

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ONYOT MAHINAY AND QUIRINO CAÑETE, ACCUSED. QUIRINO CAÑETE, ACCUSED-APPELLANT.

G.R. No. 125311. March 17, 1999

Ponente: VITUG, J.

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VITUG, J.:

Quirino Cañete appeals from the decision[1] in Criminal Case No. 9304 of the Regional Trial Court of Negros Oriental, Branch 39, stationed at Dumaguete City, finding him guilty beyond reasonable doubt of the crime of murder for the killing of Manolo Mission and imposing upon him the penalty of reclusion perpetua and the payment of indemnity to the heirs of the victim in the amount of P50,000.00.

The information, filed on 18 May 1990, charging Quirino Cañete and one Onyot Mahinay with the crime of murder, reads:

"That on or about 12:30 o'clock dawn of March 18, 1990, at Crossing Cawayan, Barangay Tadlong, Mabinay, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, evident premeditation and treachery, did, then and there willfully, unlawfully and feloniously attack, assault and stab one MANOLO MISSION with the use of a hunting knife and icepick, with which the said accused were then armed and provided, thereby inflicting upon said MANOLO MISSION the following wounds or injuries, to wit:

"1. Stab wound about 6 cm. long epigastric area with evisceration of intestine;

"2. Stab wound about 2 cm. long lower lateral side of right chest;

"3. Stab wound about 1.5 cm. long right arm;

which wounds caused the death of said MANOLO MISSION shortly thereafter.

"Contrary to Article 248 of the Revised Penal Code."[2]

Quirino Cañete was apprehended by the authorities on 17 May 1990 in Barangay Ambayao, Valencia, Bukidnon. His co-accused, Onyot Mahinay, remained at large. The trial proceeded only against accused Cañete who, upon arraignment, entered a plea of not guilty.

The prosecution first presented its evidence.

On 18 March 1990, the eve of the Barangay Tadlong fiesta, in Mabinay, Negros Oriental, a public dance was held. Among those who were in attendance were Quirino Cañete, Onyot Mahinay and Manolo Mission. Later that evening, Joel Mission saw his uncle, Manolo Mission, arguing with Cañete outside the dance hall. At about 12:30 a.m., Joel and his uncle decided that it was time to leave. On the way home, at a street fronting the barangay hall, Manolo noticed that they were being followed by Cañete. Manolo stopped and turned to face Cañete. Soon, the two figured in an argument. Suddenly, Onyot Mahinay came from behind Manolo and stabbed the latter, hitting

him on the stomach. Onyot Mahinay started to flee but Manolo made an attempt to chase him. Then, once again, Onyot Mahinay faced Manolo. The latter received another stab thrust, this time hitting him on his right hand. When Manolo started to walk away, Cañete followed and stabbed the already injured victim on the right side of his body and on his chest.

Joel witnessed the entire episode. Fear, however, took the better part of him, and he was unable to extend help to his uncle during the critical moments. His proximity enabled him to hear Manolo remark, "I was hit Yo, and Quirino Cañete was chasing me." [3] The fluorescent lamps in the area illuminated the place. In the vicinity were Roman Bucog and Jose Mait. Jose dared approach Manolo only when the two malefactors had fled. His other uncle, Peter Peras, and he brought the wounded Manolo, using a cargo truck owned by Joel's grandfather, Basilio, to the Medicare Unit in Mabinay and, later, to the Negros Oriental Provincial Hospital where Manolo succumbed to his wounds at around seven o'clock in the morning of 19 March 1990. [4]

Another eyewitness was Roman Bucog who, together with his wife, had also come from the dance party at just about the same time as the others. He and his wife saw at a short distance of about four arms length, Onyot Mahinay and Manolo first engaged, evident by their gestures, in an argument. Cañete, who was wearing a shirt with green stripes, was beside Onyot Mahinay, Joel mission and Jose Mait. There were other people at the opposite side of the road. The fluorescent lamps and the moonlight that sufficiently illuminated the area helped Roman recognize Onyot Mahinay in the act of stabbing Manolo. After he was stabbed, Manolo was still able to turn around in an attempt to go after his attacker. Roman thereupon saw Cañete stab Manolo on his chest causing the latter to fall to the ground. According to Roman, Cañete was armed with an icepick while Onyot Mahinay had with him a hunting knife.

