

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HECTOR VASQUEZ AND RENATO VASQUEZ, ACCUSED-APPELLANTS.

G.R. No. 102366. October 03, 1997

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

In criminal cases, the duty of the court is not so much as to convict but to enter a judgment of acquittal when doubt exists as to the guilt of the accused. For, under our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[1]

The brothers Hector Vasquez and Renato Vasquez were convicted of the crime of murder by the Regional Trial Court (Branch 17) of Roxas City. They were said to have beaten up one Primo Dollete and alleged to have dragged the said victim to the river bank at Barangay Bangan-an, Panit-an, Capiz. Thereafter, they were alleged to have forcibly submerged their victim in the water and caused his death. Consistently before the trial court and before us now, the Vasquez brothers insist that they were not in Panit-an but were in Iloilo City when Dollete drowned and that Dollete's death was accidental, the banca he rode on having capsized in the middle of the river at Barangay Bangan-an, panit-an, Capiz.

Only around eighteen (18) years after the alleged killing of Primo Dollete, that is, on August 19, 1986, were the Vasquez brothers formally charged with the crime of murder under the following Information[2] filed by the Provincial Prosecutor:

The undersigned accuses HECTOR VASQUEZ and RENATO VASQUEZ of conspiring and helping on another in the commission of the crime of Murder as committed as follows:

That on or about the 14th day of July, 1968 at about 7:00 o'clock in the evening in the Municipality of Panit-an, Province of Capiz, Philippines, within the jurisdiction of this Court, with treachery and abuse of superior strength, the accused hector Vasquez willfully, unlawfully and feloniously boxed one PRIMO DOLLETE who as result thereof fell on the ground and when he was about to stand up the accused Renato Vasquez hit him with a cane at the neck thus causing him (Primo Dollete) to fall again on the ground, after which, the two (2) accused carried him to and submerged him in the river, thereby causing the death of the said Primo Dollete.

Roxas City, Philippines, August 15, 1986.

(Sgd.) Romeo S. Fernandez

ROMEO S. FERNANDEZ

Provincial Fiscal"[3]

The delay of eighteen (18) years from the time the alleged killing occurred in 1968 up to the filing of the corresponding information before the proper court in 1986 was caused by antecedent facts manifested by the trial

court, viz:

Reported to the authorities, the incident was investigated by the Capiz Philippine Constabulary. On September 5, 1968, a complaint for “Murder” was filed against the brothers, Hector Vasquez and Renato Vasquez, in the Municipal Court of Panit-an, Capiz by PC S/Sgt. Vicente P. Leonor. Both accused were arrested by virtue of the warrant of arrest issued by Judge Federico Deocampo and was also admitted to bail by him.

On October 10, 1969, the case was ordered forwarded to then Court of First Instance of Capiz. However, some of the records, particularly the warrants of arrest and the bail bond of the accused were missing. The case was never transmitted during the incumbency of Judge Federico Deocampo. The two acting Judges, namely; Braulio Avelino and Judge Samson Banico failed to implement their respective order for the accused to post their bail bond under pain of arrest. In fact Judge Braulio Avelino was restrained by the then CFI Judge Pelayo Nuevo from enforcing his order, on petition by the accused. But when Rene Honrado was appointed Judge of Panit-an, he ordered the case transmitted to the Provincial Prosecutor on January 20, 1986, after a delay of seventeen (17) years and nine (9) months.”[4]

On September 29, 1986, upon arraignment, the Vasquez brothers, each entered a plea of not guilty.[5] While the accused were previously bonded, obviously upon the ground that the evidence of their guilt was not strong, Judge Pelagio R. Lachica, then Presiding Judge of the Regional Trial Court, Branch 17, of Roxas City, ordered the accused-appellants to either reconstitute their previous bail bond or to put up a new one, hence, both accused-appellants posted their bail bonds anew.[6]

