

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEMARIE
NAVALES ALIAS “JUN JUN,” ALFREDO NAVALES, JR.
ALIAS “COLING,” ALBERTO NAVALES ALIAS
“CORSAM,” AND NEIL NAVALES, ACCUS...**

G.R. No. 112977. January 23, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

Drug addiction is the scourge of society today. One of its deleterious effects is the commission of senseless crimes by those who, having imbibed drugs, lose control of their faculties as their bestial nature runs riot. In the case at bar, the life of a school teacher at the height of her most productive years was cut short by the vicious act of brothers, drug addicts all who are notorious in the community.

The information filed before the Regional trial Court of Bacolod City charging four (4) of the Navales brothers named Joemarie, Alfredo, Jr., Alberto and Neil, with robbery with homicide, reads:

"That on or about the 6th day of October, 1986, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, armed with knives, with treachery and evident premeditation, conspiring, confederating and mutually helping one another, with intent of gain and against the will of the owner thereof, and by means of violence, did, then and there, wilfully, unlawfully and feloniously take, steal and carry away One (1) Wristwatch, worth P650.00; One (1) ring worth P1,500.00 and cash in the amount of P400.00 or a total of TWO THOUSAND FIVE HUNDRED FIFTY PESOS (P2,550.00), Philippine Currency, belonging to the herein offended party PERLA ROBLES, to the damage and prejudice of the herein offended party in the aforementioned amount; that by reason of or on the occasion of the said robbery and for the purpose of enabling them to take, steal and carry away the said jewelry, wrist watch and cash, the herein accused, likewise with evident premeditation, conspiring, confederating and mutually helping one another, with intent to kill, did, then and there, willfully, unlawfully and feloniously assault, attack and stab with the knives with which they were then provided the said PERLA ROBLES, thereby inflicting upon the person of the latter the following wounds to wit:

1. Wound, stabbed, 2.5 cm in length, chest, anterior, level of the 3rd ICS, 3.0 cm from right mid-sternal line, directed backwards, upward and laterally, fracturing 3rd rib, right, to enter thoracic cavity, perforating upper lobe of right lung.
2. Wound, stabbed, 1.5 cm in length, chest, anterior, level of the 4th ICS, 10.0 cm from left mid-sternal line, involving only skin and muscle.
3. Wound, stabbed, 1.0 cm in dm., chest, anterior, level of the 4th ICS, along left anterior axillary line, directed backward, upward and laterally, to enter thoracic cavity, perforating inferior lobe of left lung.
4. Wound, stabbed, 2.5 cm in length, epigastric region, 2.0 cm from left mid-sternal line, to enter abdominal cavity, perforating the stomach.

5. Wound, stabbed, 2.3 cm in length, hypochondriac region, 10. cm from left mid-sternal line, along left mid-axillary line, non-perforating.
6. Wound, stabbed, 2.5 cm in length, hypochondriac region, 4.5 from right mid-sternal line, directed backward, upward and medially, to enter abdominal cavity, perforating left lobe of liver
7. Wound, stabbed, 2.3 cm in length, lumbar region, 10.0 cm from right, mid-sternal line, along right mid-axillary line, directed backward, upward and medially, to enter abdominal cavity, perforating right lobe of the liver.
8. Abrasion with contusion, 4.0 cm in area, forearm, left, proximal third, antero-lateral aspect (teeth mark).
9. Wound, stabbed, 9.0 cm in dm., wrist, left, antero-medial aspect, involving skin and muscle.
10. Wound, stabbed, 2.5 cm in length, knee, left, antero-lateral aspect, involving skin and muscle.
11. Wound, stabbed, 2.3 cm in length, arm, right, proximal third, posterior aspect, involving only skin and muscle.
12. Wound, stabbed, 2.5 cm in length, arm, right, middlethird, posterior aspect, involving only skin and muscle.
13. Wound, stabbed, 1.0 cm in length, supra-scapular region, 9.0 cm from right mid-vertebral line, involving only skin and muscle.
14. Wound, stabbed, 2.0 cm in length, scapular region, 13.0 cm from right mid-vertebral line, non-penetrating.
15. Wound, stabbed, 2.5 cm in length, scapular region, 7.5 cm from right mid-vertebral line, non-penetrating.
16. Wound, stabbed, 2.5 cm in length, scapular region, 1.0 cm from right mid-vertebral line, directed forward, upward and laterally to enter thoracic cavity, perforating upper lobe of right lung posteriorly.
17. Wound, stabbed, 2.5 cm in length, infra-scapular region, 4.0 cm from right mid-vertebral line, directed forward, upward and laterally, to enter chest cavity, perforating middle lobe of right lung posteriorly.
18. Wound, stabbed, 3.0 cm in length, infra-scapular region, 2.0 cm below wound no. 17 and 4.5 cm from right mid-vertebral line, directed forward, upward and laterally, to enter chest cavity, perforating lower lobe of right lung posteriorly.
19. Wound, stabbed, 2.5 cm in length, infra-scapular region, 2.5 cm. from left mid-sternal line, parallel with wound No. 17, directed forward, upward and laterally, to enter chest cavity, perforating inferior lobe of left lung, posteriorly.
20. Wound, stabbed, 2.5 cm in length, infra-scapular region, 3.0 cm from left mid-vertebral line, involving only skin and muscle.
21. Wound, stabbed, 2.0 cm in length, lumbar region, mid-vertebral line, non-penetrating.

