

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WARLITO RAGON, JOHN DOE AND PAUL DOE, ACCUSED, WARLITO RAGON, ACCUSED-APPELLANT.

G.R. No. 100593. November 18, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Where the prosecution's evidence rests purely on circumstantial evidence, courts are required to exert extra effort to ensure that the totality of the evidence adduced constitutes an unbroken chain leading beyond reasonable doubt to the guilt of the accused, to the exclusion of all others. Where such evidence does not produce moral certainty, the appellant must be acquitted, as in this case.

The Case

This is the legal principle used by the Court in granting this appeal from the Decision dated April 22, 1991 of the Regional Trial Court of Vigan, Ilocos Sur, Branch 25, in Criminal Case No. 2654-V, convicting Appellant Warlito Ragon of murder.

Appellant Ragon was charged with murder by Provincial Prosecutor Alejandrino C. Cabebe in an Information[1] dated December 20, 1988, which reads as follows:

“That on or about the 2nd day of April, 1988, in the [M]unicipality of Bantay, [P]rovince of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another with treachery and evident premeditation, and taking advantage of superior strength and with intent to kill, did then and there wilfully, unlawfully and feloniously assault, attack and strike with stones one Manuel Rapisura, thereby inflicting upon the latter mortal injuries on the head which injuries necessarily produced the instantaneous death of said Manuel Rapisura.”

Upon arraignment, appellant pleaded not guilty to the charge.[2] After trial in due course, the lower court rendered the assailed Decision,[3] the decretal portion of which reads:[4]

“IN VIEW OF ALL THE ABOVE this Court finds accused Warlito Ragon guilty beyond reasonable doubt of the crime of murder and hereby sentences him to suffer the penalty of Reclusion Perpetua and to indemnify (sic) the heirs of the late Manuel Rapisura the following amounts:

1. P30,000.00 for the life of Manuel Rapisura;
2. P15,000.00 for expenses incurred on account of the death of the deceased as actual damages and
3. Accused to pay costs.”

Hence, this appeal.[5]

The Facts

Version of the Prosecution

Quoted hereunder is the trial court's recital of facts based on the evidence of the prosecution:[6]

"1. Conrado Rivad testified that he was an apprentice tricycle driver to Guillermo Rivad. On April 2, 1988, he was in a parking area south of Tinay's Emporium in Vigan, Ilocos Sur, at about 8:00 [p.m.] with Manuel Rapisura who was also a tricycle driver, other tricycle drivers and ballot [sic] vendors when three (3) men, one of whom was the accused, Warlito Ragon, whom he identified in Court approach. The three (3) men boarded Rapisura's tricycle and asked to be conducted to San Julian, Bantay, Ilocos Sur. Rapisura refused to bring them there. The three (3) alighted and the shortest with curly hair who is the accused, Warlito Ragon, whispered with the one wearing a hat after which they came back to Rapisura and asked to be brought to the national highway at Aggay, Bantay, Ilocos Sur, to which proposal, Rapisura agreed.

Witness that same night was told by the police that Rapisura was already dead and that he died on the road at San Julian, Bantay, Ilocos Sur. He saw Rapisura's body at the Funeral Parlor with injuries on his head.

2. Norman Pilar, a policeman of the Bantay, Ilocos Sur, Police Station. They received a report of a man lying on the road going to San Julian, Bantay, Ilocos Sur. They proceeded to the place and found Manuel Rapisura lying beside his tricycle already dead on the southern portion of the road going to San Julian. They found a cap marked Champion near the cadaver, which Conrado Rivad identified as the cap worn by one of the companions of the accused, Warlito Ragon, when they rode on Rapisura's tricycle that night of April 2, 1988.

Warlito Ragon was identified to the police as one of the three (3) passengers of Rapisura before his death, by Conrado Rivad.

3. Dr. Felicidad Lucero testified to her findings. She found five (5) wounds on the head of Manuel Rapisura. His death was due to profuse hemorrhage and his fractured skull.

4. Tomas Galace and his brother Moises Galace were in their parked tricycle [waiting] for passengers. Manuel Rapisura was also there. He was a tricycle driver and his tricycle was parked beside the (sic) Tinay's Emporium also waiting for passengers.

