

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO CAJAMBAB Y DE RUTAS AND ARNULFO BANDAL Y PUASO, ACCUSED-APPELLANTS.

G.R. No. 111805. January 26, 1995

Ponente: PADILLA, J.

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PADILLA, J.:

On 3 December 1990, Rodrigo Rogero y Lacandaso was stabbed to death by two (2) assailants while he was sitting on a bench at Quintana St., Sta. Mesa, Manila.

Accused-appellants Roberto Cajambab y de Rutas and Arnulfo Bandal y Puaso were subsequently charged with the killing in an information dated 10 December 1990 as follows:

"That on or about December 3, 1990, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, with intent to kill and with treachery and evident premeditation, did then and there willfully [sic], unlawfully and feloniously attack, assault and use personal violence upon the person of RODRIGO ROGERO y LACANDASO, by then and there stabbing him with a bladed weapon on the different parts of the body thereby inflicting on him mortal stab wounds which were the direct cause of his death immediately thereafter.

CONTRARY TO LAW" [1]

When arraigned on 1 April 1991, both accused pleaded not guilty and after trial, the Regional Trial Court of Manila, Branch 5 rendered a decision* dated 26 August 1993, the dispositive part of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered convicting accused ROBERTO CAJAMBAB y DE RUTAS and ARNULFO BANDAL y PUASO, guilty beyond reasonable doubt of the crime of murder and hereby sentences them to serve the penalty of RECLUSION PERPETUA, with all the accessory penalties provided by law, to pay the heirs of the victim the least compensatory damage of P50,000.00, and to pay the costs.

SO ORDERED." [2]

Accused-appellants Roberto Cajambab and Arnulfo Bandal filed the present appeal assigning the following errors to the trial court:

“THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES WHICH ARE HIGHLY INCREDIBLE, INCONSISTENT AND UNRELIABLE.

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING FULL CREDENCE TO THE TESTIMONIES OF THE DEFENSE WITNESS.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANTS DE-SPITE

FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.' [3]

The prosecution presented Danilo Bitonio, Teresita Sunga and Dr. Alberto Reyes as witnesses, while the defense presented the two (2) accused-appellants, Estrella Opina and Mercedita Naval as witnesses.

The trial court's judgment of conviction was based on the finding that the testimony of Danilo Bitonio, an eyewitness to the incident, adequately established that the two (2) accused-appellants were at the scene of the crime and were the persons who actually stabbed and killed Rodrigo Rogero.

Danilo Bitonio testified that at around five o'clock in the afternoon of 3 December 1990, he was walking home from Quiapo along Quintana St., Sta. Mesa, Manila. He saw the victim Rodrigo Rogero sitting on a bench apparently asleep with his head resting on his right arm which was in turn resting on a store counter. When he (Danilo) was a few meters away from Rogero, he saw both accused-appellants Roberto Cajambab and Arnulfo Bandal approach Rogero.

Accused Bandal suddenly pulled Rogero's head upwards and with the latter still in a sitting position, Bandal stabbed him on the chest. Accused Cajambab then likewise stabbed Rogero who then attempted to run away. The two (2) accused-appellants chased Rogero and were able to catch up with him as he was about to enter an alley. Each of the two (2) accused-appellants then stabbed the victim again after which they walked away.

Accused-appellant Arnulfo Bandal while admitting that he and his co-accused Roberto Cajambab were at the scene of the incident at the time, denied that they were Rogero's attackers. He stated that he and Cajambab were shooting baskets at a nearby basketball court when a commotion occurred some distance away. He alleged that he and Cajambab ran away when they saw the other people running and it was only the following day that they learned that they were being pointed to as Rogero's assailants. Roberto Cajambab corroborated Bandal's version of the incident.

Estrella Opina was presented by the defense to refute Danilo Bitonio's testimony. She stated that when the stabbing incident took place, she, Danilo Bitonio and five (5) other persons were playing a card game called "41", a few meters away from the store where the victim was stabbed. She further alleged that she was seated with her back to the store and Danilo Bitonio was standing at her back. [4] Opina testified that the victim Rogero was not sleeping when the incident took place but rather he (Rogero) was involved in a commotion arising out of a game of "cara y cruz" when he approached the two (2) accused who later chased him.

