

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FAUSTO OBEDO Y BORBAJO ALIAS "TITING", ACCUSED-APPELLANT.

G.R. No. 123054. June 10, 2003

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This is an appeal from the decision,[1] dated February 1, 1995, of the Regional Trial Court (Branch 1), Tagum, Davao, insofar as it finds appellant Fausto Obedo guilty of robbery with homicide and sentences him to suffer the penalty of reclusion perpetua and to pay the heirs of the victims the amount of P100,000.00 as civil indemnity for the deaths of spouses Wilfredo and Jinky Luayon, P40,000.00 as moral damages, and P100,000.00 as actual and compensatory damages, and to pay the costs.

On May 7, 1990, appellant was charged with Robbery with Homicide under Art. 294, par. 1, in relation to Arts. 293 and 249 of the Revised Penal Code, in an Information docketed as Criminal Case No. 7382, which reads:

That on or about February 21, 1990, in the Municipality of Kapalong, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with Arnold Rananan Alias "Opong" and Alias "Tony" Villamor, who are now deceased, armed with a revolver, with intent of gain and by means of violence and intimidation of persons, did then and there willfully, unlawfully and feloniously take, steal and carry away cash money amounting to TEN THOUSAND (P10,000.00) PESOS, Philippine Currency, belonging to the spouses Wilfredo Luayon and Jinky Luayon, and on the occasion of the said robbery, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and shoot Wilfredo Luayon and Jinky Luayon, thereby inflicting upon them wounds which caused their death, and further causing actual, moral and compensatory damages to the heirs of the victims.

Contrary to law.[2]

When arraigned on July 31, 1990, appellant pleaded not guilty to the crime charged; whereupon trial ensued.

The prosecution presented seven witnesses, namely: Dominador Luayon, Pat. Aguedo Ganiera, Jesus Saraga, Abundo Mahinay, Dionisio Luayon, Carolina Saraga, and Jerry Abando.

The gist of their testimonies is as follows:

The victims, spouses Wilfredo Luayon and Alice "Jinky" Luayon, are residents of Kapalong, Davao. Wilfredo was a farmer who tilled his own rice field and earned his income by selling palay (rice produce) after drying it.[3] On February 19, 1990, after selling palay, he kept his earnings, amounting approximately to P20,000.00, in a cavan (wooden chest) inside his house.[4]

On February 21, 1990, at around 7 o'clock in the evening, appellant together with Arnold Rananan and Tony Villamor went to the house of Jesus Saraga and requested the latter to accompany them to the house of Wilfredo.

Without asking any questions, Saraga agreed. On the way to the house of Wilfredo, Saraga saw Rananan remove a gun tucked in his waist on the left side and held it. After escorting the three, Saraga went home.[5] At around 7:30 o'clock in the evening, Dominador Luayon, the brother of Wilfredo, heard a commotion in the latter's house. Dominador was at the balcony of his house, 50 meters away from Wilfredo's house, when he heard bottles falling to the floor. Shortly thereafter, he heard his sister-in-law, Jinky, crying for help, so he hurriedly ran towards the house. He slowly walked to the door but, finding it locked, went to the yard instead. He heard his brother uttering the words, "Why are you doing this to us, Pong?", after which, he heard gunshots. Out of fear, Dominador laid on the ground, around four to five meters from one of the windows of the house, and waited. He then heard the window being destroyed, and after a while, saw two persons jump out from the window. Because the house was lighted by a kerosene lamp, he saw appellant Fausto Obedo, alias Titing,[6] jump first, followed by Arnold Rananan, alias Pong.[7] Sensing that something happened, Dominador got up and shouted for help. His brother-in-law, Alvis Milla, arrived, and they both went inside the house through the broken window. He first saw Jinky upstairs, hardly breathing with her baby alive and playing with her bloodied breasts. He next saw Wilfredo, his head hanging in the crib.[8]

Moments later, Dionisio Luayon, another brother of Wilfredo, arrived. He saw the wooden chest ajar with things and some loose coins scattered on the floor. He attended to Jinky who whispered to him that they were robbed by the appellant and Rananan. Both victims died before they could be brought to the hospital.[9] The Certificates of Death of the two victims reveal that they died of irreversible shock and gunshot wounds.[10]