Witness went to buy cigarettes at Tinay's Emporium when three (3) men boarded the tricycle of Manuel Rapisura and asked to be conducted to the national highway of Aggay, Bantay, Ilocos Sur, and Rapisura drove them in his tricycle. He identified accused Warlito Ragon as the one who sat behind Rapisura. The other two (2) he failed to recognize because they were seated inside the sidecar.

They also drove passengers to Kuta, Vigan, Ilocos Sur, and when [the] witness and his brother returned to the parking area, policemen told them that the tricycle with body number 1030 met an accident and he knew right there that Manuel Rapisura was the driver.

He saw the cadaver of Rapisura at the Bantay Municipal Hall. The back of his head mashed with a stone and he was already dead.

[4]. Gloria Rapisura testified on the civil aspect of the case. She claimed to have incurred P15,000.00 as expenses for the death of her son."

Version of the Defense

Appellant interposes alibi and denial as his defense. The trial court synthesized the evidence for the defense, as follows:[7]

"Warlito Ragon, the accused, testified in his behalf. He claims to be in Balaoan, La Union, on April 2, 1988, to ask his uncle, Benigno Racuya, to employ him there. He returned to his residence at Aggay, Bantay, Ilocos Sur, the following Monday when he learned that he was being charged of a crime.

He denied the testimonies of Conrado Rivad that he was one of those who rode in the tricycle of Manuel Rapisura before he died on April 2, 1988. He claims to have gone to Balaoan, La Union, on April 1, 1988.

He stated that he was invited by policeman Pinto because Station Commander Ramos wanted to talk to him. At the municipal hall in Bantay, Ilocos Sur, a person he later learned to be Conrado Rivad kept pointing at him. After that he was already detained.

Benigno Racuya is the brother of accused Warlito Ragon's mother. He arrived from work at his residence in Napaset, Balaoan, La Union, on April 2, 1988, to find accused in his house. This witness said that accused told him he arrived in his house on Friday, April 1, 1988, then he said that accused arrived on Saturday morning (T.S.N. July 6, 1990) to ask to be employed. Accused stayed in Balaoan, La Union, until Monday, April 4, 1988, when his mother came to tell accused that the police were looking for him."

Ruling of the Trial Court

Despite the fact that there was no eyewitness to the actual killing, the trial court convicted the appellant on the strength of the following pieces of circumstantial evidence:[8]

- "(1) He was one of the last persons seen with Rapisura before the latter's death;
- (2) That Ragon and company had an ax to grind against deceased when he refused to convey them to San Julian, Bantay, Ilocos Sur;
- (3) That when Ragon whispered with his co-passengers before asking the deceased to bring them to a nearer point, the plan to kill him was hatched;
- (4) The presence of the cap beside the cadaver of Rapisura which Ragon's co-passenger wore before riding on his tricycle;
- (5) The fact that Rapisura's body and tricycle were on the road going to San Julian when he was found dead which was the original destination of his passengers;
- (6) The short interval of time between the departure of Rapisura on his tricycle with accused as one of his passengers and the discovery of his body;
- (7) The departure of accused from Vigan in the guise of looking for a job in Balaoan, La Union, to establish his alibi; and
- (8) The fact that Rivad and Galace have no cause to testify falsely against Ragon."

Further, the trial court ruled that treachery and abuse of superior strength qualified the killing to murder.

Assignment of Errors

The defense, in its brief, assigned the following alleged errors:[9]

1. The lower court erred in convicting Accused Warlito Ragon, finding him guilty beyond reasonable doubt of the crime of murder, merely on the basis of circumstantial evidence;
2. The lower court erred in admitting in evidence and giving credence to the identification of Accused Warlito Ragon by Prosecution Witness Conrado Rivad at the police station at Bantay, Ilocos Sur, on August 16, 1988, when the identification was made in violation of the constitutional rights of accused;
3. The lower court erred in overlooking the right of accused to be presumed innocent until the contrary is proved beyond reasonable doubt; and
4. The lower court erred in disregarding the defense of alibi of accused."

