

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELYBOY SO Y ORBES, ACCUSED-APPELLANT.

G.R. No. 104664. August 28, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Before us is an appeal from the Decision of the Regional Trial Court of Manila, Branch XLIX in Criminal Case No. 91--95478, convicting the appellant Elyboy So of the crime of murder and imposing on him the penalty of reclusion perpetua.

On 10 June 1991, Elyboy So was charged with murder before the Regional Trial Court of Manila for the death of Mario Tuquero. The information reads:

That on or about June 3, 1991, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon the person of one Mario Tuquero y Alas by then and there stabbing him several times with a fan knife on different parts of his body, thereby inflicting upon said Mario Tuquero y Alas mortal wounds which were the direct and immediate cause of his death thereafter.

Contrary to law[1].

On 19 July 1991, appellant, assisted by counsel de officio, pleaded "NOT GUILTY." [2]

After trial on the merits, the Regional Trial Court handed down its decision on 17 January 1995, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the Accused guilty beyond reasonable doubt of the crime of "Murder" qualified by treachery, as defined in and penalized by Article 248 of the Revised Penal Code and hereby condemns the said Accused to suffer the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law. The Accused is hereby ordered to indemnify the heirs of Mario Tuquero in the amount of P50,000.00. The period during which the Accused was detained in the City Jail shall be credited to him in full provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail of Manila. With costs against the Accused.

SO ORDERED.[3]

The facts established by prosecution's evidence are summarized in the People's brief as follows:

On June 2, 1991, at around 9:00 p.m., Elyboy So met his lady friend, Teresita Domingo, in a jeep in Quiapo bound for Pasig. Since Elyboy's house which is located in 2969-D Ramon Magsaysay Boulevard, Sta. Mesa, Manila, is walking distance to Teresita's house located in 2050 Abad Santos Street, Sta. Mesa, Manila, Teresita requested Elyboy to bring her home (t.s.n., Oct. 23, 1991, pp. 6-7; Nov. 12, 1991, p. 7).

While walking along Araullo Street on their way to Teresita's house, they passed by the house of Elyboy's first cousin, Esteban, Edgar, and Emy, all surnamed So (t.s.n., Oct. 23, 1991, pp. 8-9).

When they passed by his cousins' house, he saw his cousin Edgar with Ronnie Tan and three (3) others and noticed that a drinking spree was taking place in front of the house (t.s.n., Oct. 23, 1991, pp. 9-10).

Upon seeing Elyboy, Edgar greeted him by saying: "Bingbong Crisologo is coming" (t.s.n., Oct. 23, 1991, p. 10). He then invited Elyboy to have a drink and requested that his lady companion be introduced to them (t.s.n., Oct. 23, 1991, p. 11). Elyboy answered: "I cannot introduce her to you because she is mine" (t.s.n., Oct. 23, 1991, p. 12).

Elyboy then proceeded to bring Teresita directly to her house (t.s.n., Oct. 23, 1991, p. 12).

Immediately after bringing Teresita to her house, Elyboy passed by his cousins' house to honor their invitation (t.s.n., Oct. 23, 1991, p. 12).

After an exchange of pleasantries, Edgar offered Elyboy a bottle of beer which the latter declined because it was already past 10:00 p.m. and he was on his way home already. Edgar convinced him to drink just a little and to stay awhile so he could also meet his future brother-in-law, Mario Tuquero, who will arrive later with his sister Emy. Elyboy was prevailed upon to stay on as he was also interested in meeting Mario (t.s.n., Oct. 23, 1991, p. 14).

Before Emy and Mario arrived, Edgar invited Elyboy and Ronnie to watch the dance in the playground which was part of the fiesta celebration. At the playground, Esteban met Edgar, Elyboy and Ronnie and informed them that Emy and Mario had arrived and instructed them to buy beer (t.s.n., October 23, 1991, pp. 15-18).

Edgar, Elyboy and Ronnie proceeded to buy beer while Esteban went home ahead of them (t.s.n., October 23, 1991, p. 19).

After buying beer, they proceeded to the house. Upon arriving in the house, Emy introduced Elyboy to her boyfriend Mario (t.s.n., Oct. 23, 1991, pp. 14-20).

