

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MACTAN PEÑARANDA, REGIGOR PEÑARANDA AND CASIMIRO
CARURUCAN, ALIAS 'ROMY',
DEFENDANTS-APPELLANTS.**

G.R. No. L-33358. September 30, 1981

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

In the evening of January 24, 1968, at Barrio Ilayang Tayuman, Municipality of San Francisco (formerly Aurora), Quezon Province, three men, two with their faces covered, armed with a shotgun and sharp pointed instruments, entered the house of the spouses Jeremias Pastorfide and Zenaida Rovero, obtained by force P1,000, stabbed and killed Jeremias Pastorfide, and inflicted physical injuries on his wife Zenaida Rovero.

As a result, an information dated September 26, 1968, was filed, as follows:

"The undersigned, Provincial Fiscal, accuses Mactan Peñaranda, Regidor Peñaranda and Casimiro Carurucan alias 'Romy', of the crime of robbery with homicide, defined and punished under Article 294, paragraph 1, of the Revised Penal Code, as amended by Republic Act No. 18, and Article 249 of the same Code, committed as follows:

"That on or about the 24th day of January 1968, in the Barrio of Ilayang Tayuman, Municipality of San Francisco (formerly Aurora), Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, with intent to gain, armed with a shotgun and sharp-pointed instruments, entered the house of Jeremias Pastorfide, and once inside, by means of violence against and intimidation upon persons, did then and there willfully, unlawfully and feloniously take, steal and carry away with them ONE THOUSAND (P1,000.00) PESOS, belonging to the spouses Jeremias Pastorfide and Zenaida Rovero, to the damage and prejudice of the said spouses in the aforesaid sum of P1,000.00, Philippine currency;

"That on the occasion of the said robbery, the above-named accused, in pursuance of their conspiracy, with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and stab Jeremias Pastorfide and beat Zenaida Rovero, thereby inflicting mortal wounds in the different parts of the body of said Jeremias Pastorfide which directly caused his death; and several wounds in the different parts of the body of Zenaida Rovero, which injuries required medical attendance for a period of 1 to 9 days.

"That in the commission of the above-described crime the aggravating circumstance of night time and superior strength were present.

"Contrary to law."[1]

After arraignment, plea of not guilty,[2] and trial of the case, the CFI of Quezon, Branch I, rendered a decision dated December 29, 1970, convicting the accused, with dispositive portion as follows:

"x x x x x x x x

"VIEWED IN THE LIGHT OF THE FOREGOING, the court finds the accused guilty beyond reasonable doubt of the crime of robbery with homicide, as charged. There being no mitigating circumstance but considering the aggravating circumstance of superior strength, which was definitely proved, the court hereby sentences the accused Mactan Peñaranda, Regidor Peñaranda and Casimiro Carurucan alias 'Romy', to suffer imprisonment for life. The accused are ordered to pay, jointly and severally, the widow of the deceased in the amount of P12,000.00 for the death of the victim and P1,000.00 representing the amount taken by the accused, without subsidiary imprisonment in case of insolvency in view of the nature of the penalty imposed; with the accessories of the law and to pay the proportionate costs of the proceedings.

"SO ORDERED."[3]

The accused appealed from the judgment of conviction on February 8, 1971.[4]

The version of the prosecution is as follows:

At about 7:30 p.m. of January 24, 1968, members of the family of Jeremias Pastorfide were listening to the radio in their house at Barrio Tayuman, San Francisco (formerly Aurora), Quezon Province. Zenaida Rovero, wife of Jeremias, was on her way out to answer a call of nature, when at the door she suddenly felt that a person with covered face poked a gun on her forehead. The person said: "Put out money, or else all of you will die." Witness Zenaida was crying while narrating the incident. Afraid, Zenaida pointed out the hiding place of the money at the drawer of the sewing machine, amounting to P1,000.00. When the man was getting the money, Zenaida shouted for help. The man pulled her and beat her. She was able to pull away the cover on the face of the man. In the bright light of their Coleman lamp, she was able to recognize the person as appellant Casimiro Carurucan.

At that time, Jeremias Pastorfide was sleeping. Appellants Mactan Peñaranda and Regidor Peñaranda entered the house and stabbed the victim Jeremias several times. Zenaida, upon seeing her husband being stabbed, rushed to his aid. She pulled the cover on the face of Mactan Peñaranda. Regidor Peñaranda had no cover on his face. Zenaida knew the three appellants well.

Victim Jeremias Pastorfide died a few hours later, after he was able to tell Councilor Valerio Palma that it was the "brothers" who committed the crime.[5]

Appellants Mactan Peñaranda and Regidor Peñaranda are brothers. Their mother is the first cousin of prosecution witness Zenaida Rovero. Appellant Casimiro Carurucan is the brother-in-law of Mactan and Regidor Peñaranda, the former being married to a sister of the latter two.[6] Zenaida Rovero is very well acquainted with the appellants Peñaranda brothers, as they were in the same school since they started studying.[7]

Feliciano Alcantara and Pedro Llarena testified that on the evening of January 24, 1968, at about 7:30 p.m., while they were going around the plantation because of carabaos destroying the planted corn, they heard shouts for help. They went to that direction and they saw in the house where the shouts came from, the appellants Regidor Peñaranda, Casimiro Carurucan and Mactan Peñaranda. The three came out of the house. Casimiro had a long gun with him. Both witnesses became afraid. They left the place, returned to their homes and evacuated their families to safer places. They informed the father of the victim of what they saw.[8]

