

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LINDES PAYNOR, ACCUSED-APPELLANT.*G.R. No. 116222. September 09, 1996*

Ponente: REGALADO, J.

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For the fatal stabbing of Carmelita Aguinaldo at Barangay Rizal, Roxas, Isabela, herein accused-appellant Lindes Paynor, alias “Jess,” was charged with the crime of murder in Criminal Case No. 23-285 of Branch 23, Regional Trial Court of Roxas, Isabela.

The factual backdrop of this tragic occurrence, culled from the records of the trial court and the testimonies adduced therein, commenced at around 4:00 P.M. of September 18, 1991 when a middle-aged teacher, Carmelita Aguinaldo, was stabbed and killed inside her classroom at the Roxas Central Elementary School. A ten-year old pupil, by the name of Fresnaida Magaway, narrated how the events unfolded.

She testified that in the afternoon of September 18, 1991 she was assigned as a cleaner and, while sweeping the ground near her classroom, she noticed a man who was holding a pointed knife, near the classroom of the victim. The man entered the room of the teacher, stabbed her, and went out of the room headed west towards the fence of the school, carrying the pointed bladed weapon in his hand and passing in front of the witness. Shortly thereafter, Ms. Aguinaldo emerged from the room saying “Manang, nabagsol na kon,” literally meaning, “Manang, I am stabbed,” then she fell to the ground.[1]

The immediate reaction of this young witness was to seek help from her teachers, so she went into the classroom of her teacher, Ms. Hermogena Uy, and told her about Ms. Aguinaldo. She then took her belongings from the classroom and proceeded immediately to where Ms. Aguinaldo fell down and there she saw Mrs. Leticia Navarro embracing the victim, with Mrs. Elizabeth Dumlao by their side. A tricycle came and the teachers rushed the victim to the nearby hospital. She followed her teachers to the hospital, where Ms. Aguinaldo was pronounced dead on arrival.

Fernando Castillo, a policeman, who had responded to the crime report, testified that he went to the hospital and inquired whether someone saw the stabbing. According to him, Fresnaida Magaway came forward and told them that she saw a man in blue maong pants, and white T-shirt printed in front, using slippers and a brown hat, and with a green towel wrapped around his neck. He entered the school yard and went to the room of Ms. Aguinaldo where he stabbed her with a pointed bladed weapon. She further said that if the man would be presented to her, she could recognize him.[2]

The police investigators then went to the house of the family of the deceased and asked the family members if they had a suspect in the killing of Ms. Aguinaldo. The family of the deceased pointed to appellant, the “jilted boyfriend” of the victim’s sister, as a possible suspect. The policemen then proceeded to the house of appellant, but they were informed that he was at the Tagalag auto repair shop having his motorcycle repaired.[3]

At the Tagalag auto repair shop, the policemen saw appellant wearing maong pants, white T-shirt with markings in front, with a yellow towel wrapped around his neck and a brown hat on his head. Appellant was invited by them to their station where he was identified by Fresnaida Magaway as the person who stabbed and killed Ms. Aguinaldo. On the strength of said positive identification, appellant was detained at the police station.

An information was filed on September 19, 1991, charging appellant with the murder of Carmelita Aguinaldo, with evident premeditation and treachery as attendant circumstances, by the infliction of a fatal stab wound on her chest, and committed at the time and on the date and place earlier narrated.[4]

No preliminary investigation having been conducted prior to the filing of that information, appellant's counsel filed a motion for preliminary investigation on September 23, 1991 with the Regional Trial Court, Branch 16, at Ilagan, Isabela. On October 18, 1991, presiding Judge Teodulo E. Mirasol issued an order directing the Provincial Prosecutor to conduct a preliminary investigation.

Denying appellant's motion for his release from detention in the meantime, said court issued an order on November 8, 1991 that —

“x x x the court is of the opinion that the arrest is lawful, considering that the accused was arrested immediately after the commission of the offense, the police officers acting with promptness after a credible information furnished them by a credible witness. That the police acted with personal knowledge of facts fed them by a witness who has no sufficient time to reflect on what she was going to tell the police (is) indicative of truthfulness in pointing to the accused as the author of the stabbing.”[5]

On November 22, 1991, a resolution was issued by the Office of the Provincial Prosecutor maintaining the information filed on September 19, 1991. On December 12, 1991, appellant was duly arraigned and, on his plea of not guilty to the charge for murder the court below thereafter proceeded with the trial.

