

RODOLFO BAUTISTA Y VILLANUEVA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. L-18690. May 21, 1969*

Ponente: DIZON, J.

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Appeal by certiorari taken by Rodolfo Bautista from the decision of the Court of Appeals in G. R. No. L-00380-R affirming in toto the one rendered by the Court of First Instance of Manila finding him guilty as accomplice of the crime of robbery with homicide and sentencing him to suffer imprisonment of from six (6) years and one (1) day of prison mayor to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, to indemnify the owner of the jeepney mentioned in the decision, jointly and severally with the persons charged with robbery with homicide in Criminal Case No. 47434 of the same court, in the sum of P3,000.00 with subsidiary imprisonment in case of in-solvency.

It is not disputed that sometime in the morning of December 16, 1957 Alfredo Salazar, driving a jeepney Ford Glory A.C.-4598 belonging to Perfecto Santos, took to the road looking for passengers but failed to return to his base at the usual time - eight o'clock in the evening. Two days later his cadaver was found at North Bay Blvd., Malabon, Rizal, the cause of his death being, according to the NBI Medico Legal autopsy findings, "intracranial hemor-rhage, acute, severe, secondary to external violence". The medical examiner further found that the wounds on the head and face inflicted upon the deceased were fatal and that at least two kinds of blunt instruments were used to cause them. Moreover, the jeepney driven by him valued at P3,000.00 was never recovered.

The crime remained unsolved for some time, until sus-picions fell upon appellant Rodolfo Bautista and one Apoli-nario Maloles who were accordingly placed under arrest on November 27 of the following year. In the course of the ensuing investigation, appellant executed the sworn state-ment, now in the record as Exhibit 5, in which he admitted: that on the day in question he rode in the jeep driven by Alfredo Salazar together with Apolinario Maloles and Edgar Abella, the latter having sat beside the driver, while he and Maloles occupied the rear seat; that after going to several places Abella made the driver stop, claiming that he was to satisfy a minor necessity, but instead of doing so, he hit Salazar with a bottle several times, as a result of which Salazar died; that thereafter Abella took the wheel and drove the jeepney away, with the dead body of Salazar which they later dumped along the road side; that thereafter, he, Maloles and Abella proceeded to their home town - Tanauan, Batangas - where he alighted and separated from his two com-panions; that later on Maloles informed him that the jeep had been sold and offered him the sum of P15.00 which he re-fused to accept, asking instead for a bottle of beer and a pack of cigarettes; that he promised Maloles not to tell anyone about the commission of the crime; that the following day he was charged in court (Criminal Case No. 46544).

A charge for the same offense was filed on February 17, 1959 against Apolinario Maloles in the same Court of First Instance of Manila (Criminal Case No. 47434). Subsequently, the two cases were tried jointly.

Upon the above facts the Court of Appeals found appellant Bautista guilty as accomplice in the commission of the

crime of robbery with homicide, making in this connection the following considerations:

"x x x x x x x x Considering the antecedents - from the time the trio agreed to come to Manila to have a good time and what had been done by them, it would be futile to consider appellant's presence, acts and attitude a mere passive presence'. Surely, if he were not in cohort and without the least intention to cooperate with such dastardly acts on the part of his companions at the time, the most natural thing for him to do was to have notified, if not denounced to, the authorities what had taken place which resulted in the loss of a life. It may be that appellant was under an impossibility in preventing his companions from continuously attacking the driver, still, if he did not intend to cooperate, he should not have helped dispose of a dead victim, leaving him alone in a highway and later keeping mum about it. Evidently, that was no behavior of an innocent person. Even if appellant had not at the beginning thought of, much less intended, to join in the commission of the acts of attacking and killing someone, the moment one of his companions had committed such a heinous act, it was incumbent upon him (appellant) to have done something, at least, to extend help to prevent the death of the victim by notifying the corresponding authorities at the first opportunity."

Having appealed in due time from the above decision, appellant submits the following as the reasons why the same should be reversed:

"I - THAT THE HONORABLE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORDANCE WITH THE APPLICABLE DECISION OF THIS HONORABLE COURT.

"II - THAT THE HONORABLE COURT OF APPEALS DECIDED TO FIND PETITIONER GUILTY AS ACCOMPLICE IN A MANNER NOT IN ACCORDANCE WITH LAW.

"III - THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO AN ERROR OF LAW IN AFFIRMING THE DECISION OF THE TRIAL COURT.

"IV - THAT THE HONORABLE COURT OF APPEALS MADE A WRONG CONCLUSION OF GUILT."

It is appellant's contention that the evidence of record points to no more than his mere presence in the scene of the crime and does not show at all any degree of cooperation, whether moral or material, on his part to help accomplish the crime.

This contention is without merit. The evidence sufficiently proves that he and the two other persons named here-tofore had a previous agreement to come to Manila to have a good time. They stuck to each other's company from the time they boarded their victim's vehicle until they returned to their home town after dumping their victim's dead body along the road side. True, there is no positive showing that appellant actually laid hands upon the deceased Salazar, but if he was not in conspiracy with his companions, why did Maloles have to tell him that the stolen jeep had been sold and then offered him a part of the loot?; why did he ask for and accept - instead of the P15.00 offered by Maloles, a bottle of beer and cigarettes?; why did he keep quiet for so long a time, instead of revealing to the authorities the commission of the crime?

At any rate, the question posed by appellant is one of fact already resolved by the trial court and the Court of Appeals against him. The record does not disclose any factor justifying a reversal of their finding.

Appellant's next contention is that it was error on the part of the Court of Appeals to consider against him the testimony of Apolinario Maloles when, according to law, that testimony given after the conspiracy had ceased to exist should have been considered only against Maloles himself. It is enough to say in this connection that the trial court as well as the Court of Appeals considered Maloles' testimony only as corroborative evidence in relation to the evidence presented against appellant himself. Even without such corroborative evidence, the latter would seem to be sufficient to sustain the findings of both courts.

The third and fourth questions raised by appellant require no special or particular consideration, the same being mere corollaries of the first two.

WHEREFORE, the decision appealed from being in accordance with law and the evidence, the same is hereby affirmed, with costs.

Reyes, J.B.L., (Acting C.J.), Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

Concepcion C.J., and Castro, J., are on official leave.

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