

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUPERTO PASCUA, ACCUSED-APPELLANT.

G.R. No. 100990. February 27, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

This case was commenced by an information, dated February 22, 1988 and filed and docketed in the Regional Trial Court, Branch 18 at Batac, Ilocos Norte as Criminal Case No. 26008-18, charging accused-appellant Ruperto Pascua and certain John Does, whose true identities and whereabouts are still unknown, with the crime of murder allegedly committed in this manner:

"That on or about 6:30 o'clock in the night of October 22, 1987, at Barangay Maglaoi Centro, municipality of Currimao, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and helping one another with JOHN DOES, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, with intent to kill, attack and shoot with the use of a firearm (Carbine), one PANTALEON A. VALDEZ, inflicting upon said PANTALEON A. VALDEZ multiple gunshot wounds which caused his instantaneous death.

"CONTRARY TO LAW, with the aggravating circumstance of night time.

As a consequence of the death of said PANTALEON A. VALDEZ, his legitimate heirs are entitled to moral, actual and exemplary damages which may be proven in Court."¹

The warrant issued on March 15, 1988 for the arrest of appellant was initially returned unserved within the Municipality of Currimao, Ilocos Norte where he resides. It was only on May 17, 1988 when he was finally apprehended.² On arraignment, appellant pleaded not guilty to the crime charged and trial ensued.

On January 31, 1990, the trial court rendered its decision convicting appellant, the decretal portion of which reads:

"PREMISES CONSIDERED, the Court finds the accused RUPERTO PASCUA 'GUILTY' beyond reasonable doubt of the crime of Murder, as defined under Article 248 of the Revised Penal Code, qualified by treachery. In view of the abolition of the death penalty under the New Constitution, this Court hereby sentences the accused RUPERTO PASCUA to suffer imprisonment of from RECLUSION TEMPORAL in its maximum period or SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY to RECLUSION PERPETUA and to indemnify the heirs of the victim in the amount of THIRTY THOUSAND PESOS (P30,000.00).³

Not satisfied therewith, appellant sought relief in the Court of Appeals. Said appellate court, in CA-G.R. CR No. 09481, affirmed the judgment of conviction but modified the penalty by imposing the penalty of reclusion perpetua and ordering appellant to indemnify the heirs of the victim in the sum of P50,000.00.⁴ By reason of the penalty thus imposed, the Court of Appeals did not enter judgment but certified the case and elevated the entire records to us for review, pursuant to the second paragraph of Section 13, Rule 124, Rules of Court.

The material facts, as found by the trial court and adopted by the Court of Appeals in its decision, are as follows:

"It appears that on or about 6:30 in the evening of October 22, 1987, Pantaleon A. Valdez together with his wife Irene D. Valdez and his daughter Nema Valdez, were eating their supper at the kitchen located at the first floor of their house. While eating, the accused Ruperto Pascua, wearing a camouflage soldier's uniform and armed with a carbine rifle, opened the southern kitchen window and shot Pantaleon Valdez. Said Pantaleon A. Valdez fell on the floor. Thereafter, the accused went inside through the kitchen door and for the second time shot the victim several times at close range. The victim's wife Irene Valdez who was then in fear, ran southward but outside the house, she saw three (3) other companions of Ruperto Pascua and she proceeded northward. She went to the house of their neighbor Amancio Flores. The victim's daughter, Nema Valdez, likewise ran away and proceeded to the house of their neighbor, Magdalena Alegre. After thirty (30) minutes, the barangay captain sent somebody to call Irene Valdez and they proceeded to their house where her husband was lying but already dead.

"On October 23, 1987, the Municipal Health Officer, Dr. Eddie P. Pagdilao, conducted a post-mortem examination on the body of the victim. And on October 29, 1987, Dr. Pagdilao rendered his POST-MORTEM EXAMINATION REPORT (Exh. 'B') which shows that the death of the victim was caused by multiple gunshot wounds at the left chest, head and abdomen. (p. 6, records).