Jose Mait testified that he was walking towards the house of Basilio Mission, Joel's grandfather, after coming from the dance when he too saw the stabbing incident. Jose first saw Onyot Mahinay strike Manolo and when Manolo attempted to get to Onyot Mahinay, Cañete stabbed Manolo at the right side of his body. Onyot Mahinay and Cañete scampered. Jose assisted Joel and Roman in getting Manolo onto a cargo truck to take him to a hospital.

Manolo was in a state of shock when brought to the Negros Provincial Hospital. Henrissa Calumpang, a resident physician of the hospital examined the stab wounds inflicted on the patient. Despite the prompt medical assistance administered to him, Manolo died approximately three hours later. The Death Certificate, [5] issued by Dr. Calumpang, indicated that Manolo had died of "hypovolemic shock, irreversible; stab wound about 6 cm. long epigastric area with evisceration of intestine; stab wound about 2 cm. long lower lateral side of right chest; stab wound about 1.5 cm. long right arm." Dr. Calumpang's examination revealed that the stab wound in the epigastric area, about 6 cms. Long, was caused by the penetration of a sharp-pointed instrument with clean cut edges. According to the physician, there was a possibility that two sharp-pointed bladed weapons were used in inflicting Manolo's wounds. She opined that from the nature and location of the wounds, the relative position of the assailant could have been in front of the victim.

Basilio Mission, the older brother of Manolo, testified that prior to his death, Manolo, who had three children, was an employee of their father working as a truck driver and receiving a monthly salary of P4,500.00. Their father shouldered the expenses of P15,000.00 for Manolo's wake and P7,600.00 for his coffin. The family spent P10,000.00 for attorney's fees.

The defense interposed denial when its turn to present evidence followed.

Cañete admitted having been in the vicinity when the crime was perpetrated but he denied any participation in the incident. He said that he had long resided in Bukidnon and went back to Mabinay, Negros Oriental, at around four

o'clock in the afternoon of 18 March 1990 only to get some working tools. Since it was the day of fiesta in Tadlong, his girlfriends, Gina and Elsie whose surnames he could not recall, invited him to attend the dance. He later met the girls at the dance hall. He and the two girls left the party at around midnight. After a while, he saw from a distance of about five arms-length, Manolo and Onyot Mahinay having an argument. Nearby were Joel and about twenty other people. A fluorescent lamp lighted the area. After Onyot Mahinay was heard to remark, "so you are here?," he stabbed Manolo. The latter shouted, "Oel, help!" Onyot Mahinay ran away.[6] Cañete spent the rest of the night in Mabinay at the house of his parents. At around four o'clock in the morning of 19 March 1990, after having slept for about three and a half hours, Cañete took a "Ceres" passenger bus. He alighted from the bus in Tampi, San Jose, Negros Oriental, en route to Cebu City where he took a boat for Cagayan. The boat left Cebu City at about seven o'clock in the evening. He was met by his parents at the pier in Cagayan and, from there, they all proceeded to Valencia, Bukidnon.

Cañete was apprehended by police authorities at Barangay Lumbayao, Valencia, Bukidnon, on 17 May 1991. He was taken to Mabinay, Negros Oriental, where he was first confined at the municipal jail and transferred, three days later, to the provincial jail. He admitted having known Manolo quite well before he was killed since he had worked in the Mission farm for about six years prior to taking up residence in Bukidnon. He also worked before that in the Manolo residence for sixteen years from 1972 to 1988. Roman, with whom Onyot Mahinay stayed, was Cañete's neighbor in Napasuan. Cañete denied that he was with Onyot Mahinay at the dance party.