CAUSE OF DEATH: Shock and hemorrhage due to Stabbed Wound, Multiple.

which directly caused the death of the said victim PERLA ROBLES to the damage and prejudice of the heirs of the victim, as follows:

1. As indemnity for the death of victim.....P30,000.00
2. As indemnity for the loss of earning capacity.....100,000.00
3. As moral damages.....10,000.00

That the commission-of the crime was also attended by the following aggravating circumstances:

- a.) evident premeditation;
- b.) night time, which was purposely sought by the accused to better accomplish their purpose;
- c.) the crime committed in an uninhabited place where the cries for help of the victim cannot be heard from the nearest house;
- d.) that advantage were (sic) taken by the accused of their superior strength vis-a-viz the frailty and weakness of the victim, and
- e.) with insult or in disregard (of) the respect due the victim on account of her rank and sex.

Act contrary to law."

Perla Robles, then thirty-seven (37) years old and single, was a grade school teacher at the La Salle College in Bacolod City earning a monthly salary of P1,915.00. To augment her regular income, Perla tutored eight (8) pupils of La Salle College at the rate of P200.00 a month per child. Engaged in extra-curricular activities in addition to her regular work, she was also the treasurer of a cooperative organization in the school.

According to her father, Miguel Robles, on October 6, 1986, Perla was wearing a pair of earrings, a ring and a Seiko wristwatch all worth P1,500.00. He knew that Perla had P400.00 in cash because a co-teacher named Titay Benares had told him that Perla had been paid for tutorial services that day. Aside from the money, Perla had with her an undetermined amount in her capacity as treasurer of the cooperative organization at La Salle College.[1]

At around 6:30 in the evening of that day, Joelfredo Concepcion, a self-employed resident of Crossing Canggo, Barangay Alijis, Bacolod City, was biking along the road to the Jopanda (Opanda) Subdivision in the same city. In an isolated portion of the road ("kaalang-alangan") which was around seventy-five (75) meters away from the last house in the area, he heard a woman shouting, "Jun-Jun, malu-oy ka" ("Jun-Jun, have pity"). Concepcion was then around ten (10) meters away from where the voice emanated. He alighted from his bicycle and assumed a crouching position as he pushed it.

When he was around four (4) meters from the source of the voice, Concepcion saw Joemarie Navales alias Jun-Jun holding the right arm of Perla Robles, at the same time delivering thrusting blows at her. Alfredo Navales, Jr. alias Coling (Poling) was holding the back of Perla while stabbing that side of her body. Corsam (Alberto) Navales was holding the left arm of Perla and stabbing her, too. The fourth man, Neil Navales was at the intersection of the main road and the road to Jopanda Subdivision, serving as a look-out.[2]

To divert the attention of the assailants by way of helping the victim, Concepcion made a sound (igham) which caused Corsam and Alfredo to look in his direction. When the latter realized that the two were holding bladed weapons, he sped off in his bicycle towards the junction of the roads.[3]

Carlos Ferraris, a teacher-commandant at the Singcang Airport National High School, was on a motorcycle with his wife on their way home when a certain Moreto stopped him and asked for his help on account of a certain Perla whose life was in danger.[4] Ferraris called the police. Upon his return to the crime scene, Ferraris recognized from among the persons gathered there a "tanod" named Mike Espillogo, Daku Navales and his brother, Corsam. Daku was holding a bolo. Later, Ferraris found a scabbard on the edge of the road and a lavender slipper, the other half of which was recovered a meter away.[5]

When the police arrived, Ferraris informed them that there were footprints going towards the west. Upon investigation, Ferraris and the police found from one Detty Santiago that Jun-Jun Navales had left the scabbard "a day before the incident." [6] From Santiago's house, they went to the Navales residence. Daku, who was holding a flashlight and a bolo, opened the gate. Ferraris and the police learned from the father of the Navales brothers that

some of his sons were out while some were inside the house.[7]

At around 8:00 o'clock of the same evening, Natividad Villanueva met Jun-Jun Navales near the house of his sister Diding. By the city lamp post or the Ceneco post, she saw that Jun-Jun Navales, who used to be her helper at Titay's Food Center, had bloodstains on his hands and his shirt was muddy.[8]

According to Miguel Robles, on his way home at around 5:45 in the afternoon of October 6, 1986, he saw the four (4) accused brothers "sipping Marijuana" at the store of Betty (or Detty) Santiago. They all looked "high and drowsy." [9] At around 6:30 that evening, he learned about the fate of his daughter Perla from Ronald Longaquit. Armed with a bolo (espading), Robles immediately proceeded to the vicinity referred to by Longaquit, followed by his wife and his daughter, Susan, both of whom carried a piece of wood.[10]

They found Perla lying near a ricefield a meter away from the road and some one hundred twenty (120) meters from the main road bathed in a pool of blood. They tried to resuscitate her artificially by pumping her chest and sucking the blood from her mouth. Although her pulse was still throbbing, she could not speak.

