

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EXEQUIEL ANISCAL, ALIAS EKIL, AND MANSUETO REDULLA, ALIAS CHITO, ACCUSED. MANSUETO REDULLA, ACCUSED-APPELLANT.

G.R. No. 103395. November 22, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

For Juana Bañocía Vda. de Valles, the onset of the sunset years upon her widowed life had not deterred her from pursuing a thriving transportation and other lucrative businesses in Maribojoc, Bohol. The passing of March 16, 1990 under this state of affairs would have gone by uneventfully were it not for the shocking news that her townmates in Maribojoc received early that day. "Nang Juana," as she was fondly called and referred to, had been killed in the course of and consequent to a robbery committed in her residence.

Haled to court for the robbery and the victim's death was accused-appellant Mansueto Redulla who, together with accused Exequiel Aniscal, was charged in Criminal Case No. 6862 with the crime of robo con homicidio before the Regional Trial Court, Branch 2, of Tagbilaran City in an indictment dated October 12, 1990, with the following particulars:

"That on or about the 16th of March, 1990, in the Municipality of Maribojoc, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping with (sic) one another, with intent to gain, and by the use of violence or intimidation upon a person and by reason of or on the occasion thereof, did then and there willfully, unlawfully and feloniously attack, assault and tie the victim with a piece of cloth which covered her head and face, including her nose and mouth, while her hands and feet were tied with a strong nylon belt of which, as a consequence, the victim Juana Bañocía Vda. de Valles died of asphyxia due to suffocation, and, thereafter, did then and there willfully, unlawfully and feloniously and against the will and without the consent of the owner thereof, take, steal, and carry away cash in the amount of Four Hundred Thousand pesos, and assorted jewelries amounting to Two Hundred Thousand Pesos, or in the total amount of Six Hundred Thousand Pesos (P600,000.00), Philippine Currency, all belonging to the said victim Juana Bañocía Vda. de Valles, to the damage and prejudice of the heirs of the offended victim.

"Acts contrary to the provisions of Article(s) 293 and 294 of the Revised Penal Code, with the aggravating circumstance of nighttime being purposely sought for or taken advantage of by the accused to facilitate the commission of the crime."[1]

Initially tagged as the primary suspects in the robbery that resulted in the slaying of the victim were the brothers Exequiel Aniscal, alias "Ekil;" Wilfredo Aniscal, alias "Tangkad;" herein appellant Mansueto Redulla, alias "Chito;" and one John Doe. Pursuant to a complaint instituted on May 8, 1990 by Police Sergeant Nilo R. Molina, Station Commander of the Integrated National Police in Maribojoc, Bohol, the First Municipal Circuit Trial Court of Cortes-Antequera-Maribojoc, Bohol conducted a preliminary investigation as to the participation of the said suspects in the crime. Since only Wilfredo Aniscal was in custody at the time of the investigation, the others being

then at large, the inquiry by the court proceeded only with respect to him.[2]

On August 16, 1990, said circuit court issued an order recommending the filing of an information against Wilfredo Aniscal, on the theory that there was probable cause to believe that he had a hand in the crime charged.[3] However, the case against him was later dismissed for insufficiency of evidence on a subsequent reinvestigation by the Office of the Provincial Prosecutor, whereas a *prima facie* case was found with regard to the other two suspects, Exequiel Aniscal and Mansueto Redulla.[4] Consequently, the aforestated criminal information was filed against both of them before the Regional Trial Court of Tagbilaran City.

The principal witness for the prosecution was Pedro Ramones, a long-time resident of Maribojoc. He related during the trial that he had just come from a cockfight derby at the Maribojoc Cockfight Arena and was on his way to the nearby wharf at around 9:00 in the evening of March 16, 1990 when, with a flashlight, he spotted Wilfredo Aniscal walking along the concrete fence separating the victim's house from that of her neighbor. Shortly thereafter, he saw accused Exequiel Aniscal and appellant emerge from the direction of the victim's residence, with the former clutching what looked like a dark-colored bag. The two then jumped over the concrete fence and, upon joining Wilfredo, the trio scampered away and vanished into the darkness of the night.[5]

