

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BRANDO RAVANES Y BATTAD, ACCUSED-APPELLANT.*G.R. No. 128379. January 22, 1998*

Ponente: BELLOSILLO, J.

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In a consolidated decision by the Regional Trial Court of Caloocan City, Branch 124, BRANDO RAVANES Y BATTAD was found guilty in Crim. Case No. C-36613 of murder on two (2) counts for the killing of the brothers Emilito Trinidad and Nelson Trinidad and sentenced in each to an indeterminate penalty of twelve (12) years of prision mayor as minimum to eighteen (18) years of reclusion temporal as maximum, to indemnify the heirs of Emilito Trinidad P50,000.00 and those of Nelson Trinidad another P50,000.00, and to pay both set of heirs jointly P24,380.00 for funeral expenses. Ravaness was likewise found guilty of frustrated murder in Crim. Case No. C-36614 for wounding Reynante Estipona y Moreno and sentenced to another indeterminate penalty of six (6) years one (1) month and eleven (11) days of prision correccional (should be prision mayor) as minimum to twelve (12) years of reclusion temporal (should be prision mayor) as maximum.

The Court of Appeals affirmed the conviction of accused-appellant but modified the penalty for the murder on two (2) counts to reclusion perpetua. It however refrained from entering judgment and certified the case to us instead for review pursuant to Sec. 13, par. (2), Rule 124, of the Rules of Court.

These facts stand out in the records: At around 8:00 o'clock in the evening of 1 May 1987 Emilito Trinidad, Nelson Trinidad and Reynante Estipona were on their way to the carnival near their place at Barracks II, Tala, Caloocan City. As they stopped at a corner to wait for their lady companions, accused-appellant Brando Ravaness and one Budol suddenly approached them introducing themselves as police officers. Ravaness and Budol frisked the trio and confiscated their wallets. When the two (2) could not find any money in the wallets Ravaness pulled out his gun and hit Reynante Estipona on the head. Then they herded the three (3) towards a secluded place near a Nawasa manhole about one hundred (100) meters away where a certain Corneng, another companion of Ravaness, was waiting. Accused-appellant and his companions then undressed Emilito, Nelson and Reynante and ordered them to lie on the ground with their faces down, tied their hands and gagged their mouths. When Reynante was already lying prone on the ground, Ravaness stepped on his neck, pulled his hair, poked his gun at him and said, "May muta ka pa." Budol ordered Emilito to swallow a 10-centavo coin. Moments later, five (5) armed men also of the group of Ravaness arrived and carried all three (3), Emilito, Nelson and Reynante, to the Nawasa manhole and dropped them there one after another, with Reynante first, followed by Nelson and Emilito, in that order. As if that was not enough, their tormentors dropped big adobe stones inside the manhole hitting their victims in different parts of the body.

Emilito climbed the steel railing to get out of the manhole but when he was almost at the top he was hit by an adobe stone which threw him down to the bottom of the pit. He attempted to climb again but was hit for the second time and fell lifeless this time.

To prevent Emilito from being carried by the current inside the manhole, Reynante held him between his legs. But their malefactors continued to rain them with adobe stones inside the manhole. Reynante was hit on the head and lost consciousness, but not before hearing several gunshots.

At around 10:00 o'clock that evening Reynante regained consciousness. He found himself alone at the bottom of the manhole. He could not find Emilito and Nelson. He untied himself, climbed to the top and proceeded home which was about one hundred and thirty (130) meters away. He was rushed to the Rodriguez Memorial Hospital at Tala, Caloocan City, for medical treatment. He was later transferred to the National Orthopedic Hospital for his bone injuries.

Upon learning what happened to his brothers Emilito and Nelson, Renato Trinidad together with some neighbors immediately proceeded to the Nawasa manhole. He entered the manhole in search of his brothers but could not find them; instead, he saw big adobe stones and a crooked steel bar stained with blood. Frustrated, Renato called off the search. He proceeded to the La Mesa Dam which serves as the terminal point of the manhole and waited for the bodies of his brothers to surface.

At around 9:00 o'clock in the morning of 2 May 1987 the body of Nelson surfaced. It was floating in the swirling waters of the dam. At 2:00 o'clock of the morning following, the bloated but decomposing body of Emilito was recovered from the same spot.