Mario Tuquero worked as a manager of a restaurant in Paris, France, and arrived in the Philippines on March 7, 1991. Emy So, who is a registered nurse, met Mario sometime in March, 1991 and they started living in as husband and wife in her parents' house at 1920, Araullo Street, Sta. Mesa, Manila, also in the same month until June, 1991. However, Mario was legally married to a certain Evelyn Tuquero and this fact was not known to Emy (t.s.n., Sept. 4, 1991, pp. 37-39, 42-43, 54-55).

The group, consisting of Esteban, Edgar, Elyboy, Ronnie, Mario and Emy resumed their drinking spree. However, after the group consumed four (4) cases of beer and before 3:00 a.m., Emy felt sleepy and went inside (t.s.n., Sept. 4, 1991, p. 52; Oct. 23, 1991, p. 21).

While Emy was sleeping inside the house, she was awakened by the noise coming from the group outside their house (t.s.n., Sept. 4, 1991, p. 59).

It turned out that Elyboy had a misunderstanding and altercation with somebody and he was shouting loudly, disturbing the neighbors in the process (t.s.n., Sept. 4, 1991, pp. 59, 63).

After pacifying the protagonists, Mario advised Elyboy to go home because his loud voice was disturbing the neighbors (t.s.n., Sept. 4, 1991, pp. 62--63).

After he was pacified and advised to go home, Elyboy ran towards home (t.s.n., Sept. 4, 1991, pp. 62-63).

At around 4:00 a.m. of June 3, 1991, Mario and Emy decided to leave for Fairview Subdivision, Quezon City, in

order to get papers of a vehicle owned by Mario that they will bring out of the Bureau of Customs (t.s.n., Sept. 4, 1991, pp. 30-31, 60).

While Mario and Emy were waiting for a taxi at the corner of Magsaysay Avenue and Pureza Street, Elyboy suddenly appeared from behind and stabbed Mario at the back several times with an eleven inch fan knife with a white handle (t.s.n., Sept. 4, 1991, pp. 30, 32, 67; Sept. 9, 1991, p. 25).

Emy shouted for help (t.s.n., Sept. 4, 1991, p. 33).

When Mario was about to run, he slid and fell to the ground lying on his back. Elyboy took advantage of this circumstance and repeatedly stabbed Mario on the front part of his body (t.s.n., Sept. 4, 1991, p. 33).

Emy pleaded to Elyboy to stop stabbing Mario but Elyboy ignored her and continued delivering stabbing blows at Mario (t.s.n., Sept. 4, 1991, p. 34).

Elyboy fled from the scene of the crime and ran to a dark alley (tsn., Sept. 4, 1991, p. 34; Oct. 23, 1991, p. 40).

Emy called for a taxi that passed by and brought Mario Tuquero to the University of the East - Ramon Magsaysay Memorial Hospital (tsn., Sept. 1991, p. 34).

Elyboy stayed in the alley for about thirty (30) minutes until the policemen arrived at the scene of the crime and shouted at him to surrender. After a while, Elyboy went out of hiding and shouted at the policemen not to fire because he is surrendering. When Elyboy surrendered, he was blushing and uneasy and naked from the waist up because he removed his shirt to wipe the blood on his face (tsn., Sept. 9, 1991, pp. 6, 13; Nov. 12, 1991, p. 3).

Elyboy was then brought by the policemen to Precinct No. 8 of the Western Police District and the fan knife used was surrendered by Barangay Chairman Aida de los Santos to the police authorities (tsn., Sept. 9, 1991, pp. 7, 25).

