

ANGEL A. PELAEZ, PETITIONER, VS. HON. COURT OF APPEALS, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-44594. May 08, 1990

Ponente: PARAS, J.

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PARAS, J.:

In February 1972, Angel Pelaez alias Bobby Pelaez then 25 years old, was charged before the then Court of First Instance of Rizal with the crime of frustrated homicide in the following:

“I N F O R M A T I O N

“The undersigned State Prosecutor accuses the above-named accused of the crime of FRUSTRATED HOMICIDE, committed as follows:

“That on or about the 4th day of February 1971, in the Municipality of Makati, Province of Rizal and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlaw-fully and feloniously attack, assault and shoot one Leonardo Villaranda y Castrence, hitting and inflicting upon the vital parts of his body gunshot wounds which would produce the crime of homicide as a consequence but which, nevertheless did not produce it by reason of causes independent of the will of the perpetrator, that is because of the timely and able medical attendance rendered to the offended party which prevented his death.” (p. 24, Rollo)

The facts as culled from the record are as follows:

On February 4, 1971, Francisco de los Reyes and Leonardo Villaranda (the offended party), along with others had a drinking session which started at about 10:00 o'clock in the morning and ended at about 3:00 o'clock that same afternoon. Thereafter, De los Reyes and Villaranda slept at about 9:00 o'clock in the evening of the same day. The accused, Angel A. Pelaez and Irineo Vera alias 'Balat' arrived looking for Villaranda who was still then sleeping and thereafter the accused boxed Villaranda. Vera pacified the accused and told him that that was enough. The accused asked for the P800.00 which he had requested Villaranda to keep to which the latter replied that he has spent P290.00 of said money in gambling and for women. Villaranda returned the rest of the money. Not contended, accused verified from the owner of the gambling place as to the veracity of Villaranda's reply which was attested to be true by the owner. The accused, with a certain Manalo, invited Villaranda to his house for another drinking spree. Upon arrival, accused and Manalo engaged in their drinking. About fifteen minutes later, the accused boxed Villaranda, fired a shot into the air and then aimed two shots at him but only the third shot hit Villaranda in the head. Villaranda fell on the sofa where he had been sitting, and was eventually brought to Makati Medical Center by a certain Jamie Corpuz and the accused for treatment.

Patrolman Florante Jimenez conducted an investigation regarding the incident upon the information of one Miss Gulmatico of the Makati Medical Center.

The trial Court found the accused guilty of the crime charged in a decision dated September 18, 1974, the dispositive part of which reads:

“WHEREFORE, in view of the foregoing considerations, the Court finds the accused Angel Pelaez alias Bobby Pelaez guilty beyond reasonable doubt of the crime of ‘Frustrated Homicide’ defined and penalized under Article 249 in relation to Article 6 and Article 250 of the Revised Penal Code, without any mitigating or aggravating circumstances, and pursuant to the Indeterminate Sentence Law hereby sentences him to suffer an imprisonment of TWO (2) MONTHS and ONE (1) DAY TO TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY, to indemnify Leonardo Villaranda in the sum of P15,000.00, and to pay the costs.” (p. 25, Rollo)

On appeal to the Court of Appeals, respondent Court, on July 20, 1976, affirmed the trial court’s decision. The motion for reconsideration of said decision was denied. Hence, this petition to review the respondent court’s decision.

Appellant now raises the following errors committed by respondent Court of Appeals, viz:

“THE COURT OF APPEALS ERRED IN SIMPLY ADOPTING THE FINDINGS AND CONCLUSION OF THE TRIAL COURT THAT WERE BASED ON ASSUMPTIONS, SURMISES, CONJECTURES AND MISTAKEN INFERENCES.”

“THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE TRIAL COURT, IN ITS DECISION, HAD OVERLOOKED FACTS OR CIRCUMSTANCES OF WEIGHT AND IMPORTANCE THAT COULD HAVE MATERIALLY AFFECTED THE CONCLUSION THAT THE APPELLANT IS GUILTY OF THE CRIME CHARGED.”

“THE COURT OF APPEALS, IN AFFIRMING THE DECISION OF THE TRIAL COURT, ERRED IN DISREGARDING, OR IN NOT APPLYING DOCTRINAL JURISPRUDENCE RELEVANT TO THE DETERMINATION OF THE GUILT OF THE APPELLANT OF THE CRIME OF WHICH HE WAS CHARGED.”

“THE COURT OF APPEALS ERRED IN FINDING THE APPELLANT GUILTY OF THE CRIME OF FRUSTRATED HOMICIDE.”