The defense presented a certificate of good moral character[7] issued by the Punong Barangay of Lumbayao, Valencia, Bukidnon, stating that the accused was a resident of that locality. The trial court, allowed its admission "for whatever it may be worth." [8]

After the parties had rested their respective cases, the trial court, on 31 January 1996, rendered its judgment finding accused Quirino Cañete guilty of murder. It adjudged:

"WHEREFORE, in view of the foregoing considerations, judgment is rendered finding the herein accused Quirino Cañete GUILTY beyond reasonable doubt of the crime of Murder defined under the provisions of Article 248 of the Revised Penal Code. There being no attendant mitigating circumstance, the said accused is sentenced to suffer the penalty of RECLUSION PERPETUA and ordered to indemnify the heirs of the victim the sum of FIFTY THOUSAND (P50,000.00) PESOS.

"SO ORDERED." [9]

In this appeal from the judgment, the convicted accused pleads for his acquittal, arguing that:

"I

"THE COURT A QUO ERRED IN FINDING THAT CONSPIRACY ATTENDED THE KILLING OF VICTIM.

"II

"THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.

"III

"THE COURT A QUO ERRED IN ORDERING ACCUSED-APPELLANT TO INDEMNIFY THE HEIRS OF THE VICTIM THE SUM OF FIFTY THOUSAND PESOS." [10]

The Court finds the appeal devoid of merit.

The plea of innocence asserted by appellant brings the Court, once again, to the crucial question of credibility of

witnesses and the weight that should be given to testimonial evidence. On this issue, the Court has almost invariably ruled that the matter of assigning value to the declaration of witnesses is best done by trial courts which, unlike appellate courts, can assess such testimony in the light of the demeanor, conduct and attitude of the witnesses at the trial stage and thus, unless cogent reasons are shown, the findings of the trial court are accorded great respect and credit.[11]

Appellant would pound on the alleged inconsistencies in the testimony of the prosecution witnesses; thus: (a) Roman's testimony that Onyot Mahinay and Manolo were the ones arguing was contrary to the statement of Joel that appellant was the one conversing with Manolo while Jose, in his case, even failed to testify on the point; (b) the statement that Jose left the dance hall alone and later went with Joel contradicted the latter's testimony that he was with his uncle in going home; (c) according to Joel, Roman was very near, in fact, just in front of Manolo and appellant trying to pacify them, and yet Roman declared having hidden behind a fishbox,[12] and (d) whereas, Joel claimed that he was quite close to his uncle, he, however, did not do anything to help him when he needed it most.

Inconsistencies, even if true, on negligible details do not destroy the veracity of testimony. Variations in the declaration of witnesses in respect of collateral or incidental matters do not impair the weight of testimony, taken in its entirety, to the prominent facts,[13] nor per se preclude the establishment of the crime and the positive identification of the malefactor.[14] Antithetically, minor incoherences can even serve to strengthen the credibility of witnesses and often are taken to be badges of truth rather than indicia of falsehood. Variance in the statement of witnesses substantially erases suspicion that the testimony given has been rehearsed.[15] It is, in fact, when the testimony appears to be totally flawless that a court can rightly have some misgivings on its veracity.[16] Besides, different persons have different reflexes that may produce varying reactions, impressions and recollections since no two individuals are alike in terms of powers of perception and recollection.[17] One testimony may be replete with details not found in the other but, taken as a whole, the versions can well concur on material points.

Greatly significant was the fact that prosecution witnesses Joel, Roman and Jose had all positively attested to having actually seen Onyot Mahinay and appellant Cañete stab Manolo. The conditions of visibility appeared to be favorable even according to appellant himself. Nothing was shown to indicate that the witnesses were biased. Neither could their relationship with the victim derail their credibility for it should not be lightly supposed that a relative of the deceased would callously violate his conscience to avenge the death of a dear one by blaming it on somebody known by him to be innocent.