As a result of the stabbing incident, Mario suffered several stab wounds numbering eighteen (18) on the different parts of his body with at least four (4) fatal wounds causing his death (tsn., Sept. 4, 1991, pp. 8-23).[4]

Appellant vehemently opposed the version of the prosecution. According to him, while they were drinking and talking about France, Esteban So suddenly stood up and said that the reason he was not able to work in France is because his surname was "So." Appellant felt aggrieved as he recalled the time when he lived with Esteban So and his family and was driven out by them. He was told that his only link to them is the surname "So." Then when Esteban So pulled a knife and Edgar So broke bottles of beer and Mario Tuquero pulled out "something" from his socks, appellant, fearing for his life, fled. Appellant claims that Esteban So and Mario Tuquero chased him but were not able to catch him.[5]

Appellant further narrated that when he tried to go back to his cousin's house and talk to them, he met Mario Tuquero and Emy So at the corner of Pureza and Magsaysay Streets. Suddenly Mario Tuquero attacked him with a knife but because Tuquero's thrust was slow, he was able to evade it. He grabbed the knife and proceeded to stab Tuquero repeatedly. He ignored the pleas of Emy So but finally stopped when four (4) persons in a jeep passed by and shouted at him. He ran into a dark alley until the police came and brought him to the police precinct.[6]

Appellant claimed self-defense and in the instant appeal assigned the following errors:

I

THE LOWER COURT ERRED WHEN IT OVERRULED SELF-DEFENSE IN THE INSTANT CASE.

II

THE LOWER COURT ERRED WHEN IT HELD THAT THE TESTIMONY OF ACCUSED-APPELLANT

ELYBOY SO IS UNDESERVING OF CREDIT, IMPROBABLE AND IMPLAUSIBLE.

III

THE LOWER COURT ERRED WHEN IT FOUND THAT THERE WAS TREACHERY IN THE INSTANT CASE.

IV

THE LOWER COURT ERRED WHEN IT DISREGARDED THE EXEMPTING CIRCUMSTANCE OF INSANITY ON THE PART OF ACCUSED-APPELLANT ELYBOY SO.

V

THE LOWER COURT ERRED WHEN IT CONVICTED ACCUSED-APPELLANT OF THE CRIME OF MURDER.[7]

We deny the appeal.

Appellant's second assigned error, in essence, raises the issue of credibility of witnesses. Whose testimony is more believable and reliable, prosecution witness Emy So's narration or appellant's version? Appellant would like us to believe that Emy So's testimony was biased in favor of her brothers and the victim who was her common-law-husband[8] and aggravated by an alleged grudge harbored by her family against appellant's family.

We give no credence to appellant's argument. Long settled in criminal jurisprudence is the rule that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[9] In the instant case, although Emy So readily admitted that her relationship with appellant was "not close," she explained that it was appellant who had ill-feelings against her family and bore a grudge. The defense has not shown such degree of partiality on the part of prosecution witness Emy So as would cast doubt on her credibility and impeach her testimony, especially when said testimony is "not inherently improbable in itself." [10] Emy So testified thus:

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COURT:

You mentioned of a grudge between your family and that of the Accused and this referred to the surname, So. What was the trouble all about?

WITNESS:

Actually, there was no grudge with respect to the family name So. They really have grudge in our family, Your Honor.

COURT:

What was that grudge all about?

WITNESS:

Their family is a broken family and ours is intact, Your Honor. And they live only from hand-outs from relatives and also from us, Your Honor.

COURT:

So, what was the grudge about? You even help them. You even helped the Accused. What was the grudge all about?

WITNESS:

I just do not know really why they have such ill feelings towards us. I think it's jealousy "inggit," Your Honor.

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ATTY. DELOS SANTOS:

You are not concerned with Elyboy he being not a resident in your community?

WITNESS:

No, ma'am.

ATTY. DELOS SANTOS:

That is because you have grudge over this person. Referring to the Accused, is that correct?

WITNESS:

No, ma'am, we are not so close that's why.

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COURT:

Another question. Is it your habit not to be concerned with the welfare of your relatives?

WITNESS:

I have concerned to my other relatives, Your Honor.

COURT:

How about the Accused, you are not concerned with him?

WITNESS:

No, Your Honor.

COURT:

Why, because of the fact between your family and their family?

WITNESS:

It could be said that way, Your Honor, because since then, he is a problem child that's why my feelings towards him is not so intimate anymore.[11]

The fact alone that the victim was Emy So's live-in partner does not impair her testimony. The Court has time and again ruled that mere relationship of the witness to the victim does not automatically impair his credibility and render the testimony less worthy of faith and credit.[12] In *People v. Estrellanes, Jr. and Manolo*, [13] we put it thus:

... It is settled that the relationship of the key witness to the victim does not necessarily disqualify him for being biased and interested. A son or a wife is not incompetent to testify simply because of his or her relationship to the

victim. In other words, the relationship of the witnesses to the victim does not per se affect their credibility. Their testimony must be evaluated and assessed according to its own merit and if not otherwise offset by more credible evidence on record or any other revealed intrinsic defect should be given credit.