Only two issues need to be addressed to demonstrate why acquittal is inevitable; namely: (1) the utter inadequacy of the prosecution's circumstantial evidence, and (2) the defense of alibi.

The Court's Ruling

The appeal has merit. Since the appellant was convicted on the basis of purely circumstantial evidence, the Court had to review the facts and to deliberate on the case with extra care, cognizant that the prosecution cannot rely on the weakness of the defense, and that any conviction must rest on nothing less than moral certainty of the guilt of the accused.[10]

First Issue: Sufficiency of the Circumstantial Evidence

When there is no eyewitness to a crime, resort to circumstantial evidence is inevitable. In this situation, such evidence may be sufficient for conviction, provided: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[11] The circumstances established must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused as the guilty person, to the exclusion of all others.[12]

In this particular case, appellant was convicted on the strength of the aforementioned pieces of circumstantial evidence. Interpreting these, the trial court came up with the following story of how the crime was supposedly committed:[13]

"No witness saw how Rapisura was killed. All that was established was that Rapisura was last seen driving his tricycle towards Bantay, Ilocos Sur, with accused and two (2) others as his passengers.

It is believed however, that the three (3) passengers resented the refusal of Manuel Rapisura to conduct them to San Julian and to get even with him they proposed a nearer destination after a whispered conversation and then they proposed to be brought to Aggay instead.

It was easy for them to have engineered his death when he accepted to bring his passengers to Aggay. Accused Warlito Ragon, who sat behind the driver could have easily struck him on the head because he sat at a place where accused could make any move without being easily noticed by the victim.

A mute witness and an inculpatory evidence to the killing is the small cap worn by Ragon's companion which was left beside the body of Rapisura when his cadaver was recovered on the road to San Julian, Bantay, Ilocos Sur, a few minutes after he left for Vigan for Aggay, Bantay, Ilocos Sur. Why his body was found on the road going to San Julian could be explained by the fact that San Julian is the place [where] the three (3) passengers originally wanted their victim to conduct them. These are indications that led the Court to believe that at Aggay, Rapisura was intimidated into bringing his passengers to San Julian instead and upon reaching the road to San Julian, they made him pay for his refusal to bring them there and the three of them sealed his doom. Several attacks with stones directed at his head finished Rapisura off.

Rapisura had no chance against his three passengers as he reeled from attacks on his head. He fell to the ground face down and as a coup de grace they smashed his skull behind and Rapisura died of bleeding and broken skull. [We] must not lose sight of the fact that the victim a few minutes before his death was last seen alive in the company of accused and his two (2) companions.

Hence the Court is convinced that the three (3) passengers, one of whom was Warlito Ragon, killed Manuel Rapisura. They even had the nerve of leaving an evidence of their identity by leaving the cap worn by one of them beside the cadaver."

To repeat, the most glaring feature of the present case, and its main obstacle as well, is the lack of an eyewitness

to the killing; thus, the reliance of the trial court on circumstantial evidence to convict the appellant. The court a quo convicted him, based primarily on the fact that he and his unidentified companions were the last known passengers of the deceased, hours prior to the discovery of the latter's cadaver. The motive for the killing, the trial court concluded, was the victim's refusal to transport them to San Julian. To justify its conviction of appellant, the trial court appreciated conspiracy among the victim's last known passengers.

Materiality of the Motive

Given the absence of a positive identification of the victim's assailants, motive becomes material even though it is not an element of the crime.[14] The trial court ruled that appellant and his companions had an ax to grind against the deceased because he refused to ferry them to San Julian. This alleged motive is, however, not supported by evidence. In their testimonies, Rivad and Galace alleged that the deceased refused to transport appellant and his companions to San Julian, but agreed to bring them to Aggay, instead. The compromise reached negated the trial court's conclusion that resentment brewed between the deceased and the appellant. Thus, it appears that its conclusion was more speculative than factual. In any event, that appellant and his companions resented the deceased's refusal to take them to San Julian does not impress this Court as a sufficient reason for them to commit so serious a crime as murder, considering that there were other tricycle drivers at Tinay's Emporium in Vigan, whom appellant and his companions could have hired.