Trial ensued, after which the trial court, through Judge Ramon B. Posadas, held that the mass of evidence of the prosecution clearly and convincingly established the corpus delicti.[7] The dispositive portion of the trial court’s decision (dated July 16, 1991 but rendered on July 26, 1991) reads:

“ACCORDINGLY, this Court finds the accused Hector Vasquez and Renato Vasquez guilty beyond moral certainty of the crime of “Murder” defined and penalized under paragraph 1, Article 248, Revised Penal Code, as amended. In the absence of neither mitigating nor aggravating circumstances, and conformably with the doctrine laid down in *People v. Muñoz*, 170 SCRA 107, this Court hereby sentences the accused Hector Vasquez and Renato Vasquez to suffer the penalty of reclusion perpetua, to pay the heirs of Primo Dollete jointly and severally the civil indemnity of P50,000.00 in accordance with the resolution of the Supreme Court en Banc dated August 30, 1990, to suffer the accessory penalties provided by law, and to pay the costs.

The preventive imprisonment which accused Hector Vasquez and Renato Vasquez had already undergone shall be credited in their favor in the service of their sentence in accordance with and subject to the conditions and exceptions laid down in Article 29, Revised Penal Code, as amended by R.A. 6127.

IT IS SO ORDERED.”[8]

The version of the prosecution as presented by the Solicitor General in the Appellee’s Brief reads:

In the nearly afternoon of July 14, 1968, Loreno Ocante was drinking tuba at the store of Barry Develles in Panit-an, Capiz (pp. 8-9, TSN, Nov. 25, 1986) when Primo Dollete entered the store and joined him. Soon thereafter, appellant Hector Vasquez arrived. They shared the tuba bought by Ocante and (p. 10. Id.) the three of them consumed about six glasses. They stayed in the store until about 2:30 p.m. (p. 11, Id.)...

Hector Vasquez invited them to Bangan-an (still part of Panit-an, but across the river) to watch the cockfight. When they arrived at the cockpit, the cockfight had not yet started so they decided to go up the house of Pantaleon which was just at the front yard of the cockpit (p. 12, Id.).. Ocante again bought tuba for all of them and they drank while playing cards (Lucky 9) for about half an hour, although Vasquez did not join the card game but merely watched. Soon they left Pantaleon’s house, Dollete first followed by Hector Vasquez (p. 13, Id.). Ocante followed after them and saw Dollete at the tumbu-an, playing cara y cruz, with Vasquez merely watching. The three of them proceeded to the cockfight, where they stayed until nighttime (p. 14, Id.).

After the cockfight, Ocante, accompanied by Dollete, bought a bottle of 3H, an alcoholic beverage and proceeded to drink it by the side of the store, about four meters away. Hector Vasquez saw them and approached. As they were about to finish drinking, Dollete walked to a banana plant about ten meters away and urinated. Ocante could clearly see Dollete from that distance because of the illumination of the torch or moron from the store. While Dollete was urinating, Hector approached and boxed Dollete (p. 15, Id.).

Dollete fell on the ground from the impact. As Dollete was trying to get up, Renato Vasquez (brother of Hector), appeared from the side of the store, approached and struck Dollete with a cane. Dollete fell to the ground again (p. 16, Id.). The cane used by Renato to strike Dollete was about one meter long, and about 2 inches in diameter (p. 17, Id.).

Afraid that the brothers would turn on him, Ocante ran away towards the river where he seized a banca and crossed the river. When he was at the middle of the river, he heard Renato Vasquez threatening, 'If you will report this to the municipal building(sic) we will then kill you' (p. 18, Id.). Upon reaching the other bank, Ocante hailed a tricycle and proceeded home to Balatocan where he reported the matter to the police and executed a sworn statement before PC Sgt. Dollete, at Loctugan (p. 19, Id.).