Appellant's strategy to discredit Emy So on ground of bias and interest to exculpate himself from criminal liability cannot succeed.

Appellant maintains that he stabbed the victim in legitimate self-defense and invokes in his favor the constitutional presumption of innocence claiming that, despite his plea of self-defense, the prosecution retains the burden of proving his guilt beyond reasonable doubt.[14] This argument deserves no credit in light of the established and time-honored rule that when self-defense is invoked, the burden of evidence shifts to the appellant to show that the killing was justified and that he incurred no criminal liability therefor. He must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence, for, even if the latter were weak, it could not be disbelieved after his open admission of responsibility for the killing. He must prove the essential requisites of self-defense, to wit: (a) unlawful aggression on the part of the victim, (b) reasonable necessity of the means employed to repel the aggression, and (c) lack of sufficient provocation on the part of the accused.[15]

In *People v. Jotoy*,[16] we stated:

It is oft-repeated that in criminal cases, the burden rests on the prosecution to establish the guilt of the accused by proof beyond reasonable doubt. However, when the accused invokes self-defense, the onus probandi is shifted and he is duty bound to prove the elements of the plea by clear and convincing evidence otherwise, conviction is inescapable.

We shall now proceed to determine whether or not appellant has completely and satisfactorily proven the elements of self-defense. The initial and crucial point of inquiry is whether there was unlawful aggression on the part of the victim for absent this essential element, no claim of self-defense can be successfully interposed. If there is no unlawful aggression, there is nothing to prevent or to repel and the second requisite of self-defense would have no basis.[17]

Appellant's claim that the victim, Mario Tuquero, attacked him with a knife fails to convince us. The record reveals glaring and serious inconsistencies in appellant's testimony that makes it totally unworthy of credence.

Appellant testified that he was able to wrest the knife from Tuquero because the latter's thrust was slow. However, this contradicts his statement during the same cross-examination, that the incident happened so fast and that Tuquero's attack was sudden.

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FISCAL PERALTA:

And the first time that you saw Mario near the corner of Magsaysay and Pureza, how far were you in relation to him the first time that you saw him?

WITNESS:

I think about 1 and 1/2 armslength, sir, because I was on the other side and Mario was also on the other side and we exactly met at the corner, sir.

FISCAL PERALTA:

And the first time that you saw bringing out something from his waistline, what did you do?

WITNESS:

The incident happened so fast, sir. After pulling out something from his waistline, immediately thereafter, he made a thrust on me but I was able to grab the knife from him, sir. (Underscoring ours.)[18]

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Further, we share the incredulity of the trial court that the victim stabbed appellant in slow motion:

Even the testimony of the Accused denigrated his claim that he acted in self-defense. For, when he testified before the Court, the Accused claimed that Mario Tuquero stabbed him but that Mario Tuquero failed to hit the accused because Mario Tuquero stabbed the accused slowly and the Accused was able to evade the thrust and that the latter, thereupon, wrested the knife from Mario Tuquero. It is sheer lunacy for the Accused to asseverate that Mario Tuquero stabbed the Accused in slow motion...[19]

Even if we allow appellant's contention that Tuquero was the initial unlawful aggressor, we still cannot sustain his plea of self-defense. After appellant successfully wrested the knife from Tuquero, the unlawful aggression had ceased. After the unlawful aggression has ceased, the one making the defense has no more right to kill or even wound the former aggressor.[20]

As correctly pointed out by the trial court:

...More, there is no evidence in the record that, after the Accused wrested the knife from Mario Tuquero, the latter still did any overt act to indicate that he still tried to grab or wrest back the knife from the Accused or, in any manner, persist in inflicting any harm on the Accused. On the contrary, after the Accused wrested the knife from Mario Tuquero, the Accused repeatedly stabbed Mario Tuquero in the front portions of his body even after Mario Tuquero embraced the Accused to hang on for dear life. At the time the Accused stabbed Mario Tuquero, the latter's initial unlawful aggression had already ceased and that there was, therefore, no more need for the Accused to still stab Mario Tuquero and stab him with impunity...[21]