At around 3:00 A.M. of the following day, Boy Magdoza and a certain Peter, who were respectively a driver and a conductor in the victim's fleet of public transport buses, went to the latter's house to commence their daily routine of plying their bus routes in Bohol. They were instead greeted by the unnerving sight of their aged employer sprawled in the kitchen, her mouth gagged with a piece of cloth and her hands and feet tied together. She appeared lifeless. The two forthwith reported the matter to the victim's nephew, Eduardo Bañocia.[6]

Eduardo Bañocia, who at the time lived in a house located just behind the victim's residence, recalled that upon reaching the supine body of his aunt, he checked her eyelids but these did not move anymore. Noticing that the victim was not breathing, he sent for police assistance and also requested somebody to fetch a doctor. Bañocia also noted that the door to the room of his aunt at the second floor was open. When he entered the room, he found that the contents thereof were in disarray.[7]

Dr. Victor Descaller, the responding physician, testified that he conducted a post-mortem examination on the victim's corpse that same morning and concluded that she expired due to "asphyxia." [8] Meanwhile, the policemen who arrived on the scene, composed of Pat. Paterno Jabines and two others, searched for clues as to what had transpired at the victim's residence. They found that the latter's room had been ransacked and that a vault located inside it had been opened. Its contents, if there were any, had obviously been carted away.[9]

At about 8:00 A.M. of the same day, Pat. Jabines met Pedro Ramones by chance at a store in Barrio San Vicente. The latter, when informed by the policeman of the robbery and slaying of the deceased, disclosed his brief encounter supposedly with appellant and the Aniscals the previous night. Jabines thereupon urged him to execute an affidavit and to testify in court against the suspects but he refused as he was allegedly afraid of the Aniscals. After almost two months, however, he appeared to have had a change of heart and he decided to testify against the suspects.[10] What induced him to do so does not appear in the record.

On the other hand, appellant Mansueto Redulla, a neighbor and distant relative of the deceased Juana Bañocia Vda. de Valles, vehemently denied any participation in the robbery that resulted in her death. He claimed that in the early afternoon of March 16, 1990, he went to the nearby Maribojoc Cockfight Arena where a series of cockfights had been scheduled for the day. Being a cockfight aficionado, he stayed there until the end of the events at about ten o'clock in the evening of the same day. Appellant then went home in the company of Casimiro Rememata, a part owner of the arena who usually was the one in charge of closing up the cockpit for the night.[11]

Appellant recalls that his aunt, Florlinda Redulla, opened the door for him upon his arrival. Apparently exhausted, he went straight to bed. When he awoke early the next morning, he came to know of the cruel fate met by the deceased. Redulla claims that he went to pay his last respects to the victim to whom he was distantly related. Then, on March 19, 1990, he was interrogated as a possible suspect in the crime by Pat. Paterno Jabines, but he was released shortly thereafter for lack of evidence.[12]

Eight months later, appellant was arrested on November 19, 1990 and, at his arraignment on February 7, 1991 with the assistance of a counsel de parte, he entered a plea of not guilty.[13] His co-accused, Exequiel Aniscal, remained at large. Trial thereafter ensued with relative dispatch, and the case was submitted for the trial court's verdict on April 22, 1991. On May 24, 1991, the court a quo rendered its judgment of conviction with this dispositive pronouncement:

"WHEREFORE, the Court finds and so holds accused Mansueto Redulla, alias Chito, guilty beyond reasonable doubt of the complex crime of Robbery with Homicide defined and penalized under Article 293 in relation to Article 294, par. 1 of the Revised Penal Code and sentences him to suffer the penalty of RECLUSION PERPETUA. The accused is hereby ordered to return one-half of the amount of P400,000.00 cash and the assorted jewelries or their value in the amount of one-half of P200,000.00. He is further ordered to pay one-half of P30,000.00 as death indemnity and one-half of P50,000.00 as moral damages, to the heirs of the deceased Juana Bañocia Valles, without subsidiary imprisonment in case of insolvency, and to pay the costs.