At around 10 o'clock in the evening, riding in a motorcycle, appellant, Rananan and Villamor went to Abundio Mahinay's house to borrow a shirt from him as Rananan's shirt was stained with blood.[11]

Pat. Aguedo Ganiera, chief intelligence and member of the investigation section of the Integrated National Police (INP) in Kapalong, Davao, and his team conducted a follow-up investigation on the incident. According to his investigation report,[12] on February 28, 1990, his team captured Arnold Rananan who voluntarily confessed and admitted to have participated in robbing and killing the Luayon spouses in Kapalong, Davao. However, a few minutes after he was captured and handcuffed, Rananan managed to escape and held a boy hostage. The PC/Alsa Masa Detachment, which assisted Pat. Ganiera's team, was prompted to subdue Rananan by shooting him. Rananan was rushed to the Davao Doctors Hospital and later on transferred to Davao Medical Center where he was treated. Unfortunately, a few hours later, he died due to the gunshot wound he had sustained.

The team next made a follow-up on Antonio Villamor, alias "Tony," in Davao City. They learned that he was allegedly shot to death by unidentified persons at Claveria, Davao City.

As to appellant Obedo, the team was able to arrest him in Maniki, Kapalong, Davao on March 1, 1990 at around 7:00 o'clock in the evening and turned him over to the Station Commander for proper disposition.

On the other hand, the defense presented three witnesses, namely: Jose Rana, Vicente Gutierrez and appellant Fausto Obedo.

Appellant's defenses are denial and alibi. According to him, he is engaged in the business of buying and selling livestock. He lives in Kapalong, Davao but he frequents several barangays in order to buy pigs, carabaos and cows. He claims that on February 21, 1990, he went to Gabuyan, a neighboring barangay, at around 10:30 o'clock in the morning because he was informed that a resident is looking for a buyer of carabao. He headed home to Kapalong at around 11 o'clock in the morning and stayed home for the rest of the day to attend to his sand and gravel business. According to him, he was arrested without a warrant and detained on February 28, 1990 although no complaint or information against him has been filed yet. He admitted that he knew Wilfredo and Jinky Luayon personally, as he buys carabaos and pigs from them regularly, the last of which was about a month before the

incident. However, he denies that he killed and robbed the victims. He instead intimated that Jesus Saraga, who is a known tambay, and the two others (Ranalan and Villamor) may have had a hand in the incident.[13]

The defense presented Jose Rana and Vicente Gutierrez to prove the good moral character of the appellant. According to Rana, he has known the appellant for 15 years because the latter served as his agent in buying cows, carabaos and pigs. He knows accused to be a farmer and a contractor of sand and gravel.[14] Gutierrez, on the other hand, testified that he has known the accused since childhood. According to him, the accused has no criminal record nor was he ever involved in any criminal incident except for the instant case.[15]

On February 1, 1995, the trial court rendered its decision. It held that circumstantial evidence proved that accused is a co-conspirator of Ranalan and Villamor in the commission of the crime of robbery with homicide, surpassing direct evidence in weight and probative value. It gave weight to the affirmative testimonies of witnesses over the denial of the accused. The dispositive portion of the decision reads:

WHEREFORE, premises considered, this Court finds the accused FAUSTO OBEDO y Borbajo, 39 years of age, married to Fely C. Bitangga, alleged businessman/farmer, and resident of Maniki, Kapalong, Davao, guilty beyond reasonable doubt of the crime of Robbery with Homicide penalized under Article 293 and 249 of the Revised Penal Code, as charged in the information, and is hereby sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties provided by law, and to indemnify the heirs of the victims — Wilfredo and Alice "Jinky" Cuerpo-Luayon — as follows:

1. — As indemnity for each death: FIFTY THOUSAND (P50,000.00) PESOS, or, a total of ONE HUNDRED THOUSAND (P100,000.00) PESOS for the two (2) deaths;
2. — As and for moral damages: TWENTY THOUSAND (P20,000.00) PESOS, or, a total of FORTY THOUSAND (P40,000.00) PESOS for the two (2) deaths;
3. — As and for actual and compensatory damages, which includes funeral expenses, burial and other necessary expenses: FIFTY THOUSAND (P50,000.00) PESOS, or, a total of ONE HUNDRED THOUSAND (P100,000.00) PESOS for the two (2) deaths;

and to restitute to the lawful heirs of the deceased-victims spouses, Wilfredo and Alice C. Luayon, the amount of TEN THOUSAND (P10,000.00) PESOS, Philippine Currency, which is the amount robbed from said victims and as reflected in the information, and to pay the costs.

