

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AGAPITO @ “FELITOY” BRIOL, ET. AL.,
ACCUSED-APPELLANT.**

G.R. No. 111688. October 25, 1995

Ponente: FRANCISCO, R., J.

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FRANCISCO, R., J.:

The lead characters in this gruesome crime of murder were the victim, Noel Silvestre; the accused Agapito Briol and Julian Briol, who are brothers; their nephew Jurito Espinas; and a tricycle driver Roger Daguhoy.

An ice cream vendor, Anabelle Villarosa, industriously augments her income by selling her goods until late in the evening at the side of the Fernando's Supermarket in Las Piñas, Metro Manila. She tends to her chores regularly. Her monotonous plight was unexpectedly broken in the evening of May 22, 1988 between 8:00 o'clock to 8:30 when she witnessed an incident that etched a mark in her memory. From her location, a place illuminated by the street light and partially by the light from the supermarket, she saw Agapito "Felitoy" Briol swiftly approach the victim, Noel Silvestre, from behind, pull the latter's gun from his waist and slash the victim's throat with a "beta" knife. To assure the victim's death, co-accused Julian Briol further stabbed the fallen victim's body somewhere below the chest area. Villarosa identified three other men present during the incident and in the company of the Briol brothers, namely, Roger "Kulot" Daguhoy, Elmer Anastacio, and Jurito "Atang" Espinas who mercilessly kicked the sprawled victim. She was certain of the identities of the accused because they were all her neighbors.

The stabbing incident was triggered by a heated argument between the victim and Espinas, one of the co-accused. As it turns out, Joy Silvestre, wife of the victim, brought Espinas' sister to a nightclub in Ermita the night before the incident. Angered by what had happened, Espinas confronted the victim's wife and reprimanded her for taking his sister along. Joy felt slighted and insulted with the remarks of Espinas and narrated what transpired to her husband. The victim immediately went to the barber shop where Espinas was working. When Espinas stepped out to see the victim, the latter greeted him with a fistblow. This led to an exchange of blows which was interrupted by the intervention of the mother of accused Espinas. Espinas returned to the barber shop while the victim went upstairs where he was residing. About five (5) minutes later, the victim stepped out of his residence and returned at about 8:00 p.m. to meet, unfortunately, his rendezvous with death.

The autopsy report conducted by Dr. Noel Minay revealed that the victim suffered two abrasions: one, at the iliac crest area or at the part above the abdominal region and, the other, at the left forearm. In addition, there was a lethal wound 18 cm. long, gaping and obliquely positioned hitting a part of the neck, thyroid, larynx and jugular blood vessels that ultimately caused his death.

Prosecuted for murder, Agapito "Felitoy" Briol was found guilty and sentenced to reclusion perpetua. He was likewise ordered "to indemnify the heirs of the deceased the amount of P50,000.00 for his death, the amount of P942.60 for hospitalization expenses and the amount of P23,900.00 for funeral expenses for the total amount of P74,932.60".[1] Accused Julian Briol, however, was acquitted.

Jurito Espinas hanged himself. Roger Daguhoy remains at large.

In this appeal, Agapito Briol, the lone appellant, offered a two-pronged defense: First, denial and alibi; and second, insufficiency of the evidence of the prosecution to establish his guilt beyond reasonable doubt.

Our first task is to ascertain the merit of appellant's main defense — that of denial and alibi. Emphatically, he asseverates that he could not have committed the offense because at the time of the incident he was at home suffering from ulcer.

On numerous occasions, the court has ruled that alibi is an inherently weak defense and will be rejected in the face of the positive identification of the accused pleading this excuse (People vs. Datahan, 157 SCRA 215, 219; People vs. Jimenez, 235 SCRA 322, 327). In this case, appellant was positively identified by the prosecution witness Anabelle Villarosa as one of the victim's assailants. Thus:

"Q

You stated earlier that your are an ice cream vendor, please tell the Honorable Court what time or (sic) day you usually start selling ice cream and what time you end selling ice cream?

