

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CONRADO BAUTISTA AND GERARDO ABUHIN, DEFENDANTS AND APPELLANTS.

G.R. No. L-38624. July 25, 1975

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PER CURIAM:

Mandatory review of the death penalty imposed by the Circuit Criminal Court of Pasig, Rizal in its decision in case "CC-VII-847-Rizal" for Murder, entitled "People vs. Conrado Bautista and Gerardo Abuhin", the dispositive part of which reads as follows:

"WHEREFORE, finding the accused, Conrado Bautista and Gerardo Abuhin, GUILTY, beyond reasonable doubt, of the crime of Murder, under Article 248 of the Revised Penal Code, as charged in the information, the Court hereby sentences each one of them to suffer the penalty of DEATH; to indemnify the heirs of the offended party the amount of P12,000.00; to pay the amount of P5,000.00 as moral damages; and another P5,000.00 as exemplary damages; and to pay their proportionate shares of the costs."

Prisoners George Daeng, No. 56088-P; Rolando Castillo, No. 31087-C (these two already sentenced previously); Conrado Bautista, No. 71055-P; Gerardo Abuhin, No. 61409-P, who are serving sentence by virtue of final judgment, in the New Bilibid Prison, Muntinlupa, Rizal, were accused of Murder, committed as follows:

"That on or about December 13, 1970, in the New Bilibid Prison, Muntinglupa, Rizal, Philippines, and within the jurisdiction of this Honorable Court, the said accused while then confined at the said institution, conspiring, confederating and acting together and each armed with improvised deadly weapons, did, then and there wilfully, unlawfully and feloniously assault and wound therewith one Basilio Beltran, No. 71495-P, another convicted prisoner serving final sentence in the same institution, then in the process of serving the accused breakfast, inflicting upon him multiple stab wounds while then unarmed and unable to defend himself from the attack launched by the accused, as a result of which the said Basilio Beltran died instantly.

"That the offense when committed by the accused was attended by the qualifying circumstance of treachery and generic aggravating circumstances of evident premeditation and obvious ungratefulness.

"CONTRARY TO LAW."

Both accused Conrado Bautista and Gerardo Abuhin were arraigned on March 10, 1973, and they pleaded not guilty, after which the case went to trial on the merits. The evidence for the prosecution established the following facts:

"That on or about 6:15 in the morning of December 13, 1970, a stabbing incident took place near the door of 8-C (cell house) at building 8; that the victim in said stabbing incident was Basilio Beltran who was also a prisoner in the New Bilibid Prison with the rank of IC (Inmate Cadet); that on said date and time, while prison guard Armando Miranda, assigned keeper at Building 8 was then opening the door of 8-C, where members of the Sigue-Sigue Sputnik Gang were confined, with him were IC Basilio Beltran and Domingo Mallari, both confined at dormitory 8-A-2, who were then carrying bread ration for breakfast of the Sigue-Sigue Sputnik

Gang at 8-C, when all of a sudden, the four accused, two of whom were already sentenced, and two of whom were Conrado Bautista and Gerardo Abuhin, rushed out from their cell and attacked and stabbed to death prisoner Basilio Beltran, while Domingo Mallari sneaked away from the attackers; that the victim, Basilio Beltran, was facing the accused, standing, carrying the breakfast ration for the occupants of 8-C when he was almost simultaneously stabbed by his attackers as a result of which he sustained multiple stab wounds, numbering 12 in all, on the different parts of his body; that the weapons used in stabbing the victim were matalas or improvised deadly instruments; and an icepick which is improvised also; that the accused were investigated by the investigators and they admitted having killed the victim because of an alleged threat by the inmates cadets that they would kill any member of the Sigue-Sigue Sputnik Gang everytime that the IC delivered their ration, so that they moved ahead of the IC by taking that opportunity."

Their defenses of denial and alibi based on testimonial evidence of the accused, and their claim that their written statements admitting the crime were extracted from them by force and intimidation, consisted of:

"The accused, Conrado Bautista was placed on the witness stand and he testified that he was 28 years old, married and a woodcarver by occupation and formerly residing at 2504 Cagayan St., Sta. Ana, Manila, but now an inmate of the New Bilibid Prison, Muntinlupa, Rizal, after having been convicted by final judgment for the crime of Robbery. In the course of the direct examination by counsel de oficio, Atty. Leonoro M. Cabasal accused Bautista intimated to his counsel that he be allowed to withdraw his former plea of not guilty and that he be allowed to substitute it with a plea of guilty. He was asked by his counsel, if he realized the gravity of the offense that he has committed and he manifested that he realized the same; that he realized the fact and he is aware that he would be penalized in accordance with law; that he is determined to change his life because he wanted to be free, after serving his sentence. However, during the cross examination of the prosecution, when he was asked if he helped the other accused, namely: Gerardo Abuhin, Rolando Castillo and George Daeng, in stabbing the victim, Basilio Beltran, he answered in the negative, alleging that he was inside the bartolina in that morning of December 13, 1970, when the victim was stabbed to death, and he only admitted as a participant in the killing of the victim because Boy Coro alias Alfredo Mariano poked him with an improvised weapon; that this Boy Coro according to him was the leader of the Sputnik Gang and he was very powerful because Boy Coro was the one giving orders and they were mere followers; that the statement he allegedly signed was not really his own statement but that of the investigator who forced him to sign the same through force and intimidation and maltreatment, but he did not file any charge against said investigator because according to him he does not know anything about filing charges. With this manifestation of the accused Conrado Bautista, the counsel de oficio moved that the former plea of not guilty of said accused be allowed to remain on record, which was granted by the Court, there being no objection on the part of the prosecution. So also, the defense of the accused Gerardo Abuhin that he was lying down on his cell when he suddenly heard a commotion and he stood up and took his weapon, when he saw many people coming out and he heard someone shouting, "everybody must come out"; that what was stated in his statement was not the real happening, because it was only his gawa-gawa, knowing that Sarmiento and Coro were very powerful in their cell and if he would not follow, something might be done against him; that it was not true that his co-accused Bautista was involved in the stabbing and his conscience would not forgive him to implicate a man who was not really a participant in that riot; that he was not able to add in his statement that Bautista was not guilty because he was not asked about it and it did not occur to his mind to exculpate him in the course of his giving a statement to the investigator; and that it would be against his conscience if he would let Bautista suffer for anything that he did not commit; that he was intimidated by investigator delas Alas into giving an extrajudicial confession and out of fear he signed the same."

We have gone to great lengths in closely scrutinizing the evidence presented in this case, and no amount of deeper probing can convince Us that the trial court committed any reversible error in basing its judgment of conviction "on the testimonies of the prosecution eye-witnesses corroborating the statements in the extrajudicial confessions of the accused" (Exh. "C-4"; Exh. "C-5").

An examination of the corroborated sworn statements of accused Rolando Castillo (already sentenced on a plea of guilty, September 15, 1973) Exh. "C-1"; of prison guard Armando Miranda, Exhibit "C-2"; of accused George Daeng (already sentenced on a plea of guilty, September 1, 1973), Exh. "C-3"; of accused Conrado Bautista, Exh. "C-4"; of accused Gerardo Abuhin, Exh. "C-5"; and of prisoner (inmate cadet) Domingo Mallari, Exh. "D", shows that on the morning of December 13, 1970, at around 6:15 A.M., while prison guard Armando Miranda accompanied by Inmate Cadets Basilio Beltran (victim) and Domingo Mallari who carried bread and coffee, were about to give food to the prisoners in "Brigada 8-C" under the stairs of "Brigada 8- A-2", located at New Bilibid Prison, Muntinlupa, Rizal, four prisoners, accused Rolando Castillo, George Daeng, Conrado Bautista, and Gerardo Abuhin, all armed with "matalas" (improvised deadly weapons) suddenly pushed the cell door and rushed out. While one of the four (Rolando Castillo) suddenly pointed his weapon at prison guard Miranda, the other three simultaneously attacked and stabbed inmate cadet Basilio Beltran; that accused Rolando Castillo joined the three others in stabbing the already prostrate victim; and the attack happened so suddenly that it did not take half a minute for the four accused to kill the victim. The other inmate cadet, Domingo Mallari, was able to get away and give the alarm. Witness Domingo Mallari in his sworn statement Exh. "D" was able to identify by their appearance, not by name, the four accused (Castillo, Abuhin, Bautista and Daeng) out of ten prisoners in a line-up, as the prisoners who stabbed the victim. This same witness stated that it was accused Conrado Bautista who first stabbed the victim.

