

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. CATALINO MARANAN Y ABILLON, ALIAS TING, OR TINGA, DEFENDANT-APPELLANT.

G.R. No. L-47724. September 24, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Indicted for Murder before the former Court of First Instance of Rizal, Branch XXXV, at Caloocan City, the accused Catalino Maranan was found guilty as charged and sentenced to reclusion perpetua.

The accused has appealed.

The prosecution has summarized its evidence as follows:

"At about 8:00 o'clock in the evening of April 22, 1972, Federico Lirio, Arthur Mangandel and several others were playing 'cara y cruz' somewhere at Bulacan Street, Caloocan City. The appellant, Catalino Maranan, disrupted the game by grabbing the coins being used therein. When Federico Lirio told him that they were not adversaries, the appellant got mad and uttered bad words against the former. Federico Lirio, who was a jeepney driver, together with a fellow driver, Rolando Alcantara, left and proceeded to A. Mabini Street, Caloocan City to ply their route (pp. 7-10, tsn, April 14, 1977).

"Upon their return, at around 11:00 o'clock and 12:00 o'clock p.m., Rolando Alcantara was at the wheel of the jeepney of Federico Lirio. At the front seat of the same jeepney was Federico Lirio, seated between the driver and Alfonso Santos nicknamed 'Jun'. While the jeepney was slowly cruising along 10th Avenue in Caloocan City, appellant, who was at the corner of Bulacan Street, near a drum, and from that distance of barely four (4) meters away from the vehicle, aimed a .22 caliber gun at them and fired twice. Alfonso Santos nicknamed 'Jun' was hit on the forehead. He fell from the vehicle. Another passenger, Lorenzo Francisco, nicknamed 'Enchong', who was seated at the rear, was also hit on the right knee (pp. 10-14, 16-20, & 30, tsn, April 14, 1977; pp. 8-11, tsn, May 10, 1977).

"The gunshot wound inflicted upon Alfonso Santos proved fatal. He died as a result. An autopsy conducted on the victim disclosed that the cause of death was a gunshot wound on the right side of the forehead which penetrated the frontal, parietal and temporal lobes of the brain's right hemisphere. The slug was lodged at and recovered from the subdural portion, parietal lobe of the right side of the brain (Exh. 'C'). The victim also suffered a grazing wound at the dorsal aspect of the hand, left side from the base of the middle finger to the middle phalange. (pp. 4, 6, 10-13, & 18, tsn, July 19, 1977)."[1]

The defense invokes alibi, with the accused giving his own version of the incident as follows: that between the hours of eleven o'clock and twelve o'clock in the evening of April 21, 1972, he was driving a Lady Helen taxi as he was on night shift starting from five o'clock in the afternoon of April 22, 1972 up to five o'clock in the morning of April 23, 1972; that the gambling incident happened on April 21, 1972 and not on April 22, 1972; that when he arrived at the gambling place, Federico Lirio was holding the coins used as "pangara"; that after he noticed that his friends were losing the game in an unclean manner, he asked that the gambling be stopped because he knew

that Lirio was a hustler; that shortly after, his friends grabbed their money from Lirio, who got mad and uttered foul language against him, saying "Putang ina mo, bakit mo kami pinakikialaman"; that Lirio tried to fight him, but he avoided trouble, so, he went home right away; that around nine o'clock in the morning of April 23, 1972, while he was on his way home, he saw Lirio again somewhere at 10th Avenue who uttered these words in the vernacular: "If not for you, no one will be shot at; you are a 'sumbungero' "; that immediately after the said incident, he went home to take a rest; that Lirio did not mention to him the names of those who were allegedly shot at; that he does not know the deceased Alfonso Santos nor the injured person, Lorenzo Francisco; that he learned of their having been shot only on April 23, 1972 when he was about to report for work at Tandang Sora, Quezon City. Appellant denied having fired at the jeepney where the victims were riding but declared that he knows of no reason why the prosecution witnesses would implicate him in this case.