"A

7:00 o'clock in the morning up to 9:00 o'clock in the evening.

x x x x x x x x

"Q

x x x where were you between the hours of 8:00 and 8:30 in the evening of May 22, 1988?

"A

Between 8:00 and 8:30 p.m. I was at the side of the Fernando Supermarket.

"Q

While you were there at that place and time, did you notice anything unusual that happened or took place?

"A

Yes, sir.

"Q

What did you witness, please tell the Court.

"A

I witnessed a man slashing the neck of another man. After slashing his neck he stabbed it (sic).

"Q

You said you saw a man whose neck was slashed and after his neck was slashed, he was stabbed by some men. Did you finally come to know who was this man whose neck was slashed?

"A

I do not know that man, sir.

"Q

How about the man who slashed his neck and stabbed him?

"A

Agapito Briol alias 'Felitoy' and Julian Briol.

x x x x x x x x

"Q

Did you see anybody else who made this act of aggression against the victim beside these two men?

"A

Yes, sir.

"Q

How many were they all in all?

"A

Five (5) sir.

"Q

Do you know these other companions of the assailants you mentioned?

"A

Yes, sir.

"Q

Tell this Honorable Court if you know their names.

"A

Roger 'Kulot' Daguhoy, Elmer Anastacio, Jurito 'Atam' Espinas.

"Q

Why do you know these men that attacked the victim?

"A

We reside in one street along Atis Street. We are neighbors.

x x x x x x x x

"Q

Tell now the Court what precisely did the accused Agapito Briol do on the night in question?

"A

The victim before he died was standing with his back turned as if doing something, but I am not sure whether he was buying cigarette or other thing. All of a sudden Agapito Briol approached the victim using with his left arm holding knife called 'BETA' used by the shoemaker and slashed the throat of the victim. His left (sic) hand was pulling the gun of the victim from his waist.

"Q

What about the other accused Julian Briol what did he do with the man or the victim in this particular case?

"A

He was the one who stabbed the victim.

"Q

Did you notice what part of the body of the victim or deceased was stabbed by accused Julian Briol?

"A

I did not look at but somewhere here. (Witness pointing just below her left chest).

"Q

What about the other person, and you mentioned a certain Jurito 'Atam' Espinas. What did he do?

"A

The three others kicked the victim while he was already lying down on the ground.

"Q

x x x. You stated that you saw all these things happened. Up to what point in time that you never (sic) come to know the victim?

"A

I already know, sir.

"Q

Tell the Honorable Court what is his name?

"A

Noel Silvestre, sir.

"Q

How did you come to know the name of the victim?

"A

Because I saw it in the show of Joseph Estrada on April 24, 1990. What I saw on T.V. is what I saw on May 22, 1988. The case appeared unsolved up to this time.

x x x x x x x x

"Q

For better enlightenment (sic) of the Court, what program of Joseph Estrada is this?

"A

It is a program about unsolved cases. Others are also solved cases.

"Q

x x x. How about the place where the incident happened, where you witnessed this incident you just narrated to the Court, is it well lighted in the area?

(Interrupted by objection).

"COURT:

"Q

How were you able to see this considering that this is night time?

"A

Because there was a light coming from the Meralco post, and also there was light coming from the side of Fernando's Supermarket.

"ATTY. TORRES:

"Q

When you saw this case on T.V. Hotline sa 13, what did you do?

"A

I saw Ka Ben Javier in the program. The following day I went to him and asked him what is the address of the victim.

"Q

You mentioned a certain Ka Ben Javier. Who is he that you saw on T.V.?

"A

I've learned from Hotline sa 13 he was the one who investigated the case.

"Q

You mentioned a certain Ka Ben Javier who is a member of the police that (sic) investigated the case involving the case you just narrated to the Court. Did you finally see him at the precinct or Municipal Building of Las Pinas?

"A

Yes, sir.

"Q

What happened?

"A

The following day I went to the place of the address given to me by Ka Ben Javier, then I saw the sister of Noel Silvestre.

"Q

Did you come to know the name of the sister of Noel Silvestre?