We reiterated the same rule in *People v. Jotoy*: [22]

But even if We assume that it was the deceased who attacked the accused with a knife, as the latter would make Us believe, We still hold that there was no self-defense because at that point when accused was able to catch and twist the hand of the deceased, in effect immobilizing him, the unlawful aggression had already ended. Thus, the danger having ceased, there was no more need for the accused to start stabbing the deceased, not just once but five (5) times.

and in *People v. Gomez*: [23]

There was no self-defense where the accused was able to obtain possession of the weapon from the deceased and there was no necessity to stab the latter for aggression had already ceased.

Appellant's claim of self-defense is, likewise, contradicted and negated by the physical evidence on record. The victim sustained eighteen (18) stab wounds on different parts of his body. Of the eighteen (18), four (4) were fatal stab wounds.[24] The presence of a large number of wounds on the part of the victim, their nature and location disprove self-defense and instead indicate a determined effort to kill the victim.[25]

We quote with favor the observations of the trial court in this regard:

In this case, the evidence in the record buttresses the testimony of Emie So, on the one hand, and belied and

deprecated the testimony of the Accused on the other. As can be gleaned from the Necropsy Report of Dr. Florante Baltazar, (Exhibits "B" and "C"), the deceased sustained no less than eighteen (18) stab wounds. Four (4) of the stab wounds sustained by the deceased were on the posterior aspects of his body, namely, stab wounds No. 4 (Exhibit "C-4"), stab wound No. 13 (Exhibit "B-13"), stab wound No. 15 (Exhibit "C-15") and stab wound No. 18 (Exhibit "C-18") and the rest of the stab wounds sustained by the victim were on the anterior portions of his body. These jibe with the testimony of Emie So that the Accused suddenly darted from behind Mario Tuquero and stabbed him on the posterior aspects of his body and, when Mario Tuquero slipped because his shoe slid, and fell on the ground, face up, the Accused then stabbed Mario Tuquero anew successively on the anterior aspects of his body.

On the other hand, if the Accused acted merely on self-defense, it is incomprehensible that he would stab Mario Tuquero no less than eighteen (18) times (Exhibits "B" and "C"), not only on the anterior but also on the posterior aspects of his body.[26]

Considering the number and nature of the wounds inflicted by appellant on the victim, the testimony of the prosecution witness Emy So that appellant unexpectedly and suddenly attacked the victim from behind and the fact that appellant suffered not a single injury, we agree with the trial court that the killing was attended by treachery. This clearly illustrates that appellant, in the commission of the crime, employed means, methods and form in its execution which tended directly, and especially to ensure its execution without risk to himself arising from the defense which the victim might make.[27]

Not content with a self-defense plea the defense likewise seeks to exempt appellant from criminal liability by claiming that appellant was insane at the time he stabbed the victim.

The claim is unmeritorious.

The law presumes every man to be sane. A person accused of a crime who pleads the exempting circumstance of insanity has the burden of proving it.[28]

In order that insanity may be taken as an exempting circumstance, there must be complete depreciation of intelligence in the commission of the act or that the accused acted without the least discernment. Mere abnormality of his mental faculties does not exclude imputability.[29]

The testimony of Dr. Omer Galvez, Chief of the Child & Adolescent Service of the National Center For Mental Health (NCMH) and attending physician of appellant when he was confined at the National Center for Mental Health from June 8, 1985 to December 2, 1985, only established the previous confinement of appellant at the NCMH and that appellant showed signs of psychosis or insanity at the time. The rest of his testimony consisted merely of assumptions, possibilities and generalities:

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ATTY. DELOS SANTOS:

Why did you attend to this Elyboy So?

WITNESS:

He was admitted June 8, 1985 to the service of the Child and Adolescents Service, maam.

ATTY. DELOS SANTOS:

Why?

WITNESS:

He showed signs of psychosis or insanity, maam.

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ATTY. DELOS SANTOS:

What are the characteristics of this kind of illness Mr. Witness?