(pp. 6 and 12, Brief for the Respondents-Appellees)

Petitioner however presents his version of what he thought to have transpired. That while he and Manalo were drinking and conversing at the terrace outside the living room of his house, Villaranda got appellant’s automatic pistol from the drawer of the cabinet where it was usually kept - because Villaranda knew where the pistol was kept - and then fired the pistol into the air, and when asked by the appellant why he fired the gun he said that he fired the gun because he was happy that the appellant had forgiven him. The appellant wrested the gun from Villaranda and after holding it for some moments, he instructed Villaranda to return the gun to the drawer where it was usually kept. But Villaranda, instead of returning the gun to where it was kept, placed the gun on the narrow table at the landing place of a stairway in the living room of the house. The pack of cigarettes that Villaranda bought was placed on that table too. Manalo and the appellant at the time were at the terrace outside the living room of the house. A little later Manalo asked the appellant for some cigarettes, and the appellant went to the table where the pack of cigarettes was placed - the very table where Villaranda placed the gun, but the appellant did not know that the gun was there and he did not see it because the living room was a little dark - and when the appellant got the pack of cigarettes he unknowingly grazed or brushed down from the table the gun that had been placed there and the automatic pistol fell to the floor and exploded, or automatically fired, and the bullet hit the left portion of the head of Villaranda, who was at the time sitting on the sofa.

Upon noticing that Villaranda was hit by a bullet in the head, the appellant immediately went out of his house to look for a vehicle to carry Villaranda to the hospital. The appellant found a jeep and he, with the help of Manalo, forthwith brought Villaranda to the Makati Medical Center which was the nearest hospital from his house. Villaranda was immediately given medical attention. He was operated on by Dr. Romeo Gustilo, a neuro surgeon, and his life was saved. Villaranda was in the hospital for about twenty days, and the appellant was able to pay for all the hospital bills, except the professional fees of Dr. Gustilo.

Petitioner contends that the finding of the trial court, which was adopted by the Court of Appeals, that the appellant fired the shot that hit the head of the offended party was based solely on the uncorroborated testimony of said offended party.

We adopt the finding of the trial court when it rejected the defense version because of its inherent incredibility as borne out by the evidence on record. Based on overwhelming prosecution evidence, it ruled as follows:

“The Court is convinced that the accused fired the shot which hit Leonardo Villaranda as a result of which he sustained gunshot wound for which reason he was operated on at the Makati Medical Center.” (CFI, Decision, p. 54 Brief for the Accused-Appellant; Annex E, p. 36, Rollo)

Respondent Court sustained the stand taken by the trial court when it stated thus:

“The resolution of the factual issue on who fired the shot which caused a gunshot wound in the head of the complainant hinges on the credibility of witnesses and the settled, long standing rule on the matter is for the appellate tribunal to give due respect to the assessment of the facts made by the lower court, said court having had the opportunity, not only of receiving the evidence, but also of observing the conduct and demeanor of the witnesses while testifying. And, this rule is not to be overturned unless there is a showing that in making the disputed factual findings, 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. (People vs. Dorado, 30 SCRA 53; People vs. Sales, 44 SCRA 489, 496)

“The trial court has not overlooked any fact of weight and importance that could have materially affected the conclusion reached in the case.” (Court of Appeals decision, p. 27, Rollo)

In the case of People vs. Canada, 12 SCRA 9, We ruled that although there is no direct evidence pointing to the accused as the person who inflicted the wounds that caused the death of the accused, where the circumstances point out by the lower court constitute more than sufficient evidence to convince the appellate court that he is the only one with sufficient motive to wish the death of the deceased, it is held that the appellant was properly convicted of homicide.

Moreover, petitioner maintains that no evidence was presented to support the trial court’s decision ordering him to indemnify the offended party in the sum of P15,000.00. Respondent court therefore committed an error in sustaining the trial court’s ruling.

Petitioner’s contention has no merit. The record discloses that the very testimony of Dr. Romeo H. Gustilo, who operated on the victim justifies such indemnification, to wit:

Q - Now, doctor, because of that injury did you perform an operation in that body of Mr. Villaranda?

A - Yes, we had an operation. We admitted the patient that night, got blood and the next morning we operated on him.

Q - When you performed the operation, did you recover any slugs or bullets?

A - There was no slug but there was metallic foreign body and blood clotting.

Q - Can you point on what part of the head was the wound located?

A - Left tempora-parietal. (Witness pointing to his left forehead.

Q - Before you perform the operation were you able to talk with the relatives of the victim?

A - I was not able to talk with the relatives of the victim but the victim was brought to the hospital by the relatives of Mr. Pelaez and I was able to talk with them. I was told that she was the wife and the other older woman who was the mother who gave me the consent and assured the responsibilities for the patient.

Q - What else did you talk about with the relatives of Pelaez?

A - We told them that the operation was life saving. That if it was not on time, the patient would die and they agreed to the operation.

Q - How about the fees?

A - They agreed.

Q - How much?

A - P15,000.00.

Q - Did they pay?

A - No. (tsn, pp. 6-7, October 24, 1972; emphasis ours).

(pp. 16-17, Brief for the Respondents-Appellees)

PREMISES CONSIDERED, the instant petition is DENIED for lack of merit with the modification that the penalty to be imposed applying the Indeterminate Sentence Law where neither aggravating nor mitigating circumstance is present should be between prision correccional in its medium period as the minimum penalty and prision mayor in its medium period as the maximum penalty. We therefore hereby sentence Angel A. Pelaez to suffer an imprisonment of 4 YEARS AND TWO MONTHS of prision correccional to 8 YEARS AND 1 DAY of prision mayor.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Penned by Justice Ramon C. Fernandez, and concurred in by Justices Ricardo C. Puno and Delfin FL. Batacan

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