

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO LIBUNGAN Y SABADO, ACCUSED-APPELLANT.*G.R. No. 102351. March 22, 1993*

Ponente: CAMPOS, JR., J.

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This is an appeal from the decision[*] of the Regional Trial Court, Branch 70, Binangonan, Rizal, convicting the accused of Parricide for killing his own wife; and sentencing him to suffer the penalty of reclusion perpetua, to pay P30,000.00 as damages, and to pay the costs.

The facts, as found by the trial court, are as follows:

“x x x That on or about midnight of September 26, 1987, the accused Mario Libungan returned to his house from his work at the Concrete Aggregates. He had a quarrel with his wife Juanita dela Cruz Libungan about money to be used for buying “ulam”. Juanita then went to the kitchen and Mario put on a white shirt over his head with his eyes and nose visible. When Juanita returned, Mario tackled her “pinatid” so she fell down and when she tried to get up, Mario knelt over her “tinuhuran” and stabbed her twice, one on the left side of the back hitting the kidney and at the upper portion of the chest. These wounds were inflicted by a pointed and sharp bladed weapon at one side, either by balisong or a “kutsilyo”. There are other seven (7) contusions and abrasions in the face and other parts of the body caused by other objects. The fatal wound was the one at the left side of the back but the victim could still live for one hour and it could have been inflicted while the victim is (sic) lying faceward on the floor. The other stab wound on the chest would indicate that the victim was trying to defend herself. That after stabbing Juanita, Mario left thru the kitchen, destroying a portion of the wall thereof to make it appear that there was somebody who entered the house. About the same time, Alberto dela Cruz, brother of Juanita was awoken (sic) by the cries of children coming from the direction of his sister’s house so he shouted and woke up his brothers Josefino and Eduardo and ran out of the house followed by his two (2) brothers. Juanita was found near the house of Maring, sister of the accused, being helped by Arsing. Juanita told her brothers that she was stabbed by Mario. They brought Juanita to the hospital aboard a tricycle but she died before reaching it. The police and the brothers of Juanita went to the Concrete Aggregates Crushing Plant where Mario was working and invited him for questioning at the Police Station on or about 2:30 in the morning. xxx xxx xxx These findings were based mainly on the testimony of Crisanto Libungan, seven (7) or eight (8) years (sic) old boy, the son of the accused Mario Libungan and victim Juanita dela Cruz.”[1]

A marriage contract presented during the trial proved that accused Mario Libungan and the victim were legally married.

Accused-appellant invokes the defense of alibi. He alleges that he was at work when his wife was killed on that fateful night of September 26, 1987. “Work” means at the Concrete Aggregates Crushing Plant in Angono, Rizal, which is only some three (3) kilometers away from their house and which could be traversed in about ten (10) to fifteen (15) minutes. Accused-appellant further contends that it was a thief who killed his wife.

We do not believe the accused-appellant’s version.

The sole eyewitness in the killing of Juanita is their eldest son, seven-year old Crisanto. In between sobs, Crisanto positively identified his own father as the person who killed his mother. On direct examination, he recalled the gory incident of September 26, 1987 when the woman who brought him into the world was mercilessly stabbed to death by accused-appellant. Thus,

DIRECT EXAMINATION

“Q

Where is your mother by the way?

A

Gone already.

Q

You mean, she is already dead?

A

Yes, sir.

x x x x x

Q

You said, your mother is already dead, do you know why your mother died?

(The boy is in tears and he could hardly speak)

A

She was killed by my father.

x x x x x

Q

You said Crisanto that your father killed your mother, can you tell us how your father killed your mother?

A

He dragged her.

Q

And then what else did he do?

A

He stabbed her.”[2]

“Q

Now, where were you when your father stabbed your mother?

A

On the sleeping mat. “Banig”.

Q

How far were you from your father and your mother, when your father stabbed your mother?

