

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JUAN ANCHETA, PABLITO ANCHETA, AND JULIAN BUNAY, ACCUSED. JUAN ANCHETA, DEFENDANT AND APPELLANT.

G.R. Nos. L-29581-82. October 30, 1974

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal from the judgment of the Abra Court of First Instance finding appellant Juan Ancheta guilty of the crimes of murder and frustrated murder in Criminal Cases Nos. 678 and 679, and sentencing him to suffer the penalty of life imprisonment, to indemnify the heirs of Braulio Aglibut in the sum of P6,000.00, without subsidiary imprisonment in case of insolvency, and to pay 1/3 of the costs, for the crime of murder; and to suffer an indeterminate penalty ranging from eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, and to pay 1/3 of the costs, in the case of frustrated murder.

I

At about 3:00 o'clock on the morning of May 5, 1967, Josefa Aglibut, who was then sleeping inside their house with her husband, Braulio Aglibut, and their four children whose ages were from 7 to 10 years, was rudely awakened from her sleep. She heard somebody opening the bamboo gate leading to the yard of their house in Barrio Aguet Norte, Lagangilang, Abra. Peeping through the bamboo split wall of their house, she saw by the light of the moon, two men opening the gate to the yard and proceeding towards their house. Before she could make any move, the two men had already entered the house, and by the light of the lamp inside the house, she recognized appellant Juan Ancheta, who was then armed with a club, and his companion, Pablito Ancheta, who was then holding a bolo. She immediately recognized the two, because she had known them before, being her townmates. She also noticed that another man had remained below the house. When the two men reached the place of the sleeping Braulio Aglibut, appellant Juan Ancheta immediately clubbed him, while Pablito Ancheta stabbed the victim who died on the spot.

She grappled with the two, while appellant Juan Ancheta grabbed her hair and clubbed her, and the other man hit her with his bolo on the head, stunning her with the blow. When she regained consciousness, she cried for help and her mother and sister came to her assistance. Dr. Felicisimo B. Valencia, Municipal Health Officer, who performed the autopsy on the deceased, as well as an examination of the injuries sustained by Josefa Aglibut, made the following findings:

"WOUNDS: 1. Wound, lacerated, about three (3) inches, crossing the eyebrow, left.

2. Wound, lacerated, malar eminence, left.

3. Wound, stab, penetrating, axillary area, left, about 3-1/2 inches below the armpit, left. Size of wound, 2-1/4 inches, slightly rugged in appearance, wound directed, slightly superiorly and medially.

"Upon opening the chest cavity I noticed plenty of serious fluid, clotted and unclotted blood inside the chest

cavity. On further examination of the different organs of the chest, found out that the left lungs were injured, the heart perforated from the left ventricle to the right auricle injuring also the aorta.

CAUSE OF DEATH: Shock due to severe hemorrhage."

"(1) Wound, lacerated, Occiput, T-shape

(2) Wound, lacerated, Occiput, right

(3) Wound, lacerated, Occiput, left

(4) Hematoma over deltoid muscle right

(5) Hematoma, over deltoid muscle left

(6) Hematoma, supescapular, right

(7) Hematoma, supescapular, left

"Weapon used: blunt instrument

"Duration – 7 – 10 days without complications."

On the basis of the identification of appellant as one of those who attacked the victim, appellant Juan Ancheta was arrested by the police authorities on the early morning of May 6, 1967. On the basis of the statement of Julian Bunay and that of Josefa Aglibut, a criminal complaint was filed on the same date by the police authorities of Lagangilang, Abra, against Juan Ancheta alias "Angcuan", and Pablito Ancheta alias "Edong", and Julian Bunay alias "Sulian", for the crimes of murder for the death of Braulio Aglibut and frustrated murder for the attack upon Josefa Aglibut.

Pablito Ancheta and Julian Bunay were also arrested and detained, but during the trial both jumped bail and are still at large. Consequently, the joint trial of these two cases was confined to appellant Juan Ancheta, after which the court rendered the aforesaid judgment.