"The following day, October 23, 1987, Irene Valdez reported to the Police Station of Currimao, Ilocos Norte and identified the assailant of her husband as Ruperto Pascua. (Exh. E-1, p. 4, t.s.n., Feb. 1, 1989).

"Three days later or on October 26, 1987, the victim's wife Irene D. Valdez gave her statement to the police. (Exhibits 'A', & 'A-1'). The following day (October 27, 1987), the victim's daughter Nema Valdez likewise gave her statement to the police. (Exhibit 'F').

"As a result of the death of the victim Pantaleon A. Valdez, his bereaved family incurred expenses in the amount of P21,340.00 (p. 9, t.s.n., Feb. 2, 1989). (Records, p. 190)."

In his brief filed with the Court of Appeals, appellant raised a lone assignment of error, to wit: that the lower court erred in finding him guilty beyond reasonable doubt of the crime of murder for insufficiency of evidence and on the ground of reasonable doubt.

The appeal is without merit and must fail.

A thorough review of the records shows that the Court of Appeals acted correctly in upholding the judgment of the trial court convicting appellant of the crime charged, with the modifications that the penalty to be imposed on appellant should be reclusion perpetua, there being no mitigating or aggravating circumstances, and that the death indemnity should be increased to P50,000.00 in accordance with our decisions thereon.

The defense of appellant hinges primarily on alibi. His position and arguments, however, are vacuous and unavailing. He was positively identified by the wife and daughter of the victim who were then present at the scene of the crime and whose testimonies were given the imprimatur of truth by both lower courts.

There is no reason to doubt the identification made by the said eyewitnesses since appellant is a relative and a frequent visitor in their house. Such identification of the culprit was not difficult as the incident happened at about 6:30 P.M. and the locus delicti was well lighted. In fact, appellant even passed in front of both witnesses before he again shot the deceased several times at close range.⁷

Where considerations of visibility are favorable and the witnesses do not appear to be biased against the accused, their assertions as to the identity of the malefactor should be normally accepted. This is more so when the witness is the victim or his near relative because these witnesses usually strive to remember the face of the assailant.⁸

It is firmly entrenched in our jurisprudence that the defense of alibi cannot prevail over the positive testimony of prosecution witnesses and their clear identification of the accused as the perpetrator of the crime. This is so

because, as we have interminably but patiently reiterated, alibi is a defense that is inherently weak since it can easily be fabricated or contrived.⁹

Furthermore, we have consistently declared that for an alibi to be considered favorably, it must be shown that it was physically impossible for the accused to have gone to the scene of the crime at the time of its commission.¹⁰ In the case at bar, there is no physical impossibility since, according to appellant's own testimony, the distance between the victim's house where the crime was committed and the place where appellant claimed to be at the time of the killing was only four (4) kilometers and can be negotiated by a motor vehicle in only ten (10) minutes.¹¹ In fact, appellant admitted that when he left his house at around 4:00 o'clock in the afternoon of that fateful day, he passed by the very road, leading to Maglaoi, Currimao, along which the victim's house is located.¹²

Appellant seeks to discredit the testimonies of the aforesaid two prosecution witnesses by reason of their hesitancy and delay in reporting his name and identity to the persons they first met and even to the police authorities who went to the scene of the crime to investigate the incident. Such actuations of the witnesses according to appellant, is contrary to human experience. This argument cannot be sustained; it deliberately suppresses the relevant circumstances on the matter as proved by the testimonies of the eyewitnesses and the investigating authorities.