Jesus Diosana was also in Bangan-an on July 14, 1968 to see his uncle, intending to buy some bamboo (p. 2, TSN, July 14, 1987). His cousins told him that their father, Diosana's uncle, was at the cockpit. Diosana proceeded to the cockpit. Later, as it was already late, Diosana decided to proceed to the poblacion which meant that he had to cross the river. He reached the riverbank at about 7:00 in the evening and saw from a distance of about 10 meters, Hector Vasquez 'maltreating' Primo Dollete. Vasquez was boxing Dollete and the latter fell to the ground. He was able to recognize the man because the moon was bright (p.3, Id.)

Renato, the brother of Hector, approached and also struck Dollete on the nape with a piece of wood. Dollete fell down again and shouted for help. The brothers held Dollete by the arms and dragged him to the edge of the river where Diosana's view was obstructed by the tall cogon grass (p. 4, Id.) and did not see what the brothers did next. Diosana became scared to cross the river and returned instead to his uncle's house where he spent the night (p. 5, Id.). The following morning, Diosana went home. But he avoided passing the scene of the incident of the night before, passing instead barangay Masi-it because he was afraid and did not want to get involved specially since to be a witness meant that he had to go to court often which entailed expense. But he eventually reported what he saw on August 18, 1968 to Vicente Leonor of the PC because the deceased was haunting him (pp. 6 & 15, TSN, July 14, 1987).

At about 6:00 o'clock in the afternoon on that same July 14 1968, Jose Daliva, a farmer, was on his way to barangay Bangan-an to play Lucky 9 and cara y cruz (pp. 2-3, TSN, Nov. 6, 1987). He could not cross the river because the banca used as ferry had not arrived. He waited until 7:00 o'clock p.m. when he saw two persons on the other side of the river dragging and at the same time mauling another person. The two assailants mauled dragged their mauling [sic] victim to the riverbank and submerged him in the water from which he did not resurface. The two persons thereafter shouted to somebody, 'Loreno, if you will reveal this incident I will kill you' (pp. 2-3, TSN, Nov. 6, 1987).

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He also saw the one called Loreno waiting for a tricycle. Another person caught up with Loreno. When a tricycle passed by, the driver asked, 'Junior, where are you going', to which the one called Junior replied, 'Conduct this Loreno to Barangay Balatucan'. Daliva hid himself by the riverbank because he had intended to cross the river but he became scared and decided to return home (p. 4, Id.).

When Primo Dollete failed to come home that night of July 14, 1968, his father Eustaquio Dollete requested his other son, a policeman of Panit-an, to look for his brother (p. 2, TSN, Nov. 9, 1987). Later, he was informed that a body had been discovered by the bridge in Pontevedra and buried in Panit-an. He proceeded to the Municipal Treasurer of Pontevedra and requested that the body be exhumed. It turned out to be that of his son (p. 3, Id.). For

the prosecution of the case, Eustaquio had so far spent P20,000.00 (p. 10, Id.).”[9]

On the other hand, the version of the defense is depicted thus:

At about 3:25 in the afternoon of July 19, 1968 in the Municipality of Pontevedra, Capiz, Dr. Edilberto Bellosillo, M.D., Rural Health Physician, performed a post-mortem examination on the dead body of Dollete. The victim was about 25-30 years of age, regular body built, 5’5” more or less in height, with generalized swelling of the whole body, floating on the water, the anterior aspect facing upward and its back on the water, with impending sign of decomposition. The medical examination per medical cetificate (Exh. “4”) states, thus:

‘Head----- Presence of an old subcutaneous hematoma at the occipital portion;

Neck----- No abnormal physical findings;

Chest----- Presence of an old subcutaneous occhymosis, left chest about 2-3 inches long somewhat circular in appearance;

Lungs appeared to be markedly distended and exude water on pressure;

Abdomen--- No signs of external physical injuries noted;

Extremities- No signs of external physical injuries noted;

Conclusion- That the cause of death of the victim, was due to asphyxia or respiratory arrest secondary to drowning.’