We noticed from the sworn statements that they were all taken during the investigation immediately conducted on the very day of the crime, December 13, 1970, except that of prison guard Armando Miranda which was taken on December 15, 1970. The sworn statement (Exh. "C-1") of accused Castillo given before PG Investigator, IS Ignacio J. Ferrer, was taken in the presence of prison guard-investigator Jesus B. Tomagan, Chief Investigator Benedicto R. Planta and Administrative Officer Exequiel A. Santos. The sworn statement (Exh. "C-3") of accused George Daeng given before P.G. Jesus B. Tomagan was taken in the presence of Security Officer B.R. Planta, P.G. Ignacio Ferrer and Administrative Officer Exequiel A. Santos. The sworn statement (Exh. "C-4") of accused Conrado Bautista given before P.G. Jesus B. Tomagan was taken in the presence of Chief Investigator Benedicto R. Planta, Investigator Ignacio Ferrer and Administrative Officer Exequiel A. Santos. The sworn statement (Exh. "C-5") of accused Gerardo Abuhin given before P.G. Abraham delas Alas was taken in the presence of P.G. Ignacio J. Ferrer, P.G. Jesus B. Tomagan and Administrative Officer Exequiel A. Santos.

The alleged threat and intimidation used in assailing the voluntariness of the extrajudicial confessions of the four accused, being general in nature, becomes hardly credible in the face of the overwhelming established facts and circumstances, as for instance (1) the judicial plea of guilty of accused Castillo and Daeng (both of whom were already sentenced); (2) the very apparently disinterested and truthful narrations of prison guard Miranda and inmate cadet Mallari who were eye-witnesses to the crime and who positively identified the four accused as the persons who stabbed the victim, there being no other prisoners who at that moment of the crime could have participated in it; (3) the manifestly spontaneous narrations of the circumstances that happened during the crime appearing in the sworn statements that were executed on the very day the crime was committed, when those who participated and who witnessed the crime did not have sufficient time to fabricate evidence and distort the truth; (4) the fact that it would be difficult to presume that those disinterested investigators who were present when the accused gave their sworn statements would subvert the ends of justice and falsify the truth by utilizing force and intimidation on the accused, there being no indication nor evidence that they have a motive or grudge against the accused; (5) and the fact that those officials of the Bureau of Prisons were merely doing their duties in the regular course of official business when they conducted the investigation to shed light on the crime committed.

The narration of the crime contained in the sworn statement of prisoner Domingo Mallari (Exh. "D") who was an eye-witness to the crime substantially coincides with his testimony in court in all material aspects and he was able

to identify the four accused (Castillo, Abuhin, Daeng, Bautista) when asked to do so during the trial (pp. 7-25 t.s.n. Hearing of August 25, 1973). The four improvised deadly weapons used by the accused in killing the victim were all recovered and identified (pp. 3-8; 14--15, t.s.n. Hearing of September 1, 1973). Prison guard Armando Miranda's testimony in court clearly corroborated all his narrations contained in his sworn statement Exh. "C-2", pointing out without doubt that the accused Bautista, Abuhin, Castillo and Daeng were the prisoners who rushed out of their cell and stabbed the victim, Beltran, in the early morning of December 13, 1970 (t.s.n. pp. 2-11, Hearing of April 28, 1973).

Accused Abuhin in his testimony in open court admitted that he participated in the killing and stabbed twice, although he said he did so because he was hit and wounded by a knife thrown from above (p. 5 t.s.n. Hearing of November 29, 1973). He declared that he gave his sworn statement, Exh. "C-5", voluntarily (pp. 6-7 t.s.n. Hearing of November 29, 1973). Accused Bautista admitted in open court that the signature appearing on Exhibit "C-4" (his sworn statement) is his (p. 7 t.s.n. Hearing of December 13, 1973). He claimed that he was maltreated by investigator Ferrer to extract from him the confession contained in his sworn statement. Yet he could not explain why notwithstanding the supposed injuries inflicted on him, he could sign the sworn statement calmly without signs of nervousness or trembling; he was not treated for his supposed injuries, was never hospitalized for them, and never reported the supposed maltreatment to Administrative Officer Exequiel A. Santos whom he treated like a father (pp. 7-9 t.s.n. Hearing of December 13, 1973).

