

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO HILARIO Y MARTINEZ, DEFENDANT-APPELLANT.

G.R. Nos. L-31901-02. March 30, 1982

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

At about 10:00 p.m. on August 19, 1969, near the corner of Ramirez and Madrid streets, Binondo, Manila, the victims Cesar de la Cruz y Leynes and Francisco Lelis were stabbed, causing their deaths the following day.[1]

After an investigation conducted by the Office of the City Fiscal of Manila,[2] two informations for murder were filed with the Manila Circuit Criminal Court, as follows:

CCC-VI-426

"The undersigned accuses Rolando Hilario y Martinez of the crime of murder, committed as follows:

That on or about the 19th of August, 1969 in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully, and feloniously, with evident premeditation and treachery and with intent to kill, attack, assault and use personal violence upon Cesar de la Cruz y Leynes, by then and there suddenly stabbing the latter with a sharp pointed instrumentt without affording the latter a chance to defend himself from the attack, thereby inflicting upon him a mortal stab wound on the postero-lateral left lumbar region, which was the direct and immediate cause of his death.

"Contrary to law."[3]

CCC-VI-427

"The undersigned accuses Rolando Hilario y Martinez of the crime of murder, committed as follows:

That on or about the 19th of August, 1969 in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully, and feloniously, with evident premeditation and treachery, with intent to kill, attack, assault and use personal violence upon Francisco Lelis, by then and there suddenly stabbing the latter with a sharp pointed instrument without affording the latter a chance to defend himself from the attack, thereby inflicting upon him mortal stab wounds on the different parts of his body, which were the direct and immediate cause of his death.

"Contrary to law."[4]

After arraignment, plea of not guilty on September 12, 1969,[5] and joint trial on the merits,[6] the Circuit Criminal Court of Manila in its Decision dated November 5, 1969, convicted the accused Rolando Hilario y Martinez, with dispositive portion as follows:

"WHEREFORE, judgment is hereby rendered as follows:

"1) In CCC-VI-426, accused is hereby found guilty beyond reasonable doubt as principal of the crime of murder qualified by treachery and there being no modifying circumstance to consider, sentences him to life imprisonment and to indemnify the heirs of the deceased, Cesar de la Cruz, the sum of P12,000.00;

"2) In CCC-VI-427, accused is hereby found guilty beyond reasonable doubt as principal of the crime of murder qualified by treachery and there being no modifying circumstance to consider, sentences him to life imprisonment and to indemnify the heirs of the deceased, Francisco Lelis, the sum of P12,000.00; and

"3) To pay the costs.

"SO ORDERED."[7]

Accused Rolando Hilario appealed on December 13, 1969.[8]

The evidence for the prosecution discloses that in the evening of August 19, 1969, at about 9:00 o'clock, victims Cesar de la Cruz and Francisco Lelis, with Norberto Reyes arrived in a store at Clavel street, Binondo, Manila, where they had a drinking spree of Tanduay rum.[9]

Half an hour later, accused-appellant Rolando Hilario y Martinez arrived alone in the store and joined two other persons who were already drinking some one and a half meters away from the group of Norberto Reyes.[10] A quarrel ensued between accused Hilario and both victims De la Cruz and Lelis. Fistic blows were exchanged. Appellant was hit on the face.[11] Norberto Reyes separated the protagonists and led them outside the store to settle their differences.[12] Then, the group of Norberto Reyes returned to the store to resume their drinking while the appellant left the place.[13]

At about 10:00 o'clock that evening, Norberto Reyes left the store to go home, leaving behind his companions victims De la Cruz and Lelis.[14]

After 10:00 p.m., eyewitness Manuel Soriano of 609 Peñarubia, Binondo, Manila, who was then at the street corner of Rivera and Madrid, saw victims De la Cruz and Lelis leaning with their hands on a parked car, both obviously drunk.[15] That place was then brightly illuminated from a lighted store nearby and a Meralco lamp post light.¹⁷

Suddenly the appellant came running. He approached from behind the then unsuspecting victims De la Cruz and Lelis, and with drawn knife stabbed the two.¹⁸ Victim De la Cruz was hit on the left side of his body, while victim Lelis was hit on the right side.¹⁹ Accused fled after the stabbing, running to Ramirez street.²⁰ Manuel Soriano called some friends at a nearby bowling alley and they brought the victims to the hospital.²¹ Both victims died as a result of the stab wounds inflicted upon them.²²