WITNESS:

Even this illness it is assumed that this patient will have episodes of insanity for the rest of his life especially if he will not take the medicines that will prevent the episodes of insanity. (Underscoring ours.)

ATTY. DELOS SANTOS:

And you said that this patient per your record was discharged on December 3, 1985. Do we understand that from the time of his discharge, he was already healed or recovered from that kind of insanity?

WITNESS:

I can only say that at the time of the last check up he was doing well three (3) months after that, he was discharged because he failed to come back for his check-up, maam. (Underscoring ours.).

ATTY. DELOS SANTOS:

You mentioned that this will be for the rest of his life.

WITNESS:

For many patients, it is like that. It is very exceptional that they will be able to recover or completely cured from it, maam. (Italics ours.)

ATTY. DELOS SANTOS:

When you say for the rest of his life, do we understand that this will be recurrent?

WITNESS:

Yes, maam.

ATTY. DELOS SANTOS:

What are the causes that will trigger the recurrency of this kind of illness?

WITNESS:

Generally, the main characteristic of this patients who are suffering from this illness is, they are very sensitive to any kind of social censures and criticisms.

ATTY. DELOS SANTOS:

Could you enlighten what do you mean by social censures?

WITNESS:

If they were told about a behaviour that they are showing that is unacceptable, they will react to that in a disproportionate way, maam.

ATTY. DELOS SANTOS:

What do you mean by disproportionate way?

WITNESS:

It will not proportionate that the amount of stimulus meaning, to say that they will over react.

ATTY. DELOS SANTOS:

Is violence a kind of over reaction to a given stimulus?

WITNESS:

Patients who are suffering from this condition has more proclivity to violence than the general population.

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COURT:

Doctor, you told that he was discharged. Was he told to come back for further treatment?

WITNESS:

Yes, Your Honor, that is standard that we tell to everybody. (Underscoring ours.)

COURT:

And how often is he supposed to come back for treatment in the case of the Accused Elyboy So?

WITNESS:

After six (6) months he failed to come. He was supposed to come every month after his passe which was given on August 1, 1985, Your Honor.[30]

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Further and more importantly, the testimony of Dr. Galvez is bereft of any evidence that appellant was completely deprived of intelligence or discernment at the time or at the very instant when he stabbed the victim.

Well-settled is the rule that an inquiry into the mental state of appellant should relate to the period immediately before or at the very moment the act was committed.[31] In the present case, the testimony of Dr. Galvez refers to appellant's treatment six (6) years before the incident happened.

Moreover, Dr. Galvez admitted that after appellant's last check-up sometime in 1985, or six (6) years before the crime was committed, he was doing well and relieved from psychosis:

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COURT:

When he came back, after his discharge, was he given medication?

WITNESS:

Yes, Your Honor.

COURT:

How did you find his behaviour when he came back for medication?

WITNESS:

As per record, he was doing well, Your Honor. (Underscoring ours.)

COURT:

When you say doing well, what exactly do you mean by that?

WITNESS:

He was relieved from psychosis at that time, Your Honor. (Underscoring ours.)

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FISCAL PERALTA:

If the patient was discharged in 1985 and finished his college degree in four (4) years, do you think that by that time he was already cured of his sickness?

WITNESS:

It will look like that, sir. (Italics ours.)

FISCAL PERALTA:

What do you mean it will look like that?

WITNESS:

It will look that while there are various types of clinical courses, meaning, the development of an illness in a patient and if the patient was able to finish college, then the outcome of the treatment that was given to him in 1985 was quite good.

FISCAL PERALTA:

And do you think doctor that could have been the reason why he already failed to report on a monthly basis considering that he was already in college and actually finished his college degree?

ATTY. DELOS SANTOS:

That might be misleading, Your Honor, considering that the testimony of the doctor, he said that he should report six (6) months after the discharge but he took his college degree for several years thereafter.

COURT:

The only point of the fiscal is that, is that an indication of having been cured. If he was able to take and finished even college. Go ahead.

