

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DAVID MENDOZA AND ROMAN DE VERA, DEFENDANTS, DAVID MENDOZA, DEFENDANT-APPELLANT.

G.R. No. L-39335. March 25, 1983

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Appeal from the decision of the Court of First Instance of Zambales.

The appellants David Mendoza and Roman de Vera were charged before the Court of First Instance of Zambales with Murder committed as follows:

"That on or about the 13th day of March, 1972, in the barrio of Camachile, municipality of Subic, province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused together with thirteen others who are not yet identified, conspiring, confabulating and mutually helping one another, with intent to kill and with evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously shoot and fire at Marte Flores with firearms which they were conveniently provided with, hitting the said Marte Flores with multiple mortal gun shot which caused his instantaneous death."

After trial, Judge Augusto M. Amores acquitted the accused Roman de Vera, but found the accused David Mendoza guilty of the crime charged and sentenced him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim Marte Flores in the sum of P12,000.00, and to pay the costs. From that sentence the accused David Mendoza appealed to this Court.

The evidence for the prosecution shows that at about 11:30 to 12:00 o'clock in the evening of March 13, 1972, while Marte Flores and his brothers Magtanggol Flores and Santiago Flores and their friend Fernando Abegania were chatting inside the Flores compound in Barrio Camachile, Subic, Zambales, two jeeps stopped in front of the compound and 15 armed men, led by the accused, David Mendoza, alighted and surrounded them. David Mendoza approached them and asked for Marte Flores who presented himself, saying: "Yes, I am here." David Mendoza remarked: "So, you are," and immediately shot Marte Flores who fell to the ground. David Mendoza fired three more shots at the fallen man, hitting him on the head. One of David Mendoza's companions then asked: "Is Marte Flores already dead?" and David Mendoza replied: "Tell the Chief that Marte Flores is already dead." Then, after threatening Magtanggol Flores, Santiago Flores, and Fernando Abegania with death should they tell the authorities, David Mendoza and his companions boarded their jeeps and drove away. As they were boarding their jeeps, one of the drivers of the jeeps mistakenly turned the overhead lights and Magtanggol Flores and his companions saw Ramon de Vera, the barrio captain of Barrio Camachile, sitting beside the driver.[1]

Dr. Aracelie de Guia-Llamado, municipal health officer of Subic, Zambales, conducted a post-mortem examination of the cadaver on March 14, 1972. Her findings are as follows:

"The body is that of 5'2" in height, about 115 lbs. in weight with plenty of tattoo marks all over the body—eagle and snake on the chest and abdomen; dragon on the left arm; snake on the right; Eddie on the left biceps; Letty

I love you on the right; on the left dorsal of the left hand a star sign and Boy; on the back-unfinished Christ; on the buttocks—BNG, etc. Muscles of the neck, face and extremities rigid. Muscles of the chest and abdomen slightly rigid.

Head and Neck:

"1) Abrasions at the right temple and supra-orbital area.

"2) Wound of entrance—occipital area more on the left side about 1/2 cm. in diameter with contusion collar passing into the skull and penetrating the brain.

"3) Wound of entrance—About 9 mm. above 1) 1/2 cm. in diameter, admitting the probe underneath the skin in a lateral direction slightly upward and the probe coming out of a wound about 3 1/2 cm. distance, with the wound of exit about 7 mm. in diameter, about 5 1/2 cm. posterior to the left ear.

"4) Hematoma with abrasion at the base of the head about 2 cm. more on the left side.

"5) Wound of entrance—about 1/2 cm. in diameter with blackened lips with hematoma around at the level of the left earlobe at about 3 cm. posteriorly, with signs of scattered pointed burns at a radius of 3 cm., admitting the probe directly medialward hitting the inner lower part of the skull.

"6) Chest—wound of entrance—2nd IS just above the nipple a little lateralward about 1 cm. in diameter, admitting the probe about 5 cm. inward posteriorward penetrating the chest cavity hitting the middle anterior portion of the right lung going posteriorly coming out of it hitting the posterior chest but it did not come out of it. Efforts to locate the bullet failed.

"Abdomen—Failed to see any sign of physical injury.

"Extremities—Failed to see any sign of physical injury.

"Cause of death—Gunshot wounds, multiple, in the head, neck and chest."[2]

The appellant David Mendoza denied the commission of the crime complained of, claiming that he was in Floridablanca, Pampanga, from March 10 to 15, 1972, when the deceased Marte Flores was shot and killed in the evening of March 13, 1972. He declared that he left Subic, Zambales, at about 8:00 o'clock in the morning of March 10, 1972 for Floridablanca, Pampanga, for the purpose of selling his house to Moises de Leon who agreed to buy it for P300.00. He stayed in the house of Moises de Leon because he had to wait for the money which Moises de Leon promised to pay him in 5 days' time. He was paid on March 15, 1972 after which he returned to Subic, Zambales. He learned of the death of Marte Flores only upon his return to Subic, Zambales. He further stated that Fernando Abegania and Magtanggol Flores testified falsely against him because he caught the said Abegania and Sonny Flores, younger brother of Magtanggol Flores, stealing the fruits of the mango trees of Gregoria Pillorin and reported them to the barrio captain who fined them.[3]