The Bacolod City SPAT team inspecting the area found a pair of slippers, one shoe of his daughter, some of her personal belongings and a scabbard of a bladed weapon. The scabbard, nine (9) to eleven (11) inches long, was made of stiffboard wrapped in a piece of cloth. He had seen the Navales brothers carrying the same scabbard when they bought cigarettes from his store. Coling Navales was wearing the gray slippers which was smeared with paint when he passed by the store of Betty Santiago.[11]

The following day, a hunter found the bag of his daughter. All it contained was a twenty-five-centavo (P0.25) coin.[12] All items recovered from the crime scene were turned over to the Office of the City Fiscal at the City Hall of Bacolod City.[13] However, they were all burned when the building caught fire.[14]

When Robles arrived at the hospital, his daughter was already dead.[15] Dr. Romeo Gellada, the medico-legal officer of the Bacolod Police Station, autopsied the body of the victim at the Alisbo Memorial Chapel at about 8:00 o'clock in the morning of October 7, 1986. Of the twenty-one (21) wounds sustained by the victim, twenty (20) were stab wounds and one (1) was an abrasion with contusion bearing a teeth mark.[16] Dr. Gellada opined that wounds Nos. 1 to 10 were inflicted when the assailant was facing the victim while wounds Nos. 11 to 21 were caused by another one behind the victim.[17] He therefore concluded that there could have been "not less than two (2) assailants." [18]

Two of the Navales brothers, Coling and Corsam, were apprehended and brought to the police headquarters accompanied by their parents the night the crime was committed. No case having been filed against them at the time, they were immediately released from police custody.[19]

On November 27, 1986, the aforequoted information for robbery with homicide was filed against the four (4) Navales brothers.[20] The following day, a warrant for their arrest was issued.[21] Almost a year later, or on October 28, 1987, the trial court issued an order archiving the case as the accused were "still at large notwithstanding the lapse of time" since the warrant for their arrest was issued.[22]

The police team tasked to serve the warrant of arrest proceeded to West Crame, Quezon City upon the information furnished by a police asset that the accused-were in that area.[23] Joemarie Navales was walking along a road in West Crame when the asset pointed him out to the team. Joemarie identified himself as "Mario Lamayo" and even presented an identification card bearing the name. When they investigated him, however, at the Criminal Investigation Service (C.I.S.) at Camp Crame, Joemarie revealed the whereabouts of his brother Neil. The police then proceeded to Murphy, Quezon City where they arrested Neil in a bakery.

Upon further investigation of Joemarie and Neil, the police gathered that Alfredo and Corsam were at the Enlisted Men's Barrio. At first, the two denied that they were Alfredo and Corsam Navales but Pfc. Gomez, the brother-in-law of the victim, positively identified them. The arrests were made on December 9, 1987.[24]

Upon their arraignment on February 16, 1988, the four Navales brothers pleaded not guilty to the information for robbery with homicide[25] and interposed alibi as their defense.

Their father, Alfredo Navales, Sr., swore that his sons helped his wife tend their store near Grace Pharmacy and Solid Bank in the city.[26] In compliance with his instructions, Joemarie and Coling went home to Jopanda (Upanda) Subdivision after 3:00 o'clock in the afternoon of October 6, 1986. At home then were his sons, Corsam and Neil, and their laundrywoman, Salvacion Berhe (sic).[27] At about 7:30 in the evening, Neil fetched him at Crossing Canggo and informed him that a woman who wanted to buy their house had been waiting for him since 5:30 p.m.[28] While walking along the road to their house, Neil told him that a hold-up had occurred at the place they were passing.[29] Because of the news, he instructed Neil to fetch their mother downtown.[30] When he arrived home, there were policemen who showed him slippers splattered with green paint. He had painted his house fifteen (15) days earlier with a light green shade. [31]

