

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PAQUITO PRIAS AND ESPERIDION FLORES, DEFENDANTS AND APPELLANTS.

G.R. No. L-13767. July 30, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a judgment of the Court of First Instance of Iloilo, Honorable Jose R. Querubin, presiding, finding defendants Paquito Prias (Frias) and Esperidion Flores guilty of robbery with homicide and sentencing each of them to reclusion perpetua to pay, jointly and severally, the heirs of the deceased Eleuterio Hortillosa the sum of P5,000.00, to return the amount of P53.00 of which the deceased was robbed and to pay the costs.

The record discloses that on March 9, 1957, Epifanio Aquiles and Rodolfo Hautea agreed to go to barrio Santol, San Dionisio, the following day, and that Epifanio would pass Rodolfo at the latter's house at barrio Pangi, also San Dionisio, Iloilo. At about six o'clock the following morning, Epifanio, as agreed, passed by the house of Rodolfo and called thereat three times, but nobody answered and the door was locked. So he went around the house and found a window on one side partly opened. This window was under a shed used for storing palay and there was a bamboo receptacle filled with palay. He climbed it and peeped through the opening in the window and to his surprise, he saw Eleuterio Hortillosa sitting on his bed near the window, with blood covering all his body.

Epifanio was frightened, so he jumped down and proceeded to the barrio of Dogman where Rodolfo Hautea had passed the night, contrary to their agreement. Epifanio informed Rodolfo what he had seen, so together they went to the house, broke the door open and went inside. They found Eleuterio Hortillosa dead, sitting on his bed as Epifanio had told him. They went around the rooms of the house and saw blood on the floor of the sala. They lost no time in reporting the incident to the police of San Dionisio. The Chief of Police proceeded to the house in company with two policemen and conducted a cursory investigation, ordering that nothing inside the house be moved and sending for the Municipal Health Officer and at the same time preparing a sketch of the house (Exhibit "G"). The Municipal Health Officer examined the dead body of Hortillosa and made the following findings:

- "1. Incised wound obliquely in the forehead from the right to the left about 3 inches long ½ inch wide perforating the skull.
2. Incised wound left wrist almost completely severing the hand.
3. Incised wound back of the right elbow about 4 inches long, 3 inches wide cutting the elbow in half.
4. Incised wound right forearm posterior region about 4 inches long 1-½ inches wide 1-½ inches deep.
5. Stab wound penetrating left side anterior auxiliary line about 2 inches long ½ inch wide between 10th and the 11th ribs." (Exhibit "C").

The police were baffled and were unable to determine who the author or authors could have been. So they

reported the matter to the Constabulary and sought the latter's help. The Constabulary assigned Sgt. Abello Juaneza, a Constabulary non-commissioned officer who had training and experience in criminal investigations, and two Constabulary soldiers.

Juaneza lost no time in contacting Rodolfo Hautea, the barrio lieutenant, the chief of police and barrio residents, to get clues as to the identity of the probable author of the crime. Juaneza and his companions also went to the barrio of Dogman and Pangi on March 20, 1957, making inquiries.

About a week thereafter, the barrio lieutenant informed them that they suspected one by the name of Esperidion Flores a resident of barrio Malonoy, who had been seen around the barrio of Pangi two times. So on March 27, 1951, Juaneza went to Malonoy to contact Flores. He found Flores catching fish. Juaneza made a search of the house and subjected Flores to questioning as to his whereabouts in previous days. Flores showed Juaneza his clothes for examination but no clues were found, but the companion of Juaneza, Corporal Amador Gellada, saw Flores' pants on the fence. The pants were examined thoroughly and bloodstains were found thereon. Upon being asked if the pants have been washed, Flores admitted that he had done so. He was also asked to explain the presence of bloodstains on the pants, but Flores declared he did not know. Upon being asked¹ his whereabouts and activities immediately before March 9, he answered that he spent the night in the house of his uncle at barrio Dogman, San Dionisio. When confronted with the uncle referred to, however, the latter denied that Flores slept in his house on March 9. Upon further examination, Flores finally admitted he had been telling a lie; that he was actually in barrio Sowa where his wife had been treated by a certain woman relative for rheumatism. The police went to the woman accompanied by Flores, and upon being asked, the woman referred to told that Flores and his wife had left in the afternoon of March 9 and had gone to an unknown destination.

In the course of further investigation, it was further found that after leaving barrio Sowa, Flores went to the barrio of Balcon and slept at the house of Paquito Prias. So the officers went there but once there Prias denied that Flores had gone there, so the two were made to confront each other. Flores insisted that he slept in Prias' house in the evening of March 9, 1957. So Juaneza and his companions began making inquiries from neighbors. These were asked if they had seen Flores and his wife in the house of Paquito Prias. They confirmed that Flores and his wife left the house of Prias on the morning of March 10.