The lips of Emilito when autopsied by Dr. Abelardo Lucero were already cyanotic with a strangulation mark around his neck. His tongue was protruding. There were abrasions on the left hand and skin formation at the back. The skull was fractured intracranially at the back of the occipital region. The body was bloated with extremities already flaccid. Dr. Lucero concluded that the cause of death was asphyxia due to drowning secondary to strangulation, intracranial hemorrhage and fractured skull.[1]

As regards Nelson Trinidad, Dr. Lucero testified that when he conducted an autopsy, he noted lacerated wounds on the forehead, knuckles and on the left side of the face; a gunshot wound with entry on the left side of the face and exit located in the anterior region of the shoulder; another gunshot wound located in the midcenter at the back of the body. Body extremities were in a state of complete flaccidity; the nails and lips were cyanotic.[2]

On 17 January 1991, police officers were tipped as to the whereabouts of Brando Ravaness. They surrounded his house at around 1:00 o'clock in the morning and announced their presence as police officers. But Ravaness would not surrender without a fight. When he sensed the presence of police officers, Ravaness immediately grabbed his home-made armalite rifle and traded shots with them. He likewise held hostage the Marasigan family living nearby. Eventually Ravaness surrendered, but only after the intervention of the Barangay Captain George Castor and Councilman Bonifacio Nuñez.

Alibi and denial were the only defenses put up by Ravaness. He testified that on 1 May 1987 he was nowhere near the scene of the crime as he was at his house at Tungkong Mangga, San Jose del Monte, Bulacan, allegedly attending to his wife who had given birth two (2) months before. But when asked as to the travel distance between his residence and Tala, Caloocan City, he answered that it could be traversed in forty (40) minutes.

The defense of alibi requires an accused to prove his presence in another place at the time of the perpetration of the offense and to demonstrate that it would thus be physically impossible for him to be at the scene of the crime.[3] For alibi therefore to prosper, two (2) elements must concur: (a) the accused was in another place at the time the crime was committed and, (b) it would be physically impossible for the accused to be at the scene of the crime at the time it was committed. Assuming that Ravaness was at Tungkong Mangga, San Jose del Monte, Bulacan, between 8:00 o'clock and 10:00 o'clock in the evening of 1 May 1987, he failed to prove that it was

physically impossible for him to be at Tala, Caloocan City, during that period. His defense of alibi therefore carries no evidentiary value. This is particularly so considering the testimony of prosecution complaining witness Reynante Estipona who personally identified Brando Ravaness as one of the perpetrators of the crimes. It is long settled that alibi cannot prevail over - and is worthless in the face of - the positive identification of the accused, especially in light of positive testimony that the accused was at the crime scene; and, it is considered with suspicion and always received with caution not only because it is inherently weak and unreliable but also because it is easily fabricated and concocted.[4]

Defense witness Racquelda Gabriola testified that on 1 May 1987 she was at Tungkong Mangga, San Jose del Monte, Bulacan, together with Brando Ravaness, Emy Ravaness and their two children. She was then living in the house of Ravaness. According to her, Ravaness went to work in the morning and returned home at around 6:00 o'clock in the evening. When asked why she could still vividly remember her and Ravaness' supposed activities on that date, she explained that it was because 1 May 1987 was the fiesta at Tala, Caloocan City, and she had wanted to attend the festivities then together with Ravaness but the latter did not allow her to accompany him and told her instead to stay home.[5]

This testimony of Raquelda did not in any way bolster the defense of alibi of Ravaness. On the contrary, it demolished his alibi. It appeared that Ravaness had all the intentions of going to Tala, Caloocan City, after his arrival from work on 1 May 1987. As may be gathered from the story of Racquelda, Ravaness did in fact go to Tala, without taking her along with him. That Racquelda was with Ravaness until about 10:00 o'clock in the evening of 1 May 1987 is therefore at most suspicious and self-serving. Considering his intention to go to Tala to attend the fiesta, it was unlikely that Ravaness would linger in his house until that time.

The foregoing does not coincide with the testimony of Ravaness, who earlier stated that at the time of the incident on 1 May 1987 he was at his house at Tungkong Mangga, San Jose del Monte, Bulacan, tending to his wife who gave birth two (2) months earlier. If he really intended to attend to his wife, and assuming that he did, then his position would be contrary to the testimony of Racquelda who said that Ravaness wanted and in fact proceeded to attend the festivities at Tala, Caloocan City.