In the service of this sentence, said accused Fausto Obedo y Borbajo, alias "Titing" shall immediately be turned over to the custody of The Director, Bureau of Corrections, National Bilibid Prisons, Muntinlupa, Metro Manila, pursuant to Supreme Court Circular No. 4-92-A dated April 20, 1992, amending SC Administrative Circular No. 4-92 dated January 14, 1992, and is therefore hereby ordered committed to the custody of the Provincial Warden of Davao Province preparatory to his remittance to the National Bilibid Prisons. As a consequence, the bail bond posted by said accused is hereby ordered cancelled. Let the corresponding mittimus or commitment order be issued forthwith.

IT IS SO ORDERED.[16]

Hence, the present appeal. Appellant claims that there is no evidence to support his conviction and that the constitutional presumption of innocence remained untarnished and can be invoked in favor of the accused.[17]

The Court finds that the trial court erred in finding the appellant guilty of robbery with homicide.

In order to be convicted of robbery with homicide, four (4) elements are necessary: (a) the taking of personal property with the use of violence or intimidation against the person; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or animus lucrandi; and, (d) on the occasion of the robbery or by reason thereof the crime of homicide was committed.[18] It is necessary that the robbery itself be proved as

conclusively as any other essential element of the crime.[19] For there to be robbery, there must be taking of personal property belonging to another, with intent to gain, by means of violence against or intimidation of any person or by using force upon things.[20]

In this case, aside from the fact that no inventory was conducted after the incident, as is usually done in robbery cases,[21] the prosecution did not convincingly establish the corpus delicti of the crime of robbery. Corpus delicti has been defined as the body or substance of the crime and, in its primary sense, refers to the fact that a crime has actually been committed.[22] As applied to a particular offense, it means the actual commission by someone of the particular crime charged.[23] In this case, the element of taking as well as the existence of the money alleged to have been lost and stolen by appellant was not adequately established. We find that no sufficient evidence stands to show either the amount of money stolen from the victims' wooden chest or if any amount was in fact stolen from them at all. While the Information against appellant alleged that he, together with Ranalan and Villamor, stole money amounting to P10,000.00 from the victims, Dionisio Luayon, Wilfredo's brother, who claim to have knowledge of his brother's earnings kept in the wooden chest, could not state with certainty the exact amount placed in the wooden chest four days before the incident as well as the amount of money that was left after payment of debts before the alleged robbery. He testified thus:

Q

Will you please tell this Honorable Court what was the source of income of your brother during his lifetime?

A

He was also a farmer, sir.

Q

Now, tell us, please, Mr. Dionisio Luayon, if days before the incident of February 21, 1990 your brother told you that he has income from the farm?

A

Yes.

Q

Tell us what was the source of this income?

A

Because he sold palay, sir.

Q

Do you have a personal knowledge how many sacks of rice that was sold by your brother?

A

About seventy (70) sacks.

Q

Earlier you said that your occupation is a farmer. From that experience, can you tell this Honorable Court if we are to relate in terms of income, in money, how much these seventy (70) sacks of rice will produce?

A

In my estimate, sir, about Fifty Thousand (P50,000.00) Pesos.

Q

So, this money was kept by your brother in the house?

A

Yes.

Q

In what specific place of the house?

A

In their cavan, sir.

Q

Now, when you were inside the house on that evening of February 21, 1990 were you able to see this cavan you are referring now?

A

Yes.

....

Q

Tell this Honorable Court what was the situation of this wooden chest when you saw it that evening?

A

It was already opened, sir.

Q

What else?

A

The things that were inside were already scattered.

Q

Was the money kept by your brother in that wooden chest?

A

Yes.[24] (Emphasis ours)

On cross-examination, he testified:

Q

Now, you said you saw the chest where your brother used to keep his money. Are you telling the Court that you actually saw your brother putting his money inside the chest or you were just presuming or you were just told?

A

I saw it, sir.

Q

How many days before the alleged robbery did you see your deceased brother put his money in that chest?

A

About four (4) days, sir.

Q

Did you . . . do you know how much money he put in that chest?