Sergeant Juaneza testified that before Flores was brought to the house of Prias, Flores had already confessed it was he and Prias who had killed Hortillosa in barrio Pangi. Thereupon Flores was asked to sign the certification, Exhibit "D", to the effect that he (Flores) was making his admissions voluntarily. Exhibit "D" was prepared and signed on March 28, 1957.

Juaneza also called for the part of the floor of the house which contained bloody footprints, and which had been sawn off by the municipal police for preservation. He also took the footprints of Flores and Prias, then measured those on the floor and the prints he took and found that with a slight difference, the footprints on the floor were practically of the same size as those he took. He explained that the difference is due to the fact that those on the floor were impressed as the men were carrying a heavy weight, which was the case when the killers of Hortillosa carried his body from the sala to the bed.

After the measurements of the footprints had been made, Juaneza ordered the reenactment of the crime. Flores and Prias reenacted what they did on the night of the killing while the victim was represented by a person named "Ilo".

After the reenactment Juaneza took down in writing the statement of Flores and typed it on a typewriter borrowed from the municipal building. Flores then placed his fingerprint at the bottom. This statement of Prias a carbon duplicate of which bears his fingerprint at the bottom on the name of Paquito Prias was taken on March 30, 1957.

The prosecution witnesses declared that Prias impressed his fingerprint on the said document but when he was already in the town jail and had been visited by his wife, he refused to swear to it.

The affidavit of Esperidion Flores, presented at the trial as Exhibit "A", was brought to the office of the Justice of the Peace, according to the latter, on the 29th day of March, 1957 at a time when he was not yet in his office. When he arrived he found the affidavit already bore a fingerprint, so he asked Flores if the latter knew how to read Visayan and Flores answered he did know a little. The Justice of the Peace then explained to Flores what is contained in the exhibit, then asked Flores if it is true and Flores admitted everything in the affidavit to be true. After this the Justice of the Peace signed his name at the bottom of the affidavit. Upon cross-examination he declared he read to Flores not only a portion of the affidavit but the whole and after reading the whole document he asked Flores if the same were true and the latter answered in front of him that it is.

The defendants both denied having committed the crime, explaining that they were in the house of Paquito Prias on the evening of March 9th; that Flores helped Prias in making pig's trough in the afternoon; that they ate supper in the house at eight o'clock in the evening; that after supper Prias retired to bed, while Flores continued sewing the fishing net of Prias; that at about ten o'clock Flores also went to sleep; that both of them slept, staying in the house without going down till morning of the next day, when, they went to fish until ten o'clock in the morning.

Flores, testifying on Exhibit "A", explained that his fingerprint thereon was made by the Constabulary soldiers holding his finger and pressing it on the paper, after it had been previously placed on the stamping pad, and that the contents of the document were never explained to him in the Visayan dialect before his thumbmark was placed thereon. He further declared that he placed his fingerprint on the document Exhibit "A" after they had been ordered to go to the house of Hortillosa for the reenactment of the crime. He denied the declaration of the Justice of the Peace that the latter asked him if he was confessing to the truth of what was contained in the document; and said he answered the Justice of the Peace that he placed his thumbmark on the document only because he could no longer stand the maltreatment he had received.

As to the pants supposed to have been found with huge blood stains, which according to the witness for the prosecution were taken from the fence of the house of Flores, the latter denied that the said pants were taken from the fence and said they were taken within the house and already dry at that time, and that it is not true that he said he did not know the stains in the pants but explained to them that the same were due to juice coming from the fishing net when he was digging crabs. He also denied having confessed to the Constabulary that he was in the house of Paquito Prias on the evening of March 28.

As to the reenactment of the crime he explained that while he was downstairs of the house of Eleuterio Hortillosa he was called up, and once up he saw a person lying down on the sala whom he was told to pick up and place on the bed; that when he said he could not carry the man, they had another man help him carry the person lying down and so they carried the said person together; that he had continuously been subjected to blows given by members of the Constabulary, once when they were at his house, another when the reenactment of the crime was being made, and still another when he was asked to sign the document; and finally, that on the occasions he received the blows, he always got benumbed.

Prias for his part declared on the reenactment of the crime, that he was taken to a house (supposedly that of Hortillosa) and was asked if he had killed a man in that house and he denied having done so; that thereupon the Constabulary took off his clothes and tied his hands at the back and insisted he had killed Hortillosa, and as he denied he had done so he was given a blow at the pit of the stomach twice; that thereupon he fell on the floor and after raising him up they again asked him if he was not the man who killed Hortillosa, and as he again denied they again struck him a blow at the pit of the stomach causing him to fall down; but he was made to stand up again

after another Constabulary soldier had kicked him; that he was forced to go down and kneel under the heat of the sun without clothing of any kind for a long time; that after a while a glass of water was poured over him; that thereupon he was taken to the house and the cords that bound his hands were loosened and then he was asked to sign a certain piece of paper but that he refused to do so; that in the afternoon he was taken to barrio Dogman and there he was given to the custody of a policeman; that about two in the afternoon the chief of police went inside his cell in order to ask him to sign the document; that he signed it because they told him they were going to bring him to a doctor as requested by his sister; and that he did not understand the contents of the document as he had never gone to school.