Witness Irene Valdez, the wife of the victim, revealed to the police authorities the identity of appellant the day after the killing.¹³ Further, the supposed delay of one day was satisfactorily explained, that is, that she was afraid of probable reprisal from appellant and his companions, and that, moreover, she was continuously crying after the death of her husband, such that she was not able to promptly talk about the tragic incident and its details.¹⁴ Her aforesaid conduct by reason of her distress and grief was corroborated by Sgt. Manuel Quitarano, Currimao Police Commander, who confirmed that when he arrived at the crime scene he could not investigate Irene Valdez because she was crying all the time and that she was, in the Ilocano term he used, "agkulkulipagpag," meaning that she was in a state of hysteria.¹⁵ In the case of Nema Valdez, the daughter of the victim she did not know the name of appellant, although she could recognize and identify him by face, hence the delay in her reporting his identity.¹⁶

It is settled that delay in divulging the names of perpetrators of the crime, if sufficiently explained, does not impair the credibility of the witness and his testimony.¹⁷ The failure to reveal or disclose at once the identity of the accused does not necessarily affect, much less impair, the credibility of the witness. The initial reluctance of witnesses to volunteer information about a criminal case and their unwillingness to be involved in criminal investigation due to fear of reprisal is common and has been judicially declared not to affect credibility.¹⁸

Fear for one's life explains the failure on the part of a witness to a crime to immediately notify the authorities of what exactly transpired. Once such fear is overcome by a more compelling need to narrate the truth, then the witness must be welcomed by the courts to help dispense justice.¹⁹ As we ruled in *Cortez vs. Court of Appeals, et al.*,²⁰ where the complainant had just witnessed the violent deaths of his wife and youngest son, his failure to reveal immediately the identity of the culprits due to his fear and apprehension for the safety of his family was the reasonable reaction of an ordinary man agitated by a frightful and shocking occurrence. With the memory of the traumatic experience still fresh in his mind, he arguably entertained the belief that to reveal the identities of the culprits would be tantamount to inviting retribution.

Moreover, in the present case there is no reason for the prosecution witnesses to impute such a serious charge to appellant who is related to them, he being the second cousin of the deceased.²¹ Indeed, no evidence whatsoever has been adduced to show that these witnesses had ulterior motives to testify falsely against appellant or

mendaciously implicate him if he was not involved in the killing. This being so, their testimonies are worthy of and entitled to full faith and credit.²²

WHEREFORE, the judgment of the Court of Appeals as certified to us is hereby AFFIRMED in toto.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Nocon, JJ., concur.

1 Rollo, 5.

2 Original Record, 17-21.

3 Rollo, 17; per Judge Reynaldo Y. Maulit.

4 Penned by Justice Jainal D. Rasul, with Justices Lorna S. Lombos-de la Fuente and Alfredo Marigomen concurring.

5 Rollo, 31-32.

6 Appellant's Brief, 4; Rollo, 21.

7 TSN, October 12, 1988, 2-3; October 28, 1988, 9-10, 13.

8 People vs. Lacao, Sr., et al., G.R. No. 95320, September 4, 1991.

9 People vs. Abigan, 144 SCRA 130 (1986); People vs. Andres, 155 SCRA 290 (1987).

10 People vs. Cruz, 142 SCRA 576 (1986); People vs. Paringit, 189 SCRA 478 (1990).

11 TSN, July 12, 1989, 13.

12 Ibid., id., 3.

13 TSN, February 1, 1989, 4; Exhibit E-1, Folder of Exhibits, 11.

14 TSN, October 12, 1988, 7-9.

15 TSN, February 1, 1989, 3.

16 TSN, October 28, 1988, 10-18.

17 People vs. Catao, 107 Phil. 861 (1961); People vs. Cabanit, 139 SCRA 94 (1988); People vs. Renejane, et al., 158 SCRA 258 (1988).

18 People vs. Aldeguer, 189 SCRA 1 (1990).

19 People vs. Baduya, 182 SCRA 57 (1990).

20 163 SCRA 139 (1988).

21 TSN, July 12, 1990, 5.

22 People vs. Angeles, 92 SCRA 432 (1979); People vs. Trigo, 174 SCRA 93 (1989); People vs. Cabale, et al., 185 SCRA 140 (1990).

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