Patrolman Ernesto Callos of the Manila Police Department investigated Ruben Cabuhat, Norberto Reyes and Manuel Soriano, taking down their sworn statements, Exhibits "L", "K", and "N".²³ Callos also prepared a written report of the stabbing incident.²⁴ Accused-appellant Hilario was also investigated, but he refused to give any statement upon advice of his counsel.²⁵

On August 20, 1969, the day after the stabbing incident, Dr. Mariano Lara, Chief of the Medical Division of the Manila Police Department, conducted an autopsy on the cadaver of victim De la Cruz. Dr. Lara prepared a sketch showing the external injuries (Exh. "C"). He also prepared the death certificate (Exh. "E") and an autopsy report (Exh. "D").

The cause of death of victim De la Cruz was:

"Profuse exanguinating hemorrhage collapsing vena cava and shock due to stab wound located in the postero-lateral left lumbar region, directed from back left side of victim proceeding forward, upward and

medially; piercing thru the left lumbar muscles, thru and thru left kidney (surgically nephrectomized)."²⁶

Dr. Lara stated that the assailant was at the left of victim De la Cruz, possibly from behind, at the time of the stabbing.²⁷

Also on the same date, August 20, 1969, Dr. Luis Larion of the Medico-Legal Division of the Manila Police Department, performed the autopsy on victim Francisco Lelis. Dr. Larion prepared a sketch showing the external injuries of the victim (Exh. "H"), the death certificate (Exh. "I") and the post mortem findings (Exh. "J").

The cause of death of victim Francisco Lelis was:

"Shock and hemorrhage due to two (2) stab wounds penetrating the chest and piercing thru diaphragm, liver and duodenum."²⁸

Dr. Larion stated that the assailant was at the back, facing the right side of victim Lelis at the time of the stabbing.²⁹

The defense consists of a denial and a version narrated by appellant, corroborated by alleged eyewitness Alejandro Manzanares,³⁰ that on that incident of August 19, 1969, it was Norberto Reyes, with the two victims Francisco Lelis and Cesar de la Cruz who tried to extort money from the appellant and failing to do so, the trio attacked the appellant and threatened the latter with a gun.³¹

Appellant claims that on August 19, 1969, at about 10:00 p.m., he was walking in a hurry on Clavel street, Binondo, Manila, to buy medicine for his sick mother. He saw Norberto Reyes, Francisco Lelis and Cesar de la Cruz coming out of a bar, and he passed ahead of them. Norberto Reyes approached appellant and placed his hand on appellant's shoulder as they walked toward Madrid street. Reyes asked money from appellant.³²

When they reached Nueva street, Reyes was still demanding money from appellant, telling the latter "you earned plenty from the pier". Appellant answered Reyes that he had money only for his mother's medicine, and the appellant apologized for being unable to give any money. Reyes told appellant just to give some money for liquor and to give the trio a share from appellant's earnings later on. Appellant still refused, reiterating that his money was only for his mother's medicines.³³

Francisco Lelis became angry and rushed appellant, but Reyes prevented Lelis from attacking, stating, "if he does not want to give I'll be the one to make him vomit," meaning to force him to give liquor money.³⁴

At that juncture, Norberto Reyes suddenly drew his gun and struck appellant on the stomach, saying: "so what if your mother is sick, you know very well that I've already killed a person."³⁵ Appellant was wounded by Reyes' blow (Exh. "I").

Appellant, at that moment, believed the threat of Reyes, because the latter already had killed a compadre of his who also refused to give liquor money. For that killing, Reyes served sentence in Muntinlupa.

