

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SUKARNO DINDO Y GIAMALO, ACCUSED-APPELLANT.

G.R. No. 129305. January 18, 2001

Ponente: BUENA, J.

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BUENA, J.:

For the death of Crestita Lao, herein accused-appellant Sukarno Dindo was charged, tried and convicted of murder by the Regional Trial Court of Pasig City, Branch 156, in Criminal Case No. 110648-H and sentenced, thus:

"WHEREFORE, in the light of the foregoing, the Court hereby CONVICTS accused SUKARNO DINDO y Giamalo of the crime of Murder, qualified by treachery and sentences him to suffer the penalty of reclusion perpetua, to indemnify the heirs of victim Crestita Lao y Claver in the amount of Fifty Thousand Pesos (P50,000.00); to pay the sum of Forty Thousand Pesos (P40,000.00) as funeral expenses; and the further sum of Fifty Thousand Pesos (P50,000.00) by way of moral and exemplary damages, all without subsidiary imprisonment in case of insolvency and to pay the costs.

"In the service of his sentence said accused shall be credited in full with the period of his preventive imprisonment.

"Let a Commitment Order be issued for the transfer of accused SUKARNO DINDO y Giamalo from the BJMP, Camp Bagong Diwa, Bicutan, Taguig, Metro Manila, to the New Bilibid Prisons, Muntinlupa City.

"SO ORDERED."[1]

The Information filed against accused-appellant reads:

"On or about July 28,1996, in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and mutually helping and aiding one another with three (3) unidentified male persons whose true identities and present whereabouts are still unknown, with intent to kill, and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shot Crestita Lao y Claver with a gun, thereby inflicting upon said Crestita Lao y Claver gunshot wound, which directly caused her death."[2]

Upon arraignment, accused-appellant pleaded not guilty. Trial on the merits thereafter ensued.

The prosecution's evidence tends to establish that at around 10:00 o'clock in the morning of July 28,1996, Crestita Lao, together with her daughter, Nympha Lao, and two Taiwanese nationals, Hwang Yu Chin-in and Chin Fu Hwang, boarded the tricycle being driven by accused-appellant in front of the Taguig National High School in Taguig. Crestita Lao sat at the front passenger seat near the driver's seat with Yu Chin-in while Nympha Lao and Chin Fu Hwang occupied the back seat of the sidecar. Crestita Lao contracted to pay the fare for the remaining two unoccupied seats and directed accused-appellant to drive towards FTI, Alabang. However, before they could proceed, three (3) men boarded the same; two sat behind accused-appellant while the other seated himself beside the side-wheel. When they were about fifty (50) meters from the terminal, accused-appellant turned towards the

Sta. Nina Rasul Cemetery. Surprised by the deviation from the route, Crestita Lao asked accused-appellant, in Muslim language, "ano ito? ano ito?". One of the men replied, "wala ito, wala ito." After a few turns, accused-appellant stopped in front of the cemetery and the three (3) men alighted. The man wearing a black jacket drew his gun and pointed it at Nympha Lao and Chin Fu Hwang. Believing that they were being held-up, Nympha Lao removed her wristwatch and gave it to the man holding the gun. But the latter refused to take the wristwatch. When Nympha Lao tried to alight from the tricycle she was pushed back. Thereupon, she heard her mother twice say, "Wala kaming pera, ito lang." Soon afterward, she heard a gunshot. Nympha Lao looked behind her and saw the three (3) men running away towards the cemetery. Stunned by what he witnessed, Hwang Yun Chin-in likewise ran away. Nympha Lao alighted from the tricycle and saw her mother lying on the ground with a gunshot on the upper left eyebrow. She sought the help of her neighbor Mario dela Serna and brought her mother to the hospital where she was declared dead. Accused-appellant also fled after the incident.[3]

A post-mortem examination on the cadaver of Crestita Lao by Dr. Emmanuel L. Aranas revealed the following findings:

"Gunshot wound, thru and thru, point of entry, left supraorbital region, measuring by 0.5 cm, 6 cm from the anterior midline, with surrounding tattooing measuring 3.5 by 4 cm, directed posteriorwards, upwards, and medialwards, fracturing the frontal, left parietal bones, and lacerating the left cerebral hemisphere, with intracranial hemorrhages, making a point of exit at the left parietal region, measuring 2 by 1.8 cm, 4 cm from the midsagittal line. x x x

"Cause of death is gunshot wound of the head."[4]

Accused-appellant denied the charge against him. He testified that at around 9:00 o'clock in the morning of July 28, 1996, while he was at IRM Maharlika, Taguig, five (5) persons boarded his tricycle. Then, one of the passengers told him, "sige na," Before he could drive away, three (3) men boarded the tricycle. Two occupied the seat behind him while the other man sat at the sideboard of the tricycle. Accused-appellant drove towards the FTI, Taguig. When they reached the Santa Nina Rasul Cemetery, the man behind him poked a gun at him, and directed him to stop. Thereafter, the man alighted. At that instance, accused-appellant heard one of the men say, "ilabas ang pera" to which one of the woman passengers replied that they had no money. Again, he heard another man asking for money and someone replied saying they had none. At that instance, accused-appellant heard shots. He alighted and saw one of the men pointing a gun. Fearing for his life, he fled towards the cemetery, then to a shop to seek help. Not finding anyone, he went back to his tricycle and found no one. He drove his tricycle to the police station at Upper Bicutan to report the incident.[5]