A

Just nearby.

x x x x x

ATTY. JAVIER

May we stipulate that this (the distance) is about 3 meters.”[3]

The defense would argue that Crisanto is not a reliable witness because he gave inconsistent answers. For example, in the statement which he gave to the police, he said it was only him who saw his father kill his mother; but when asked again on the stand, he testified that he and his younger brother saw their father stab their mother. Under examination, he was not sure anymore whether it was his parent’s quarrel that woke him up in the middle of the night of September 26, 1987, or whether he simply woke up and saw his parents already quarreling. He could not distinguish between a “balisong” and a “kutsilyo”, the murder weapon which his father allegedly used to kill his mother. On the basis of these inconsistencies, the defense would like to discredit Crisanto’s testimony. But these inconsistencies pertain to minor details which do not touch upon the commission of the crime and would not, therefore, detract from Crisanto’s credibility. Minor contradictions are to be expected but must be disregarded if they do not affect the basic credibility of the evidence as a whole.[4] These inconsistencies, which may be caused by the natural fickleness of memory, even tend to strengthen rather than weaken the credibility of the prosecution witness(es) because they erase any suspicion of rehearsed testimony.[5] The fact that Crisanto’s testimony as a whole agrees on all the essential facts and gives a coherent picture of the tragedy that will forever haunt him is what is important. Thus, on cross-examination, he described in more detail how his father murdered his mother.

CROSS-EXAMINATION

“Q

x x x By the way, when you saw your father stabbing your mother was he wearing something to cover his face or talukbong?

A

There was.

Q

What kind of cover or talukbong was it? Give us the color.

A

Damit po.

Q

What kind of clothes (sic), was it a polo shirt, t-shirt or dress?

A

Mens (sic) clothes. (Panlalaki po).

x x x x x

Q

How about the color?

A

White sir.”[6]

“Q

Was the man who stabbed your mother really with talukbong?

A

Yes, sir.

Q

How long did your mother stay inside the kitchen?

A

Sandali po.

Q

Then, from the kitchen he went near your father who was nakatalukbong?

A

Yes, sir.

Q

And it was to (sic) that point when the man who has cover in his face stabbed your mother?

A

My father tackled my mother. (Pinatid).

Q

How many times did your father or the man na nakatalukbong patid your mother?

A

Ones. (sic)

Q

What happened to your mother when she was patid by the man?

A

Nadapa.

Q

After falling down, what did the man do?

A

Tinuhuran.

Q

What part of the body was your mother kneeled or tinuhuran?

A

At the back.

Q

What did your mother do when she was tinuhuran?

A

Tumatayo po.

Q

Was your mother able to stand?

A

No sir.

Q

Why, what happened to her?

A

My father kneeled her again.

Q

After tinuhuran or kneeling her, what happened to her?

A

She fell down.

Q

What happened after your mother fell at (sic) the second time?

A

She was not able to stand up.

Q

What did the man do when she was not able to stand up?

A

He stabbed her.”[7]

Could Crisanto be lying? Could the above narrations be but a figment of his youthful imagination? We rule in the

negative. Crisanto, the eldest of accused-appellant and the victim's children, has no reason to falsely accuse his own father of killing his mother. He knew that by testifying as he did so, he could send his father to jail, and for all his living years, bear the stigma of having a "convicted father." This is not easy for a child. More so in Crisanto's case, as he has yet to recover from the tragic loss of his mother. His testimony was clear and convincing. He positively identified his father as the murderer of his mother. Under the grueling examination of the defense counsel, his tender mind was taxed, but not broken. Some of the questions confused him, resulting in some inconsistencies in his answers. But the fact that Crisanto never budged even while on cross-examination more than affirms the fact that he was not concocting a horrifying tale which he heard from some old story tellers. "x x x lying is distasteful to (a child), because he thinks it mean; he is no stranger to the sentiment of self-respect, and he never loses an opportunity of being right in what he affirms. Thus he is, as a rule, but little influenced by the suggestion of others, and he describes objects and occurrences as he has really seen them." [8]

It is also the avowed policy of this Court that with regard to the competency of a child to testify, the decision of this question rests primarily with the trial judge, who sees the proposed witness, notices his manner, his apparent possession or lack of intelligence, as well as his understanding of the obligations of an oath. As many of these manners cannot be photographed into the record, the decision of the trial judge will not be disturbed on review unless from what is preserved, it is clear that it was erroneous. [9] It was not so in the case at bar.