As Indicated above the defense set up by the defendants was a denial and a supposed alibi. They explained the sworn statements have been marked by them after having been compelled to do so against their will; that as to the reenactment of the crime they were forced to perform the acts against their will and at the direction of the Constabulary officers. However, the prosecution introduced the barrio lieutenant of barrio Pangi, San Dionisio who declared that Exhibit "D" was marked voluntarily by Esperidion Flores. He further declared it is not true Paquito Prias was hog tied and his upper clothing were removed on the occasion of the reenactment of the crime in the house of Hortillosa; that nobody was ever maltreated at the time the crime was reenacted, and that the reenactment was made by the accused themselves voluntarily. The investigator Juaneza was also called back to the witness stand and he denied under oath that he delivered any blow on Flores before the latter put his finger print on Exhibit "A", Flores' statement. The other Constabulary soldier Amado Gellada denied that Paquito Prias was maltreated or that Flores was given bodily harm before he signed his confession Exhibit "A". To the same effect is the testimony of the third Constabulary officer, Eпитacio Santilla, who denied all the alleged maltreatment supposedly imputed to him by the defendant.

But aside from the admissions made by the defendants-appellants, the prosecution has been able to muster and present in court some circumstances. Do these circumstances sufficiently corroborate the admissions such that it produces proof beyond reasonable doubt as to the guilt of the defendants-appellants? We answer this question in the affirmative. In the first place the manner in which the Constabulary was finally able to determine the identity of the robbers was indeed very logical and systematic. By first determining the persons who had been seen to loiter near the scene of the crime, the identity of Flores was established. So Flores was investigated in his house and the pants with bloodstains aroused the suspicion of the investigators and lead to their being "convinced he was one of the malefactors. Confronted with such convincing evidence on his guilt, Flores finally admitted his participation, indicating Paquito Prias, his co-accused, as his companion when the crime was committed. Thus Flores was brought to Paquito Prias. At first Prias denied having been with Flores, but after being confronted with Flores, finally admitted that he was with him in the commission of the crime.

The claims of the defendants-appellants that the admissions were secured through the use of force is asserted only by the defendants-appellants themselves and their respective spouses. But such force was denied by the Constabulary officers as well as by the officials of the municipality of San Dionisio. Thus the justice of the peace declared Flores understood the contents of Exhibit "A" and admitted them to be true. As to the written confession of Prias, explanation why the same was not sworn to before the justice of the peace, is found in the fact that after having been visited by his sister in jail, he refused to swear to it before the corresponding official. It will be noted, however, that notwithstanding the pretenses of defendants-appellants that the admissions were secured by the use of force, the said defendants-appellants never asserted that said admissions did not contain the truth; so we entertain the conviction that if force at all was used, it was not to have the truth distorted but precisely for the defendants-appellants to declare what the true facts were, which true facts were finally embodied in their respective admissions and confessions.

The sizes of the footprints found on the floor of the house of Hortillosa in which the crime was committed tally with the sizes of the footprints of the defendants-appellants taken down by the police. No fingerprint expert was called to testify on the matter. The fact that two sizes of footprints were found and the footprints of defendants-appellants differ in size was explained and we are convinced defendants-appellants actually participated in the robbery.

Finally their alleged continued presence in the house of Paquito Prias the whole night of March 9, 1957, stated by only the defendants-appellants themselves and wives, is of doubtful character as evidence thereof is given by persons who are interested in saving their husbands from the responsibility for a very serious offense.

Furthermore, We have carefully examined the evidence and we are satisfied that the trial judge who heard the witnesses and the defendants-appellants testify and arrived at the conclusion that the latter are guilty, has made a correct appraisal of the value of the evidence and the credibility of the witnesses.

The prosecution also proved without contradiction that the deceased Hortillosa used to have during his life-time a margarine can containing not less than P50.00 savings, he being an old bachelor. This evidence has not been contradicted or found to be unworthy, for the same is testified to by persons who lived with him in his house.

The crime committed is that defined in Article 294 paragraph 1 of the Revised Penal Code for which the penalty provided is reclusion perpetua to death. The crime having been committed with at least one aggravating circumstance, i. e., that of nighttime, the penalty provided for should be imposed in the maximum period. However, for lack of sufficient number of votes, the judgment of the lower court sentencing each of the defendants-appellants to reclusion perpetua, is hereby affirmed. Appellants are also sentenced to pay jointly and severally, to the heirs of the deceased Eleuterio Hortillosa, the amount of P5,000.00 and the amount of P53.00. With costs against the defendants-appellants.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

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