A

Not less than Twenty Thousand (P20,000.00) Pesos.

Q

Did he count the money before you when he placed that money in the chest?

A

Yes.

....

Q

And did you tell Dominador and Alvis that that chest contains the money of your deceased brother?

A

I did not tell them, sir.

Q

Did you not tell Dominador and Alvis that that chest was the receptacle of the money of your deceased brother in the amount of Twenty Thousand (P20,000.00) Pesos?

Did you not tell them?

A

The actual?

Q

At that time when you went there in the night of the incident?

A

I told them that the money was placed there at the wooden trunk.

Q

Now, when you were asked by Atty. Arafol whether the chest still contains the money when you arrive you said, yes.

Did you remember having been asked that question and answered yes?

A

Yes, the loose change was there but the paper bills were not already there.

Q

So, you were very sure that those changes ... what do you mean by changes, coins or also papers?

A

Loose coins.

Q

Did you see your deceased brother put those coins there at the time when he counted the money of P20,000.00?

A

Yes.

Q

How much coins did he place there?

A

I do not know about the loose coins.

Q

How about the paper bills, how much?

A

About Twenty Thousand (P20,000.00) Pesos.

Q

So, when you stated a while ago that your deceased brother put Twenty Thousand (P20,000.00) Pesos there it is not true because it is more than P20,000.00, after all?

A

Because it was only my estimate, sir.

Q

So, the P20,000.00 you mentioned was only estimated by you, you do not know really that it was the exact amount?

A

Yes, because he might have gotten some of the amount because he has debts considering that he is a farmer.[25] (Underscoring ours)

Clearly therefrom, the amount of money in the chest on the date when the alleged robbery took place was not established. There was no adequate proof of the robbery. Aside from the loose coins that were found, the prosecution failed to show conclusively that the chest contained money at the time of the incident. There was no substantial link between the alleged loss of the contents of the wooden chest and the appellant, for the money was never seen in the possession of the appellant.[26] While there is testimony that the victims had money four days before the incident, the hiatus between the acquisition of the money by the victims and the commission of the delict itself was long enough for the victims to be able to send the money elsewhere,[27] such as to pay off their debts, as testified to by Dionisio himself. The prosecution failed to show by concrete evidence that certain amount of money was taken by the appellant.

The trial court erred in relying on the testimony of Dionisio Luayon to establish that robbery has been committed by appellant. It is axiomatic that evidence to be believed must not only proceed from the mouth of a credible witness but must also be credible in itself, such that common experience and observation of mankind lead to the inference of its probability under the circumstances.[28] In criminal prosecution, the court is always guided by evidence that is tangible, verifiable and in harmony with the usual course of human experience and not by mere conjecture or speculation.[29] Testimonies that do not adhere to this standard are necessarily accorded little weight or credence.[30]

The Court finds the narration of Dionisio Luayon on the circumstances pertaining to the ante mortem statement of Jinky Luayon improbable and beyond belief for being contrary to human nature and experience. He testified as follows:

Q

What about his wife?

A

She was almost dying and I think she has something to say.

Q

What did you do upon observing that manifestation from the wife of your brother?

A

I went nearer and I held her and asked her, (Witness demonstrating by raising his two hands as if holding something).

Q

Now, when you embraced her, what did you do?

A

I asked her who was responsible.

Q

Was she able to answer?

A

Yes.

Q

Tell us what was her answer, please?

A

According to her, they were robbed by Titing and Ompong.

...

ATTY. ARAFOL:

Q

Now, if this Titing you said earlier, if presented to you, you can identify him?

A

Yes.

Q

Why can you identify him?

A

Because he is a resident of Gabuyan for a long time and I am familiar to him also because I spent my schooldays in Gabuyan, sir.

...

Q

You did not report to the police authorities of Kapalong that your sister-in-law at the brink of her death told you that it was a certain Titing and a certain Ompong who robbed her and her husband?

A

No, sir.

Q

Of course, the police authorities of Kapalong investigated this incident? You know that?

A

Yes.

Q

And you never volunteered to testify in spite of the fact that you know that the police authorities investigated the death of your sister-in-law and your brother, you never offered to give him a statement as to that particular aspect wherein your dying sister-in-law told you that it was Ompong and Titing who robbed them?

A

Because I already told the story to my parents.