On cross-examination, appellant admitted that Lirio is smaller than he; that he knows Lirio as a jeepney driver, but does not know Lorenzo Francisco; that he has no grudge against Lirio with whom he had quarrelled because he was able to stop the gambling and he is not an aggressive person; that after April 22, 1972, he and his wife moved their residence to Pasig where his brother lives; that he learned on April 23, 1972 that he was being sought by the police, so, he informed his brother about the incident in Caloocan City involving him; that his brother advised him to present himself to the police authorities so that the truth may be known but he did not obey such advice; that he did not report to the police prior to his arrest because he was afraid, as he would have to pass by the scene of the incident and was worried about the threats against his life made by Lirio and his companions who are tough guys in the place; that after April 23, 1972, he continued to drive the Lady Helen taxi, taking no definite routes, but drove around the Metro Manila area; that after May, 1972, he did not know that he was the subject of a warrant of arrest for the alleged crime of murder, and that he had no knowledge that a criminal complaint had been filed against him; and that he was suddenly arrested in 1976 at his workplace at Tandang Sora, Quezon City.[2]

On December 29, 1977, the trial Court rendered judgment, the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, the Court hereby renders judgment, finding and declaring the defendant, Catalino Maranan, guilty beyond reasonable doubt of the crime of Murder, as embodied in the information, without any mitigating nor aggravating circumstance.

The imposable penalty is covered by Art. 247 of the Revised Penal Code, which is reclusion temporal in its maximum period, to death. Since there is no mitigating nor aggravating circumstance, the medium penalty is imposed, which is reclusion perpetua.

The Court hereby sentences the accused, Catalino Maranan, to suffer imprisonment of reclusion perpetua, with the accessory penalties provided for by law, and to pay the costs; to indemnify the heirs of the victim, Alfonso Santos, in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency.

Accused is fully credited during the time he has undergone preventive imprisonment by reason of this case.

SO ORDERED."[3]

The records disclose that although the warrant for the arrest of appellant was issued on July 6, 1972 it remained un-served and was instead referred to the National Bureau of Investigation. The case was archived for some time and was reinstated after the accused was arrested on October 25, 1976.

The defense attributes the following errors to the Trial Court.

"I

The Court a quo erred in convicting accused, Catalino Maranan, of the crime of Murder by giving credence to the contradictory and irreconcilable testimonies of the prosecution's alleged eye witnesses.

"II

The Court a quo erred in appreciating and making the circumstance of flight as basis in convicting accused-appellant despite the absence of direct or corroborative evidence showing his guilt or participation in the offense charged."

We find no merit to either assignment.

The prosecution witnesses, Federico Lirio and Lorenzo Francisco, both of whom were passengers of the jeepney at the time of the shooting incident, positively identified appellant as the assailant. The categorical identification by said two eyewitnesses was not successfully rebutted. Lirio knew the accused at least ten (10) years prior to the incident[4], while Francisco knew him well since he was a small boy because his eldest sister used to hire appellant's jeep.[5] It was also established that the scene of the crime was brightly illuminated as there was light from the electric post aside from the lights coming from the gasoline station just on the opposite side of the road. [6]

Appellant was not without motive in consummating his criminal design. On the same date of the shooting incident, appellant and Lirio had a heated confrontation while the latter and friends of the accused were gambling when appellant disrupted and stopped the game. Despite assertions on appellant's part that he harbored no grudge against Lirio after their quarrel, the circumstances of the shooting incident belie his contention and bespeak of his motive in firing at the jeepney in which Lirio was riding. Appellant fired at the intended victim, Lirio, but hit, instead, two of his co-passengers that resulted in the killing of Alfonso Santos and injury to Lorenzo Francisco.

While, as in the case at bar, motive is unnecessary to prove appellant's guilt since the eyewitnesses positively identified appellant as the assailant, yet, there is enough proof of such appellant's motive, which tends to corroborate the evidence establishing his guilt.[7]

Appellant's defense of alibi is unavailing. His allegations that he was somewhere else at the time of the commission of the crime as he was then driving a Lady Helen taxi on night shift starting from five o'clock in the afternoon of April 22, 1972 up to five o'clock in the early morning of April 23, 1972, are mere self-serving statements and bare assertions, uncorroborated by other competent evidence. Alibi cannot prevail against positive identification by prosecution witnesses.[8]

Significant, too, is the fact that appellant had not positively shown that it was physically impossible for him to be at the scene of said crime at the time of its commission.[9] Appellant's admission that in driving his taxi he had no definite route, but that he drove it within the Greater Manila area only, does not rule out the physical possibility that appellant could have driven his cab to the scene of the crime at or about the time of the shooting incident and there he waited for his intended victim, Lirio.

