Wilfredo Mitrado was apprehended on April 18, 1973 while Romeo Condaya was apprehended sometime on April 20, 1973 at Sto. Tomas, Pangasinan, after being turned over by the Sto. Tomas police authorities. On the way to Umingan, Pangasinan, Romeo Condaya was verbally interrogated inside the jeep. Here, Condaya was asked if he had anything to do with the killing of Cristita Balancio Vda. de Angel. Readily, Romeo Condaya admitted the shooting as Isabelo Trinidad promised to pay him {Condaya} the amount of Five Hundred Pesos (P500.00). However, this amount remained unpaid. On the same occasion, Romeo Condaya informed Sgt. Casio and Cpl. Barwel that the gun used in the killing was hidden somewhere atop a "Colibangbang" tree at Sta. Rosa, Umingan, Pangasinan.

At Sta. Rosa, Umingan, Pangasinan, and upon Condaya's instructions, the 12 gauge locally made buck-shot was recovered. {Exhibit "C"}. Thereafter, Romeo Condaya pointed to the bamboo grove where he hid the cartridges. (Exhibits "D", "D-1", "D-2" and "D-3").

After their apprehension, Romeo Condaya, Isabelo Trinidad, Bonifacio Palding and Wilfredo Mitrado were made to execute sworn statements which, however, they refused to affirm before the Municipal Judge of Umingan, Pangasinan. [CFI Decision, pp. 2-4; Rollo, pp. 21-23].

In their testimonies, accused-appellants Trinidad and Condaya denied their participation in the crime and asserted that after their apprehension they were tortured and maltreated until they signed documents which they later found out to be their extrajudicial confessions. Hence, their refusal to affirm their written confessions before the municipal judge.

To prove his innocence, Trinidad emphasized the undisputed facts that he was even among those who went to Umingan to fetch Sgt. Casio and Cpl. Barwel and that he even remained at the scene of the crime while, they were conducting their investigation and provided refreshments for the investigators.

The trial court dismissed accused-appellants defense with the following observation:

Before anything else, this Court notes with muffled amusement the manner at which the accused presented their side of the case. For aware as they were that the alleged statements taken from them by the authorities of Umingan, Pangasinan when offered by the prosecution was denied admission, they persisted at presenting evidence along this line. There really was no need for the accused to do what they did. As far as this Court is concerned, the supposed irregularity at securing these admissions was irrelevant. For so it is that these statements were not even subscribed and sworn to before any competent authority. So that, when the accused persistently harped at this alleged violence upon their persons, this Court was furnished a sufficient basis at attributing a semblance of meaning to these statements. But conformably with our settled constitutional demands of due process, this Court considers these averments of violence extraneous to this case, although the Municipal Health Officer, Dr. Eddie Soriano's medical certificates had shown a contrary finding. (Exhibits "H". H-1", "H-2". T "V "1-2" and "1-3"). [Rollo, pp. 31-32].

At the outset, it must be stated that the trial court correctly denied the admissibility as evidence of the written extrajudicial confessions of the accused-appellants. Such denial, however, should not have been for the reason given, namely, that they were not subscribed and sworn to before the proper authorities, but, rather, because the requirements of the Constitution were disregarded.

The 1973 Constitution, then in force and effect when the confessions were taken, provided in words that left no room for doubt:

Sec. 20, No person shall be compelled to be a witness against himself Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence. [Article IV].

The rule is that when an accused testifies that he signed his confession because he was maltreated, the prosecution must present evidence to rebut this claim, otherwise the confession will be considered illegally procured [People v, Inguito, 53497, October 18, 1982, 117 SCRA 641.] The presumption of regularity of performance of official duty does not apply to in custody confessions. The prosecution must prove compliance with the constitutional requirements [People v. Tolentino, G.R. No. 50103, November 24, 1986, 145 SCRA 597.] In the instant case, accused-appellants' allegations of torture and maltreatment were refuted by Dr. Soriano's testimony and medical certificate.

However, since ,there is no proof that when they made the confessions they were informed of their right to remain silent and to counsel and that they knowingly and intelligently waived these rights, such confessions are inadmissible in evidence [People v. Duero, G.R. No. 52016, May 13, 1981, 104 SCRA 379.] Likewise, the absence of counsel at the time of custodial investigation when the extrajudicial confession was taken renders it inadmissible [People v. Burgos, G.R. No. 68955, September 4, 1986, 144 SCRA 1.] It is not enough that the suspect is asked if he needs a lawyer, he must be informed that if he is an indigent a lawyer will be appointed to

represent him during custodial interrogation [People v. Tolentino, supra].

It is not only the oral confessions made to the apprehending officers, Sgt. Casio and Cpl. Barwel, that are tainted, but also the written confessions made and signed a few days after their arrest. Thus, the testimonies of the police officers on the matters allegedly confessed to them by accused-appellants and the written extrajudicial confessions are inadmissible in evidence.

2. As the extrajudicial confessions are inadmissible, the Court is tasked with determining whether there remains sufficient evidence to sustain a finding of guilt beyond reasonable doubt.

It must be emphasized that no direct evidence was adduced to prove accused-appellants' commission of the crime charged. To sustain a finding of guilt beyond reasonable doubt, the trial court wove together several pieces of circumstantial evidence.

The Rules of Court provides that circumstantial evidence is sufficient for a conviction if:

- (1) there is more than One circumstance;
- (2) the facts from which the inferences are derived are proven; and
- (3) the combination of all the Circumstances is such as to produce a conviction beyond a reasonable doubt. [Sec. 5, Rule 133].

Although no general rule has been formulated as to the quantity of circumstantial evidence sufficient for a conviction, the established requirement is that the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty [People v. Ludday, 61 Phil. 216; People v. Contante, G.R. No. L-14639, December 28, 1964, 12 SCRA653.].