Upon arriving home at around 7:30 that evening, he found Neil (sic), Corsam and the two younger ones there.[32] His other son, Joemarie or Jun-Jun was not at home as usual because as a tourist guide, he was always with an American friend. Thereafter, policemen arrived and invited his sons to the police headquarters for investigation.[33] Because Cpl. Tamayo asked for Jun-Jun, Alfredo, Sr. directed him to the house of his daughter, Bebing, in Jalandon, Bacolod City. Although he was not feeling well, he accompanied the police to Bebing's house only to find that Jun-Jun had not been there at all.[34] A week after the incident, the Navales family left their house to live with Bebing. On November 11, 1986, one of his sons[35] was shot to death in Bacolod City[36] after his sons had received death threats. The death of Wilfredo was witnessed by a security guard of the Negrense Pawnshop but he was later killed in the toilet of the Central Market.[37]

Salvacion Berjis, the laundrywoman of the Navales family, said that she was at the latter's residence at about 6:00 o'clock in the evening of October 6, 1986. Present at the house then were Corsam, Joemarie or Jun-Jun, Coling, Toto Michael, Toto Daku, Tia Trining or Trinidad Celis and two children. At around 6:30 p.m., Salvacion heard a child shouting that there was a hold-up at the crossing. As Tia Trining, Corsam and Toto Daku ran to the site of the hold-up she followed them but not before she asked Coling to fetch water from the pump for her.

On the way, they met a woman whom she later recognized as Susan Robles at the house of Mayor Montelibano. Susan asked for help from Corsam and Toto because her Manang Perla had been held up. Afterwards, Trinidad went back to the Navales residence.[38]

Neil Navales, who must have been sixteen (16) years old[39] when the incident occurred, testified that he was at Crossing Canggo at around 6:00 o'clock in the evening of October 6, 1986 with Corsam and Alfredo, Jr. to fetch their parents and sisters. When Tia Trining arrived, they accompanied her to their house a kilometer away from Crossing Canggo. After she had inspected the house, Neil went back to Crossing Canggo. He was with a certain Boyboy when one Moreto informed them that the daughter of Robles had been held up. Moreto told them to wait for a vehicle but he himself secured one for them.

At around 7:00 p.m. when Neil's father arrived, Neil informed him about the hold-up. His father told him to go back to the Crossing to fetch his mother and sister. When they arrived home, military men were deployed outside their house. While they were having supper, the military men knocked at their door, sought entry and even asked to join the family at supper. They then asked his parents' permission to bring his brothers Alberto and Alfredo to the police station. Neil went with them to the police headquarters where, after being investigated, they were

released as the police were not able to "get anything" from them.[40]

Twenty-two-year-old[41] Alberto Navales alias Corsam testified that at about 6:00 o'clock in the evening of October 6, 1986, he was at home with his brothers Alfredo, Michael and their younger brothers. Corsam was chopping firewood when Tia Trining arrived to inspect their house. At around 6:30 p.m., Corsam heard their neighbor, Leo Flores, shouting that there had been a hold-up. Thinking that the victims could have been their sisters, Corsam and Michael went to the crime scene with Tia Trining. Along the way, they met Susan Robles who asked for his help as the hold-up victim was her sister.

They proceeded to the crime scene where a teacher named Ferraris asked him not to leave her as she had high blood pressure. Corsam accompanied the teacher to her residence in front of the Robles residence. Thereafter, Corsam went home to prepare supper and to continue chopping firewood. Alfredo, Jr. was then helping their laundrywoman fetch water.[42] At that time, his brother Joemarie was still at home sleeping but when their father arrived, Joemarie had gone to work in front of the Sea Breeze Hotel.[43]

Alfredo Navales, Jr. alias Coling, was twenty-seven (27) years old when he testified on July 4, 1991. According to him, at 6:00 o'clock in the evening of October 6, 1986, he was at the side of the road leading to the Canggo Subdivision with Neil and Corsam, waiting for their parents to arrive. When Tia Trining arrived ahead of their parents, they accompanied her to their house which she wanted to inspect. It was Neil who went back to Crossing Canggo to wait for their parents. At home then were Toto Daku, Joemarie and their nephew and niece. Joemarie was dressing up to go downtown.

Coling later heard a small child named Dimple shouting for help because someone had been killed. Afraid for their sisters who were on their way home, Corsam, Toto Daku and Tia Trining went to the crime scene. Coling was left behind to watch over his young sister and to cook dinner. While the family was having dinner, a police officer inquired from his father about his brothers. Neil, Corsam and Coling were later brought to the police headquarters. At the time, Jun-Jun had gone downtown as he was a callboy at the Bacolod City public plaza.[44]

Joemarie or Jun-Jun did not testify at the trial. On July 26, 1993, the Regional Trial Court of Bacolod City, Branch 46, rendered a Decision [45] the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court hereby finds the accused JOEMARIE NAVALES alias 'Jun-jun', ALFREDO NAVALES, JR. alias 'Coling' and ALBERTO NAVALES alias 'Corsam', GUILTY beyond reasonable doubt of the special complex crime of ROBBERY WITH HOMICIDE having conspired with each other in robbing and killing the victim and sentences each of them to suffer the penalty of RECLUSION PERPETUA; to pay the heirs of the deceased Perla Robles the amount of P50,000.00 by way of civil indemnity; P100,000.00 as indemnity for the loss of earning capacity: P50,000.00 for moral damages, without subsidiary imprisonment in case of insolvency and likewise to pay the cost of this suit.

