

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO PATAWARAN, ACCUSED-APPELLANT.

G.R. No. 108616. June 19, 1997

Ponente: TORRES, JR., J.

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TORRES, JR., J.:

The accused Rodolfo Patawaran appeals from the October 5, 1992 Decision[1] of the Regional Trial Court of Capas, Tarlac, Branch 66, Third Judicial Region, finding him guilty of the crime of Murder, and sentencing him to suffer the penalty of reclusion perpetua, and also ordering him to indemnify the family of the deceased compensatory damages and attorney's fees.

The dispositive portion of the trial court's decision reads:

"PREMISES CONSIDERED, judgment is hereby rendered finding the accused Rodolfo Patawaran guilty beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua; ordering him to indemnify the heirs of the deceased, Martin Panlican the sum of P50,000.00; and to pay P724,500.00 as compensatory damages for the loss of earning capacity of the deceased, P30,000.00 as attorney's fees, and to pay the proportionate costs.

The accused shall be given full credit for the period of his preventive imprisonment after compliance with Article 29 of the Revised Penal Code.

SO ORDERED."

The accused, a former member of the Civilian Home Defence Force (CHDF) of Tarlac, is being held to answer for the January 3, 1986 killing of the deceased Martin Panlican, a farmer and overseer of sugarcane and rice crops. The charges are contained in the information filed with the trial court on September 9, 1996, as follows:

"The undersigned Provincial Fiscal, upon a preliminary investigation conducted in accordance with P.D. No. 911 as amended by Batas Pambansa Bilang 129 and further amended by the New Rules on Criminal Procedure by the 2nd Municipal Circuit Trial Court of Bamban-Capas-Concepcion, Tarlac, accuses Rodolfo Patawaran of Barangay Pacalcal, Bamban, Tarlac, together with one John Doe whose identity and whereabouts is still unknown, of the crime of Murder, committed as follows:

That on or about January 3, 1986, in the Municipality of Bamban, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and helping with one another, did then and there with intent to kill, with treachery and evident premeditation and with deliberate intent to take the life of Martin Panlican, did then and there willfully, unlawfully, feloniously, suddenly and unexpectedly fired at the latter with an armalite rifle inflicting upon him mortal wounds which caused his instantaneous death.

Contrary to law."[2]

After the accused pleaded not guilty upon arraignment, trial on the merits ensued with the presentation of the

prosecution's witnesses; Jose Ortiz, Engracio Dingle, Alberto Arellano, Dr. Roberto SJ Cecilio, Technical Sergeant Romeo Ibalio, Alegria Rosal Panlican and SPO3 Arsenio Presto.

For the defense, the following were called to testify; the accused himself, his father Conrado Patawaran, Sgt. Daniel Romero of the Philippine Constabulary, and Arsenio Sibal.

Presented as rebuttal and sur-rebuttal witnesses were Provincial Warden Capt. Eduardo Timbol and Marcelino Patawaran, respectively.

Jose Ortiz, who cut sugarcane for the accused, testified that he went looking for the deceased Martin Panlican on January 3, 1996, having been hired to cut sugarcane for him. When he could not find him, Ortiz went home, taking the road linking the main highway with Barangay Pacalcal, Bamban, Tarlac. While on his way home that evening he was beckoned by nature, and while answering its call by the "talahib" beside the road, he heard the motorcycle being driven by Martin Panlican drive by. Thus, he finished his occupation and went after Panlican, calling his name. The latter, however, did not hear him. Thereafter, he saw the deceased stop his motorcycle near the railroad tracks and argue with the accused Rodolfo Patawaran who was carrying an armalite rifle. When the latter told Panlican to alight, he refused and began to restart his motorcycle. It was then that the witness saw the accused hit Panlican on the right shoulder with the armalite rifle. Thereafter, the accused shot the deceased and Panlican dropped to the ground, dead. Another man emerged from the "talahib" growing beside the road, and shot at the deceased, also with an armalite rifle, to make sure that he was dead. Upon witnessing this, Jose Ortiz hid in a culvert and stayed there for an hour before resuming his trek to Pacalcal.[3]

To corroborate Ortiz's testimony, Engracio Dingle was presented, and testified that he encountered the accused carrying an armalite rifle also near the railroad tracks along the road connecting Pacalcal and the main highway, at about the same time Jose Ortiz saw the accused kill Martin Panlican.[4] Alberto Arellano, the head of the CHDF of the area, testified that the accused reported to the CHDF post at around 10:00 in the evening with his pants wet and with muddy shoes.[5]

