

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAJID SAMSON ALIAS COMMANDER BUNGI, AWALON KAMLON ALIAS COMMANDER KAMLON, CARLOS FALCASANTOS, SALVADOR MAMARIL, HADJIRUL PLASI...

G.R. No. 100911. May 16, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Well entrenched in our criminal law and procedure is the rule that, unless otherwise specifically required, the testimony of a single eyewitness if credible and trustworthy is sufficient to support a finding of guilt beyond reasonable doubt. And since the determination of credibility is within the province of the trial court which has the opportunity to examine and observe the demeanor of witnesses appellate courts will not generally interfere in this jurisdiction. Guided by these established precepts, we deny the instant appeal from the judgment of the Regional Trial Court of Zamboanga City, Br. 12,[1] which on 13 February 1991 found accused Jailon Kulais y Mohamad, Imam Taruk Alah y Salih, Jainuddin Hassan y Ahmad, Salvador Mamaril y Mendoza and Hadjirul Plasin y Alih guilty as principals of kidnapping for ransom and sentenced each of them to life imprisonment.

In the same Decision, Jumatiya Amlani de Falcasantos, Norma Sahiddan de Kulais and Jaliha Hussin de Kamming were considered accomplices to the crime and meted lesser penalties, while Freddie Manuel alias "Ajid" was acquitted of the charges filed against him.

The charges against co-accused Majid Samson alias Commander Bungi, Awalon Kamlon alias Commander Kamlon, Carlos Falcasantos and several John Does who all remained at large were archived until their arrest could be effected.

Of the eight (8) accused who were convicted only Jailon Kulais appealed from the judgment of the trial court and accordingly filed his appellant's brief within the reglementary period. Imam Taruk Alah y Salih who manifested before this Court that he filed a notice of appeal in the court a quo, however, failed to pursue his case as he did not submit his appellant's brief within the prescribed period. Accordingly, this discussion concerns only appellant Kulais who has perfected his appeal.

In the main, the appeal raises two (2) issues: first, that the testimony of lone eyewitness and alleged kidnap victim Airman Second Class (A2C) Ruben Monteverde of the Philippine Air Force is "marred with contradictions, impossibilities and improbabilities"[2] and thus fails to prove the guilt of the accused beyond reasonable doubt; and, second, that the trial court erred in not finding that appellant was a victim of an illegal arrest.

The propositions are unavailing. The trial court which had an opportunity to observe both the witnesses for the prosecution and for the defense gave credence to the prosecution witnesses and their testimonies. Theirs were "positive, clear and convincing,"[3] ruled the court a quo. Thus, eyewitness and kidnap victim A2C Monteverde testified that on 30 January 1990 at about six-thirty in the morning he was riding a Fortune Bus on his way to the

city to report for duty. He came from Ipil, Zamboanga del Sur. Somewhere in Sitio Texas, Barangay Tictapul, Vitali, Zamboanga City, armed members of the Moro National Liberation Front (MNLF) stopped the bus he was riding and dragged out some eleven (11) passengers. He was the seventh person dragged. The captives were then herded to the mountains of Tungawan, Zamboanga del Sur, where they were transferred from one site to another and held hostage for about one (1) month. During their month--long detention, they were ordered among others to fetch water, cook, and carry the clothes of their kidnappers whom they came to know. They were likewise ordered to write ransom letters to their relatives. For his part, A2C Monteverde was directed by Commander Kamlon to ask for P30,000.00 from his relatives in exchange for his freedom. On 6 March 1990, during an encounter between his captors and the pursuing military, A2C Monteverde was able to escape. He immediately went to the 482nd PC Company in Ipil, Zamboanga del Sur, to report his abduction. The lone eyewitness account of kidnap victim A2C Monteverde, candid and straightforward, is sufficient to convict appellant of kidnapping for ransom.

On 27 May 1990 the military conducted an operation which resulted in the capture of some members of the group believed to be responsible for the kidnapping of A2C Monteverde and a number of civilians. A2C Monteverde named and pinpointed them in open court: Jailon (accused-appellant) who identified himself as Jailon Kulais; Taruk who identified himself as Imam Taruk Alah; Salam who identified himself as Salvador Mamaril; Mating who identified herself as Jumatiya Amlani; Hadjirul who identified himself as Hadjirul Plasin; and Jainuddin who identified himself as Jainuddin Hassan. He also pointed to Jaliha Hussin and Norma Sahiddan, who were likewise apprehended but whose names he could not recall, and Commander Kamlon, Commander Falcasantos, Commander Bungi, Sapari, Uling, Hassim, Jamlin, and others who were not apprehended.

Thus, since it appears that the trial court did not overlook facts or circumstances which may otherwise affect the result of the case, its findings regarding the credibility of witnesses cannot be overturned. The trial court is in a better position to decide this question after having heard the witnesses themselves and observed their deportment and manner of testifying. Hence when the trial court, as in the case at bench, declares that the testimony of A2C Monteverde was "positive, clear and convincing,"[4] its declaration must be sustained and respected. Furthermore, absent any showing that A2C Monteverde was actuated by any improper motive, his testimony is entitled to full faith and credit.

Anent the second issue, appellant is now estopped from questioning any defect in the manner of his arrest as he failed to move for the quashing of the information before the trial court. Consequently, any irregularity attendant to his arrest was cured when he voluntarily submitted himself to the jurisdiction of the trial court by entering a plea of "not guilty" and by participating in the trial.[5] What is more, his submission that he was not apprehended during a skirmish but while plowing his field becomes puerile when pitted against the positive testimony of Lt. Melquiades Feliciano who led Charlie Task Force BFK (Bungi, Falcasantos and Kamlon) in apprehending him and his companions. Credence is accorded to the testimony of Lt. Melquiades that appellant was captured during a military offensive, which testimony the trial court characterized as "positive, clear and convincing."[6]

The Court however takes notice of the error in the imposition of the penalty against accused-appellant, which should be reclusion perpetua and not life imprisonment. We have repeatedly emphasized that reclusion perpetua and life imprisonment are not synonymous but distinct in nature, in duration and in accessory penalties.

WHEREFORE, except for the penalty imposed which should be reclusion perpetua and not life imprisonment, the judgment appealed from finding accused-appellant JAILON KULAI y MOHAMAD guilty of kidnapping for ransom is AFFIRMED. He is therefore sentenced to reclusion perpetua with all the accessory penalties provided by law, and to pay the costs.

The appeal interposed by accused Imam Taruk Alah is DISMISSED for his failure to prosecute his appeal,

pursuant to Sec. 8, Rule 124, Rules of Court. Consequently, his conviction as principal for kidnapping with ransom stands.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] Judge Pelagio S. Mandi, presiding.

[2] Accused-appellant's Brief, p. 17; Rollo, p. 88.

[3] Decision of the Trial Court, p. 23; Rollo, p. 46.

[4] Ibid.

[5] *People v. Rabang*, G.R. No. 73403, 23 July 1990, 187 SCRA 682.

[6] See Note 3.

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