The prosecution based its case primarily on the testimony of a lone eyewitness, and this in the person of a ten-year old girl, Fresnaida Magaway. Considering that doubts may be entertained in view of her tender years, and for a graphic illustration and clearer appreciation of what actually transpired on the afternoon of 18 September 1991 as seen through the eyes of this eyewitness, we quote the pertinent transcripts of stenographic notes of her testimony:

“Q

Do you know the name of that man whom you pointed to the court?

A

Yes, sir.

Q

Will you please tell his name if you know?

A

Jessie Paynor, sir.

Q

Can you recall the attire and appearance of the accused whom you pointed to when he stabbed Ms. Aguinaldo in her room on September 18, 1991, at 4:00 o'clock in the afternoon?

A

He ha(d) a white t-shirt, denim pants and he ha(d) a woven hat and a green towel. (The witness demonstrating as if the towel was wrapped around her neck)[6]

x x x

x x x

x x x

Q

Did you not tell Mrs. Uy that you saw the man who stabbed Mrs. Aguinaldo?

A

I told her sir, but I did not tell the name.

Q

Do you know the name of the person at the time you told Mrs. Uy the identity of the assailant?

A

Jessie, sir.

Q

Yes, did you mention the name of Jessie to Mrs. Uy when you told Mrs. Uy that you saw the stabbing of Mrs. Aguinaldo?

A

No sir.

Q

Can you tell this court why you failed to inform Mrs. Uy your teacher, the identity of the assailant?

A

I did not tell her sir because I followed Mrs. Aguinaldo.

Q

You did not tell her or you failed to tell her because you immediately followed where Mrs. Aguinaldo was brought to, is that what you mean?

A

Yes, sir.

Q

Now, that person whom you identified as Jess, from the way you testify, you already know him, is that correct, at the time of the stabbing?

A

Yes, sir.[7]

x x x

x x x

x x x

Q

Now how did you notice if it is true that you recognized for the third time that he was walking to and fro in front of your room and the room of Mrs. Aguinaldo the identity of the assailant of Mrs. Aguinaldo?

A

Because he was walking to and fro my attention was attracted.

Q

So when the third time that you noticed him walking to and fro, could you tell the court what special feature of that person walking to and fro attracted your attention?

A

I saw the face, sir.

Q

Is that the only thing that you saw in that person, his face?

A

I saw the apparel, sir.

Q

And it was at the fourth time that he walked to and fro when he entered the room of Mrs. Aguinaldo?

A

Yes, sir.

Q

And during that time he was walking to and fro you already saw him holding a knife, is that correct?

A

Not yet, sir.

Q

At what point in time did you see him if you saw him h(o)ld a knife?

A

I did not yet see the knife he used to stab Mrs. Aguinaldo, sir.

COURT:

Q

Yes, did you see any knife in his possession during or after the incident?

A

After Mrs. Aguinaldo was stabbed I saw him holding the knife because he was facing me at that time.

Q

So that was the only time that you saw him, I mean the assailant, holding a knife when he passed by you?

A

Yes, sir.

Q

And when the assailant came out of the room of Mrs. Aguinaldo how did he leave the room, he ran, he walk(ed), or what?

A

After ma'am Aguinaldo was stabbed the assailant ran away, sir.[8]

As earlier stated, both in the police station and then in open court, the young girl positively identified appellant as

the person she saw on September 18, 1991 who stabbed and killed the victim, Mrs. Carmelita Aguinaldo.

Appellant denied having been anywhere near the school on September 18, 1991 and insisted that he was at the Tagalag auto repair shop, busy having his motorcycle repaired. Testifying in his defense, appellant blandly declared that he went to the repair shop at 2:10 in the afternoon of that day, to have his motorcycle repaired; that he had to push his motorcycle to the shop and when they tested it there, it would not start; that the owner suggested and he agreed that the engine be overhauled; that he was at that shop all the time, helping in the overhauling until 5:00 P.M. when policemen arrived and invited him to go with them to the police station.[9]

The testimony of appellant was corroborated by Cecilio Tagalag who testified that the former was at their motor shop from 2:00 to 5:00 p.m. on September 18, 1991 and left only when he was picked up by the police authorities at around 5:00 o'clock that afternoon.[10]

The trial court rendered judgment on April 21, 1994, finding against appellant and commending the lone eyewitness for the prosecution, Fresnaida Magaway. These words of said court therein are worth repeating, before the dispositive portion that follows:

“Cross examined on several occasions, this young girl stuc(k) to the testimony that it was the accused whom she saw enter the room, then left followed by the victim shouting for help. During these gruelling and excruciating cross-examinations, she never faltered. She never showed any sign of fear. She never wavered, she stuc(k) to her testimony.