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On May 14, 1968, Renato Vasquez and Hector Vasquez together with Generoso Diaz, went to the house of Aurelio Datiles at Sinikway. They requested Aurelio Datiles if he can accommodate them to stay in their house while they are(sic) looking for work (p. 3, TSN, June 13, 1988). Five (5) days later, Renato Vasquez and Hector Vasquez were hired by IDECO to perform a contract a work of cleaning steel bars of rust. All the while they were staying in the house of Aurelio Datiles (p. 4, Ibid) and even in the evening of July 14, 1968, the Vasquez brothers Renato and Hector were in Aurelio’s house (Ibid) and continued to stay in said house until September 7, 1968 when they have(sic) no more work to do (Ibid). Inasmuch as Aurelio Datiles had a one (1) month vacation leave in connection with his employment at IDECO, he decided to go with the accused-appellants in order to spend his vacation in Panit-an (pp. 4-5, Ibid).

On arriving [at] Panit-an, Aurelio Datiles learned that Hector Vasquez and Renato Vasquez were accused of a criminal offense. So he lost no time in seeing a PC officer by the name of Buena de la Torre. At that time Panit-an was under PC control. Aurelio Datiles inquired from Buena de la Torre why the Vasquez brothers Hector and Renato were charged for(sic) the commission of a criminal offense when all the time they were with him in Iloilo. Buena de la Torre advised him to confer with the lawyer of the accused. After conferring with Atty. Cesar Dadivas, counsel for the accused Hector and Renato, all surnamed Vasquez, Aurelio Datiles requested Atty. Dadivas to take his affidavit (pp. 5-6, Ibid).

Accused-appellant Hector Vasquez was only 17 years of age on July 14, 1968, as shown by his certificate of live birth which was offered in evidence, Exh. “2”. Fiscal Rodolfo Arceno admitted the xerox copy of the birth certificate of appellant Hector Vasquez as a faithful reproduction of the original birth certificate of the said accused xxx.”[10]

After weighing the evidence presented by both the prosecution and the defense, the trial court found the defense of alibi unavailing allegedly because the accused-appellants were positively identified by the prosecution witnesses as the culprits and, thus, convicted the accused.

In the present appeal, the accused-appellants maintain their innocence, arguing that Primo Dollete's death was caused by accidental drowning, this fact having been sustained by the physical evidence, the findings of the doctor who conducted the autopsy. Likewise, they impugn the credibility of the prosecution witnesses by pinpointing serious flaws in their testimonies. Specifically, accused-appellants ascribe to the trial court the following errors, viz:

I. THAT THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES DESPITE EXISTING SERIOUS INCONSISTENCIES THEREBY CREATING DOUBT REGARDING THEIR TRUTHFULNESS AND CREDIBILITY;

II. THAT THE TRIAL COURT ERRED IN DECLARING THE GUILT OF THE ACCUSED-APPELLANTS BEYOND REASONABLE DOUBT OF THE OFFENSE FOR WHICH THEY WERE CHARGED, NOTWITHSTANDING THE GLARING PRESENCE OF A FLAW IN THE PROSECUTION'S EVIDENCE GIVING RISE TO SERIOUS DOUBT AS TO THEIR CULPABILITY AND CONVICTION;

III. THAT THE TRIAL COURT ERRED IN NOT CONSIDERING FAVORABLY THE DEFENSE OF ALIBI AS A GROUND FOR THE ACQUITTAL OF THE HEREIN ACCUSED-APPELLANTS INSPITE OF THE WEAKNESS OF THE PROSECUTION EVIDENCE WHICH IS INSUFFICIENT TO OVERCOME THE PRESUMPTION OF INNOCENCE IN THEIR FAVOR;

IV. THAT THE TRIAL COURT ERRED IN NOT APPRECIATING, AS A GROUND FOR THE ACQUITTAL OF THE ACCUSED-APPELLANTS, THEIR DEFENSE OF ACCIDENTAL DROWNING DESPITE GLARING, STRONG, POSITIVE AND CONVINCING PROOFS ADDUCED IN SUPPORT THEREOF;