"The Office of the Provincial Prosecutor of Bohol is hereby directed to reassess its evidence with respect to those who may have participated in the commission of the offense in the light of this decision."[14]

Insisting on his innocence, appellant now pleads to us for the reversal of his conviction. In particular, he ascribes error to the trial court when it held that (1) appellant is guilty beyond reasonable doubt of the special complex crime of robbery with homicide; (2) he never bothered to go to the victim's house; (3) appellant's demeanor on the witness stand revealed a guilty conscience; (4) the witnesses for the defense failed to inspire belief and generate credibility; and (4) the series of circumstances proved to be consistent with each other and each was consistent with the guilt of appellant as against his defense of alibi.[15]

The court below evidently convicted appellant on the basis of circumstantial evidence. It is this Court's view, after a careful evaluation of the circumstances of the case at bar, that said evidence cannot persuade us, with the inner strength of moral certainty, to conclude that appellant's guilt has been proved beyond peradventure of a reasonable doubt.

It is true that the rules of evidence do not require that proof of guilt be established solely by direct evidence.[16] Conviction may also rest upon circumstantial evidence alone but, in such a case, it becomes incumbent upon the court called to assess such evidence to cautiously determine if the circumstances composing the same consist of an unbroken chain which leads said court to fairly and reasonably conclude that the accused had authored the crime, to the exclusion of all others.[17]

It is basic that for circumstantial evidence to become the basis of a judgment of conviction, the following requisites must concur, namely: (1) there must be more than one circumstance; (2) the inference must be based on proven facts; and (3) the combination of all the circumstances produces a conviction beyond reasonable doubt of the guilt of the accused.[18] It is likewise fundamental that where the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, an acquittal should be in order, for then the evidence would not be sufficient to meet the test of moral certainty required in a finding of guilt.[19]

In the case at bar, the lower court relied primarily on the evidence of the prosecution consisting chiefly of Pedro

Ramones' oral testimony and sworn statement. Ramones was the sole witness who testified about the alleged presence of appellant and the Aniscal brothers in the vicinity of the victim's residence at about the time that the robbery may have taken place. We are unable to agree, however, with the findings of the trial court thereon, as there are highly significant inconsistencies and improbabilities therein which render the veracity of Ramones' account dubious and unacceptable for appellant's conviction.

Foremost in the mind of the Court is Ramones' illogical rationalization of his failure to promptly testify about his alleged nocturnal encounter with appellant and the Aniscal brothers on the night of March 16, 1990. The initial reluctance and consequent delay of a witness in getting himself involved in a criminal case may not impair his credibility nor destroy the probative value of his testimony but this is so only when said delay is adequately explained.[20]

Now, according to Ramones, the reason for his belated appearance in court is that he feared for his life. However, the curious fact is that the Aniscal brothers and appellant were admittedly his good friends, a circumstance which renders his fears of reprisal clearly unfounded.[21] This is borne out by his trusting and confiding behavior when after he supposedly met and disclosed to Pat. Jabines the events of the previous night, he proceeded to the residence of the brothers in order to ask them what they were doing when he saw them near the victim's residence.[22] Hence, if it was true that he dreaded the Aniscals, then it stands to reason that he would not have gone to their house with braggadocio and ask them incriminating questions indicative of his suspicions and thereby place his life in danger. The fact that he acted as he did shows that he knew he had nothing to fear at the hands of the brothers.

Oddly enough, despite their friendly relations, Ramones supposedly did not even call out to or greet appellant and the Aniscals when he unexpectedly saw them that night. It would have been natural under such circumstances for him to exchange pleasantries with the group or at least make known his presence to them. Why they instead acted like strangers to one another, if true, is a source of wonderment.

One important point also stands out in hold relief in this episode. Ramones was positive that on that occasion he definitely saw Wilfredo Aniscal walking beside the concrete fence of the victim's house. In fact, Ramones allegedly saw him first and had all the opportunity to be able to identify him, unlike appellant and Exequiel Aniscal who, according to this witness, he only saw later in passing before they jumped over the wall and ran away. Yet, a formal investigation debunked this testimony of Ramones for, in fact, the case against Wilfredo Aniscal was later dismissed. Obviously, therefore, if Ramones' identification of Wilfredo Aniscal and the alleged presence of the latter at the scene could not be believed, with much more reason should his identification of and imputation against appellant stand completely discredited.