"A

Yes, sir. Her name is Carmelita Miranda.

"Q

Thereafter what happened?

"A

I told her I saw the incident about the death of her brother; that I am willing to be a witness or to testify.

"Q

What did Carmin (sic) Miranda say?

"A

She thanks (sic) me for being a concerned Filipino citizen.

"Q

Do I understand from you that as a consequence of this Miranda requested that a subpoena be issued to you?"[2]

Furthermore, as admitted by appellant, the crime scene could be reached by him in five or ten minutes by jeepney from his house.

"Q

That house of yours was . . . By the way, how far was your house from Fernandos (sic) Supermarket where Noel Silvestre was killed, if you know?

ATTY. ALZATE:

The witness would be incompetent, your honor.

COURT:

Overruled.

WITNESS:

A

I am not sure how far was the distance because I am not good in estimating the distance.

Q

But in riding a jeepney it would just take 5 to 10 minutes between your house and Fernandos Supermarket?

A

It is possible. If there is no traffic. However, if there's a traffic it would take one (1) hour."[3]

The brief travel time from appellant's house to the crime scene obviously did not foreclose his presence thereat at or about the time of the killing. The established rule to which the court adheres to in giving credence to one's alibi which, in this case, the appellant utterly failed to meet is this:

"x x x. For his defense of alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and it was physically impossible for him to have been at the scene of the crime (People vs. Aninon, 158 SCRA 701)."[4]

In this connection, we quote with approval the conclusions reached by the trial court in rejecting his defense of alibi. Thus:

"In the face of the positive identification made by Anabelle Villarosa of accused Agapito (Felitoy) Briol, who is a neighbor, that he (Agapito) slashed the throat of the victim, the alibi of Agapito (Felitoy) Briol must fail and proves futile (People vs. Alterado, supra) not only because he has been positively identified as the perpetrator of the crime (People vs. Gahol, 170 SCRA 585) but that it was not physically impossible for him to be at the scene of the crime (People vs. Maderaga, 171 SCRA 103; People vs. Salud, 172 SCRA 78). Besides, the alibi of Agapito Briol was established by him and his relative only (People vs. Somera, 173 SCRA 689)."[5]

Next, appellant attempts to discredit the prosecution witnesses. He presses the point that because Villarosa reported the killing of the victim only after the lapse of two years, she is thus a coached and paid witness. Indeed, such delay, the defense asserts, impaired her credibility. But the delay was satisfactorily explained by Villarosa. Thus:

"Q

After the incident you went home after delivering your earnings to your employer?

"A

Yes, sir.

"Q

You never reported what you saw, what you witnessed on May 23, 1988 to any police officer?

"A

No, sir, because there was (a) police patrol who responded.

"Q

Did you not volunteer to the police patrol that you saw what happened to the victim and you know at that time the names of the assailants?

"A

No, sir, I did not anymore tell the policemen that I was one of the witnesses who saw the incident because it would bother me only and they were also my gangmates.

"COURT:

"Q

Who?

"A

Because I also know them and they were my neighbors.

"Q

You are referring to the accused?

"A

Yes, sir.

x x x x x x x x

"ATTY. ALZATE;

"Q

You never reported this incident to your barangay and town officials?

x x x x x x x x

"A

No, sir.

"Q

It was only on April 24, 1990, that you reported to Pfc. Benjamin Javier (that) you saw the incident?

"A

Yes, sir.

"Q

After viewing the TV Hotline of Joseph Estrada?

"A

Yes, sir.

x x x x x x x x

"Q

And when you reported this matter to Pfc. Benjamin Javier did he take your statement?

"A

Not yet, sir.

"Q

Did you execute any statement in connection with what this (you) witness(ed) from the time x x x (of) the incident up to the time you witnessed this morning?

"A

No, sir.

x x x x x x x x

"Q

Why is it (sic) took you about two years to come into the open and testify in this case?

"A

Because I have seen in the TV program Hotline that this incident that happened in 1988 has not yet been solved up to now so I volunteered.

x x x x x

"Q

Do you expect any reward from the relatives of the victim in connection with your volunteering yourself to testify in this case?