V. THAT THE TRIAL COURT ERRED IN NOT ACQUITTING HEREIN ACCUSED-APPELLANTS ON GROUNDS OF REASONABLE DOUBT.

VI.-THAT THE TRIAL COURT ERRED IN IMPOSING THE PENALTY OF RECLUSION PERPETUA TO THE ACCUSED-APPELLANT HECTOR VASQUEZ NOTWITHSTANDING THE FACT PROVED THAT HE WAS SEVENTEEN (17) YEARS OLD AT THE TIME OF THE ALLEGED COMMISSION OF THE OFFENSE COMPLAINED OF.”[11]

All these assigned errors boiled down to one central issue, i.e., whether or not the mass of evidence proffered by the prosecution meet the quantum of proof necessary to convict the accused-appellants beyond reasonable doubt.

The accused-appellants contend that they were not the perpetrators of the alleged crime of murder, there being serious flaws in the testimonies of the prosecution witnesses which tend to affect their credibility on material points relative to murder scenario they presented, and the physical evidence contradict their allusions on the manner of death of the victim.

We find the accused-appellants' arguments worthy of merit.

Prosecution witnesses Lorenzo Ocante, Jose Daliva and Jesus Diosana apparently corroborated each other's testimony by declaring in open court that the deceased Primo Dollete was boxed and mauled by the accused-appellants with Hector Vasquez delivering the initial blow that felled Primo Dollete while the latter was urinating partly concealed by a banana plant; [12] that as Primo Dollete was about to get up, Renato Vasquez hit the said deceased on the nape with a wooden instrument, more or less one meter in length and about the size of an arm in diameter;[13] and that the Vasquez brothers dragged the stricken body of Primo Dollete to the nearby river and drowned him.[14]

Moreover, prosecution witness Jesus Diosana who believed that he was ten (10) meters away from the victim,

gave a picture of the mauling aspect that led to the murder charges in the instant case. On cross-examination, he testified in this manner:

ATTY. DELFIN:

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Q: How many times did Hector Vasquez box Primo Dollete at the river bank in Bangan-an, Panit-an, Capiz?

A: I saw Hector Vasquez box Primo Dollete three times, After that Primo Dollete sagged down.

Q: An in what part of the body of Primo Dollete those three fist blows landed?

A: The face and on his stomach.

Q: Here on the face?

A: Right face and at the abdomen. I could not see the third one anymore.

Q: You were ten meters distant from Hector Vasquez and Primo Dollete when the former delivered three fist blows?

A: That is my estimate.”[15] (Underlining supplied)

Contrary to the import of the aforestated statements during the trial proceedings of this case as to how Primo Dollete was mauled before he was drowned by the Vasquez brothers, the post-mortem examination as contained in the report of the Rural Health Physician of Pontevedra, Capiz, who conducted the said examination is quite telling. The medical certificate[16] reads:

Head----- Presence of an old subcutaneous hematoma at the occipital portion;

Neck----- No abnormal physical findings;

Chest----- Presence of an old subcutaneous occhymosis, left chest about 2-3 inches long somewhat circular in appearance;

Lungs appeared to be markedly distended and exude water on pressure;

Abdomen---- No signs of external physical injuries noted;

Extremities--- No signs of external physical injuries noted;

Conclusion- That the cause of death of the victim, was due to asphyxia or respiratory arrest secondary to drowning.”

Evidently, the medico-legal report contained no signs of external physical injuries particularly on the right face and the abdomen where accused-appellant Hector Vasquez allegedly delivered the fist blows as recounted by witness Jesus Diosana. More importantly, the report did not reflect the alleged banging of the victim’s nape with a wooden cane as uniformly asserted by the prosecution eyewitnesses. If it were true that the victim was hit hard on the face that caused him to fall, there should have been some evidence of physical violence on his face. With respect to the victim’s head, only an old subcutaneous hematoma at the occipital portion was found by the medico-legal examiner. “Occipital portion” refers to the back part of the head, not the face. “Subcutaneous hematoma” is a mere superficial swelling under the skin. Hence, granting *arguendo* that the wooden cane locally known as “baculo”[17] landed on the back portion of the victim’s head, mistakenly perceived as the nape by the eyewitnesses, the resulting injury would have been a wound more serious than a mere subcutaneous hematoma.