Coming now to the alleged conflicting and irreconcilable testimonies of Lirio and Francisco -- Lirio testified that appellant was in a kneeling position when the latter fired on them, while Francisco declared that appellant was standing. The defense then makes capital of the fact that if the appellant were in a kneeling position when he pulled the trigger of the gun, the trajectory of the bullet on the victim Alfonso Santos could not have been downwards from the point of the entry at the forehead.[10] This circumstance, however, was well-explained, by Dr. Orlando Salvador, the NBI Medico-Legal Officer who autopsied the victim's cadaver, who stated that it was

difficult to ascertain the relative position of the victim when he was shot considering the mobility of the head which was fatally hit. We quote the pertinent portions of his testimony:

"Q Now, this wound on the forehead, from the nature and description of this wound, can you tell this Court what would be the position of the victim at the time he was allegedly shot at?

A Well, the head being a movable portion of the body, it would be hard to pinpoint the position. Because of the mobility of the head, it can be moved either side. But granting if the two (2) are facing each other, the head must be bowed a little. If the victim is shorter or if they are of the same height, it should be bowed or the gun should be a little bit lower or if the gun is pointed, it should be bowed a little.

COURT:

Q If the triggerman is in a higher elevation?

A Yes, your Honor.

FISCAL:

Q In a seated position ...

COURT:

Q. What is the relative position of the assailant and the victim, were they facing each other or what?

A Well, as I said, because of the mobility of the head, you cannot exactly pinpoint the exact position.

Q Even the body of that matter, the body is movable also?

A Well, if the victim is sitting down like I do now and the assailant is on your side, your Honor, I should have to position my face on your direction and little bit stooping.

Q In that case, the Court gathers that more or less, they were facing each other?

A Yes, your Honor.

Q Because the head was facing the assailant?

A Yes, your Honor, may be on the side or just in front.

Q Either directly in front or the assailant is a little bit on the side?

A Yes, sir."^[11]

And, as aptly observed by the Solicitor General, "the victim could have unintentionally moved his head or that he tried to duck from the shot, both of which would explain the downward trajectory of the bullet."^[12]

Appellant also claims that Lirio's head count of four (4) passengers inside the jeepney at the time of the shooting incident is contrary to Francisco's declaration that there were at least thirteen (13) passengers. Likewise, appellant pointed out that Lirio estimated the relative distance of the accused from the motor vehicle when the latter fired his gun upon the jeep to be about four (4) meters away, as against Francisco's estimate of approximately ten (10) meters. We find them, however, to be only minor details that do not destroy the veracity and credibility of said witnesses. It simply shows that the witnesses were not coached or rehearsed.

"Inconsistencies in witnesses' testimony do not destroy the credibility of the witnesses who positively identified the accused as perpetrator of the crime."^[13]

"Minor inconsistencies in the testimony of witnesses who were present at the time the killing of the deceased

was being done will not adversely affect their credibility."[14]

"Where there was inconsistency in the testimony of a witness as to the number of gunshots fired by the accused, such inconsistency is a minor matter not denoting intent of the witness to utter a falsehood."[15]

Basically, the crucial issue is one of credibility. That issue must be resolved in the light of the well-entrenched rule that where the issues raised hinge on the credibility of witnesses, the factual findings of the trial Court deserve the highest respect and weight by Appellate Tribunals, considering that said Court was in the best position to observe personally the demeanor of the witnesses while testifying.[16]

"x x x This rule should not be overturned unless there is a showing that in making the disputed factual finding, the trial court had overlooked or failed to consider certain facts of weight and importance that could have materially affected the conclusion reached in the case. In the instant case, there is no positive reason that would justify a reversal of the judgment appealed from."[17]

In this case, it has not been successfully shown that the Trial Court had overlooked certain facts of substance and value, that, if properly considered, might affect the outcome of the case.

In respect of the second assignment of error, the defense incorrectly alleges that the circumstance of appellant's flight was the Trial Court's basis in convicting him. That was not so. Flight was merely considered by the Trial Court as an additional circumstance indicative of guilt.

By his own admission, appellant learned on April 23, 1972, or a day after the shooting incident, that the police authorities were looking for him. Despite such knowledge and notwithstanding the advice of his brother to report to the police to find out why he was being sought by the authorities, he did not present himself nor surrender to the police. In fact, appellant stated that he avoided passing by the crime scene because he was allegedly worried about the threats made by Lirio and his companions against his (appellant's) life.[18] Instead, appellant transferred his residence to Pasig so that he could not be arrested until four years later.