Q

You never told this matter to the police, only to your parents?

A

Yes.

Q

What about . . . except your parents, who else did you tell this incident or report this incident?

A

My other sister.

Q

What is the name of that other sister?

A

Josephine Luayon.

Q

When you told this incident to your parents did not your parents advise you to see the police authorities especially the Chief of the INP, Mr. Galagala?

A

He told me that I will tell it, sir, if it will be needed.

Q

So, at that time you did not believe that your testimony or your statement was necessary in order to help the authorities solve the crime?

A

I was thinking, sir.

Q

And yet you never reported this incident to the police?

A

No, sir.

Q

You know Chief Galagala of the police of Kapalong? You know him personally, is it not?

A

Yes.

Q

As a matter of fact you have known him for quite a long time even before February 1990 before this incident you are relating here?

A

Yes. [31]

The testimony of Dionisio goes beyond logic and normal human experience. First, we find it extremely incredible that Jinky who was shot and in the brink of death would reply to Dionisio's query as to who was responsible, that they were robbed by appellant and Ranalan instead of telling him who shot her and her husband. Second, we likewise find it starkly unbelievable that if Jinky really told Dionisio who the culprits were, he failed to give the names of appellant and Ranalan to the police investigators as the persons mentioned by Jinky before her death. Third, it is equally unacceptable that he did not report to the police that he saw the wooden chest of the deceased spouses open and the things in it scattered on the floor on the night of February 21, 1990 when he found both victims dying. Instead, he decided to withhold such vital informations notwithstanding the fact that he knew the Chief of Police for a quite long time before the date of the incident. It is equally incredible that Dionisio did not deem it necessary to report to the police what he knew about the money of the deceased victims and what he heard from the dying Jinky. Also, the trial court should have discredited the testimony of Dionisio that the Chief of Police advised him to tell what he knows "if it will be needed". Said officer was not presented to attest to his advise, if it were true. Further, his testimony was not corroborated by either of his parents or his sister. Not one of them was presented in court to substantiate his testimony. Considering his close relationship to the victims, it would have been natural for him to report all that he knows to the investigating officer not only for a speedy solution of the case but also to ensure that his brother and sister-in-law would get justice for their deaths. Thus, we find that the trial court erred in giving probative weight to the testimony of Dionisio.

The Court and the trial court as well cannot presume that there was robbery merely because Dionisio Luayon said so. It is essential to prove the intent to rob.[32] This necessarily includes evidence to the effect that the appellant carried away the effects or personalty of the deceased.[33] In the instant case, there is absence of positive proof that appellant intended to rob the deceased or that he was the one who carried away the money belonging to the victims. The burden of proof rests on the prosecution to establish that the money amounting to P10,000.00 as alleged in the Information was taken from the victims on February 21, 1990, and, that it was taken by appellant or at the very least, by his companions. In failing to discharge such burden of proof, the Court cannot in conscience rely on mere presumptions and conjectures to hold that the appellant had committed robbery on the night in question.

Thus, since the corpus delicti of the crime of robbery has not been sufficiently established beyond reasonable doubt, appellant may not be held liable for robbery. Absent any evidence that the appellant indeed robbed the victim, the special complex crime of robbery with homicide cannot stand.[34] The Court has no choice but to resolve the doubt in favor of the appellant.

The trial court erred as well in finding appellant guilty of homicide.

The testimony of Dominador Luayon failed to prove that appellant committed or participated in committing the

crime of robbery with homicide. After a careful study of the records, Dominador fared no better than his brother Dionisio on the witness stand. He pointed to appellant as one of the three conspirators who killed his brother and sister-in-law because he allegedly saw him and Ranalan jump out of the window of his brother's house moments after the gunfires. However, in his affidavit,[35] dated March 1, 1990, Dominador did not mention the names of the persons he saw jump out of the window. The affidavit reads:

Q-5:

Then what transpired next?

A -

That while I was at the immediate premises of the house of Wilfredo (my brother) I got difficulty on where to pass to climb upstairs in the house considering that the door was closed. Then while I was still downstairs I heard burst of a gun four (4) times and after which, two male factors/suspects jumped from the house by passing at the window and ran away. At this juncture my brother in law named ALBIS MILLA arrived and immediately climbed upstairs in the house of Wilfredo and I followed. We also passed at the window for the door was still closed. And while inside I noticed that my brother Wilfredo and his wife Jinky were hovering between life and death and while maneuvering/initiating to transport the victims to the doctor, the couple succumbed to death while still in their house.[36] (Emphasis ours)

When he testified in court, Dominador tried to explain this material omission in his affidavit by claiming that he wanted to tell the name of appellant but he was not asked by the investigator.[37] He said:

Q

And you also know the accused Fausto Obedo very well?