Ravaness denied participation in the crimes. When asked for any reason why Reynante would point to him as one of the culprits, he claimed that it was the police officers who coached Reynante into implicating him as they would otherwise be "put in hot water." [6]

We are not convinced. When further asked to elucidate as to why the police officers would be "put in hot water," Ravaness explained that after he was arrested the apprehending officers mauled and electrocuted him and coerced him into admitting and confessing to the crimes. And yet, he presented no medical certificate attesting to the injuries he allegedly suffered. If indeed he was made to undergo such treatment from the police officers for four (4) days[7] there would have been physical marks that would bear witness to his torture. Absent any proof to this effect, we must sustain the presumption that the police officers regularly and properly performed their jobs.

Ravaness could not think of any motive that would have impelled Reynante Estipona to testify against him. In fact, Reynante testified that he only met Ravaness for the first time during the trial. The absence of evidence of improper motive on the part of the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive exists and that their testimonies are worthy of full faith and credit.

The defense would want us to discredit the testimony of Reynante. It posits that it would have been impossible for him to identify their aggressors as they (the victims) were blindfolded. This is a bare allegation on the part of the defense. Nowhere in the records is it shown that Reynante testified to the effect that they were blindfolded during their ordeal.

While abuse of superior strength and treachery attended the commission of the crime thus qualifying the killing to murder, the abuse of superior strength in this particular instance is absorbed in the treachery.

The imposable penalty for murder under Art. 248 of the Revised Penal Code, the law applicable at the time of the offense,[8] is reclusion temporal maximum to death. There being no more modifying circumstance to speak of which attended the perpetration of the crimes, the proper penalty to be imposed on the accused should be taken from the medium period of the imposable penalty, which is reclusion perpetua.

As regards the frustrated murder, the penalty next lower in degree, i.e., prision mayor maximum to reclusion temporal medium, than that prescribed by law for the consummated felony shall be imposed upon the principal.[9] Applying the Indeterminate Sentence Law, and in the absence of any modifying circumstance, the maximum penalty to be imposed upon the accused shall be taken from the medium period of the imposable penalty, i.e., reclusion temporal minimum or twelve (12) years five (5) months and eleven (11) days to fourteen (14) years ten (10) months and twenty (20) days, while the minimum shall be taken from the penalty next lower in degree, i.e., prision correccional maximum to prision mayor medium or four (4) years two (2) months and one (1) day to ten (10) years, in any of its periods.

WHEREFORE, accused-appellant BRANDO RAVANES Y BATTAD is found GUILTY of MURDER on two (2) counts and is correspondingly sentenced to two (2) separate penalties of reclusion perpetua. In addition, he is also declared GUILTY of FRUSTRATED MURDER and sentenced to four (4) years, two (2) months and ten (10) days of prision correccional maximum as minimum, to twelve (12) years, six (6) months and twenty (20) days of reclusion temporal minimum as maximum. The provisions of Art. 70 of the Revised Penal Code shall be observed in the service of the penalties herein imposed.

Conformably with the observations of the Court of Appeals, accused-appellant Ravaness should as he is herein ordered to indemnify the heirs of Emilito Trinidad P50,000.00 and the heirs of Nelson Trinidad another P50,000.00, and to pay both sets of heirs jointly the total amount of P24,380.00 for funeral expenses to be divided equally between them. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., (Chairman), Vitug, and Kapunan, JJ., concur.

[1] TSN, 11 April 1991, pp. 5-6.

[2] Id., pp. 9-10.

[3] People v. Ballabare, G.R. No. 108871, 19 November 1996, 264 SCRA 366.

[4] People v. Castillo, G.R. No. 116748, 2 June 1997.

[5] TSN, 10 July 1991, p. 4.

[6] TSN, 4 July 1991, p. 3.

[7] Ibid.

[8] The crimes were committed on 1 May 1987 while RA No. 7659 classifying murder under Art. 248 of the Revised Penal Code as a heinous crime and punished as such took effect 31 December 1993.

[9] Art. 50, The Revised Penal Code.

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