Joel's failure to help his uncle in the face of danger certainly would not, in consequence, negate the value of his eyewitness account nor imply that he deviated from the truth. No standard form of behavioral response, quite often said, could be expected from everyone when confronted with a strange, startling or frightful occurrence.[18] Joel was apparently terrified by what he saw, and fear had been known to render people immobile and helpless particularly, such as here, in life and death situations.[19]

The congruence between the testimonial and the physical evidence leads to the inevitable conclusion that the prosecution did not prevaricate its case.[20] Mere denial by an accused, particularly when not properly corroborated or substantiated by clear and convincing evidence, cannot prevail over the testimony of credible witnesses who testify on affirmative matters.[21] Denial being in the nature of negative and self-serving evidence is seldom given weight in law.[22] Positive and forthright declarations of witnesses are often held to be worthier of credence than the self-serving denial of an accused.[23]

The trial court correctly held that the crime committed was murder under Article 248 of the Revised Penal Code.

The victim was unarmed and defenseless when appellant attacked him. Although appellant's co-accused was the one who stabbed him first, Manolo was already in a defenseless position. He might have realized the danger confronting him but counter attack from his end was simply unlikely - he was effectively made defenseless by the initial assault of Onyot Mahinay that caused the evisceration of his intestines. There could be treachery even when the victim had been warned of danger or initially assaulted frontally, but was attacked again after being rendered helpless with no means to defend himself or to retaliate.[24] Treachery was correctly appreciated, its two conditions having concurred; i.e., (1) the employment of means of execution that gave the person attacked no opportunity to defend himself or to retaliate, and (2) the means of execution were deliberately and consciously adopted.[25]

Conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during, and after the commission of the crime, which, if all taken together, would reasonably be strong enough to show a community of criminal design.[26]

The concerted action of the appellant and Onyot Mahinay evinced the presence of conspiracy. There was an overt act on the part of the appellant showing that he joined Onyot Mahinay in his intent to perpetrate the crime. After Onyot Mahinay had rendered the victim helpless, appellant himself stabbed him as if wanting to be sure that Onyot Mahinay's criminal act would be so pursued to its intended culmination, i.e., the victim's death. Nevertheless, even if it were to be assumed that conspiracy was not established, appellant's liability would not be less than that adjudged by the court a quo since his own overt act of stabbing the victim had put him under the law to be himself a principal by direct participation.[27]

The Court finds, however, the qualifying circumstance of evident premeditation alleged in the information not to have been sufficiently proven. The premeditation to kill should be plain and notorious. In the absence of clear and positive evidence proving this aggravating circumstance, mere presumptions and inferences thereon, no matter how logical and probable, would not be enough.[28] The trial court has thus correctly imposed reclusion perpetua, the medium period of reclusion temporal in its maximum period to death, the penalty imposable for murder at the time of its commission. The medium period of the penalty is imposed in the absence of any mitigating or aggravating circumstances.[29] In conformity with prevailing jurisprudential law, the trial court correctly awarded the amount of P50,000.00 as death indemnity to the heirs of the victim.[30] Regrettably, however, this court cannot grant actual damages absent competent and adequate proof therefor. In *People vs. Degoma and Taborada*[31] reiterated in *People vs. Cordero*,[32] we held:

"... Of the expenses allegedly incurred, the Court can only give credence to those supported by receipt and which appear to have been genuinely incurred in connection with the death, wake or burial of the victim. Thus, the Court cannot take account of receipts showing expenses incurred before the date of the slaying of the victim; those incurred after a considerable lapse of time from the burial of the victim and which do not have any relation to the death, wake or burial of the victim; those incurred for purely aesthetic or social purposes, such as the lining with marble of the tomb of the victim; those which appear to have been modified to show an increase amount of expenditure...; those expenditures which could not be reasonably itemized or determined to have been incurred in connection with the death, wake or burial of the victim; those which, nonetheless, would have been incurred despite the death, wake and burial of the victim, the death, wake and burial being merely incidental; and those which were not in fact shouldered by the immediate heirs of the victim, such as plain tickets by relatives or in-laws...."[33]

In *People vs. Alvero, Jr.*,[34] this Court deleted the award by the trial court of unearned income to the heirs of the victim, viz:

"Anent the RTC's award of P600,000.00 to cover the victim's unearned income, we hereby rule that the same should be deleted. The trial court arrived at this amount as `x x x it has been established that Victor Alvaran at

the time he was killed, was only 21 years old, single, a seaman, employed by the International Shipping Corporation, earning P2,000.00 a month. After 50 years, or at the age of 70, which is the average span of life of men in our country, he would have earned P1,200,000.00 or a net income (after expenses) of P600,000.00, but for his untimely death.' (OR, 154; Rollo, 31.) Such a conclusion is rather sweeping, to say the least. There is no evidence to prove that at the time of his death, Alvaran had an existing contract with the International Shipping Corporation, his alleged employer. While Victoria Alvaran, (TSN, 29 August 1984, 5.) The victim's sister, testified on the matter of Victor's employment, she did not, however, testify as to whether the latter was a seaman serving on a domestic vessel or a vessel engaged in foreign trade; whether such employment was probationary or regular; or whether the contract of employment was still existing at the time of his death. There is, as well, no competent proof to show that the victim was on vacation. The prosecution should have therefore presented the latter's contract of employment or any evidence that may have proven the nature and duration of his employment. The rule in this jurisdiction is that the measure of the loss or damage that dependents and intestate heirs of the deceased may sustain by reason of the latter's death is not the full amount of the deceased's earnings, but the support they received or would have received from him had he not died." [35]

WHEREFORE, the herein assailed decision finding appellant Quirino Cañete guilty beyond reasonable doubt of the crime of murder, imposing on him the penalty of reclusion perpetua, and ordering him to pay civil indemnity ex delicto in the amount of P50,000.00 is AFFIRMED. Costs against appellant.

SO ORDERED.

Romero, (Chairman), Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Judge Teopisto L. Calumpang.

[2] Rollo, p. 17.

[3] TSN, 08 October 1992, p. 7.

[4] TSN, October 8, 1992, pp. 7-9. The date of death of Manolo Mission written on the Certificate of Death (Exh. D) is March 18, 1990 at around 7:15 a.m.

[5] Exh. D.

[6] TSN, July 27, 1993, pp. 3-16.

[7] Exh. 2.

[8] Record, p. 327.

[9] Rollo, p. 39.

[10] Ibid., p. 70.

[11] People vs. Alas, 274 SCRA 310; People vs. Eubra, 274 SCRA 180; People vs. Bernal, 274 SCRA 197; People vs. Vallador, 257 SCRA 515.

[12] Exh. B.

[13] People vs. De Gracia, 264 SCRA 200.

[14] People vs. Patawaran, 274 SCRA 130; Sumalpong vs. Court of Appeals, 335 Phil. 1218.

[15] People vs. Ondalok, 272 SCRA 631; People vs. Dinglasan, 267 SCRA 26.

- [16] People vs. Talledo, 331 Phil. 32.
- [17] People vs. Pareja, 265 SCRA 429.
- [18] People vs. Talaboc, 326 Phil. 451.
- [19] People vs. Galas, 330 Phil. 948.
- [20] People vs. Tuson, 330 Phil. 443.
- [21] People vs. Castillo, 273 SCRA 22.
- [22] People vs. Ondalok and Mahinay, 272 SCRA 631.
- [23] People vs. Gondora, 333 Phil. 240.
- [24] People vs. Tobias, 334 Phil. 881; People vs. Landicho, 258 SCRA 1; People vs. Dulos, 237 SCRA 141.
- [25] People vs. Azugue, 335 Phil. 1170.
- [26] Magsuci vs. Sandiganbayan, 310 Phil. 14.
- [27] Art. 17, Revised Penal Code.
- [28] People vs. Palomar, 278 SCRA 114.
- [29] Art. 64 (1), Revised Penal Code.
- [30] People vs. Abalos, 328 Phil. 24; People vs. Porras, 325 Phil. 858.
- [31] 209 SCRA 266.**
- [32] 263 SCRA 123.**
- [33] At pp. 141-142.
- [34] 224 SCRA 16.**
- [35] At pp. 34-35.

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