A

Yes, Sir, because they are friends.

Q

They are close friends, as a matter of fact, Fausto Obedo and your deceased brother, Wilfredo Luayon?

A

I do not know if they are close friends but I know that they are friends.

...

Q

Once you mentioned only the name Fausto Obedo as one of those who jumped out of the window of the house of the deceased brother of yours, when did you decide to tell or to reveal the name of Fausto Obedo as one of those who jumped out of the window?

A

I would like to tell it before but I was not asked.

...

Q

You said you were not asked by the investigator who were the suspects who jumped out of the window, why did you state in your affidavit that there were two (2) malefactors who jumped out of the window if you were not asked?

ATTY. ARAFOL:

Your Honor please, before the witness answer, counsel is referring a question from the record in the sworn statement. May we ask what paragraph?

ATTY. RAMA:

Paragraph 5 of the question and answer thereto.

ATTY. ARAFOL:

Paragraph 5 speaks for itself. It is a question what transpired next. There is no identity, there is no question as to how many persons jumped out. . .

COURT:

I will allow that question.

WITNESS:

A I did not mention it because I was not asked about the name of that person who jumped out.[38]
(Underscoring ours)

This explanation is too lame to be accepted. The question posed by the investigator to Dominador called for a narration of what Dominador knew about the incident. He voluntarily gave the information that he saw two persons jump out of the window and yet, strangely enough, although he knew appellant and Rananan very well,[39] he did not mention their names. It casts serious doubt on the credibility of Dominador as a prosecution witness. The identity of the malefactors is too important a detail for anyone who allegedly witnessed the incident to overlook its omission in the very statement of the incident one is giving.[40] The omissions strongly and indubitably indicate Dominador's actual ignorance of the real identity of the perpetrators of the crime.

The general rule has always been that discrepancies between the statement of the affiant in his affidavit and those made by him on the witness stand do not necessarily discredit him since ex parte affidavits are generally incomplete.[41] Affidavits are generally subordinated in importance to open Court declarations because they are oftentimes executed when an affiant's mental faculties are not in such a state as to afford him a fair opportunity of narrating in full what actually transpired and are sometimes prepared with partial suggestions from the

administering officer.[42] The exception to the rule is where the omission in the affidavit refers to a very important detail of the incident such that the affiant would not have failed to mention it, and which omission could affect the affiant's credibility.[43]

In the instant case, Dominador admitted on the witness stand that when he gave his sworn statement, the person of appellant was still very fresh in his mind, and yet, in the same breadth, he testified that he was not able to tell the name of the appellant except for his built, size and standing, thus:

ATTY. RAMA:

Q

Now, before you signed Exhibit "1" and "1-a", did somebody read it for you?

A

Yes, Sir.

Q

Who read it for you?

A

The policeman.

Q

Was it read to you in English or in the Visayan dialect?

A

It was read in English and then he translated it into the Visayan dialect.

Q

You understood the same?

A

Yes, sir.

Q

And they are all true, what is contained in this exhibit?

A

Yes, Sir.

Q

You signed it after the same was translated to you in Visayan dialect, correct?

A

Yes, Sir.

Q

And is it not true that Judge Agayan also translated this document Exhibits "1" and "1-a" to you which you signed?

A

Yes, Sir.

Q

Now, you signed this affidavit one week after the death of your brother Wilfredo Luayon. You still remember when you signed this Exhibits "1" and "1-a", it was still fresh in your mind the two (2) persons who allegedly jumped out of the window of the house of your deceased brother?

A

Yes, Sir.

Q

When you executed this Exhibit "1" and "1-a" the person of Fausto Obedo was still very fresh in your mind?

A

Yes, Sir.

Q

And you stated in your affidavit the identity and the name of the person who jumped out of the window of the house of your deceased brother, Wilfredo Luayon?

A

I was not able to tell the name of Fausto Obedo but his built, his size, and his standing.