Accused Bautista's very weak alibi was that on the morning of December 13, 1970, when the crime was committed he was sleeping in his cell (pp. 9-10 t.s.n. Hearing of December 13, 1973). Witness Antonio Juaningco, another prisoner, tried to substantiate Bautista's alibi by testifying that on the morning of December 13, 1970, accused Bautista was with him sleeping in cell no. 9 and went out because they were awakened by a commotion and then saw the victim Beltran already dead (p. 21 t.s.n. Hearing of December 13, 1973). Accused Abuhin when recalled to the witness stand did a complete somersault on his previous testimony implicating Bautista when he stated that on the occasion he did not see Bautista (p. 28, t.s.n. Hearing of December 13, 1973). The trial court did not commit any mistake in not giving credit to the alibi of accused Bautista, for aside from its inherent weakness as a defense, unsupported as it is by credible evidence, his alibi cannot stand against the positive identification made by prison guard Miranda, witness Mallari, and the very damaging sworn statements of his co-accused Castillo and Daeng both of whom, by their plea of guilty had been previously sentenced for the same crime with which Bautista is charged. We consider of little significance the belated testimony of Castillo, after he was convicted and sentenced, that Bautista was not a participant in the crime (pp. 2-6 t.s.n. Hearing of January 21, 1974). We are more inclined to give more credence to his sworn statement (Exh. "C-1") given on the very date of the crime, considering that Castillo had pleaded guilty to the crime of murder and he has nothing more to lose in subsequently repudiating his previous narration of the crime implicating his co-accused Bautista. It is likewise considered of no moment that another witness, prisoner Benito Balagtas, testified that when the crime was committed in the early morning of December 13, 1970, accused Bautista was sleeping in cell no. 13 (p. 4 t.s.n. Hearing of March 8, 1974). It is very significant that while defense witness Antonio Juaningco testified that on the morning of December 13, 1970, accused Bautista was with him sleeping in cell no. 9, this defense witness Balagtas in turn testified that accused Bautista was sleeping in cell no. 13 on the very same occasion. What a tragedy for the accused and a significant victory for truth that even the very witnesses presented to establish an alibi for accused Bautista contradicted themselves on a very material point. Neither do We give credence to the testimony of witness Ricardo Felix, another prisoner, that on the morning of December 13, 1970, immediately after the killing of victim Beltran, he saw prisoner, Daeng, Boy Coro and Rolando Castillo "poking a knife to Bautista" and threatening said Bautista to admit the crime.

We consider it an exercise in futility to discuss further the alleged errors committed by the trial court in

considering as generic aggravating circumstances the presence of obvious ungratefulness and evident premeditation so as to impose the maximum penalty of death, because Article 160 of the Revised Penal Code succinctly provides that "any person who shall commit a felony after having been convicted by final judgment, x x x , or while serving the same, shall be punished by the maximum period of the penalty prescribed by law for the new felony". In passing, however, it may be stated that the consideration of mitigating and aggravating circumstances is for the purpose of fixing the proper penalty within the minimum, medium or maximum as provided by law, but We have no choice here other than to impose the maximum because by mandate of Article 160 of the Revised Penal Code a person convicted of a crime while serving sentence for a previous crime shall get the maximum of the penalty prescribed by law for the new felony (murder), which is death, without further regard of the effect of mitigating or aggravating circumstance, or the complete absence thereof.

The trial court correctly considered the qualifying circumstances of treachery in the commission of the crime of murder. It was conclusively proven that the accused in a sudden, concerted and unprovoked act, all of them being armed with improvised deadly weapons, stabbed the victim to death after pushing their cell door open, threatening and throwing off-guard prison guard Miranda when the victim who was holding in both hands the bread and coffee intended for the breakfast of the assailants was not in a position to defend himself from the unexpected assault.

As to the existence of evident premeditation, it was established by the following circumstances: (1) the sudden concerted attack, perpetrated and calculated to throw off-guard the intended victim as he was in the act of giving food to the assailants, which attack necessarily must have been planned; (2) that all of the accused were armed with improvised deadly weapons which they were not supposed to possess and which they must have secretly prepared for a long time for committing the crime; and (3) the admission on the part of the accused in their sworn statements that they killed the victim by "attacking first" because they had heard that the members of the rival gang would liquidate them, leading to the conclusion that the accused must have planned how to counteract the supposed attack of the rival gang by literally beating the latter to the draw.

The aggravating circumstance of obvious ungratefulness was present as the victim was suddenly attacked while in the act of giving the assailants their bread and coffee for breakfast. Instead of being grateful to the victim, at least by doing him no harm, they took advantage of his helplessness when his two arms were used for carrying their food, thus preventing him from defending himself from the sudden attack.

IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the requirements of moral certainty in the evaluation of evidence have been more than adequately met. We have no other alternative than to affirm the penalty of death imposed by the trial court, and all other parts of the judgment.

Costs against the accused.

SO ORDERED.

Makalintal, C.J., Castro, Fernando, Barredo, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Teehankee, J., took no part.

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