When appellant was hit on the stomach, he stooped and Reyes grabbed P7.00 from appellant's breast pocket.³⁶ Appellant pleaded with Reyes to return the money for his mother's medicine. His pleadings were in vain. Instead, Francisco Lelis rushed and hit appellant with a bottle on the face and forehead, forcing the latter to lean to a car. The medical certificate (Exh. "I") shows that appellant sustained wounds "hematoma, contusion, temporal." Cesar de la Cruz rushed to appellant and stabbed the latter with a knife, but appellant evaded the thrust by holding Cesar's right hand.³⁷ Appellant was able to wrest the knife from Cesar's hold and both of them fell to the street. When appellant was about to stand, Francisco Lelis again rushed to appellant to hit the latter with a bottle, but appellant kicked Lelis feet causing both of them to fall to the ground.³⁸

At that moment, Norberto Reyes pulled the trigger of his gun, but it did not fire. Reyes ran away, threaten-ing the appellant "you son of beast, my boys will kill you."³⁹ Reyes ran towards a defense witness Alejandro Manzanares who allegedly saw everything that happened.⁴⁰ The wounded appellant also ran away.

After Norberto Reyes and the appellant left the scene, three members of the "War Lock gang", a rival and enemy of the "Gisno gang" headed by Norberto Reyes, arrived and approached Francisco Lelis and Cesar de la Cruz who were sprawled on the ground. One of the gang members kicked Francisco Lelis who already was wounded and about to stand and another member of the gang "moved Cesar de la Cruz on his side."⁴¹

The principal issue in this case is whether or not the credibility of eyewitness Manuel Soriano is sufficient to sustain a judgment of conviction on evidence beyond reasonable doubt.

It is the claim of appellant that it was impossible for prosecution eyewitness Manuel Soriano to have seen the stabbing incident since there was a parked car between Soriano and the protagonists on that occasion. It is also appellants' contention that witness Soriano committed mistakes and contradictions in his testimony.⁴²

It is however, clear that the eyewitness was near the site of the stabbing on that night and the scene was well-lighted both from a store and by a Meralco lamp post.⁴³ Soriano vividly described the position of the victims as leaning on a parked car. Appellant suddenly came running towards the victims. He drew out his knife and stabbed them from behind. Appellant fled from the scene.

The insistence of appellant that witness Soriano could not have seen the stabbing is predicated on the assumption that the witness never moved from his position at the start to the finish of the unusual occurrence of that night. The normal reaction of a witness to an unusual happening, like prosecution witness Soriano, is to move closer upon observing an unusual occurrence to get a better view of the happening. Manuel Soriano categorically testified that he was near the stabbing scene and he saw the stabbing.⁴⁴ The identity of appellant as the one who stabbed the victims is also clearly established.

The alleged mistakes and contradictions in the testimony of the eyewitness Soriano with respect to the distance from the site of stabbing and the location of stab wounds, may be considered of minor consequence. Instead of detracting from the credibility of witness Soriano, those slight contradictions may be considered as badges of his sincerity and a clear indication of the veracity of his narration. It is clear from the record that no improper motive was alleged nor proven by the defense as to why this witness would falsely testify against appellant.

It is a fundamental rule that appellate courts do not generally disturb the findings of the trial court on questions of credibility of witnesses, for the latter is in a better position to decide those questions, having heard and seen the witnesses themselves and observed their deportment and manner of testifying during the hearing.⁴⁵

It is not shown by appellant in this case that the trial court overlooked certain facts of substance and value, that, if considered, might affect the result of this case. It is true, that while the conviction of appellant in this case was principally predicated on the testimony of witness Soriano, that testimony was considered credible by the trial court, and it was corroborated by the testimony of witness Norberto Reyes.

We find no causes or facts of substance appearing in the record sufficient to disturb the trial court's findings on the credibility of witness Manuel Soriano.

The appellant claims error in the trial court's finding that both victims were too drunk to offer any fight on that occasion. Appellants' contention is based on the medical findings of Dr. Lara that there was no alcoholic odor on victim De la Cruz' cadaver at the time of the autopsy.⁴⁶ However, Dr. Lara stated that it was possible that the victim was drunk when the fatal wound was inflicted on him, because the autopsy took place about six hours later.

It was then possible not to find any indications of alcoholic presence.⁴⁷

That the two victims were drunk and could not have fought back or offered any defense at the time they were stabbed was testified to by Norberto Reyes.⁴⁸ Manuel Soriano, in his sworn statement⁴⁹ stated clearly that both victims were drunk when Soriano saw them that night.

