

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. SEVERINO CORPUZ, ET AL., DEFENDANTS. LUIS ARDANIEL, DEFENDANT AND APPELLANT.

G.R. No. L-10104. January 28, 1961

Ponente: DIZON, J.

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DIZON, J.:

In Criminal Case No. 385 of the Court of First Instance of Abra, Severino Corpuz, Luis Ardaniel and two other unidentified persons were charged with the crime of robbery with homicide, while Pascual Gallardo was accused of the same offense in Criminal Case No. 406 of the same court. Upon arraignment all of them pleaded not guilty. After a joint trial, the court acquitted Gallardo on the ground of reasonable doubt, while it found Corpuz and Ardaniel guilty as charged and sentenced them as follows:

"IN VIEW OF ALL THE FOREGOING, the Court finds the accused Severino Corpuz and Luis Ardaniel, in Criminal Case No. 385, guilty beyond reasonable doubt of the crime of robbery with homicide provided and penalized in article 294, paragraph 1, of the Revised Penal Code and the Court sentences them to suffer each the penalty of reclusion perpetua, to indemnify jointly and severally the heirs of the deceased Antonio Castañeda in the sum of P6,000.00 for his death; to return to their respective owners the articles taken by them above set forth by the Court and failure to do so, to pay jointly and severally the corresponding value thereof proven namely: P40.00 to Carmen Rodriguez, P370.00 to the heirs of Antonio Castañeda, P140.00 to Juanita Balicao and P25.00 to Aniceta Castañeda, without subsidiary imprisonment in case of insolvency in view of the nature of the principal penalty imposed. The accused Severino Corpuz and Luis Ardaniel shall further suffer the accessory penalties provided for by law and to pay the costs.

"The Court acquits the accused Pascual Gallardo in Criminal Case No. 406 with costs de oficio."

Corpuz and Ardaniel appealed, but, upon the former's motion, his appeal was dismissed on June 24, 1959.

The prosecution evidence shows that between 11:00 and 12:00 o'clock in the evening of May 2, 1952, while ex-mayor Antonio Castañeda was sleeping at his residence in barrio Alimodong, La Paz, Abra, together with his wife Carmen, daughter Aniceta, son Jovencio and sister-in-law Juanita Balicao, they were awakened by the presence of two men armed with carbines. When Castañeda asked them if they were policemen, instead of answering the query, they ordered the occupants to stand up and fix them something to eat. Castañeda's wife recognized one of the intruders as Severino Corpuz "having known him for a long time because I usually rode on his truck, he being a conductor of Zambrano having route to La Paz" (trans. p. 14, Nov. 23, 1954). His daughter, Aniceta was able to identify the other man as appellant Ardaniel. According to her, the latter was "very familiar, he was a student in La Paz Elementary School" (trans. p. 27, Nov. 23, 1954). The two men started searching the place taking the family's savings of P130.00 which was hidden under their mat. The intruders took from Carmen her earrings and ring worth P70.00, and from Juanita Balicao her earrings and ring worth P70.00. Thereafter appellant Ardaniel turned his attention to Castañeda's daughter, Aniceta, and asked her if they had any left-over food, to which she answered in the affirmative. Taking Aniceta to the kitchen with him, Ardaniel ate some of the

food found therein and then asked her if she had already menstruated, to which she answered that she had not. Sensing that Ardaniel was out to abuse her, she tried to run out of the kitchen but was held back by Ardaniel who got hold of her dress, pointed a gun at her and kicked her. Hearing his daughter cry for help, Castañeda warned Ardaniel not to harm her. The robbers then made Castañeda remove his clothes, and ordered all the victims to lie face downward. Then the men ransacked the family's aparador, taking therefrom a Bulova wrist watch valued at P200.00 belonging to Castañeda. As Castañeda did not heed the malefactors' order to lie face downward and was lying on his side with his head looking up, Ardaniel fired two shots at him, followed by three others fired by Corpuz. Castañeda died of the wounds thus inflicted upon him. After picking up the empty cartridges, the men left together with their other companions.