There is, likewise, a parallel significance to be derived from his initial disclosure to Pat. Jabines on the morning of March 17, 1990 and his subsequent refusal, despite the proddings of the police officer, to have any participation in the case because of his alleged fear of the Aniscals. If Ramones had really been afraid of the Aniscal brothers, then he would not have precipitately made that revelation to anybody, much less to a person in authority like Pat. Jabines. To be sure, Ramones must have known that the consequent investigation which such information would trigger could not but involve him in the case and expose him to the very risk that he supposedly sought to avoid.

In light of the foregoing, we find it difficult to yield credence to the testimony of Ramones, although it is to be admitted that no evidence was presented to indicate that he was actuated by improper motives. That failure of evidence, however, is unavailing in the face of the settled rule that for evidence to be believed, it must have been uttered not only by a credible witness but it should likewise be credible in itself, such as the common experience and observation of mankind can approve as probable under the circumstances.[23]

There are, moreover, irreconcilable inconsistencies between his account of the encounter in his sworn statement and his testimony before the trial court. As recollected by Ramones in his affidavit, he was on his way to the wharf to get the "bolinao" fish at around 9:30 to 10:00 in the evening of March 16, 1990, with his house as the point of departure, when he happened to pass by the abode of the victim and had that chance meeting with appellant and the Aniscals.[24] This assertion is pointedly contradictory to and inconsistent with his claim in court that he came from the Maribojoc Cockpit Arena where he had spent practically the whole afternoon and evening watching cockfights and was on the way to the wharf when the encounter transpired at around 9:25 to 9:30 that evening.[25]

What is more, his affidavit unaccountably fails to mention his supposed meeting with Pat. Jabines in the early morning of March 17, 1990. In said affidavit, he only claims to have learned about the robbery and the victim's death that very morning but from whom, he did not state. In contrast, when he was called to testify before the trial court about the chance encounter, he went to great lengths expounding on his meeting with Pat. Jabines at a sari-sari store and the policeman's unsuccessful attempt to convince him to testify against the Aniscals and to execute an affidavit as well. What caused these mercurial changes in his attitude and deportment over time - from his initial refusal to testify, to his subsequently executing an affidavit, and then his expanded version in court - are worth judicial rumination.

The Court is not unaware of the general rule that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits, being taken *ex parte*, are usually incomplete and inaccurate.[26] But the Court likewise subscribes to the doctrine that where the discrepancies are irreconcilable and unexplained and they dwell on material points, such inconsistencies necessarily discredit the veracity of the witness' claim and thus cast serious doubts as to the culpability of the accused.[27]

We, likewise, find distressing the trial court's finding that appellant never even bothered to take the time to pay his last respects to the deceased as she lay in state. This is clearly not supported by the evidence on record. Appellant had, in fact, gone twice to the wake of the deceased to convey his grief and condolences, and properly so for the victim was after all his relative. These visitations were duly corroborated by his aunt.[28]

It also bears notice that, unlike the Aniscal brothers who were his original co-accused, appellant did not take flight as they did. That is why when the prosecution felt that it had already made out a case from the sluggish police investigation, appellant was readily available and was forthwith apprehended by the authorities. Ordinarily, non-flight by itself is not sufficient to discharge an accused, the same being inconclusive proof of innocence.[29] But this circumstance becomes crucial in negating the criminal liability of an accused when viewed in the context of the weak evidence on record.[30] This exceptive part of the doctrinal rule applies to the present case.

Neither may the purported presence and immediate flight of appellant's alleged co-conspirators be taken against him in view of the manifest failure of the prosecution to establish by clear and convincing evidence its allegation of conspiracy.[31] As earlier noted, Wilfredo Aniscal had in fact been discharged by the prosecution after a reinvestigation resulted in the finding of insufficient evidence to hold him liable for the crime charged,[32] Ramones asseverations to the contrary notwithstanding.