The Conspiracy Theory

The trial court was convinced that appellant conspired with his companions in killing the victim by striking the latter's head with stones. This Court is not. Conspiracy in statutory language arises at the very instant the plotters agree, expressly or impliedly, to commit a crime and actually pursue it.[15] Its existence must be proven as clearly, as convincingly and as conclusively as the killing itself.[16] It is similarly well-settled that conspiracy need not be proved by direct evidence of prior agreement, provided that it can be inferred from the conduct of the accused -- conduct showing unison in purpose or design before, during and after the crime.[17]

In this case, however, there is a glaring dearth of evidence showing that appellant and his companions agreed to kill the victim, or that appellant acted in a manner showing commonality of design and purpose with the actual perpetrator(s) of the crime. Without evidence as to how appellant participated in its perpetration, conspiracy cannot be appreciated against him. Evidence of intentional participation is indispensable, as appellant's mere presence (assuming he was present) at the crime scene cannot be considered as proof of conspiracy.[18]

That Rivad saw the appellant and his companions whispering among themselves after the deceased refused to transport them to San Julian does not prove the conspiracy theory. He did not even hear what appellant and his companions were whispering about. Nor does the evidence on record support the holding of the trial court that appellant struck the victim on the head from behind. The autopsy showing that the victim was hit behind the head and Galace's testimony that appellant sat behind the deceased on the tricycle are inadequate proofs that appellant authored the crime or participated therein as a co-conspirator.

Other Circumstantial Evidence

The other pieces of circumstantial evidence still remaining are as follows:

- "(1) The presence of the cap beside the cadaver of Rapisura which Ragon's co-passenger wore before riding on his tricycle;
- (2) The fact that Rapisura's body and tricycle were on the road going to San Julian when he was found dead which was the original destination of his passengers;

- (3) The short interval of time between the departure of Rapisura on his tricycle with accused as one of his passengers and the discovery of his body;
- (4) The departure of accused from Vigan in the guise of looking for a job in Balaoan, La Union, to establish his alibi; and
- (5) The fact that Rivad and Galace have no cause to testify falsely against Ragon.”

The implication of the first three circumstances are explained by the trial court thus:

“A mute witness and an inculpatory evidence to the killing is the small cap worn by Ragon’s companion which was left beside the body of Rapisura when his cadaver was recovered on the road to San Julian, Bantay, Ilocos Sur, a few minutes after he left Vigan for Aggay, Bantay, Ilocos Sur. Why his body was found on the road going to San Julian could be explained by the fact that San Julian is the place (where) the three (3) passengers originally wanted their victim to conduct them. These are indications that led the Court to believe that at Aggay, Rapisura was intimidated into bringing his passengers to San Julian instead and upon reaching the road to San Julian, they made him pay for his refusal to bring them there and the three of them sealed his doom. Several attacks with stones directed at his head finished Rapisura off.”

This Court disagrees. The cap found beside the cadaver at the crime scene was tagged by the prosecution as belonging not to appellant but to his companion who remained unidentified. To say that this proves his presence at the scene of the crime presupposes that all the accused alighted at the same time and place. However, this is not borne by the evidence on record. At most, the cap may show the presence of appellant’s companion at the crime scene, but not of appellant’s.

The place where the cadaver was found (“on the road at San Julian”) also raises doubts as to appellant’s guilt. Appellant’s agreement with the deceased was for the latter to transport him and his friends to Aggay, not San Julian. If the appellant and his companions were the victim’s killers, then the cadaver should have been found along the way to Aggay. On the other hand, if the deceased was successfully coerced or persuaded to convey the appellant and his companions to San Julian, why would they still kill the victim? The prosecution also failed to show that the deceased did not or could not have picked up other passengers between the time appellant boarded the tricycle and the discovery of the crime.

That Galace and Rivad had no ill motive to testify against appellant cannot be used to sustain the conviction, because their testimonies did not provide the crucial incriminatory evidence required to pin the crime on appellant. Even if they had not been discredited, their testimonies contained lapses which becloud appellant’s link to the crime.