Accused Neil Navales is hereby ACQUITTED for insufficient evidence to convict him of the crime of robbery with homicide.

Lastly, accused Joemarie Navales alias 'Jun-jun', Alfredo Navales, Jr. alias 'Coling' and ALBERTO Navales alias 'Corsam' are to serve their sentence in the National Penitentiary, Muntinlupa, Metro Manila.

SO ORDERED."

Counsel for Alfredo, Jr. and Alberto Navales filed a motion for reconsideration of the decision, praying for their acquittal. Attached to the motion was an affidavit executed on September 9, 1993 by Joemarie Navales claiming exclusive authorship of the crime as follows:

"2. I hereby confess and admit my guilt in the crimes charged and alleged in the Information filed by the

Assistant City Prosecutor in the above-mentioned criminal case.

3. I further profess that I was alone when I committed the crimes above-mentioned and that both my brothers, Coling Navales and Corsam Navales, are innocent and had nothing to do with the commission of the said crimes.

4. My insistence on my innocence during the trial was due to the fact that, knowing that my brothers were innocent, I was hoping to be acquitted of the crimes charged together with my brothers.

5. I am executing this affidavit to attest to the truth of the foregoing and to correct the injustice I have done to my brothers Coling Navales and Corsam Navales."[46]

Judge Anita Amora-De Castro, then presiding judge of the Regional Trial Court of Bacolod City, Branch 46, ordered that the motion for reconsideration be forwarded to Judge Jose Y. Aguirre, Jr., the ponente of the decision who was reassigned to the Regional Trial Court in Himamaylan.[47] On September 27, 1993, Judge Aguirre issued the Order denying the motion for reconsideration for lack of merit.[48]

Alfredo, Jr. and Alberto Navales filed a notice of appeal. Since the promulgation of the decision, they have remained confined at the Bacolod City Jail as they have a pending case for murder under Criminal Case No. 15074 before the Regional Trial Court of Negros Occidental, Branch 41.[49]

In this appeal, appellants charge the trial court with erroneously convicting them. They specifically aver that the trial court erred in finding that they were guilty of flight; in holding that their testimonies were weak, incoherent and incredible; in failing to consider their defenses through the testimonies of defense witnesses Trinidad Celis and Salvacion Berjis, and in relying on the testimony of Joelfredo Concepcion in convicting them.[50]

Invoking the testimonies of Celis and Berjis that they were at home when the crime was committed, appellants attempt to convince the court that their alibi merited credence as it was physically impossible for them to have been at the crime scene at the time of its commission.[51] Corsam was allegedly chopping firewood while Coling was preparing dinner and hauling water from the pump.

Physical impossibility of being at the crime scene when it was committed is one of the two essential requisites for the appreciation of the defense of alibi; the other requisite is that there should be sufficient proof that the accused was at another place at the time the crime was perpetrated.[52] As an element of a credible alibi, physical impossibility refers to the distance between the place where the accused was when the crime transpired and the place where it was committed, as well as the facility of access between the two places. It must be demonstrated that the accused was so far away that he could not have been physically present at the place of the crime or its immediate vicinity at the time of its commission.[53] Thus, in *People v. Cristobal*,^[54] the Court ruled out physical impossibility of committing the crime when it was proven that the accused was only three (3) kilometers from where the crime was committed, "a manageable distance to travel in a few minutes."

In this case, appellants' brother and their father admitted that their house was only a kilometer away from Crossing Canggo.[55] It was established by the prosecution that the crime happened a hundred meters away from the Crossing and seventy-five meters away from the last house in the area.[56] There was, therefore, easy access between the Navales residence and the crime scene even if the distance were negotiated on foot. As such, the proximity of the crime scene to the Navales residence did not preclude appellants' being at home anytime during the crucial hour of 6:00 to 7:00 o'clock in the evening in the same way that it could not have been impossible for them to be at the crime scene at the time.

Moreover, their positive identification as two of the perpetrators of the crime demolished their alibi.[57] What should, therefore, be thoroughly scrutinized is the testimony of the prosecution's sole eyewitness to determine his

credibility considering that the testimony of a sole eyewitness, if positive and credible, is enough to convict an accused.[58]

Appellants assert that Joelfredo Concepcion's testimony is of dubious veracity. To them, it is full of material discrepancies hence, highly incredible. Thus, they claim, it is not in accord with ordinary human experience for an eyewitness to a crime not to reveal immediately what he witnessed. Specifically, they point out the fact that after Concepcion had sensed that he had been identified by the Navales brothers, he fled to the junction of Crossing Cango. Shortly thereafter, he went to the house of his Comadre Rose but he did not even mention to her anything about the assault on Perla.