Q

Why did you not mention the name of Fausto Obedo and Arnold Ranalan as the two persons who jumped out of the window of the house of brother, Wilfredo Luayon in Exhibit "1" and "1-a"?

ATTY. ARAFOL:

In the affidavit, Your Honor, the name of Arnold Ranalan was mentioned.

ATTY. RAMA:

We will read this affidavit, Your Honor. It is question No. 5 and the answer thereto which we request the Court Interpreter to read this for the record, Your Honor.

COURT:

Alright.

MRS. MORTA:

(Reading Question No. 5 and answer thereto of the affidavit of the witness)

Q

Then what transpired next?

A

That while I was at the immediate premises of the house of Wilfredo (my brother) I got difficulty on where to pass to climb upstairs in the house considering that the door was close. Then while I was still downstairs I heard burst of a gun in four times (4) and after which, two male factors/suspects jumped from the house by passing at the window and ran away. At this juncture my brother in law named Albis Milla arrived and immediately climbed upstairs in the house of Wilfredo and I followed. We also passed at the window for the door was still close. And while inside I noticed that my brother Wilfredo and his wife Jinky were hovering between life and death and while maneuvering/initiating to transport the victims to the doctor, the couple succumb to death while still in the house.

ATTY. RAMA:

Q

Having admitted that Exhibit "1" and "1-a" was read to you in English and translated to you in Visayan dialect and having admitted that you understood the same, in the question and answer that was read to you, you have mentioned the name of Fausto Obedo and Arnold Ranalan as the person who jumped out of the window of the house of your brother?

ATTY. RAMA:

The witness cannot answer, Your Honor. We will wait for his answer.[44]

Moreover, it is unbelievable that Dionisio did not recognize the two men he met. The identities of the perpetrators of the crime are so material to the evidence of the prosecution that the failure of the witnesses to identify and

name the culprits during the taking of their sworn statements cannot be taken merely as insignificant.

Prosecution witnesses Dominador as well as Dionisio Luayon failed to give a credible and consistent account of the identities of the persons responsible for the killing of spouses Wilfredo and Jinky Luayon as well as of the alleged robbery.

We are thus left with no clear picture of the events that transpired on February 21, 1990 and of the identity of the perpetrators.

The circumstantial evidence relied upon by the trial court in convicting the appellant do not suffice to warrant a finding of guilt. The fact that at around 7 o'clock in the evening of February 21, 1990, Jesus Saraga accompanied appellant, Rananan and Villamor to Wilfredo's house, and while on their way to the house of Wilfredo, he saw Rananan get hold of a gun tucked in the latter's waist^[45] does not prove that robbery and killing took place. The crime was committed at around 7:30 o'clock in the evening. The prosecution failed to show what transpired during the 30-minute span of time. Further, that Abundio Mahinay saw appellant, Rananan and Villamor at around 10 o'clock in the evening of February 21, 1990 when Rananan borrowed a shirt from him because he was then wearing a bloodstained shirt^[46] does not provide much support. What he witnessed transpired two hours and a half after the incident. The link between the bloodstained shirt of Rananan and the participation of appellant in the killing was not sufficiently established.

For the foregoing reasons, although denial and alibi are generally held to be weak and unavailing, these defenses gain commensurate strength when the credibility of the prosecution witnesses is wanting and questionable and when the evidence for the prosecution is frail and effete.^[47] The prosecution cannot rely on the weakness of the evidence for the defense but must depend on the strength of its own evidence to prove the guilt of the accused.^[48]

It cannot be overemphasized that the constitutional presumption of innocence demands not only that the prosecution prove that a crime has been committed but, more importantly, the identity of the person or persons who committed the crime.^[49] In the case at bar, the prosecution evidence failed to meet the quantum of proof beyond reasonable doubt necessary for conviction in a criminal case to overcome the presumption of innocence accorded by the Constitution to an accused.

WHEREFORE, the appealed decision is REVERSED and SET ASIDE and appellant is ACQUITTED on the ground of reasonable doubt. The Director of the National Bilibid Prisons, Muntinlupa, Metro Manila is directed to forthwith cause the immediate release of appellant, unless the latter is detained for some other lawful cause, and to inform the Court accordingly within ten (10) days from notice of the action taken by him.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and Callejo, Sr., JJ., concur.