This girl is no ordinary girl. She is made of metal far better than some adults. For adults are always mindful of their safety and their families. Even if they have actually seen a person shot to death, stabbed to death, or mauled to death, they would not come out in the open and volunteer the information that they saw the killing. Either they keep quiet, or deny having witnessed such incident. But this girl is different. She volunteered to describe the attire of the accused.

x x x

x x x

x x x

If only witnesses who see actual killings, have the guts and the courage of this girl, all unsolved criminal cases would be solved. This girl shames the adults, especially those who do not come out (in) the open when they witness crimes. If only those witnesses were Fresnaida Magaway, all crimes would have been solved, and the malefactors sent to jail. This girl is an epitome of courage and guts. Fearless and intelligent, she has done what adults shu(n) to do.[11]

x x x

x x x

x x x

AS A CONSEQUENCE OF ALL THE FOREGOING, the court finds the accused guilty beyond reasonable doubt of the crime of murder provided for and penalized by article 248 of the Revised Penal Code, and imposes upon him the penalty of Reclusion Perpetua, together with all the necessary penalties provided by law, to indemnify the

heirs of the victim in the amount of P50,000.00 pesos, without however, subsidiary imprisonment in case of insolvency, and to pay cost.”[12]

Appellant now seeks the reversal of that verdict, claiming that the trial court erred: (1) in giving credence to the testimony of Fresnaida Magaway in convicting him in spite of the material flaws, contradictions, and improbabilities inherent in her testimony; (2) in admitting in evidence the following physical evidence: white T-shirt, denim pants, green towel, and hat, in spite of the clear violation of the Miranda doctrine during the custodial investigation of the accused; (3) in convicting him based on mere circumstantial evidence from an account of one highly questionable witness; and (4) in convicting him of the offense charged despite failure of the prosecution to prove the qualifying circumstances of treachery and evident premeditation.[13]

Appellant specifically laments the mode by which Fresnaida Magaway identified him, theorizing that if the witness really knew him, she should have mentioned his name the moment she was asked by the police as to who stabbed the victim, instead of resorting to a “descriptive identification.”[14]

He likewise also argues that there was a violation of the Miranda rights of an accused when he was identified by the witness while he was seated on a bench of the investigation room. The manner employed by the investigators in obtaining his T-shirt, pants, towel, slippers, and hat, according to appellant, was a further violation of his rights as these items were taken from him in the absence of his counsel.

The defense also asserts that the lower court relied upon the testimony of a highly questionable witness in the person of Fresnaida Magaway, and that the conviction of appellant was based purely on circumstantial evidence which should not have been taken as proof beyond reasonable doubt that he really stabbed the victim to death. The final contention is that the prosecution failed to prove either that there was treachery employed by the accused in the killing of the victim or that there was evident premeditation on his part to take her life.

On the allegation of inconsistency and flaws in the testimony of a single eyewitness, a thorough review of the transcripts of stenographic notes, particularly those on the testimony of witness Fresnaida Magaway, does not reveal any major inconsistency. Instead, the Court is regaled by the unswerving and consistent position of the witness that appellant was the only one whom she saw on that occasion and that he stabbed and killed her teacher, Mrs. Aguinaldo. Any minor lapses therein tend to buttress, rather than weaken, her credibility since they show that she was neither coached nor were her answers contrived.[15]

The contention of appellant that the expected reaction of the witness should have been to identify him by name is an obvious non sequitur. What should be considered as a general or common rule is that witnesses to a crime react in different ways. In the instant case, the youthful witness was unable to immediately reveal the name of appellant to the police as she was evidently scared or confused and, as she explained, she also failed to name appellant at that time since her concern and thoughts were of her teacher whom she followed to the hospital. Surely, we can not fault the young girl for her confusion and fear, it being her first time to witness such a crime of violence.

The important thing is that when she testified at the trial, she was firm, spontaneous and categorical in her declaration that it was appellant whom she saw that afternoon, and that it was he who entered the classroom of her teacher and stabbed the latter with a pointed bladed weapon. The witness stood by her declaration, unshaken throughout the entire trial, and never showed any hesitation in her testimony.