There is no merit in appellant's assertion. As this Court has held time and again, there is no standard behavior for a person who is confronted with a shocking incident. One may immediately report the incident to the proper authorities while others, in fear and/or avoiding involvement in a criminal investigation, may keep to themselves what they witnessed.[59] In this case, fear of reprisal, which is a credible enough excuse for the-momentary silence of a prosecution witness,[60] impelled Concepcion to keep from his Comadre what he had just witnessed. Thus, he testified:

"ATTY. CAÑONERO:

Why did you not tell your Comadre Rose about what you saw?

WITNESS:

I was apprehensive to tell her because if I will tell her she might tell other people the following morning and I might be the source of the information.

ATTY. CAÑONERO:

Why, who will do you harm if you will tell about the incident?

WITNESS:

These accused Joemarie Navales, Alfredo Navales, Corsam Navales and Neil Navales. I am afraid that if I will tell somebody about what they did to Perla and considering that they were not yet apprehended at that time and considering also that these persons are known to be drug addicts, I am afraid that they will do something against me.

ATTY. CAÑONERO:

Now, Mr. Concepcion, how come, you said that these accused are drug addicts?

WITNESS:

Because I frequently saw them passing our house using or smoking marijuana.

ATTY. CAÑONERO:

Have you known of any incident wherein these four accused got involved because of the use of marijuana?

WITNESS:

Yes.

ATTY. CAÑONERO:

What was that incident if you know?

WITNESS:

in the store where they used to sip marijuana, there was an incident wherein Corsam Navales got involved with a certain person who was big enough (sic) than him and when Corsam Navales boxed him and when that person fought back, Corsam used his knife." [61]

The same fear kept Concepcion from immediately divulging to the authorities the identities of Perla's assailants until his conscience started bothering him. It was only after a "ronda system" had been set up in the locality that Concepcion told Ferraris the identities of the perpetrators of the crime and Ferraris, in turn, informed Robles about Concepcion's revelation. Robles later asked Concepcion to execute a sworn statement at the police station. [62] Such initial reluctance to volunteer information regarding the crime due to fear of reprisal is common enough that it has been judicially declared as not affecting a witness' credibility. [63]

Appellants ascribe a "motive" to Concepcion for testifying against them. Quoting Concepcion's testimony that he knew appellants to be drug addicts whom he disliked and feared because they were "criminals," appellants assert that such testimony was Concepcion's "better way to get rid of" them. [64] We find such "motive" too tenuous to be credible. Instead of reflecting Concepcion's bias against appellants, his testimony that he was testifying because he believed appellants were criminals manifests his resolve to; put them behind bars for having committed the crime. Such "motive" may not, by any means, be considered ill or improper. Ironically, the "motive" ascribed to Concepcion by appellants may even be deemed as an indirect admission of the un rebutted proof that appellants were drug dependents.

Since no other motive was imputed by appellants to Concepcion for having testified against them, the presumption that he could not have ascribed so grave a crime against appellants and, therefore, his testimony was no less than the untarnished truth, [65] prevails. Consequently, Concepcion's positive testimony that appellants, together with their brother Joemarie, were the perpetrators of the crime may be considered as having remained unchallenged. He testified as follows:

"ATTY. CAÑONERO:

Now, at this distance, when you were 4 meters away from the scene of the incident, particularly in what place were you?

WITNESS:

I was already on the road going to Opanda Subdivision.

ATTY. CAÑONERO:

And these three persons whom you named as Joemarie Navales, alias Jun-Jun, Alfredo Navales alias Poling and Corsam Navales, where were they at that time?

WITNESS:

They were on the ricefield beside the road.

ATTY. CAÑONERO:

And what were these persons doing there?

WITNESS:

I saw them stabbing Perla Robles.

ATTY. CAÑONERO:

Now, you said first, you saw Joemarie Navales alias June Jun, what was Joemarie Navales alias Jun Jun doing when you saw him?

WITNESS:

He was holding the right arm of Perla Robles and at the same time delivering a thrust blow to Perla Robles.

ATTY. CAÑONERO:

How about this Alfredo Navales alias Poling (sic), what was he doing when you saw him?

WITNESS:

He was holding the back of Perla and at the same time also stabbing the back of Perla.

ATTY. CAÑONERO:

How about this Corsam Navales what was he doing at that time when you saw him?