Teresita Sunga was presented by the prosecution as rebuttal witness to discredit the testimonies of the two (2) accused. She testified that the basketball court at Quintana Street was constructed only in 1991 after the incident on 3 December 1990. [5]

The defense then presented Mercedita Naval as sur-rebuttal witness who stated that there was a basketball court existing at Quintana Street at the time of the incident.

Considering that the evidence for the prosecution and the defense gave two (2) different versions of the incident, this appeal would have to be decided based on the credibility of the witnesses and whether or not the guilt of the accused-appellants has been proved beyond reasonable doubt.

The rule has been settled, so many times, that the findings of the trial court on the credibility of witnesses are given weight and the highest degree of respect by appellate courts. [6]

In this case, a careful perusal of the testimonies for the prosecution and the defense particularly eyewitness Danilo Bitonio and defense witness Estrella Opina reveals no compelling reason to disturb the findings of the trial court on the credibility of witnesses.

It is to be noted that Opina admitted that the scene of the commotion, the store, was at her back. She also testified that she was then playing cards with Bitonio and five (5) others. However, on cross-examination, she admitted that Bitonio was standing behind her when the incident happened and she only looked behind her after the commotion had started. [7]

The following conclusions can be deduced from Estrella Opina's testimony:

1. She contradicted herself by first stating that Bitonio was playing cards with her and five (5) others, but on cross-examination, she admitted that Bitonio was standing behind her when the commotion took place.
2. Opina could not have seen who actually stabbed the victim since she admitted that she looked back only after the commotion had started.
3. The defense argument that Bitonio could not have seen the stabbing since he was playing cards will have to be rejected. Opina's testimony in no way supports this argument since she admitted that Bitonio was standing behind her and she could not have seen whether or not Bitonio actually saw the stabbing. And even assuming arguendo that Bitonio was sitting and playing cards, he then would have to be in a position where he could see the scene of the commotion better than Opina.

Against the shaky and tentative testimony of Opina, Danilo Bitonio categorically testified how the stabbing of the victim took place. While his testimony was not consistent on all points, the minor inconsistencies therein give credence to his statements and negate any suspicion that the testimony was rehearsed. Absent any showing that the trial court erred in appreciating his testimony, there is no reason to reverse the judgment rendered in this case.

The trial court however erred in not appreciating in favor of the accused-appellants the presence of the mitigating circumstance of voluntary surrender which even the prosecution admitted during the trial. [8] The penalty therefore should be imposed in the minimum period following Article 64 par. 2 of the Revised Penal Code.

The penalty for murder is reclusion temporal maximum to death. The minimum therefore is reclusion temporal maximum, and applying the indeterminate sentence law, the minimum should be within the range of prision mayor maximum.

WHEREFORE, the decision appealed from is MODIFIED. Accused-appellants' conviction for murder is hereby AFFIRMED with the modification that the accused-appellants Roberto Cajambab y de Rutas and Arnulfo Bandal y Puaso are sentenced to each suffer imprisonment of ten (10) years and one (1) day of prision mayor maximum to seventeen (17) years, four (4) months and one (1) day of reclusion temporal maximum. The accused-appellants are likewise ordered to pay P50,000.00 to the heirs of the victim and costs of suit.

SO ORDERED.

Davide, Jr., Bellosillo, Quason, and Kapunan, JJ., concur.

[1] Rollo , p. 2.

* Penned by Judge Cesar L. Mindaro.

[2] Rollo , p. 20.

[3] Rollo , p. 32.

[4] TSN, 9 November 1992, pp. 5-6.

[5] TSN, 8 February 1993, p. 3.

[6] *People v. Genial*, G.R. No. 105692, 7 December 1993, 228 SCRA 283.

[7] TSN, 9 November 1992, p. 6.

[8] TSN, 23 September 1991, p. 6.

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