Another fact worth stressing is that the witness had no motive whatsoever to fabricate a serious charge against appellant. When there is no showing that the principal witness for the prosecution was actuated by an improper motive, the presumption is that he was not so actuated, and his testimony is thus entitled to full faith and credit.[16]

Appellant then asseverates that there was a violation of his rights while under custodial investigation, in light of the Miranda doctrine, when allegedly the police investigators unceremoniously stripped him of his clothing and personal items, and the same were later introduced as evidence during the trial. The Court is not persuaded. The protection of the accused under custodial investigation, which is invoked by appellant, refers to testimonial compulsion. Section 12, Article III of the Constitution provides that such accused shall have the right to be informed of his right to remain silent, the right to counsel, and the right to waive the right to counsel in the presence of counsel, and that any confession or admission obtained in violation of his rights shall be inadmissible in evidence against him. As held in *People vs. Gamboa*,^[17] this constitutional right applies only against testimonial compulsion and not when the body of the accused is proposed to be examined. In fact, an accused may validly be compelled to be photographed or measured, or his garments or shoes removed or replaced, or to move his body to enable the foregoing things to be done, without running afoul of the proscription against testimonial compulsion.^[18]

The desperate ploy of appellant that the evidence against him was purely circumstantial does not even warrant refutation. It was definitely established by the prosecution that appellant was actually the one who treacherously attacked the victim. Eyewitness Magaway unequivocally stated and lucidly described how she saw appellant actually stabbing Mrs. Aguinaldo,^[19] and even demonstrated during the ocular inspection the specific part of the room where the crime was committed and where she herself was when she witnessed the dastardly deed.^[20] As already explained, the defense failed to show that the witness had ill motives in testifying against appellant and there is no doubt in the mind of this Court that the witness really had no personal ill feelings against him. The conclusion that irresistibly emerges, therefore, is that the witness was just honestly relating what she really saw on September 18, 1991, and that she so testified because of her desire for justice and redress for the terrible wrong against her teacher.

The fourth error assigned by appellant that evident premeditation and treachery were not proved merits some comment. It is correct that evident premeditation was not established. There is no evidence or showing on record when and how appellant planned and prepared for the killing of the victim. His allegation that there was no treachery, however, is a different matter. The attack against Mrs. Aguinaldo was so sudden that, although she was stabbed by appellant while she was facing him, the unexpected attack in itself constituted treachery. The victim was caught unaware and did not have any opportunity to defend herself. Also, from the means and methods adopted by appellant to commit the crime, it would be incredible to assume that the same were not deliberately adopted to insure the consummation of the felony.

Lastly, there can be no sensible debate that appellant's defense of alibi has to be rejected. It is elementary that for this discredited defense, credible and tangible proof of physical impossibility for the accused to be at the scene of the crime is indispensable.^[21] In the present case, the court below found that appellant was then just one kilometer away from the scene of the crime.^[22] Furthermore, the defense of alibi can not prevail over the positive identification of the accused by an eyewitness who had no improper motive to falsely testify.^[23]

WHEREFORE, the judgment appealed from is hereby affirmed in toto, with costs against accused-appellant Lindes Paynor.

SO ORDERED.

Romero, Puno, Mendoza and Torres, Jr., JJ., concur.

[1] TSN, December 12, 1991, 10-15.

- [2] Ibid., October 15, 1992, 4-5.
- [3] Ibid., id., 7-8.3
- [4] Original Record, 1.
- [5] Ibid., 28.
- [6] Ibid., December 12, 1991, 14-15.
- [7] Ibid., December 18, 1991, 77-80.
- [8] Ibid., June 11, 1992, 9-11.
- [9] Ibid., April 14, 1993, 4-6.
- [10] Ibid., March 10, 1993, 4.
- [11] Original Record, 250-251.
- [12] Ibid., 256; per Judge Wilfredo Tumaliuan.
- [13] Rollo, 89; Brief for Accused-Appellant, 3.
- [14] Ibid., 89-90.
- [15] People vs. Querido, G.R. No. 95319, February 7, 1994, 229 SCRA 745; People vs. Israel, G.R. No. 97027, March 11, 1994; 231 SCRA 155; People vs. Silong, et al., G.R. No. 110830, May 23, 1994, 232 SCRA 487.
- [16] People vs. De la Cruz, G.R. No. 108180, February 8, 1994, 229 SCRA 754.
- [17] G.R. No. 91374, February 25, 1991.
- [18] People vs. Otadora, et al., 86 Phil. 244 (1950).
- [19] TSN, December 12, 1991, 11-12.
- [20] Ibid., December 18, 1991, 2-3.
- [21] People vs. Tañote, et al., G.R. No. 109769, November 28, 1994, 238 SCRA 443.
- [22] Original Record, 253.
- [23] People vs. Javier, G.R. No. 104729, February 3, 1994, 229 SCRA 638.

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