In fine, the evidence adduced by the prosecution has clearly failed to meet the rigid and exacting requirements of proof beyond reasonable doubt. While it is true that alibi, a jaded artifice long regarded by the courts as frail because of the facility with which it can be concocted,[33] was the defense set up by appellant, a reversal of the trial court's findings is nevertheless in order. A conviction must rest not upon the weakness of the evidence for the defense but upon the strength and forceful stroke of the prosecution's own evidence.[34]

Furthermore, the courts should not at once regard alibi as unfavorable when it is the defense resorted to by an

accused for there are times, as in this case, when his explanation as to his whereabouts at the time of the crime is the plain and simple truth.[35] Said defense assumes further significance and strength, when it has been amply corroborated by credible witnesses and the identification of the accused as the author of the crime is unclear and questionable.[36] It is axiomatic that in criminal prosecutions, the identity of the offender must be proved beyond reasonable doubt.[37]

Parenthetically, we find it rather unfair, if not irregular, for the trial court to undermine appellant's credibility by its unilateral observation that "his demeanor on the witness stand as well as his actuations during the trial at his seat, which the presiding judge closely monitored, easily revealed a guilty conscience with his restless reaction whenever his name was mentioned by the prosecution witnesses." [38] This is not only non sequitur but also trenches on a denial of procedural due process under the guise of a judicial finding which, however, stands unexplained and is purely conjectural.

Definitely, the restlessness or nervousness of a person on the witness stand, especially a first offender charged with a grave offense, can be ascribable to a multitude of causes. The singular conclusion drawn by the lower court is akin to the proscribed practice of discrediting a witness by the supposed expression of lack of sincerity in his face, although facial expressions are not necessarily indicative of one's feelings. What a trial court should do in the foregoing situations is to make the fact observed appear on the record and allow the witness the opportunity to explain his behavior. Otherwise, the witness would be helpless in the face of such an ex cathedra condemnation which would thereby assume an aura of truth only because he was not afforded the opportunity to explain or controvert the same.

ACCORDINGLY, on the ground of reasonable doubt, the judgment appealed from is REVERSED and SET ASIDE and another one is hereby entered ACQUITTING accused-appellant Mansueto Redulla of the crime charged. His immediate release from detention is hereby ordered, unless for some other lawful cause his further detention is warranted.

SO ORDERED.

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

[1] Original Record, 28; Rollo, 16.

[2] Ibid., 11.

[3] Ibid., 21-23.

[4] Ibid., 31-34.

[5] TSN, February 20, 1991, 5-9.

[6] Ibid., March 4, 1991, 5-6.

[7] Ibid., id., 4, 6-7.

[8] TSN, February 20, 1991, 22-24; Records of Documentary Evidence, 3, 7; Exhibits B and D.

[9] TSN, March 4, 1991, 19.

[10] Ibid., February 20, 1991, 9-10; March 4, 1991, 4.

[11] TSN, April 2, 1991, 2-5; March 19, 1991, 17-19.

- [12] Ibid., April 2, 1991, 4-15.
- [13] Original Record, 41, 48.
- [14] Ibid., 94; per Judge Andres S. Santos.
- [15] Brief for the Accused-Appellant, 1; Rollo, 34.
- [16] People vs. Cagadas, Jr., et al., 193 SCRA 216 (1991).
- [17] People vs. Austria, et al., 195 SCRA 700 (1991).
- [18] People vs. Iran, et al., 216 SCRA 575 (1992).
- [19] People vs. Libag, 184 SCRA 707 (1990).
- [20] People vs. Mandapat, 196 SCRA 157 (1991).
- [21] TSN, February 20, 1991, 3, 8; March 4, 1991, 21.
- [22] TSN, February 20, 1991, 11-12; Original Record, 2; Exhibit A.
- [23] People vs. Deberto, et al., 205 SCRA 291 (1992).
- [24] Original Record, 2; Exhibit A.
- [25] TSN, February 20, 1991, 4-5.
- [26] People vs. Gabatin, et al., 203 SCRA 225 (1991).
- [27] People vs. Uson, G.R. No. 101313, July 5, 1993.
- [28] TSN, April 2, 1991, 25-26; March 20, 1991, 6.
- [29] People vs. Macalino, 209 SCRA 788 (1992).
- [30] People vs. Austria, et al., supra.
- [31] People vs. Cruz, et al., 191 SCRA 377 (1990).
- [32] Original Record, 33.
- [33] People vs. Miscala, 202 SCRA 26 (1991).
- [34] People vs. Ambih, G.R. No. 101006, September 3, 1993.
- [35] People vs. Jalon, 215 SCRA 680 (1992).
- [36] People vs. Viray, et al. SCRA 320 (1991).
- [37] People vs. Lazarte, 200 SCRA 361 (1991).
- [38] Original Record, 94.

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