"While the flight of an accused person after the commission of an offense creates no legal presumption of guilt, it is nevertheless a circumstance which is admissible in evidence against him, and, if not explained in a manner consistent with his innocence, is to be considered as tending to show that he was the person who committed the deed".[19]

"Flight of accused after commission of the offense is a circumstantial evidence indicating guilt, on the biblical adage that ' . . . the wicked flee when no man pursueth, but the righteous are as bold as the lion'".[20]

In sum, there is proof beyond reasonable doubt of appellant's guilt. The crime is Murder, qualified by treachery under Article 248 (1) of the Revised Penal Code. Appellant had positioned himself at a distance from moving vehicles and near a drum in such a way that there was no danger nor risk to himself arising from any defense that the intended victim might make. Suddenly, without any warning, he shot his target, Lirio, who was then unarmed and had no chance of putting up a defense. Neither could the two individuals, who were hit, have put a defense against the attack. That the fatality was not the intended victim, Lirio, as the gunshot directed at the latter killed instead, Alfonso Santos, does not exonerate appellant from criminal liability. He is responsible for the consequences of his acts.

"As the appellant committed the act with intent to kill and with treachery, the purely accidental circumstance that as a result of the shots a person other than the one intended was killed, does not modify the nature of the crime nor lessen his criminal responsibility, and he is responsible for the consequences of his acts".[21]

"The qualifying circumstance of treachery may be properly considered even when the victim of the attack was not the one whom the defendant intended to kill, if it appears from the evidence that neither of the two persons

could in any manner put up defense against the attack or become aware of it".[22]

The penalty of reclusion perpetua, meted out by the trial court is in accordance with law, there being no mitigating nor aggravating circumstance attending the commission of the crime.[23]

WHEREFORE, the judgment appealed from is hereby AFFIRMED in toto.

Costs against the accused, Catalino Maranan.

SO ORDERED.

Abad Santos*, Plana, Escolin, and Relova, JJ., concur.

[1] Rollo, pp. 60-61.

[2] T.s.n., August 4, 1977, pp. 5-32.

[3] Rollo, pp. 11-12.

[4] T.s.n., April 14, 1977, p. 15.

[5] T.s.n., May 10, 1977, pp. 12-13.

[6] T.s.n., April 14, 1977, p. 15.

[7] People vs. Bernat, 120 SCRA 919 (1983); People vs. Pajenado, 69 SCRA 173 (1976); People vs. Sales, 44 SCRA 489 (1972); People vs. Villalba, 17 SCRA 948 (1966).

[8] People vs. Lucero, 96 SCRA 694 (1980); People vs. Martinez, 96 SCRA 714, 715 (1980); People vs. Herila, 51 SCRA 31 (1973).

[9] People vs. Mercado, 97 SCRA 233 (1980); People vs. Beralde, 91 SCRA 128 (1979); People vs. Artieda, 90 SCRA 145-146 (1979); People vs. Dueno, 90 SCRA 24 (1979).

[10] p. 6, Appellant's Brief.

[11] T.s.n., July 19, 1977, pp. 14-16.

[12] Rollo, p. 67.

[13] People vs. Celestino, 96 SCRA 489 (1980); see also People vs. Estero, 91 SCRA 93 (1979).

[14] People vs. Llanto, 88 SCRA 9 (1979).

[15] People vs. Lanseta, 95 SCRA 167 (1980).

[16] People vs. Mercado, 97 SCRA 233 (1980); People vs. Garcia, 89 SCRA 440 (1979); People vs. Gargoles, 83 SCRA 282 (1978); People vs. Eguac, 80 SCRA 667 (1977); People vs. Ancheta, 60 SCRA 334 (1974); People vs. Boduso, 60 SCRA 61 (1974); People vs. Cardenas, 56 SCRA 632 (1974); People vs. Carandang, 52 SCRA 259 (1973); People vs. Espejo, 36 SCRA 401 (1970).

[17] People vs. Monaga, 118 SCRA 468 (1982).

[18] T.s.n., August 4, 1977, pp. 21-24.

[19] U.S. vs. Virrey, 37 Phil. 618 (1918).

[20] People vs. Molleda, 86 SCRA 672 (1978).

[21] People vs. Guevarra, 23 SCRA 72 (1968).

[22] People vs. Guillen, 85 Phil. 307 (1950); People vs. Tolentino, et al., 82 Phil. 808 (1949); People vs. Mamasalaya, et al., 92 Phil. 640 (1953); People vs. Gatbunton, L-2435, 88 Phil. 784 (1950).

[23] Article 248, in relation to Article 64(1), Revised Penal Code.

* Associate Justices Vicente Abad Santos and Vicente Escolin were designated to sit in the First Division vice Associate Justices Claudio Teehankee, Chairman and Hugo E. Gutierrez, Jr. who are on official leave. (Per Special Order No. 251, dated September 23, 1983).

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