

EMILIANO LAGUNSA, PETITIONER, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 104939. February 02, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is an appeal by certiorari from the decision of the Court of Appeals under Rule 45 of the Revised Rules of Court, affirming the decision of the Regional Trial Court, Branch X, Palo, Leyte in Criminal Case No. BN-2353, which found petitioner guilty beyond reasonable doubt of the crime of frustrated Homicide.

We affirm the decision of the Court of Appeals and dismiss the petition.

I

The information charging petitioner and one Julius Cordero of frustrated Murder reads as follows:

"That on or about the 8th day of December, 1985, in the Municipality of Burauen, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring and confederating with one another, with deliberate intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, box, stab and wound one Fidel Wasawas, Jr., with bladed weapons locally known as 'pisao' which said accused have purposely provided themselves, thereby causing and inflicting upon the said Fidel Wasawas, Jr. several wounds on his body which would have caused his death and which required medical attendance for an indefinite period of time and incapacitated him from performing his customary labor for the same period; thus, performing all the acts of execution which would have produced the crime of murder as a consequence but which, nevertheless, did not produced (sic) it by reason of a cause independent of the will of the accused, that is, by the timely and able medical assistance rendered to him which prevented his death" (Rollo, pp. 19-20).

Accused Julius Cordero, however, jumped bail, leaving petitioner alone for arraignment and trial.

II

On December 8, 1985, Fidel Wasawas, Jr. and Edilberto Baqueros, went to Burauen, Leyte on their respective motorcycles, to attend the town fiesta. At about 7:00 P.M., the two were preparing to return home to Dulag, Leyte, when they saw Julius Cordero, the brother-in-law of Baqueros, in the company of petitioner. Baqueros introduced Cordero and petitioner to Wasawas. Since Baqueros had his wife as a backrider on his motorcycle, he asked if Wasawas could accommodate Cordero and petitioner to hitch a ride on his motorcycle.

Acceding to the request, Wasawas proceeded on his way with the two accused on board.

Being tipsy, Wasawas drove the motorcycle in a zigzagging manner. He refused to heed the pleas of his passengers to drive slowly and carefully.

Before reaching the boundary of Dulag, the motorcycle crashed and its three passengers were thrown to the

ground.

The two accused got angry, because Wasawas placed their lives in jeopardy by his reckless driving. Once on their feet, petitioner and Cordero began stabbing him with their small bolos. He sustained five stab wounds, three incised wounds and one lacerated wound (Exhibit "A"). Thereafter the two accused fled, leaving him for dead.

The passengers of a passing jeepney found Wasawas prostrate on the road. They brought him to the hospital where timely medical intervention saved his life.

As defense, herein petitioner claimed that it was not him, but his co-accused Julius Cordero who stabbed Wasawas and inflicted all the wounds on the latter's body.

The trial court upheld the prosecution's evidence but found no qualifying circumstance of treachery nor of evident premeditation. In its decision, the trial court convicted petitioner of the lesser offense of frustrated Homicide, disposing as follows:

"WHEREFORE, premises considered, the guilt of accused ENISLING LACUNAS has been established beyond reasonable doubt, not however of the crime of Frustrated Murder but only of the offense of Frustrated Homicide and as there is one aggravating circumstance of superior strength and no mitigating circumstance to even the same, he is hereby sentenced to suffer an indeterminate penalty of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) day of prision correccional as minimum to TEN (10) YEARS and ONE (1) DAY of prision mayor as maximum. One half of the costs against him.

The case against accused Julius Cordero should be sent to the files without prejudice to his trial as soon as he is re-arrested" (Rollo, pp. 23-24).

The Court of Appeals sustained the findings of the trial court and dismissed the appeal for lack of merit. Hence, the instant petition.

III

Petitioner argues that the prosecution's evidence based primarily on the testimony of the victim, is not sufficient to convict him. According to him, the victim gave a false testimony at one point in his narration of facts and this raises the presumption that the rest of his testimony is false, under the maxim *falsus in uno, falsus in omnibus* (false in one part, false in everything).

When Wasawas testified in court, he claimed that he was first stabbed while he was still driving the motorcycle. He said that he even touched the stab wound at his back and felt blood oozing from it. The motorcycle crashed after he was stabbed the first time. The trial court did not accept this version. Wasawas could not have been stabbed when he was still driving the motorcycle for precisely the two accused had expressed concern about his reckless driving. It would be contrary to human behavior for the passengers to endanger their lives by stabbing their driver while travelling at a great speed.

It is perfectly within the discretion of the trial court to accept portions of the testimony of a witness as it may deem credible and reject those which it believes to be false. The maxim *falsus in uno, falsus in omnibus* is not a positive rule of law and is in fact rarely applied in modern jurisprudence (*People v. Pacis*, 130 SCRA 540 [1984]; *People v. Surban*, 123 SCRA 218 [1983]). Before this maxim can be applied, the witness must be shown to have willfully falsified the truth on one or more material points. Even then, where he is found to have done so, this does not make his entire testimony totally incredible. The court may still admit and credit those portions worthy of belief depending upon the corroborative evidence and the probabilities and improbabilities of the case (*People v. Molina*, 213 SCRA 52 [1992]; *People v. Arbolante*, 203 SCRA 85 [1991]; *People v. Osias*, 199 SCRA 574

[1991]).

In the instant case, there is no proof that Wasawas deliberately falsified his account of the first stab wound, much less any evidence showing that he was impelled by improper motive.

Assuming that Wasawas willfully and deliberately gave false testimony, the rest of his narration, including the fact that petitioner actually stabbed him, are not bare allegations. His testimony is actually corroborated by Edilberto Baqueros, an eyewitness to the stabbing incident. Baqueros was Wasawas' travelling companion when he went to Burauen the morning of the incident. On their way home, Baqueros followed Wasawas' motorcycle just 10 to 15 meters behind and saw what transpired after the motorcycle crashed.

The primordial consideration in this case is not the question of when Wasawas was first stabbed, but who inflicted the eight wounds on him. The nagging fact remains that petitioner was positively identified and actually seen to have stabbed the victim who, as a result of the wounds inflicted on him, could have died were it not for timely medical intervention.

To bolster his claim that it was fugitive Julius Cordero who stabbed Wasawas, petitioner belied the testimony of Baqueros that his (Baquero's) brother-in-law, Julius Cordero, merely boxed the victim and that it was petitioner who did the stabbing with his small bolo. He questioned Baquero's qualification to testify due to bias and interest. Relationship of the prosecution witness to one of the accused does not ipso facto disqualify him as biased (*People v. Tinampay*, 207 SCRA 425 [1992]; *People v. Galandez*, 210 SCRA 360 [1992]). Baquero's testimony is admissible in evidence although his relationship with one of the accused could be considered in weighing said testimony. The flight of Julius Cordero indicated his guilt and assuming that Cordero also inflicted stab wounds on Wasawas, this does not, by itself, absolve petitioner of his guilt and responsibilities for the crime.

WHEREFORE, the Court resolved to DISMISS the petition for lack of merit.

SO ORDERED.

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

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