A post mortem examination of the victim's body was conducted by Dr. Julio P. Valera, the municipal medical and charity clinic physician of La Paz, the corresponding medical certificate issued by said officer (Exhibit 10) showing the death was due to shock and hemorrhage caused by the following wounds on the deceased:

"1. Gunshot wound, through and through, entering at the right side of the top of the head about 2 inches directly above the right ear, and coming out at the left occiput about 1 ½ inches lateral to the occipital protuberance;

"2. Gunshot wound, through and through, entering the face at the junction of the right ala nasae and the right cheek; and coming out at the left occiput about ½ inch medial and slightly above the level of the exit of wound (1). The entrance of this wound is surrounded by a burn about 1 ½ inches in diameter;

"3. Gunshot wound, through and through entering at the left infraclavicular fossa, and coming out at the left back at the point just medial to the inferior angle of the scapula;

"4. Gunshot wound, through and through entering at the right umbilical region about 2 inches lateral and 1 inch above the navel, and coming out at the left lumbar region about 2 inches lateral to the midline and just above the iliac crest;

"5. Lacerated wound about 2 inches long and 1 inch wide at the medial surface of the distal end of the upper half of the right forearm. The wound is oblique in direction—from the radial side upwards to the ulnar side of the forearm.

"Wounds 1, 2, 3, and 4, are fatal." (Exh. A, p. 10, rec.; pp. 4, 7, t.s.n., Orenia)

Appellant Ardaniel's defense consists of an alibi. He claims that from early evening on May 2, 1952 up to daybreak of the following day he was at the house of one Esperanza Barsuela in barrio Balintong, San Juan, Abra, playing the trumpet in a band which participated in a death anniversary celebration and dance held at said house. Appellant's testimony and that of his witnesses—Esperanza, Barscuela, owner of the house where the alleged dance was held, and Alejandro Billedo, who claimed to be one of the musicians who, with Ardaniel, furnished the music—cannot overcome the positive testimony of prosecution witnesses—whose credibility has not been successfully assailed—identifying him as one of the malefactors who killed Castaneda and robbed his household. Carmen Castañeda, the widow, testified that she knew Ardaniel very well, the latter having eaten several times in their house during fiestas. Her daughter, Aniceta, likewise testified that she had seen Ardaniel prior to the incident as a student of La Paz Elementary School. Juanita Balicao, sister-in-law of the deceased Castañeda, testified that she recognized Ardaniel as the person who took her earrings and ring valued at P70.00. Rosalina Tawagan, a neighbor of the Castanedas, also testified that during the fatal night in question she heard five gun shots and later saw Ardaniel going down a ladder of the house of the Castañedas.

The credibility of Aniceta Castañeda cannot be doubted because while she admitted not having immediately recognized the person who was holding a flashlight—evidently he was the accused Corpuz—she, nevertheless,

immediately pointed to Ardaniel as the malefactor who attempted to abuse her in the kitchen.

There is no merit in the contention that she and her mother are necessarily biased witnesses and that, therefore, their testimonies should be scrutinized and received with caution. We believe that precisely because of their relationship with the deceased Castañeda, who was killed before their eyes, these witnesses were only interested in seeing the real guilty parties punished. We cannot assume that in seeking justice and the punishment of the assassins, they would indiscriminately and without any motive, point to the wrong parties. In addition, it must be noted that the facts testified to by them during the trial were substantially the same as those contained in their sworn statements made before investigators the day following the commission of the crime. This prompt identification precludes all possibility of bad faith and fabrication.

Lastly, it is the alibi relied upon by appellant that should be received with caution. In this case, it is not supported by indubitable evidence.

The crime committed by appellant is punishable with reclusion perpetua to death. It was committed with the aggravating circumstance of nocturnity, which appellant and his companions sought to facilitate the commission of the crime, and treachery, because of the manner in which the brutal slaying of Antonio Castaneda was carried out; but in view of the lack of the required number of votes for the imposition of the death penalty, the decision appealed from is affirmed, with costs.

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

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