The version of the defense consisting of general denial and alibi, is as follows:

Appellant Regidor Peñaranda claims he was then preparing for his wedding. On January 24, 1968, he bought crude oil for their rice mill. He went to Macalelon, then to Catannauan, then to Tayuman, San Francisco. He arrived at his house at about 7:00 p.m. in the evening of that day and stayed there up to the next morning. Mactan Peñaranda also claims that he was at his house at Tayuman, San Francisco, on January 24, 1968, from 5:00 p.m.

until the next morning. Appellant Casimiro Carurucan has the same claim that he went to the house of his brother-in-law on that day of January 24, 1968; he returned home and stayed in the house to sleep.[9]

Appellants question the credibility of prosecution witnesses Zenaida Rovero, wife of the victim, Feliciano Alcantara and Pedro Llarena to destroy the positive identification of appellants as the perpetrators of the crime on January 24, 1968. There is no indication nor showing by evidence that the three principal prosecution witnesses were ill-motivated to falsely testify. The trial Court found them to be disinterested witnesses. They were truthful and reliable.[10] Their testimonies are worthy of full faith and credit, as there is no improper motive that can be attributed against them.

It is difficult to disturb the finding of the trial Court on the credibility of the principal prosecution witnesses Zenaida Rovero, Feliciano Alcantara and Pedro Llarena.

There is no dispute that on that evening of January 24, 1968, the victim Jeremias Pastorfide suffered multiple stab wounds on his body that resulted in his death after a short duration of time.[11] It is not also disputed that on the same occasion a man caused physical injuries on the body of Mrs. Zenaida Rovero Pastorfide, wounds that needed nine days to heal, without complications.[12]

Zenaida Rovero testified that it was appellant Casimiro Carurucan who caused her physical injuries, and who took the P1,000.00 in the evening of January 24, 1968.[13] Two persons, appellants Mactan Peñaranda and Regidor Peñaranda entered the house and successively stabbed the victim Jeremias Pastorfide who was then sleeping.[14]

Councilor Valerio Palma of San Francisco, Quezon, testified that on that evening of January 24, 1968, when he was notified of the crime in the house of Jeremias Pastorfide, he rushed to the scene of the crime and found the victim Jeremias still alive. Jeremias was able to tell witness Palma, in the nature of a dying declaration, that they "were robbed" and "the brothers" did it.[15] Mrs. Zenaida Pastorfide told witness Palma on the same occasion that appellants forcibly asked money from them.[16]

Feliciano Alcantara and Pedro Llarena positively identified all the appellants coming out of the house of the victim Pastordide, after they heard the shouts for help emanating therefrom.[17]

The positive identification of the appellants made by Zenaida Rovero as perpetrators of the crime,[18] her credibility being sustained by the trial Court, cannot be overthrown by the weak denial and alibi of appellants. That positive identification is bolstered by the declaration of the victim Jeremias to Councilor Palma that they were robbed and the "brothers" did it, shortly before he died. Witnesses Feliciano Alcantara and Pedro Llarena saw the appellants at the scene of the crime.

Furthermore, the house of appellants were only about 100 meters from the scene of the crime.[19] All of them were in a position, notwithstanding their alibi, to reach the scene of the crime in a few minutes. It was physically possible for them to be at the scene of the crime when it happened, negating the force and effectivity of their alibi. We cannot find any reason to disturb the trial Court's finding in the credibility of the prosecution witnesses. The general denial and alibi of the defense of the appellants cannot prevail over the positive identification made by the prosecution witnesses that the appellants are the perpetrators of the crime. The requirements of moral certainty have certainly been met.

WHEREFORE, the decision dated December 29, 1970, in Criminal Case No. 16441, is hereby AFFIRMED in all respects, with costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Abad Santos, and De Castro, JJ., concur.

- [1] pp. 63-64, Original Record, Crim. Case No. 16441, C.F.I., Quezon, Branch I.
- [2] p. 69, Original Record.
- [3] pp. 250-251, Original Record.
- [4] p. 263, Original Record.
- [5] pp. 5-13, 56, 63, 79, 82-83, t.s.n., April 21, 1969; pp 8-19, 44-45, t.s.n., May 19, 1969.
- [6] pp. 13-14, t.s.n., April 21, 1969.
- [7] p. 14, t.s.n., April 21, 1969.
- [8] pp. 15-28, t.s.n., Nov. 25, 1969; pp. 58-72, t.s.n., November 25, 1969.
- [9] pp. 89-91, Appellants' Brief.
- [10] p. 97, Appellants' Brief.
- [11] Exh. "E"; pp. 11-16, t.s.n., May 19, 1969.
- [12] Exh. "F"; pp. 16-20, t.s.n., May 19, 1969.
- [13] pp. 10-12, t.s.n., April 21, 1969.
- [14] pp. 12-15, t.s.n., April 21, 1969.
- [15] pp. 41-45, t.s.n., May 19, 1969.
- [16] pp. 46-84, t.s.n., May 19 1969.
- [17] pp. 15-20, t.s.n., November 25, 1969; pp. 59-61, t.s.n., November 25, 1969.
- [18] pp. 5-23, 14, 56, 63, 72, 79, 82-83, t.s.n., April 21, 1969.
- [19] p. 96, Appellants' Brief.

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