The defense of appellant is alibi. He declared that he had no motive to harm the Aglibuts and could not have been at the situs of the crime, because on May 5, 1967, he was in the Mountain District of Lacub, Abra, a place more than 35 kilometers away from Lagangilang. On account of the rugged mountain trails from Lacub, it would have been impossible for him to have been at the scene of the crime at the time of its commission. He admitted, however, that he is a resident of Tamogong, Lagangilang, and that he knows very well Josefa Aglibut, because they were townmates. His father, Eugenio Ancheta, testified that he is a vendor of soap, blankets and clothes for women, and that on the morning of May 5, 1967, he and his son were on their way to Lagangilang from Lacub, having gone there on May 4, 1967. On cross-examination, however, he could not remember the dates of the subsequent occasions when he went to Lacub. Jesus Bernal attempted to support appellant's alibi, but on cross-examination, he admitted that he never revealed the whereabouts of appellant on the date of the commission of the crime, to the police, municipal judge or any government authority, even after he learned that appellant as detained in jail for a crime committed on May 5, 1967 at Lagangilang, when he was supposed to be in Lacub, Abra, with said witness.

II

We have examined the record and find no error in the trial court's judgment. The discrepancies in the testimony Josefa Aglibut were in matters of detail, and considering her lack of education, such circumstance heightens her credibility, as it shows that her testimony was neither coached nor rehearsed.[1] We have observed that such discrepancies are often due to individual variations in observation and memory on the part of witnesses,[2] and do

not necessarily indicate falsehood.[3] The credibility of the testimony of a witness is not affected by some flaws and inconsistencies in minor details, if as regards the main incident, the identities of the malefactors, the testimonies appear to be consistent with each other.[4]

There is no question that the early revelation by prosecution witness Josefa Aglibut of the identity of her husband's slayers that led to their prompt arrest "bespeaks of a spontaneity of reaction not dictated by ulterior consideration." [5] Indeed, appellant Juan Ancheta himself admits that said witness knows him very well, being residents of the same town, and there is the absence of any improper motive to make a false imputation against appellant, which circumstance further strengthens the credibility of Josefa Aglibut. We, therefore, find that the court a quo did not err in placing much weight and credence on her testimony. Time and again, We held that when the issue is one of credibility of witnesses, appellate court will generally not disturb the findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the cases.[6]

Appellant's main defense is alibi. This defense of alibi cannot prevail in view of his positive identification by the prosecution witness.[7] Moreover, for an alibi to prosper, it is not enough to prove that the defendant was somewhere else when the crime was committed, but he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time.[8] These facts or circumstances must be clearly established as not to leave any room for doubt as to its plausibility and verity.[9]

In the case at bar, the trial court not only found that the witnesses presented by appellant in support of his alibi were unpersuasive, but also that, even assuming that appellant went to Lacub, it was not physically impossible for him to have been at Lagangilang at the time of the commission of the crime. It was shown that the distance from Lacub to Lagangilang, Abra, was about 35 kilometers, and this distance could be negotiated in a few hours ride on horseback or much less than that by motor vehicle.

Finally, appellant questions the admissibility of the autopsy and medical reports (Exhibits "A" and "A-1") prepared by the Municipal Health Officer, Dr. Felicisimo B. Valencia, who, on account of his death, was unable to testify during the trial, and also assails the active participation of the trial judge in the conduct of the proceedings, claiming that the same is indicative of his prejudice against appellant.

On the question of the admissibility of the autopsy and medical reports in question, it is not disputed that the deceased Braulio Aglibut had died on the spot that dawn of May 5, 1967 as a consequence of the injuries inflicted upon him by his assailants and that on the same occasion, his wife, Josefa Aglibut, was also criminally attacked, sustaining, as a result thereof, various wounds. The only purpose of the admission of these documents is to prove that the deceased came to his death as a result of the wounds inflicted upon him on the night in question, and that his wife also sustained various wounds as a consequence of the attack upon her person by the same assailants. These facts were already established beyond a reasonable doubt by the testimony of record. The admission of the autopsy and medical reports were intended merely to corroborate said testimony and its admission did not, therefore, prejudice the appellant.