Thus, using the requirements of the Rules of Court and established jurisprudence as yardsticks, this Court is called upon, in this appeal, to ultimately determine whether the circumstantial evidence adduced during the trial are sufficient for a conviction.

The Solicitor General, in his brief [pp. 13-15], enumerated several circumstances in support of a finding that accused-appellants were guilty beyond reasonable doubt of the murder of Cristita Balancio Vda. de Angel, which may be summarized as follows:

- Before April 16, 1973, accused-appellant Isabelo Trinidad bore a grudge against Juan Angel. Trinidad suspected Juan Angel of having burned the rope of his (Trinidad's) carabao.
- Trinidad had warned Juan Angel on April 15, 1973, that he (Trinidad) could have Juan Angel killed at anytime, even inside the latter's house.
- In the evening of April 16, 1973, Bonifacio Palding saw Trinidad and Condaya (in the course of a drinking session with Palding and Wilfredo Mitrado) converse secretly some six (6) meters away from Palding and Mitrado. After this conversation, Trinidad gave Condaya a home made shotgun and then Trinidad and Condaya, followed by Palding and Mitrado, proceeded to the house of Juan Angel.
- While Palding was some four (4) meters behind Trinidad and Condaya he (Palding) heard a gunshot and saw a flash of light near the door of Juan Angel's house.
- A few seconds later, Palding saw Trinidad and Condaya running away from the house. Palding and Mitrado also ran away in the direction taken by Trinidad and Condaya.
- Juan Angel saw Trinidad, Condaya, Palding and Mitrado running away from the house as he peeped through

a window after he heard the gunshot.

- When Palding and Mitrado caught up with Trinidad and Condaya in a certain field, Palding heard Trinidad instruct Condaya to take the shotgun to Sta. Rosa, Umingan, Pangasinan and hide it.

- After the apprehension of Condaya on April 20 or 21, 1973, the home-made shotgun was recovered on top of a "colibangbang" tree behind the house of Condaya's parents, together with three (3) live cartridges hidden in a bamboo grove nearby.

To this enumeration may be added three (3) more circumstances: (1) that the victim was found dead near the door inside her son Juan Angel's house; (2) that the victim died of hemorrhage caused by gunshot wounds; and (3) that two pellets were recovered from her body.

All of these circumstances, eleven (11) in all, have been proven by direct evidence. Together, these circumstances lead to the conclusion that accused-appellants Trinidad and Condaya were guilty beyond reasonable doubt for the shooting of Cristita Balancio Vda, de Angel.

Even if the eighth circumstance cited by the Solicitor General — that the shotgun and the ammunition were recovered in the vicinity of the house of Condaya's parents — is disregarded on the ground that the recovery was the fruit of the tainted confession, the result would be the same because of the overwhelming circumstantial evidence.

Two (2) of the circumstances also manifest a community of purpose indicative of a conspiracy between Trinidad and Condaya, which would make both of them equally guilty of the crime [People v. Garcia, G.R. No. 26105, February 18, 1986, 141 SCRA 336], although only one of them may have pulled the trigger and actually fired the fatal shot. Where a conspiracy has been proven, a showing as to who inflicted the fatal wound is not required. [People v. Tala, G.R. Nos. 69153-54, January 30, 1986, 141 SCRA 240].

The rule is that conspiracy must be shown to exist by direct or circumstantial evidence, as clearly and convincingly as the commission of the crime itself [People v. Vicente, G.R. No. 26241, May 21, 1969, 28 SCRA 247]. In the instant case, the third circumstance cited by the Solicitor General (that Trinidad pulled Condaya away from Palding and Mitrado to converse secretly and then gave him the shotgun before they all went to Juan Angel's house), coupled with the seventh (that Trinidad told Condaya to hide the shotgun as they were running away from Juan Angel's house), sufficiently proves the conspiracy between Trinidad and Condaya. The conduct of accused-appellants before, during and after the commission of the crime are circumstances showing the presence of conspiracy [People v. Cabiltes, G.R. No. 18010, September 25, 1968, 25 SCRA 112].

The crime committed was murder with the qualifying circumstance of treachery, as characterized by the fact that the victim was shot at close range while she was asleep, thus ensuring the commission of the crime without risk to the assailants [People v. Dequina, 60 Phil. 279 (1934)]. That Juan Angel, and not his mother, was apparently the intended victim is not incompatible with the existence of treachery. Treachery may be taken into account even if the victim of the attack was not the person whom the accused intended to kill. However, evident premeditation may not be considered as a qualifying circumstance as it cannot be said that the assailants premeditated on the killing of the actual victim [People v. Mabug-at, 51 Phil. 967 (1926); People v. Guillen, 85 Phil. 307 (1950)]. Thus, evident premeditation, although alleged in the information, may not be considered as a qualifying circumstance.

With the abolition of the death penalty in the 1987 Constitution, murder is now penalized by reclusion temporal in its maximum period to reclusion perpetua. Absent any modifying circumstances, the penalty is imposable in its medium period, or from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years. Applying the

Indeterminate Sentence Law, the range of the penalty is lowered by one degree to prision mayor in its maximum period to reclusion temporal in its medium period, or from ten (10) years and one (1) day to seventeen (17) years and four (4) months.

WHEREFORE, the decision of the court a quo is MODIFIED and the Court, in the exercise of its discretion, sentences accused-appellants to suffer the indeterminate penalty of from fourteen (14) years and one (1) day of reclusion temporal, as minimum, to twenty (20) years of reclusion temporal, as maximum, and to indemnify the heirs of the victim in the amount of P30,000.00.

SO ORDERED.

Fernan (Chairman), Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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