[1] Penned by Judge Bernardo V. Saldares.

[2] Rollo, p. 5; Records, p. 1.

[3] TSN (Dominador Luayon), pp. 23-25, January 15, 1991.

[4] TSN (Dionisio Luayon), pp. 18-20, September 4, 1991.

[5] TSN (Jesus Saraga), pp. 43-61, January 16, 1991.

- [6] Also referred to as "Teting" in the Records.
- [7] Also referred to as "Ompong" and "Opong" in the Records.
- [8] TSN (Dominador Luayon), pp. 10-22, 48-50, January 15, 1991.
- [9] Id., pp. 34-35; Exhibits "1" and "1-A". TSN (Dionisio Luayon), pp. 10-21, 45-46, September 4, 1991.
- [10] Exhs. "C" and "D"; Records, pp. 198, 200.
- [11] TSN (Abundio Mahinay), pp. 85-87, 96, January 16, 1991.
- [12] Exh. "A"; Records, pp. 194-197.
- [13] TSN (Fausto Obedo), pp. 16-17, November 15, 1993.
- [14] TSN (Jose Rana), pp. 7-8, July 20, 1992.
- [15] TSN (Vicente Gutierrez), pp. 8-9, May 24, 1993.
- [16] Decision, pp. 25-26; Rollo, pp. 39-40; Records, pp. 334-335.
- [17] Appellant's Brief, p. 3; Rollo, p. 177.
- [18] *People vs. Campos*, 361 SCRA 339 (2001).
- [19] *People vs. Contega*, 332 SCRA 730 (2000), citing *People vs. Pacala*, 58 SCRA 370 (1974).
- [20] Art. 293, The Revised Penal Code.
- [21] E.g., *People vs. Arellano*, 366 SCRA 204, 215 (2001); *People vs. Sabadao*, 344 SCRA 432, 438 (2000); *People vs. Monterey*, 261 SCRA 357, 367 (1996).
- [22] *People vs. Mantung*, 310 SCRA 819, 833 (1999).
- [23] Id., citing *People vs. Roluna*, 231 SCRA 446 (1994).
- [24] TSN (Dionisio Luayon), pp. 19-22, September 4, 1991.
- [25] Id., pp. 30-34.
- [26] See *People vs. Campos*, 361 SCRA 339 (2001).
- [27] See *People vs. Manobo*, 18 SCRA 30, 41 (1966); *People vs. Bulan*, 108 Phil. 932 (1960).
- [28] *People vs. Dedace*, 328 SCRA 679, 690 (2000).
- [29] *People vs. Baldevieso*, 314 SCRA 803, 813-814 (1999).
- [30] Id.
- [31] TSN (Dionisio Luayon), pp. 15-17, 23-26, September 4, 1991.
- [32] *People vs. Moro Ambahang*, 108 Phil. 325, 333 (1960).
- [33] *People vs. Parel*, 261 SCRA 720, 734 (1996).
- [34] *People vs. Calabroso*, 340 SCRA 332 (2000), citing *People vs. Bajar*, 281 SCRA 262 (1997) and *United States vs. Lahoylahoy*, 38 Phil 330 (1918).

[35] Exh. 1; Records, pp. 7-8.

[36] Id., p. 7.

[37] TSN (Dominador Luayon), p. 55, January 15, 1991.

[38] Id., pp. 54-57.

[39] Id., pp. 44 and 54.

[40] Angcaco vs. People, G.R. No. 146664, February 28, 2002.

[41] People vs. Ponferada, 220 SCRA 46, 53-54 (1993).

[42] People vs. Ortiz, 266 SCRA 641, 650 (1997), citing People vs. Sapurco, 315 Phil. 561, 571 (1995) and People vs. Manuel, 236 SCRA 545 (1994).

[43] People vs. Español, 256 SCRA 137, 145 (1996); People vs. Ponferada, 220 SCRA 46, 54 (1993).

[44] TSN (Dominador Luayon), pp. 32-35, January 15, 1991

[45] TSN (Jesus Saraga), p. 48, January 16, 1991.

[46] TSN (Abundio Mahinay), p. 85, January 16, 1991.

[47] People vs. Padilla, G.R. No. 145460, July 3, 2002.

[48] Id.

[49] Angcaco vs. People, G.R. No. 146664, February 28, 2002.

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