It is also significant to note that both the abdomen and the extremities of the deceased victim showed no signs of any external physical injury. This belies the prosecution’s theory that Primo Dollete was boxed and mauled

before he was drowned by the accused-appellants.

It is true that the study of forensic medicine tells us that the appearances of drowning are the same whether the deceased fell in (i.e., accidental drowning), jumped in (i.e., suicidal drowning) or was thrown into the water (homicidal drowning). So, the circumstances of the case will decide the question as to the real cause of death when one's body is fished out of a body of water.[18] Telltale external evidence decides whether injuries were inflicted before drowning or the drowning was the cause of death.

Thus, since the physical evidence on record runs counter to the testimonial evidence of the prosecution witnesses, conclusions as to physical evidence should prevail. It bears reiteration that physical evidence is that mute but eloquent manifestations of truth which rate high in our hierarchy of trustworthy evidence.[19] Injuries of the victim other than those testified to by the prosecution witnesses if at all could have been caused by stones or other hard objects along the river which the victim's body could have bumped into as a result of the river's strong current. This Court cannot be persuaded by the prosecution's claim of perpetration of physical violence in the absence of any marked physical injuries on the various parts of the victim's face and body.

To complement its theory of the killing, considering the weakness of the evidence of the prosecution, the prosecution should have imputed motive on the part of the accused-appellants so as to create a more credible picture of homicidal drowning. Significantly, however, it was the defense which presented testimonial evidence to indicate that the prosecution eyewitnesses were driven by ill-motive to testify against them, weakening all the more their flawed testimonies as discussed earlier.

The following testimony of Hector Vasquez remains unrebutted:

DIRECT TESTIMONY:

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ATTY. DELFIN: Do you know this prosecution witness Jose Daliva?

A: Yes, sir.

Q: How is your relationship with this witness prior to July 14, 1968?

A: On May 1 have a cock fighting in the house of Jose Daliva and he defrauded because he did not pay us what is due us.

Q: So, what happened because of that (sic) circumstances?

A: When he did not pay us at the cock fighting I then boxed him.

Q: And what about this prosecution witness Jesus Diosana, do you know him?

A: Yes, sir.

Q: And tell this court if you know this Jesus Diosana prior to July 14, 1968?

A: On April 5 Jesus Diosana went to our house.

Q: And what happened?

A: He was borrowing from us one sack of corn.

Q: And so what happened?

A: Then I told my mother not to lend him one sack of corn because it is difficult to ask payment from him because he is living far away.

Q: And what happened when you and your mother did not lend him one sack of corn?

A: Then he got angry and he went down at our house and said that 'you will have your day.'

Q: Do you know this prosecution witness by the name of Lorenzo Ocante?

A: I know him.

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ATTY. DELFIN: How is your relationship with Lorenzo Ocante on July 14, 1968?

A: When we have a drinking spree of Barry Develles he then went inside the house.

Q: And so when he went inside what happened?

A: When Lorenzo Ocante went inside the house of Barry Develles where he have (sic) a drinking spree and because we did not invite him to drink he then push (sic) away the bottles which contains (sic) tuba.

Q: After that what happened?

A: Then I stood up and boxed him.”[20]

Considering the aforequoted testimony, there is an indication that ill or improper motive can be attributed to the principal witnesses for the prosecution to point to the accused-appellants as the perpetrators of the crime charged. Their testimonies can not but be considered with grave suspicion.