Appellant’s Alibi

In order to prosper, alibi must preclude the possibility that the accused was at the locus criminis at the time the crime was committed.[19] While the defense of alibi is inherently weak, it assumes importance when the prosecution’s case is just as tenuous.[20] The solicitor general claims that appellant’s alibi is sufficiently rebutted by Witnesses Rivad and Racuya. But even if appellant’s alibi is weak, the case still cannot prosper because appellant’s conviction must rest on the strength of the evidence of the prosecution and not on the weakness of that of the defense.[21]

Circumstantial evidence is akin to a tapestry made up of strands which create a pattern when interwoven, and cannot be plucked out and considered one strand at a time independently of the others.[22] If the picture does not point to the accused as the perpetrator of the crime beyond a reasonable doubt, conviction based thereon will not weather judicial scrutiny. A painstaking review of the records of this case convinces us that the story pieced

together by the trial court from the evidence of the prosecution provides no moral certainty of appellant's guilt. Appellant deserves acquittal.

WHEREFORE, the appeal is hereby GRANTED. The assailed Decision is REVERSED and SET ASIDE. Appellant is ACQUITTED on reasonable doubt. Unless convicted for any other crime or detained for some lawful reason, Appellant Warlito Ragon is ORDERED RELEASED immediately. The director of prisons is hereby DIRECTED to inform this Court, within five days from notice, of the date and time the appellant is released pursuant to this Decision.

SO ORDERED.

Romero, Melo, and Francisco, JJ., concur.

Narvasa, C.J., (Chairman), on leave.

[1] Rollo, p. 4; records, p. 1.

[2] Records, pp. 4-5.

[3] Penned by Judge Herminia M. Pascua.

[4] Rollo, p. 20.

[5] The case was submitted for decision upon the receipt by this Court of the confirmation of appellant's confinement at the Bureau of Corrections, Muntinlupa City, on September 17, 1996.

[6] Rollo, pp. 14-16; records, pp. 95-97.

[7] Rollo, pp. 16-17; records, pp. 97-98.

[8] Rollo, pp. 19-20; records, pp. 101-102.

[9] Rollo, p. 39.

[10] *People vs. Payawal*, 247 SCRA 424, 431, August 16, 1995; and *People vs. Danao*, 253 SCRA 146, 150-151, February 1, 1996.

[11] Section 4, Rule 133, Rules of Court.

[12] *People vs. Danao*, *supra*.

[13] Rollo, pp. 19-20.

[14] *People vs. Malazarte*, 261 SCRA 482, 491, September 6, 1996; *People vs. Godoy*, 250 SCRA 676, 730, December 6, 1995; and *People vs. Nemeria*, 242 SCRA 448, 454, March 20, 1995.

[15] *Subayco vs. Sandiganbayan*, 260 SCRA 798, 812, August 22, 1996; *People vs. Nacional*, 248 SCRA 122, 130, September 7, 1995; *People vs. Cayan*, 245 SCRA 66, 77, June 16, 1995.

[16] *People vs. Halili*, 245 SCRA 340, 352, June 27, 1995; and *People vs. Salodaga*, 247 SCRA 98, 106, August 7, 1995.

[17] *People vs. Sotes*, 260 SCRA 353, 365, August 7, 1996; *People vs. Alcantara*, 254 SCRA 384, 394, March 6, 1996; *People vs. Torrefiel*, 256 SCRA 369, 377, April 18, 1996; and *People vs. Cayan*, *supra*, p. 77.

[18] *People vs. Dulatre, Jr.*, 248 SCRA 109, 119-120, September 7, 1995.

[19] *People vs. Magana*, 259 SCRA 380, 391, July 26, 1996; and *People vs. Butulan*, 253 SCRA 52, 64, February 1, 1996.

[20] *People vs. Quindipan*, 253 SCRA 421, 429, February 9, 1996; and *People vs. Laray*, 253 SCRA 654, 671, February 20, 1996.

[21] *People vs. Alcantara*, 240 SCRA 122, January 17, 1995.

[22] *People vs. Cabrera*, 241 SCRA 28, 32, February 1, 1995.

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