WITNESS:

It would look that during that period, he would have been cured and there are some also who although that they may not be entirely cured would be able to get a degree, make the standards of education and there are some who could also get the standard of employment despite their craziness. "Medyo naitatago or nakakaya." Psychosis is something in many patients it is very obvious. You could see that they are really grossly disorganized "talagang sirá." But there are some who has some ability to keep it just there and maintain a proper social behaviour and be able to achieve socially acceptable functioning in society.

COURT:

In other words, that illness is dormant.

WITNESS:

Yes, Your Honor.

COURT:

And it emerges in some point of time?

WITNESS:

Yes, Your Honor.

COURT:

So, it is possible doctor that the decease is there but at the same time, the patient is able to study?

WITNESS:

Yes, Your Honor. The possibilities are these, he was cured, entirely cured during the period or the decease is just there and it is not affecting his behaviour. So there are two (2) possibilities. [32] (*Italics ours*)

A perusal of appellant's testimony further negates his plea of insanity. His recall of the events that transpired before, during and after the stabbing incident, as well as the nature and contents of his testimony, does not betray an aberrant mind. His memory conveniently blanks out only as to the number of wounds he inflicted on the victim. This, appellant attributes to insanity but we are far from convinced. A man may act crazy but it does not necessarily and conclusively prove that he is legally so.[33]

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FISCAL PERALTA:

Afterwards, when you got hold of the knife, you repeatedly stabbed him?

WITNESS:

Yes, sir, because after I got hold of the knife, I was able to wrest it from him. And with the use of my right hand, I repeatedly stabbed him. At the time his left arm was embracing me and I repeatedly stabbed him with my right hand from the left swinging it to the right in front, hitting him on the front of his body, sir.

FISCAL PERALTA:

How many times did you stab him on the front portion?

WITNESS:

I don't know, sir, because I was out of myself.

FISCAL PERALTA:

After repeatedly stabbing the front portion of his body, you said that you also stabbed him at the back?

WITNESS:

When he was already embracing me, sir, my right hand was freed and that was the time when I stabbed him at the back.

FISCAL PERALTA:

And how did you stab him at the back?

WITNESS:

Like this, sir. He was embracing me, my right hand was freed.

INTERPRETER:

Witness demonstrated by stretching his right hand, swinging it from the right side to the front towards his body.

FISCAL PERALTA:

And how many times also did you stab the back portion of the body of the victim?

WITNESS:

I could not recall also, sir.

FISCAL PERALTA:

And when you stopped stabbing the victim when you said four (4) men boarded a jeep and shouted "itigil na, itigil na"?

WITNESS:

It was during the time when both of us fell down. I was on top of him and I stabbed him on his chest, sir. That was when four (4) persons arrived and shouted "itigil na, itigil na," and I stopped, sir.[34]

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ATTY. DELOS SANTOS:

And what did you do when you were not hit?

WITNESS:

By the time I evaded his thrust I was able to get hold of his palm, ma'am.

ATTY. DELOS SANTOS:

And when you were able to get hold of his palm, what happened?

WITNESS:

Because I was so made of what he did, when I was able to grab and get hold of the knife, I hit him, ma'am.

INTERPRETER:

Witness demonstrating by raising his right hand upward on the level of his breast, swinging his right hand towards the right.[35]

xxx xxx xxx

In *People v. Renegado*,[36] we held thus:

By his testimony appellant wants to convey that for one brief moment he was unaware or unconscious of what he was doing, that he 'regained his senses' when he heard the voice of Mrs. Tan telling him: 'Loreto, don't do that,' and only then did he realize that he had wounded Lira. That, to Us, is incredible. For it is most unusual for appellant's mind which was in a perfect normal state on Monday morning, August 29, to suddenly turn blank at

that particular moment when he stabbed Lira. Appellant himself testified that he was acting very sanely that Monday morning, as shown by the fact that he went to the canteen in a jovial mood 'singing, whistling, and tossing a coin in his hand'; he saw the persons inside the canteen namely, Venecia Icyan, Lolita Francisco, Benita Tan, Felipe Tingzon and a guest of the latter (all of whom, except the last one, testified for the prosecution); he noticed the arrival of Lira who banged his folders on the table, elbowed him, and said in a loud voice: 'ano ka', he saw Lira put his right hand inside his pocket and with the other hand push a chair towards him; he became 'confused' because he remembered that Lira threatened to kill him if he would see him again; at this point he 'lost his senses' and regained it when he heard the voice of Mrs. Tan saying: 'Loreto, don't do that', and he then found out that he had wounded Lira. If appellant was able to recall all those incidents, We cannot understand why his memory stood still at that very crucial moment when he stabbed Lira to return at the snap of a finger as it were, after he accomplished the act of stabbing his victim... (Italics our.)