Seven-year old Crisanto's clear and convincing testimony was corroborated on all material points by the testimony of Alberto, Eduardo and Josefino, all surnamed de la Cruz, brothers of the victim Juanita. They testified on the stand that after they found their sister profusely bleeding near the house of Maring, sister of accused-appellant, she told them that it was her husband, the accused-appellant, who stabbed her. [10] After which, they searched for accused-appellant and found him at his place of work. [11] When informed that his wife was murdered, he gave a nonchalant answer, "Patay na ba?" [12] He never bothered to investigate his wife's death. And he was nowhere to be seen during his wife's wake. Accused-appellant assigns as one of the errors allegedly committed by the trial court the fact that it accepted as true the above testimonies of the de la Cruz brothers. He argues that since he and his in-laws are not in good terms, then, they have every reason to accuse him of killing Juanita, his wife. We do not agree. Relationship alone is not a ground for discrediting a witness' testimony. It is a well-established rule that the mere fact that the witness is a relative of the victim is not a valid or sufficient ground to disregard the former's testimony nor does it render the same less worthy of credit. In *People vs. Cuyo*, [13] We held that the closeness of the prosecution witnesses' relationship to the victim should not be deemed erosive of their credibility as witnesses. The weight of their evidence must be assessed by the same norms applicable to other witnesses. Here, the de la Cruz brothers stood firm on what they witnessed during the night their sister was killed by no less than her own husband. They never wavered in their answer even while under fire on cross-examination. This makes their testimony worthy of credence.

Having been positively identified as the perpetrator of the crime, accused-appellant's defense of alibi must necessarily fall. Alibi is unavailing where the accused has been positively identified by the prosecution witnesses as the assailant. [14] As alibi is a weak defense, it must be supported by clear and convincing evidence. To successfully establish alibi, a defendant must not only show that he was present at some other place about the time of the commission of the alleged crime but that it was also physically impossible for him to have been at the place where the crime was committed either before, during, or after he was at such other place. [15] Here, it was shown that the distance between accused-appellant's house and his place of work, where he allegedly was at the time his wife was killed, was only three (3) kilometers. He further testified that he can negotiate said distance in ten (10) to fifteen (15) minutes. The twin requisites of absence from the scene of the crime and the physical impossibility to be there when the crime was committed have not, therefore, been met by the defense.

WHEREFORE, premises considered, We hereby AFFIRM the appealed decision, with the modification that the amount of damages be increased from P30,000.00 to P50,000.00.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[*] Penned by Judge Herculano Tech.

[1] Rollo, p. 34.

[2] TSN, June 20, 1988, pp. 11-12.

[3] Ibid., pp. 13-14.

[4] People vs. Periodica, 178 SCRA 120 (1989).

[5] People vs. Madriaga, G.R. No. 82293, July 23, 1992.

[6] TSN, August 17, 1988, p. 12.

[7] Ibid., pp. 17-18.

[8] People vs. Pedrosa, 169 SCRA 545, 557 (1989), citing People vs. Bustos, et al., 45 Phil. 9 (1923).

[9] People vs. Raptus, 198 SCRA 425, 433 (1991), citing Wheeler vs. U.S., 159 U.S. 523.

[10] TSN, October 10, 1988, p. 9.

[11] Ibid., p. 18.

[12] Ibid., p. 19.

[13] 196 SCRA 447 (1991).

[14] See People vs. Monteverde, 142 SCRA 668 (1986); People vs. Pacada, Jr., 142 SCRA 427 (1986); People vs. Valentino, 141 SCRA 397 (1986); People vs. Lopez, 141 SCRA 385 (1986); People vs. de las Piñas, 141 SCRA 379 (1986); People vs. Garcia, 141 SCRA 336 (1986).

[15] People vs. Mandapat, 196 SCRA 157 (1991).

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