WITNESS:

Corsam Navales was holding the left arm of Perla and was stabbing the victim also."[66]

The manner by which the assault was committed as described by Concepcion, is consistent with the autopsy findings of Dr. Romeo Gellada that Perla sustained wounds at both the anterior and posterior parts of her body. Concepcion's testimony is also congruent with Dr. Gellada's opinion that more than two persons committed the crime, as it tallies with jurisprudential pronouncements that the number of wounds sustained by a victim, which is no less than twenty-one (21) in the case at bar, attests to the fact that several persons inflicted them.[67]

All these show that Joemarie Navales' belated sworn statement claiming sole responsibility for the commission of the crime was no more than a vain attempt at exculpating his brothers. They further cast doubt on appellants' contention that there could only be one person who assaulted Perla because, according to Concepcion, she mentioned only the name of Joemarie or Jun-Jun in pleading for her life.[68] While it might be true that Perla mentioned only the name of Jun-Jun or Joemarie, this fact alone does not prove that Joemarie was the sole malefactor. On the other hand, it reinforces Concepcion's testimony that Joemarie was in front of Perla during the assault.

Concepcion could not have been mistaken in identifying appellants and their brother Joemarie as the culprits for he was barely four (4) meters away from them. The area where the incident occurred was sufficiently illuminated by light coming from a nearby village aside from the fact that it was early evening when total darkness had not as yet set in. The possibility of mistaken identity was also ruled out by the fact that Concepcion and appellants were neighbors and he had known them for twelve (12) years. Because conditions for visibility were favorable, the ability of Concepcion as a witness to recognize appellants should be upheld. [69]

Another aspect that bolsters Concepcion's credibility as witness is the trial court's positive finding on the matter. Appellate courts accord the highest respect to the assessment of the testimonies of eyewitnesses by the trial court because of its unequalled opportunity to observe on the stand their demeanor and manner of testifying and to detect whether they are telling the truth or not.[70] In the absence of proof that the trial court overlooked important facts that would overturn duly established proof beyond reasonable doubt that appellants committed the crime, there is no reason to depart from the trial court's findings on the credibility of sole eyewitness Concepcion and of his testimony.

Appellants' culpability is further strengthened by the fact that they fled from Bacolod City after the commission of

the crime. While it is true that they were still in the area that fateful night, it was because they could not have left the place unnoticed considering that the crime attracted the attention of the whole community. That they even went with the police to the headquarters for questioning did not mean that they were innocent of the crime charged. It is to be stressed that at the time, no one had volunteered first-hand information yet on their identity as the culprits. The fact duly established is that they left the place and thereafter even changed their names.

Their allegation that they left Bacolod City for self-preservation as the Robles family was out to inflict vendetta upon them is not worthy of belief. If they really believed that the Robles family was responsible for the killing of their brother Wilfredo, then, like the Robles family, they would have sought protection from the law. On the other hand, their claim that they were objects of vendetta by the Robles family betrays their culpability.

We agree with the trial court that the crime proven beyond reasonable doubt was robbery with homicide. This special complex crime is primarily a crime against property and not against persons, homicide being a mere incident of the robbery with the latter being the main purpose and object of the criminal.[71] Thus, the principal elements of the crime are (a) the taking of personal property with violence or intimidation against persons; (b) that the property taken belongs to another; (c) the taking be done with *animo lucrandi*, and (d) on the occasion of the robbery or by reason thereof, homicide (used in its generic sense) was committed.[72]

Although Concepcion did not witness the actual taking of Perla's personal belongings, 'it was indubitably proven that the assault on Perla resulted not only in her killing but also the loss of her wristwatch and ring worth P1,500.00 and cash in the amount of P400.00. In robbery with homicide, what is essential is that there be "a direct relation, an intimate connection between robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes be committed at the same time."'[73]

By performing such well-coordinated acts indicating a common purpose or design,[74] appellants have been proved to be in conspiracy to rob and kill Perla. As such, they shall be equally liable for the crime. Under Article 294 of the Revised Penal Code, each of them shall be penalized with reclusion perpetua to death. However, because the crime was committed when the imposition of the death penalty was still constitutionally proscribed, they shall instead suffer the penalty of reclusion perpetua, regardless of the presence of the aggravating circumstance of abuse of superior strength.[75]

WHEREFORE, the decision finding accused-appellants Alfredo Navales, Jr. and Alberto Navales guilty beyond reasonable doubt of the crime of robbery with homicide is hereby **AFFIRMED** in toto. Accused-appellants' immediate transfer to the Bureau of Corrections in Muntinlupa City is enjoined. Costs against accused-appellants. **BATAS**

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] TSN, January 24, 1989, pp. 7-9, 35.

[2] TSN, June 28, 1988, pp. 15-32.

[3] *Ibid.*, p. 33.

[4] TSN, October 5, 1988, pp. 13-18.

[5] *Ibid.*, pp. 18-29.

[6] *Ibid.*, pp. 39-42.