His testimony is corroborated by Moises de Leon who declared that David Mendoza stayed at his residence in Floridablanca, Pampanga, continuously from March 10 to 15, 1972,[4] and by Marciana Masiclat, a fish vendor in Subic, Zambales, who was requested by the wife of David Mendoza to stay with them during the absence of David Mendoza.[5]

His testimony is further corroborated by Francisco Rosete who declared that Magtanggol Flores, Santiago Flores, and Fernando Abegania were not present when the incident happened. According to him, it was he and Miguel Ginebra who were drinking and chatting with Marte Flores when the latter was shot and killed, and were brought to the municipal building of Subic, Zambales, for investigation in connection with the shooting incident immediately thereafter.[6] To support the claim, the defense presented the testimony of Pat. Angel Alcantara of

the Subic Police Department who investigated the shooting incident and brought the said Francisco Rosete and Miguel Ginebra to the municipal building of Subic, Zambales for investigation,[7] as well as an excerpt of the Police Blotter showing such fact,[8] and the report of the inquest conducted by the municipal judge of Subic, Zambales, wherein it is stated, among others, that the said municipal judge had asked the parents of Marte Flores and other persons present if they had witnessed the incident and that they had answered in the negative because they were already then sleeping and were awakened only by the burst of gunfire.[9]

After examining the record of the case, We find no cogent reason to disturb the findings of the trial court. The issue involved in the appeal is one involving the credibility of witnesses and this Court has invariably ruled that the matter of assigning values to the testimony of witnesses is best performed by the trial courts because they, unlike appellate judges, can weigh such testimony in the light of the demeanor, conduct and attitude of the witnesses at the trial, except when circumstances of weight or influence were ignored or disregarded by them which does not obtain in the present case. The testimony of the prosecution witnesses are clear, precise, positive and straightforward and included minute details consistent with human nature and experience. There can be no doubt as to their ability to identify the assailant as the place was illuminated and they were only about four armslength away from the assailant who is known to them. Furthermore, the witnesses candidly admitted that they do not know of any motive on the part of the accused to commit such offense. They bore him no grudges nor ill-will. These witnesses would not have imputed to the accused the commission of such a grave offense as murder if it were not true that he is really guilty thereof. As pointed out by the Solicitor General, one of the witnesses, Magtanggol Flores, is even a professed minister of the church, a man of God who teaches and preaches the truth. As such, it is hardly credible that such a person would pervert the truth, testify to a falsehood, and cause the damnation of one who had neither brought him harm nor injury.

While it may be true that the said witnesses did not immediately reveal the identity of the victim's assailant until after a year later, such failure on their part should not affect their credibility because they were threatened with death should they reveal the identity of the assailant to the police authorities. One of the accused, Roman de Vera, was the barrio captain and in the backdrop of pre-martial law days when lawlessness pervaded and political warlords prevailed, the threat was real and forbidding. But, when martial law was declared and some semblance of law and order were restored and the witnesses were assured of protection, they mustered enough courage to denounce the offenders and bring them to court.

Moreover, the defense of alibi is weak and not worthy of credence. The barrio of Floridablanca, Pampanga, where the appellant was when the incident happened is only two hours away from the scene of the crime in Subic, Zambales, so that even if David Mendoza was in Floridablanca, Pampanga, it was easy for him to have gone to, and be in Barrio Camachile, Subic, Zambales, between 11:30 o'clock and 12:00 o'clock midnight of March 13, 1972 and be back in Pampanga before the crack of dawn the following day.

Besides, it is illogical for the appellant to leave his pregnant wife alone and his vegetable patch, from where he gets his principal income, untended, just to stay in the house of Moises de Leon for 5 days and wait for the small amount of P300.00, when he could very well have gone home to Subic, Zambales, and just returned to Pampanga after 5 days. Even more incredible is the story of Moises de Leon that he was always with the appellant David Mendoza throughout the duration of the latter's stay in Pampanga, foregoing his duties as councilman and his work in the sugar plantations, just to be with appellant who was waiting for the purchase price of his house, and eating and sleeping together in the same room together with his wife in the house owned by his brother, when the appellant could have very well slept in his own house about 200 meters away.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**. With costs against the appellant.

SO ORDERED.

Makasiar (Chairman), Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., is on leave.

[1] pp. 2-15, t.s.n. of Dec. 5, 1973; pp. 4-17, t.s.n. of Jan. 9, 1974.

[2] Exhibit "A".

[3] pp. 47-50, t.s.n. of Feb. 25, 1974.

[4] pp. 66-70, t.s.n. of Feb. 20, 1974.

[5] pp. 93-97, t.s.n. of March 6, 1974.

[6] pp. 4-14, t.s.n. of Jan. 30, 1974.

[7] pp. 51-60, t.s.n. of Jan. 30, 1974.

[8] Exhibit "1".

[9] Exhibit "2".

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