In the same breath, we are not inclined to believe that the accused-appellant Hector Vasquez would suddenly punch Primo Dollete on the right jaw while the latter was relieving himself without reference to any prior enmity or misunderstanding between the two of them. It is more befuddling to consider the unexpected follow-up attack of accused-appellant Renato Vasquez with a wooden cane. Prosecution witness, Lorenzo Ocante, the victim, Primo Dollete and accused-appellant Hector Vasquez were allegedly together the whole day of July 14, 1968 when the imputed murder charge took place and the three were said to have spent the afternoon drinking, playing cards and gambling at the cockpit until nighttime without any disagreement or untoward incident. It ill-behooves this Court then to swallow hook, line and sinker the version of the prosecution that the Vasquez brothers, without any reason, would pounce like wild beasts on Dollete without any provocation as the latter was answering nature’s call. Our pronouncement in the case of *People vs. Eslaban*[21] in this respect is relevant:

This Court has time and again emphasized that for evidence to be believed, it must not only proceed from the mouth of a credible witness; it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances (cited cases omitted). Still, in an earlier case,[22] it was pronounced that the courts are not required to believe that which they judicially know to be unnatural, unusual and improbable when tested by the rules which govern men of ordinary capacity and intelligence in a given matter.”

An interesting observation as regards the instrument used by Renato Vasquez in hitting the nape of the victim Dollete is appropriate. It is unbelievable that the prosecution witnesses could still remember the exact length and diameter of the wooden instrument. This perception bespeaks of a probability that the witnesses’ testimonies were rehearsed, thus, compounding serious doubt as to their credibility.

Furthermore, the accused’s alleged act of dragging the victim to the riverbank after the victim was supposedly manhandled and overpowered by the Vasquez brothers is another point of credulity. Why would the accused-appellants risk being seen by the public dragging their victim to the riverbank? They could have beaten the victim to death right at the very spot where the victim was first beaten up. By dragging their victim up to the riverbank, the accused exposed themselves to public view. We find this act contrary to logic and human experience.

Thus, in the case of *People vs. Danta Manansala y Manalansang*[23] we held:

Trial courts must keep in mind that the prosecution must be able to overcome the constitutional presumption of

innocence beyond a reasonable doubt to justify the conviction of the accused. The prosecution must stand or fall on its own evidence; it cannot draw strength from the weakness of the evidence for the defense xxx.”[24]

Since the right to be presumed innocent is guaranteed by the Constitution, every circumstance favoring the innocence of the accused must be taken into account, al contrario, proof against them must survive the test of reason.[25] Inasmuch as the prosecution, in this case, failed to adduce that quantum of evidence necessary to warrant a conviction, the herein accused-appellants, perforce deserve an acquittal.

Considering the loose ends in the prosecution’s theory, we find to be more credible and natural accused-appellants’ evidence to the affect that the deceased Dollete who was drunk accidentally drowned when the banca he rode on with his companion, Lorenzo Ocante, capsized as they crossed the river. The fact of accidental drowning was testified to by defense witnesses Lolito Diosana,[26] Manolo Pionelo[27] and Salvacion Diama.[28] We lend credence to the defenses of alibi and denial, in the instant case, and hold that:

Appellant’s defenses of alibi and denial are admittedly weak, the same being easy of fabrication or concoction. There are nonetheless settled pronouncements of this Court to the effect that where an accused sets up alibi, or denial for that matter, as his line of defense, the courts should not at once look upon the same with wary eyes for, taken in the light of all the evidence on record, it may be sufficient to reverse the outcome of the case as found by the trial court and thereby rightly set him free again.”[29] (Cited cases omitted)

The prosecution evidence is miserably tainted with inconsistencies and inherent improbabilities in the testimonies of the principal witnesses bearing on essential details of the murder charge against the Vasquez brothers. Consequently, the evidence on the identity of the perpetrators of the crime we find subject to the strong suspicion that the alleged eyewitnesses for the purpose of positive identification were not spontaneous and candid when they took the witness stand. We are constrained to review and reverse the factual findings of the trial court since the assessment on the credibility of witnesses made by the judge who penned the appealed decision failed to convince this Court that the same is conformable to the evidence on record. It bears noting that we had examined with great caution the lower court’s impressions on the credibility of the witnesses after the records disclosed that the judge who rendered the decision in this case was not the one who tried the case. Hence, he did not have the opportunity to observe the demeanor of the witnesses while testifying in open court.