"We think, nevertheless, that the admission of this document was error without prejudice because the only purpose for which it was introduced was to prove the fact alleged by the prosecution that the deceased came to his death as a result of the wounds inflicted upon him on the night in question. This fact was established beyond a reasonable doubt by the testimony of record which was properly admitted. It having been proven that the accused Mariano Lorenzana struck the deceased over the head with a club; that the wounded man fell senseless to the ground; and that he died within twelve hours without having recovered consciousness for more than a few minutes during that interval, there can be no question that the blows inflicted upon him by Mariano

Lorenzana were the immediate cause of his death. (Bishop on Criminal Procedure, Vol. II, art 638; U.S. vs. Bertucio, 1 Phil. Rep. 47; U.S. vs. Regis, 2 Phil. Rep., 113; U.S. vs. Embate, 3 Phil. Rep., 640; U.S. vs. Navarro, 7 Phil. Rep., 713.)"[10]

In connection with the actuations of the trial judge, it must be noted that while he had shown unnecessary impatience in the conduct of the proceedings and has had an active participation in the interrogation of the witnesses, there is no showing that as a consequence thereof, appellant was deprived of his opportunity to present fully his case, or that his rights were substantially prejudiced thereby. It is evident that the only object of the trial judge in propounding his questions was to endeavor, as far as possible, to get to the truth of the facts which the witnesses had testified. We declared in a previous case[11] that "there are obviously certain rights inherent in a tier of facts due to the nature of his function. Among these is the right to question a witness with a view to satisfying his mind upon a material point which presents itself during the trial and as to the credibility of such witness." As long as the same is exercised within reasonable bounds and does not amount to a denial of the fundamental rights of the accused to a fair and impartial trial, such conduct of the trial judge is not a cause that would affect the validity of the judgment. As to the impatience of the trial judge in the conduct of the proceedings, it is apparent from the record that he was understandably concerned with the clogged docket of his court as a result of delays in the trial of pending cases.

WHEREFORE, the judgment appealed from is affirmed with the following modifications; in Criminal Case No. 678, the civil indemnity to the heirs of Braulio Aglibut is increased to P12,000.00; while in Criminal Case No. 679, appellant is sentenced to suffer an indeterminate penalty ranging from six (6) years and one (1) day of prison mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum.

Fernando, (Chairman), Fernandez, and Aquino, JJ., concur.

Barredo, J., concurred, reserving, however, my opinion as to the implications of footnote no. 10.

[1] People vs. Selfaison, et al., G.R. No. L-14732, January 28, 1961, 1 SCRA 235.

[2] People vs. Tuason, G.R. No. L-1733, March 4, 1950; People vs. Calleja, L-2264, December 27, 1950.

[3] People vs. Gracia, G.R. No. L-21419, September 29, 1966.

[4] People vs. Hamtig, G.R. No. L-27431, August 22, 1969; People vs. Bautista, G.R. No. L-27638, November 28, 1969.

[5] People vs. Corpuz, 107 Phil., 44, 48.

[6] People vs. Espejo, G.R. No. L-27708, December 19, 1970.

[7] People vs. Selfaison, G.R. No. L-14732, January 28, 1961; People vs. Baniaga, G.R. No. L-14905, January 28, 1961; People vs. Lacson, G.R. No. L-8188, February 13, 1961; People vs. Morado, G.R. No. L-16714, January 31, 1962; People vs. Gande, G.R. No. L-28163, January 30, 1970.

[8] People vs. Lumantas, G.R. No. L-28355, July 17, 1969; People vs. Alcantara, G.R. No. L-26867, June 30, 1970.

[9] People vs. Segario, G.R. No. L-18659, June 29, 1965; People vs. Pasilan, G.R. No. L-18770, July 30, 1965; People vs. Daysay, G.R. No. L-20806-07, August 14, 1965.

[10] U.S. vs. Lorenzana, 12 Phil., 70-71.

"It is generally held that a record made for public use or a document or certificate issued by a public officer in

the performance of his duty is admissible in evidence as an exception to the hearsay rule, as evidence of the truth of the statements therein made, although the officer does not appear as a witness. Thus, a death certificate is admissible in a murder prosecution as prima facie evidence of the time, place, and cause of death of the victim." (Wharton's Criminal Evidence, 12th Ed., Sec. 272)

[11] People vs. Obngayan, G.R. No. L-29201, January 31, 1974.

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