"A

None, sir.

"Q

Now who provided for your fare this morning?

x x x x x x x x

"A

I, myself, sir.

"Q

Have you not conferred with the complainant before you took the witness stand at the last hearing and this morning?

"A

Not yet, sir.

"Q

How about the private prosecutor Atty. Torres Reyes before taking the witness stand?

x x x x x x x x

"A

No, sir.

"Q

How did you find out this case has been filed and is holding trial?

"A

Because of the Hotline 13. I learned from Hotline 13 this case has not been solved and filed.

"Q

Did you have a chance to meet the heirs of the victim?

"A

Yes, sir, here. There were times I met the complainants here.

"Q

Outside the Courtroom you never met with the heirs of the victim?

"A

No, Your Honor.

"Q

What is your interest in taking the cadials (sic) in coming in Court in testifying in this case when you said you did not want to be bothered?

"A

Because my conscience was bothering me and I am also a Pilipino and I had in mind if something happens to me and nobody will testify what will happen to me.

"Q

When was the first time your conscience was bothered, before you took the witness stand?

"A

After I saw the incident I was already bothered but my thinking then at the time it will be 'abala' for me. Then when I viewed the 'Hotline program' of Sen. Joseph Estrada, that was the time I decided to testify.

"Q

From the time you witnessed the incident up to the time you viewed the 'Hotline Program' you were being bothered by your conscience because of this incident?

"A

The first time my conscience was bothering me but later on, I had a second thought, because the assailants were my neighbors" (pp. 29-36, TSN, July 16, 1990; underscoring supplied).[6]

Clearly then, Villarosa's delay and hesitation to immediately report the incident was due to her fear of reprisals from the accused, her neighbors. In this connection, jurisprudence abound that delay or vacillation in making a criminal accusation does not necessarily impair the credibility of the witness if such delay is satisfactorily explained (*People vs. Rostata, Jr.*, 218 SCRA 657, 673 citing *People vs. Obngayan*, 55 SCRA 465; *People vs. Roxas*, 73 SCRA 583; *People vs. Elizaga*, 73 SCRA 524) as in this case.

Such indifference or apathy does not make a witness' testimony untrustworthy. The initial reluctance of witnesses in this country to volunteer information about a criminal case or their unwillingness to be involved in or dragged into criminal investigations is common.[7]

At any rate, the issue is one of credibility. The trial court has spoken and we find no cogent reason why we should substitute our own judgment for it.

"x x x. In the matter of credibility of witnesses, we reiterate the familiar and well-entrenched rule that the factual findings of the trial court should be respected. ([Citing] *People vs. Jacalan*, G.R. No. 55050, February 10, 1994, 230 SCRA 1). The judge a quo was in a better position to pass judgment on the credibility of the witnesses, having personally heard them when they testified and observed their deportment and manner of testifying. It is doctrinally settled that the evaluation of the testimony of the witnesses by the trial court is received on appeal with the highest respect, because it had the direct opportunity to observe the witnesses on the stand and detect if they were telling the truth. x x x"[8]

Prescinding from the above, we find it unnecessary to pass upon at length appellant's residual arguments. Suffice it to say that appellant's participation in the killing has been sufficiently demonstrated and proven by the prosecution.

WHEREFORE, finding that the guilt of appellant has been established beyond reasonable doubt, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Mendoza, JJ., concur.

[1] RTC Decision, pp. 33-34; Rollo pp. 59-60.

[2] Appellee's Brief, pp. 16-20; Rollo, pp. 149-153.

[3] TSN, May 7, 1991, p. 10.

[4] People vs. Villanueva, 211 SCRA 403, 413.

[5] RTC Decision, p. 27; rollo, p. 119.

[6] Appellee's Brief, pp. 27-30; Rollo, pp. 160-163.

[7] People vs. Lase, 219 SCRA 584, 595 citing People vs. Delfin, 2 SCRA 911, 918.

[8] People vs. Morales, 241 SCRA 267, 273.

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