For his defense, accused Rodolfo Patawaran claims that he spent the whole day of January 3, 1986 with his father Conrado Patawaran who was detained at Camp Makabulos in Tarlac under charges of Murder. Upon his father's request, he went to see his lawyer to have his father taken home, as the old man was feeling ill. He also went to see Governor Federico Peralta at around 10:00 in the morning also to arrange for his father's temporary release. Thereafter, he returned to his father's side, and allegedly stayed there until around 8:30 in the evening when he went home.[6]

After trial, the trial court rendered its judgment on October 5, 1992, finding the accused guilty of Murder qualified by treachery and with evident premeditation. The trial court found the prosecution's case to be formidable as against the accused's defense of alibi, which was wrought with several gross inconsistencies in the testimonies of the accused and his father, thereby discrediting them.

"The alibi of accused that he was at his father's cell at Camp Makabulos, Tarlac, Tarlac the whole day from 9:00 in the morning to 8:30 o'clock in the evening is unconvincing, not only is the alibi not credible, also there are inconsistencies on the testimony of the accused as against the testimony of his father who testified of the accused's whereabouts on the date and time of the commission of the crime. Accused, on his direct testimony testified that he went to see the late former Tarlac Governor Federico Peralta on January 3, 1986 at 10:00 o'clock in the morning, while on cross examination, he stated that it was on January 4, 1986 that he went to see the late governor. Accused likewise testified he saw former Bamban Mayor Pedro Mendiola on the way home on January 3, 1986 at about 8:30 in the evening while his father testified that on January 3, 1986, his son, the accused Rodolfo Patawaran with former Bamban Mayor Pedro Mendiola visited him and the two went to see former Tarlac Governor Federico Peralta." [7]

The accused now assails the decision of the Trial Court assigning the following as errors of the court below:

THE LOWER COURT ERRED

I

IN BASING ITS DECISION OF CONVICTION SOLELY OF (SIC) THE DIRECT TESTIMONIES OF THE PROSECUTION WITNESSES WITHOUT TAKING INTO CONSIDERATION THE CROSS EXAMINATIONS MADE BY THE DEFENSE CASTING DOUBTS AS TO THE CREDIBILITY OF ITS WITNESSES ESPECIALLY THE ALLEGED EYEWITNESS:

II

IN NOT BELIEVING THE TESTIMONY OF ACCUSED-APPELLANT AS CORROBORATED BY HIS WITNESSES:

III

IN TAKING INTO CONSIDERATION THE ESCAPE OF ACCUSED-APPELLANT AS AN INDICATION OF GUILT.[8]

The Court agrees with the trial court that there is sufficient basis for the ruling that the accused was responsible for the death of the deceased Martin Panlican. The time-tested rule is that findings and conclusions of the trial court on the credibility of witnesses enjoy a badge of respect for the reason that the trial courts have the advantage of observing the demeanor and manner of the witnesses as they testify.[9]

The eyewitness account of Jose Ortiz telling how the accused killed Panlican was made in a straightforward manner and without any serious inconsistencies that could discredit the witness. In this regard, it has been held that an accused can be convicted on the strength of the testimony of a single eyewitness, if such testimony is credible and positive and produces a conviction beyond reasonable doubt,[10] more so when there is no indication of a sinister scheme to prevaricate.[11]

Although the defense points to certain inconsistencies in Jose Ortiz's testimony, these are only in minor areas and do not affect the integral parts thereof, i.e., in the relation of the crime itself and in the identification of the accused as the assailant. Inconsistencies on minor details do not impair the credibility of witnesses where there is consistency in relating the principal occurrence and positive identification of the assailant.[12]

The testimonies of Engracio Dingle and Alberto Arellano lend support to the veracity of the testimony of Jose Ortiz inasmuch as they place the accused proximately within the place and time when the deceased was killed. When the testimony of a lone witness to a killing is corroborated in its material points by the testimonies of other witnesses, the same becomes a formidable wall of evidence, sufficient to convict the accused, if not convincingly breached. As long as the testimonies of the witnesses corroborate each other on their material points, the minor inconsistencies therein cannot destroy their credibility.[13] Indeed slight variations in the testimonies as to minor and inconsequential details or collateral matters do not affect their credibility, as said variations, in fact are indicative of truth and slight contradictions even serve to strengthen the sincerity of a witness' testimony that it was not rehearsed.[14]

Against this formidable wall, the accused's defense of alibi, already weak in itself, becomes more flimsy and even less credible in the light of gross inconsistencies in the evidence alleged to establish the same. Moreover, the defense of alibi cannot stand against the positive identification by the prosecution witness of the accused as the

author of the crime,[15] as we have earlier established.