Capping our own assessment and impressions relative to the issue of credibility taken in conjunction with the quantum of evidence required to warrant a conviction, we quote with emphasis our concluding statement in the case of *People v. Eslaban*,[30] supra, that:

Admittedly, if a life is taken, justice demands that the wrong be redressed, but this same justice calls for retribution cannot be the same one that would convict the accused-appellant at bar whose guilt has not been proven beyond reasonable doubt. The burden of proof rests upon the prosecution and unless the state succeeds in proving his guilt, the presumption of innocence in favor of the accused-appellant applies. The conscience must be satisfied that on the accused-appellant could be laid the responsibility of the offense charged.”[31]

WHEREFORE, in view of the foregoing, the decision of the trial court is hereby REVERSED and SET ASIDE and the accused-appellants Hector Vasquez and Renato Vasquez are ACQUITTED of the crime of murder as herein charged. Their immediate release from the custody is hereby ordered unless they are being held for another lawful cause.

Cost de oficio.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Kapunan, JJ., concur.

- [1] *People v. Pedro Pagaura y Ticling*, G.R. No. 95352, January 28, 1997 citing *People v. Villagonzalo*, 238 SCRA 215 [1994].
- [2] Docketed as Criminal Case No. 2317.
- [3] Information dated August 15, 1986; Records, pp. 121.
- [4] RTC Decision, pp. 1-2; Rollo, pp. 28-29.
- [5] Records, p. 125.
- [6] Records, pp. 251-262.
- [7] RTC Decision, pp. 9-10; Rollo, pp. 36-37.
- [8] RTC Decision, pp. 11-12; Rollo, pp. 38-39.
- [9] Appellee's Brief dated November 12, 1992, pp. 6-12; Rollo, pp. 75-81.
- [10] Accused-appellants' Brief dated April 14, 1992, pp. 5-10; Rollo, p. 46.
- [11] Accused-appellants' Brief dated April 14, 1992, pp. 1-2.
- [12] TSN, November 25, 1986, pp. 15-16; TSN, July 14, 1987, pp. 3-4; TSN, November 6, 1987, p. 3.
- [13] TSN, November 25, 1986, pp. 16-17; TSN, July 14, 1987, pp. 13-14; TSN, November 6, 1987, p. 8.
- [14] TSN, July 14, 1987, pp. 4 and 14; TSN, November 6, 1987, pp. 9.
- [15] TSN, July 14, 1987, p.10
- [16] Exhibit "4"; Records, p. 2.
- [17] TSN, November 6, 1987, p. 8.
- [18] Kerr, Douglas J.A., *Forensic Medicine*, 5th ed., 1954, p. 156.
- [19] *People v. Uycoque*, 246 SCRA 769, 779 [1995].
- [20] TSN, February 6, 1989, pp. 6-8.
- [21] 218 SCRA 534, 543-544 [1993].**
- [22] *People v. Ang-Angan, et. al.*, G.R. No. 25660-R, May 26, 1960, 57 O.G. 4133 (May 1961).
- [23] G.R. Nos. 110974-81, promulgated June 17, 1997.
- [24] At page 19.
- [25] *People v. Noli Salcedo @ "Ka Tony", et. al.*, G.R. No. 100920, promulgated June 17, 1997, citing *People v. Frago*, 232 SCRA 653 (1994).
- [26] TSN, March 24, 1988, pp. 3-5.
- [27] TSN, January 14, 1988, pp. 2-3.
- [28] TSN, September 14, 1988, pp. 6-9.

[29] *People v. Uson*, 224 SCRA 425, 435-436 [1993].

[30] See Note No. 21.

[31] At p. 544, citing *People v. Nicolas*, 204 SCRA 191 [1991].

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