and in the later case of *People v. Aquino*,^[37] we ruled:

The clinical case report also shows that appellant, when interviewed upon his admission to the mental institution, recalled having taken 120 cubic centimeters of cough syrup and consumed about 3 sticks of marijuana before the commission of the crime. This admission substantially affirms his prior extrajudicial confession that he was under the influence of marijuana when he sexually abused the victim and, on the occasion thereof, killed her. It is, therefore, beyond cavil that assuming appellant had some form of mental illness, it did not totally deprive him of intelligence. The presence of his reasoning faculties, which enabled him to exercise sound judgment and satisfactorily articulate the aforesaid matters, sufficiently discounts any intimation of insanity of appellant when he committed the dastardly felonies. The annals of crime are replete with documented records, and we are not without our share in this jurisdiction, where mental illness has been feigned and invoked to provide a defense for the accused in a criminal prosecution. (Italics ours.)

In the present case, the defense has failed to adduce sufficient evidence to overthrow the presumption of sanity. The State, thus, continues, its guard against sane murderers who seek to escape punishment through a general plea of insanity.^[38]

WHEREFORE, the appeal is DISMISSED and the assailed decision is AFFIRMED in toto, with costs against appellant.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Hermosisima, Jr., JJ., concur.

[1] Original Records, p. 1.

[2] Rollo, p. 12.

[3] Id., p. 29.

[4] Rollo, pp. 92-99.

[5] TSN, October 23, 1991, pp. 26-31; TSN, November 12, 1991, pp. 7-10.

[6] TSN, October 23, 1991, pp. 32-36, 38-40; TSN, November 12, 1991, p. 4.

[7] Rollo, p. 64.

[8] Brief for the Accused-Appellant, pp. 18-19.

[9] *People v. Estrellanes, Jr. and Manolo*, G.R. No. 111003, December 15, 1994; *People v. Nemeria*, G.R. No. 96288, March 20, 1995; *People v. Deunida*, 231 SCRA 520 (1994); *People v. Alapide*, 236 SCRA 555 (1994); *People v. Genial*, 228 SCRA 283 (1993).

[10] *People v. Bragaes*, 203 SCRA 555 (1991).

[11] TSN, September 4, 1991, pp. 50-51; 64-66.

[12] *People v. Jotoy*, 222 SCRA 801 (1993).

[13] *Supra*, see Note 9.

[14] Brief for Accused-Appellant, p. 8.

[15] *People v. Rivero*, G.R. No. 112721, March 15, 1995.

[16] *Supra*, see note 12.

[17] *People v. Morato*, 224 SCRA 361 (1993).

[18] TSN, November 12, 1991, pp. 12-13, 17.

[19] Rollo, p. 26.

[20] *People v. Maceda*, 197 SCRA 499 (1991).

[21] Rollo, p. 26.

[22] *Supra*, see note 12.

[23] 235 SCRA 444 (1994).

[24] TSN, September 4, 1991, p. 21.

[25] *People v. Rivero*, *supra*.

[26] Rollo, p. 26.

[27] Art. 14(16) Revised Penal Code; *People v. Rivero*, *supra*.

[28] *People v. Catanyag*, 226 SCRA 293 (1993).

[29] *People v. Ambal*, 100 SCRA 325 (1980).

[30] TSN, December 9, 1991, pp. 4-6; 8.

[31] *People v. Catanyag*, *supra*.

[32] TSN, December 9, 1991, pp. 8, 10-12.

[33] *People v. Ambal*, 100 SCRA 325 [1980].

[34] TSN, November 12, 1991, pp. 13-15.

[35] TSN, October 23, 1991, pp. 35-36.

[36] 57 SCRA 275 [1974].

[37] 186 SCRA 851 [1990].

[38] *People v. Dungo*, 199 SCRA 860 (1991).

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