The essential requisites in order that the defense of alibi may be appreciated are: (a) to prove his presence at another place at the time of the perpetration of the offense and (b) to demonstrate that it would thus be physically impossible for him to be at the scene of the crime.[16] The rule is likewise settled that for the defense of alibi to prosper, the requirement of time and place must be strictly met.[17]

In this instance, there is much left to the imagination in establishing the certainty of the absence of the accused from the scene of the crime at the time it was committed.

As observed by the trial court:

"As to the testimony of the accused himself and his father, the testimonies are so grossly inconsistent and cannot be given credit by the Court. For one, the father alleged that the accused arrived with the ex-Bamban Mayor Pedro Mendiola at about 8:00 to 9:00 o'clock in the morning on January 3, 1986 to visit him in his detention cell. Whereas accused's testimony tends to show that when he left his father's cell between 8:00 to 8:30 P.M., ex-Mayor Mendiola passed by as he was waiting for a ride to go home."

Even the accused's own testimony, taken alone, reveals important discrepancies as to the accused's whereabouts and companions on January 3, 1986. On September 20, 1990, the accused clearly testified on direct examination that from Camp Makabulos, he went to see Tarlac Governor Peralta on January 3, 1996.

"ATTY. DE JESUS

Q Besides that, what else did you do on that date of January 3, 1986?

A After my lawyer had given me assistance sir, I went to Governor Peralta.

Q And that was on January 3, 1986, is that correct?

A Yes, sir.

Q What time, Mr. Witness, did you see the Governor of Tarlac on January 3, 1986?

A If I am not mistaken that was between 10:00 o'clock to 10:30 o'clock, sir, in the morning.

Q And were you able to talk to that particular Governor?

A Yes sir.

xxx"

However, on cross-examination on October 18, 1990, the accused corrected himself and told the court that it was on the following day, January 4, 1986, that he went to see Governor Peralta.

"ATTY. CAINGAT:

Q Now, during all that time that you were at Camp Makabulos, was it not possible for you to have left Camp Makabulos in a private motor vehicle?

A No, sir.

Q In other words, what you want this Court to understand is that from the time that you saw Governor Peralta up to the time that you left Camp Makabulos at around 8:20 to 8:30 o'clock in the evening, you never left Camp Makabulos?

A The following day was the time I went to see Governor Peralta, sir.

Q So, it was on January 4, 1986 that you saw Governor Peralta not on January 3?

A It was on January 4, 1986 that I went to see Governor Peralta, sir.

Q So, on January 3, 1986, you did not see Governor Peralta?

A No, sir?

Q So, we are now safe to assume that from your testimony that from the time that you arrived at Camp Makabulos at around 9:00 o'clock if I were to assume that you have stated on direct examination to be precise and correct, from 9:00 o'clock in the morning up to 8:20 to 8:30 in the evening continuously?

A I left Camp Makabulos when I went to see my lawyers, sir.

Q That was the only time that you left Camp Makabulos?

A Yes, sir.

xxx."

Further in the trial proceedings, on March 21, 1991, the accused once more modified his story, testifying also on cross-examination that he went to see Governor Peralta on January 3, 1986.

"ATTY. CAINGAT

Q Now, on direct examination, you mentioned that you reached Camp Makabulos at around 8:30 o'clock in the morning, is that right?

A I reached Camp Makabulos between 8:00 to 8:30 in the morning sir?

Q At what time did you leave Brgy. Pacalcal?

A Past 7:00 in the morning, sir.

Q And were you there in Camp Makabulos continuously up to the time when you left the Camp between 8:30 in the afternoon or in the evening except for one occasion where you have to see Atty. Norberto de Jesus in the morning?

A Yes, sir, and I also went to see Governor Peralta, sir.

Q On that day also of January 3, 1986?

A Yes, sir.

Q Are you pretty certain about that last answer of yours, even if I were to confront you with a previous testimony you made that you went to see Governor Peralta on the 4th day of January, 1986?

A I went to see Governor Peralta again on January 4, 1986, sir.