- [7] Ibid., p. 47.
- [8] TSN, September 19, 1988, pp. 11.
- [9] TSN, January 24, 1989, pp. 16-17.
- [10] Ibid., pp. 18-19.
- [11] Ibid., pp. 20-32, 39.
- [12] Ibid., pp. 36-37.
- [13] Ibid., p. 37.
- [14] TSN, February 6, 1990, p. 15.
- [15] Ibid., p. 38.
- [16] TSN, September 26, 1989, p. 12.
- [17] Ibid., pp. 16-19.
- [18] Ibid., p. 20.
- [19] TSN, March 22, 1989, pp. 39-43.
- [20] Record, p. 1.
- [21] Ibid., p. 5.
- [22] Ibid., p. 10.
- [23] TSN, July 11, 1989, pp. 8-9.
- [24] Ibid., pp. 11-21; Record, p. 7.
- [25] Record, p. 29.
- [26] TSN, December 3, 1990, pp. 8-9.
- [27] Ibid., pp. 14-16.
- [28] Ibid., pp. 20-21.
- [29] Ibid., p. 25.
- [30] Ibid., p. 28.
- [31] Ibid., p. 34.
- [32] TSN, December 4, 1990, pp. 8-9.
- [33] Ibid., pp. 13-14.
- [34] Ibid., pp. 22-25.
- [35] Wilfredo Navales. According to Alfredo Navales, Sr., Wilfredo was shot by a policeman named Romeo Gomez who was then with Harlem Robles (TSN, February 13, 1990, p. 17).
- [36] Ibid., pp. 25-28.

[37] Ibid., pp. 32-35.

[38] Ibid., pp. 44-52.

[39] He was 21 years old when he testified on May 20, 1991.

[40] TSN, May 20, 1991, pp. 4-10.

[41] If this is true, then when the crime was committed, Alberto Navales was around seventeen (17) years old because he testified on July 3, 1991, almost five years from October 6, 1986. It should be noted, however, that the defense failed to prove the fact that under Art. 189 of the Child and Youth Welfare Code, Alberto was a youthful offender entitled to certain benefits prescribed by law.

[42] TSN, July 3, 1991, pp. 6-14.

[43] Ibid., pp. 35 & 38.

[44] TSN, July 4, 1991, pp. 4-11, 16.

[45] Penned by Judge Jose Y. Aguirre, Jr.

[46] Record, p. 767; Rollo, p. 87-a.

[47] Record., p. 768.

[48] Ibid., p. 771.

[49] Rollo, pp. 84, 91 & 149.

[50] Appellants' Brief, p. 9.

[51] Ibid., p. 34.

[52] People v. Dayson, G.R. No. 106234, March 2, 1995, 242 SCRA 124, 127.

[53] People v. Pija, G.R. No. 97285, June 16, 1995, 245 SCRA 80, 85.

[54] G.R. No. 116279, January 29, 1996, 252 SCRA 507, 517.

[55] TSN, May 20, 1991, p. 5; TSN, December 3, 1990, p. 19.

[56] TSN, June 28, 1988, pp. 16-17.

[57] People v. Jose, G.R. No. 107106, November 24, 1995, 250 SCRA 319.

[58] People v. Asoy, G.R. No. 109764, December 29, 1995, 251 SCRA 682, 687.

[59] People v. Yadao, G.R. Nos. 72991-92, November 26, 1992, 216 SCRA 2, 7; People v. Competente, G.R. No. 96697, March 26, 1992, 207 SCRA 591, 596.

[60] People v. Peran, G.R. No. 95259, October 26, 1992, 215 SCRA 152, 158.

[61] TSN, June 28, 1988, pp. 51-54.

[62] Ibid., pp. 57-63.

[63] People v. Pascua, G.R. No. 100990, February 27, 1992, 206 SCRA 628, 634-635.

[64] Appellants' Brief, pp. 32-33.

[65] *People v. Castillo*, G.R. No. 93408, April 10, 1992, 208 SCRA 62, 70-71.

[66] TSN, June 28, 1988, pp. 26-28.

[67] *People v. Escolterol* G.R. No. 68160, October 9, 1985, 139 SCRA 218, 228; *People v. Remollo*, L-31330, June 29, 1983, 123 SCRA 209; 211-212.

[68] Appellants' Brief, p. 31.

[69] *People v. Espejo*, G.R. No. 88662, June 18, 1990, 186 SCRA 627; 637-638.

[70] *People v. Magalong*, G.R. No. 100125, May 12, 1995, 244 SCRA 117, 122.

[71] *People v. Cabiles*, G.R. No. 113785, September 14, 1995, 248 SCRA 207, 220.

[72] *Ibid.*, pp. 219-220.

[73] *People v. Pacapac*, G.R. No. 90623, September 7, 1995, 248 SCRA 77, 93 citing *People v. Hernandez*, 46 Phil. 48 (1924).

[74] *People v. Hilario*, 314 Phil. 603 (1995).

[75] *People v. Feliciano*, G.R. No. 102078, May 15, 1996 citing *People v. Dapitan*, G.R. No. 90625, May 23, 1991, 197 SCRA 378, 390.

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