The trial court considered the version of the de-fense, as narrated by the appellant, that he was the victim of extortion by the trio of Norberto Reyes, Francisco Lelis and Cesar de la Cruz, and the trio attacked appellant, as completely incredible on the following reasoning:

"x x x. The claim of the accused that he stabbed the two victims as he was assaulted and his P7.00 for the medicine of his mother was taken does not inspire any belief at all. It is contra-ry to the natural course of things. Had the two victims and Norberto Reyes helped one another in assaulting him, accused instead would be the one dead, for accused had testified that Norberto Reyes was with a gun, de la Cruz was with a knife and Lelis was with a bottle. Even though the gun did not fire, yet it could have been used in hit-ting him. With this superior force against him, accused must have extraordinary skill and strength in escaping the assault of three persons. Accused failed to show his extraordinary skill and strength in a convincing manner."⁵⁰

Treachery as alleged in the information qualified the killing to murder. The victims were too drunk and completely unaware of the assault upon them by appellant, hence their complete inability to defend themselves. Evi-dent premeditation cannot be appreciated although alleged in the information, because the evidence does not show whether or not the appellant had sufficient time to re-flect on the crime before he committed the same.

WHEREFORE, and upon recommendation by the Solicitor General, the Decision dated November 5, 1969, in Criminal Case Nos. CCC-VI-426 and CCC-VI-427, by the Circuit Criminal Court of Manila, convicting the appellant Rolando Hilario y Martinez beyond reasonable doubt in both cases, being in accordance with law and the evidence, is hereby AFFIRMED in toto, with costs.

SO ORDERED.

Barredo, (Chairman), Aquino, De Castro, Ericta, and Escolin, JJ., concur. Abad Santos, J., on official leave.

[1] pp. 9-10, rollo.

[2] pp. 64-105, Original Record, CCC-VI-426-427, Manila.

[3] p. 1, Original Record, CCC-VI-426, Manila.

[4] p. 1, Original Record, CCC-VI-427, Manila.

[5] p. 2, Original Record, CCC-VI-426 and CCC-VI-427.

[6] p. 40, Original Record, CCC-VI-426.

[7] pp. 52-53, Original Record.

[8] p. 108, Original Record.

[9] pp. 42-43, t.s.n., Oct. 7, 1969, Vol. 1.

[10] pp. 43-44, Id.

[11] pp. 44-45, Id.

- [12] p. 45, Id.
- [13] pp. 45-46, Id.
- [14] p. 46, Id.
- [15] pp. 28, 29, 41, Id.
- [16] p. 40, Id.
- [17] Exh. "N", p. 22, Original Record, p. 31, t.s.n., Vol. I
- [18] pp. 32-33, t.s.n., Vol. I.
- [19] p. 33, Id.
- [20] p. 34, Id.
- [21] pp. 34-35, Id.
- [22] Exhs. "E" and "I".
- [23] pp. 50-52, t.s.n., Vol. I.
- [24] Exh. "M", p. 21, Original Record.
- [25] p. 53, Id.
- [26] Exh. "D"; pp. 4-10, t.s.n., Vol. I.
- [27] p. 11, Id.
- [28] Exh. "J"; pp. 21-23, t.s.n., Vol. I.
- [29] p. 24, Id.
- [30] pp. 27-33, t.s.n., Vol. II.
- [31] p. 4-13, Id.
- [32] pp. 6-7, Id.
- [33] p. 7, Id.
- [34] p. 7, t.s.n.,
- [35] p. 7, Id.
- [36] p. 8, Id.
- [37] p. 9-10, Id.
- [38] p. 11, t.s.n., Vol. II.
- [39] p. 11, Id.
- [40] p. 31, Id.
- [41] p. 32, Id.
- [42] pp. 5-6, Appellant's Brief.

[43] Exh. "N", No. 17, p. 22, Original Record.

[44] Exh. "N", p. 22, Original Record.

[45] People vs. Binsol, G.R. No. L-8346, January 22, 1957.

[46] p. 15, t.s.n., Vol. I.

[47] Id.

[48] pp. 47-48, t.s.n., Vol. I.

[49] Exh. "N", p. 22, Original Record.

[50] pp. 11-12, Appellee's Brief.

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