Q In other words, on that day of 3 January 1986 you want us now to understand that you visited your father and you were free to go in and out of the Camp on that day?

A Yes sir.

COURT:

Q You did not sign any logbook to show that you were a visitor on that day of January 3, 1986?

A No, ma'am, because I was already known by the guards, ma'am?

xxx."

In another instance, Conrado Patawaran, the accused's father, while being cross-examined on April 19, 1991 on the signatures appearing in his medical certificate, testified that on January 3, 1996, the accused visited him in Camp Makabulos together with Pedro Mendiola, the former Mayor of Bamban, Tarlac, whereas the accused testified earlier, on September 20, 1990, that he met the ex-Mayor only that evening on his way home from Camp Makabulos after visiting his father.

Conrado Patawaran's testimony goes:

ATTY. CAINGAT:

"Q Now, the other signature appearing therein above the typewritten name Pedro Mendiola you likewise identified to be that of the said Mendiola, how did you come to know that this is signature?

A He was also told by my son that is the signature appearing therein above the typewritten name Pedro Mendiola, how did you come to know that this is his signature?

Q So, your knowledge of this signature being that of Mendiola is again based upon the information supplied to you by your son only?

A Yes, sir.

Q In other words, Pedro Mendiola was not in Camp Makabulos at that time that this certificate was signed by him? Is that right?

A He was not there, sir.

COURT:

Q I heard you say earlier that this Pedro Mendiola was with your son, is that right?

A I was with my son, your Honor.

ATTY. CAINGAT:

Q In other words, you want us to understand now that this Mendiola arrived at Camp Makabulos with your son, Rodolfo?

A He was with my son, sir.

COURT:

Q Are you sure that this Pedro Mendiola was with your son and your son visited you in Camp Makabulos?

A Yes, your honor.

Q I don't remember your son testified and mentioning that he was accompanied by anybody when he visited you, what can you say about that?

A Pedro Mendiola was with my son when he visited me in Camp Makabulos because two (2) of them asked the Governor to sign that, your honor.

xxx."[18]

Contrastingly, Rodolfo Patawaran testified as follows:

ATTY. DE JESUS:

Q What time did you bid goodbye to your father on January 3, 1986?

A If I am not mistaken, sir, that was between 8:00 to 8:30 o'clock in the evening, sir.

Q And where did you go after bidding good-bye to your father?

A I rode in a tricycle and I alighted at the junction near T.C.T., sir.

Q After alighting at the junction at T.C.T., what did you do there, Mr. Witness?

A I was waiting for a Dagupan Bus, then Ex-Mayor Mendiola passed by. I greeted him "good evening" and asked him if I could go with him in going home to Bamban, sir.

Q And what is the answer of Ex-Mayor Mendiola?

A Ex-Mayor Mendiola answered that he was already on his way home and so I asked the favor of going with him in going home to Bamban, sir.

xxx."[19]

Such chinks in the armor of the accused's defense lead the Court to discredit the accused's defense of alibi as a

mere concoction, with the participation of his father. For the defense of alibi to be given credence, the same must be established convincingly as to the time and place, such that no doubt is left as to the absence of the accused from the scene when the crime was committed.

Alibi is consistently considered the weakest defense an accused can contrive. It becomes less plausible as a defense when it is mainly established by the accused himself and his immediate relatives.[20] Other than the accused's own testimony and those of his father, no other evidence is offered to substantiate the accused's alibi. The accused's cause is therefore doomed.

The Court is in agreement with the trial court's finding that treachery attended the killing of Martin Panlican. This is discernible from the testimony of Jose Ortiz, as corroborated by the findings of Dr. Roberto SJ Cecilio who conducted the autopsy of the deceased.

It appears that when Martin Panlican restarted his motorcycle to get away from his argument with Rodolfo Patawaran, the latter shot at Panlican who fell down on the road. The assailant's companion then emerged from the bush beside the road, and likewise riddled the fallen Panlican with armalite fire. Dr. Cecilio's autopsy report confirmed that Martin Panlican sustained thirteen (13) gunshot wounds, caused by frontal shots fired at close range. As found by the trial court, "the nature and number of the wounds as described in the autopsy report indicate that the wounds were caused by automatic high powered guns and the assailants were at the right side of the victim. The autopsy report does not show that there are tattooing powdered burns found on the skin of the victim which indicate the assailants were at a distance of not less than 24 inches from the nozzle of the gun."

The number of gunshot wounds and the circumstances by which they were sustained by Martin Panlican point to treacherous attack made by the accused and his companion upon the deceased. Significantly, there is treachery or alevosia when the offender commits any of the crimes against the person employing means, methods, or forms in the execution thereof which tend directly and specially to insure the execution thereof, without risk to himself arising from the defense which the offended party might make.[21]

We disagree, however, with the finding that the crime was committed with evident premeditation on the part of the assailant.

The elements to be proven before evident premeditation can be appreciated are: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the offender had clung to his determination; and (3) a sufficient lapse of time between the determination to commit the crime and the execution thereof, to allow the offender to reflect upon the consequences of his act.[22] Evident premeditation, as with alevosia, must be established with as much certainty and clarity as the criminal act itself.[23] It cannot be appreciated to qualify a killing to murder in the absence of direct evidence of the planning and preparation to kill when the plan was conceived, nor can it be deduced from a mere presumption or sheer speculation.[24]

The trial court based its findings of evident premeditation on the testimony of the deceased's widow, pertaining to her conversation with the deceased on January 2, 1996, a day before the latter was killed. Alegria Panlican apparently was told by her husband that while meeting with the Chief of Police, Pablo Santos, and Rodolfo Patawaran on January 1, 1986, he was threatened with death and was cursed by the latter.[25] This is plain hearsay, as Alegria Panlican had no direct knowledge of the fact that the accused threatened to kill Martin Panlican, or that the accused had indeed made up his mind to kill the deceased. Moreover, there is no showing of an act of the accused manifestly indicating that he had clung to his determination to kill Martin Panlican. There is thus, no sufficient basis for the finding of evident premeditation.

IN VIEW WHEREOF, the judgment of the trial court is hereby MODIFIED, in that we find the accused Rodolfo

Patawaran guilty of the crime of Murder, qualified by treachery, and with no aggravating circumstance attending. The accused is thereby sentenced to suffer the penalty of reclusion perpetua. All indemnities, damages, and costs in the judgment below are hereby AFFIRMED.S.O ORDERED.

Regalado, (Chairman), Romero, Puno, and Mendoza, JJ., concur.

[1] P. 29, Rollo.

[2] P. 2, Record.

[3] T.S.N., December 8, 1986.

[4] T.S.N., January 13, 1987.

[5] T.S.N., February 23, 1987.

[6] T.S.N., September 20, 1990.

[7] P. 41-42, Rollo.

[8] Brief for the Accused-Appellant, p. 59, Rollo.

[9] People vs. Gamioa, G.R. No. 91492, January 19, 1995, 240 SCRA 254.

[10] People vs. Reyes, G.R. No. 105204, March 9, 1995, 242 SCRA 264; People vs. Alvarado, G.R. No. 104399, March 20, 1995, 242 SCRA 464.

[11] People vs. Nitcha, G.R. No. 113517, January 19, 1995, 240 SCRA 283; People vs. Lorenzo, G.R. No. 110107, January 26, 1995, 240 SCRA 624.

[12] People vs. Panganiban, G.R. No. 97969, February 6, 1995, 241 SCRA 91.

[13] People vs. Morico, G.R. No. 92660, July 14, 1995, 246 SCRA 214.

[14] Cortez vs. Court of Appeals, 245 SCRA 198.

[15] People vs. Daquipil, G.R. Nos. 86305-06, January 20, 1995, 240 SCRA 314; People vs. Umali, G.R. No. 76530, March 1, 1993, 242 SCRA 17.

[16] People vs. Dayson, G.R. No. 106234, March 2, 1995, 242 SCRA 124.

[17] People vs. Maqueda, G.R. No. 112983, March 22, 1995, 242 SCRA 565; People vs. Rosario, G.R. No. 108789, July 18, 1995, 246 SCRA 658.

[18] T.S.N., April 19, 1991.

[19] T.S.N., September 20, 1990.

[20] People vs. Quinevista, Jr., G.R. No. 110808, May 31, 1995, 244 SCRA 586.

[21] People vs. Soldao, G.R. No. 80223, March 31, 1995, 243 SCRA 119.

[22] People vs. De La Cruz, G.R. No. 111568, March 2, 1995, 242 SCRA 129.

[23] People vs. Barros, G.R. Nos. 101107-08, June 27, 1995, 245 SCRA 312.

[24] People vs. Ganzagan, Jr., G.R. No. 113793, August 11, 1995, 247 SCRA 220.

[25] T.S.N., August 31, 1987.

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