The trial court found the evidence of the prosecution sufficient to establish beyond reasonable doubt the guilt of the accused-appellant. It ruled that the acts of accused-appellant in taking other passengers despite the victim's payment for the unoccupied seats, and in deviating from the usual route indicate that he conspired with the three assailants to kill Crestita Lao. His actions, the trial court held, show that he "shared in the guilty purpose and encouraged the crime by his presence at the time of the perpetration and that he had known beforehand of what will transpire as soon as they reached the cemetery."[6]

Accused-appellant now challenges the aforesaid decision before this Court arguing that the trial court manifestly erred in convicting him despite the prosecution's failure to present concrete and convincing evidence to prove that he conspired with the three unidentified men in the perpetration of the crime.

After a thorough and judicious scrutiny of the evidence adduced by the opposing parties, we are of the considered view and so hold that the prosecution failed to establish, by the required quantum of proof, that accused-appellant agreed with the three unidentified men to kill Crestita Lao. The acts of accused-appellant in allowing the three

unidentified men to board his tricycle despite the victim's payment for the unoccupied seats, and in deviating from the usual route, which was the basis of his conviction, to our mind, are not sufficient evidence to prove or suggest a concerted action, much less unity of purpose, in perpetrating the slay of Crestita Lao. While it may elicit suspicion on the real nature of accused-appellant's actuation, this is not evidence to prove the existence of criminal conspiracy.

There is conspiracy where, at the time the malefactors were committing the crime, their actions impliedly showed a unity of purpose among them, a concerted effort to bring about the death of the victim.[7] Conspiracy, to be the basis for a conviction, should be proved as clearly and convincingly as the commission of the crime itself. No less than proof beyond reasonable doubt is required, for conspiracy is not the product of negligence but intention on the part of the cohorts.[8]

Accused-appellant's acts before, during and after the commission of the crime do not show any commonality in design and purpose with the assailants. No less than prosecution witness Nympha Lao admitted that accused-appellant had no participation in the assailed incident.[9]

Moreover, it must be emphasized that the victim, together with her three other companions, sought accused-appellant to bring them to the FTI. The three unidentified men suddenly boarded the tricycle and, with the gun pointed at accused-appellant, directed the latter to the Santa Nina Rasul Cemetery. When accused-appellant heard a shot, he immediately ran away and reported the incident to the police.[10] The fact that accused-appellant ran after the shooting incident was a natural reaction. Note that different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange, or startling, or frightful experience.[11] His presence at the scene of the crime, without more, is inadequate to support the conclusion that, indeed, he conspired with the assailants.[12]

Additionally, the trial court's observation that the accused-appellant pretended to report the shooting incident to the authorities to exonerate himself[13] is baseless. On the contrary such act points toward accused-appellant's innocence of the crime charged against him. The reporting of the incident was spontaneous and the short interval between the time of the incident and the time accused-appellant went to the police precinct negates any insinuation that he pretended in reporting the same. There was no more time for him to concoct and invent stories.

Thus, in the absence of any evidence that accused-appellant conspired with the assailants, conspiracy cannot be attributed against him for, in criminal cases, it is incumbent upon the prosecution to establish its case with that degree of proof which produces conviction in an unprejudiced mind, with evidence which stands or falls on its merits, and which cannot be allowed to draw strength from the weakness of the evidence for the defense.[14] Unless it discharges the burden of proving the guilt of the accused beyond reasonable doubt, the latter need not even offer evidence in his behalf.[15] Thus, when the guilt of the accused has not been proven with moral certainty, such as the case at bar, it is the policy of long standing that the presumption of innocence of the accused must be favored and his exoneration be granted as a matter of right.[16]

We do not deny that a life has been taken and justice demands that the wrong be redressed, but this justice that calls for retribution cannot be the same one that would convict an accused whose guilt has not been proven beyond reasonable doubt.[17]

WHEREFORE, premises considered, accused-appellant Sukarno Dindo y Giamalo is hereby ACQUITTED on reasonable doubt.

The immediate release from confinement of accused-appellant is ordered unless some other lawful cause warrants his further detention. The Director of Bureau of Corrections is directed to implement this Decision and to report to

this Court the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] RTC Decision, pp. 120-126, Records.

[2] Information, p. 1, Records.

[3] TSN, October 2, 1996, pp. 2-10; October 23, 1996, p. 5.

[4] Medico-Legal Report No. M-0407-96, Exh. "E", p. 49, Records.

[5] TSN, February 4, 1997, pp. 2-5.

[6] RTC Decision, p 6.

[7] People vs. Desoy, 312 SCRA 432, 441 [1999].

[8] People vs. PO3 Patalinghug, 318 SCRA 116, 139 [1999].

[9] TSN, October 2, 1996, p. 17.

"Q Likewise you did not witness any participation of the accused here in that incident?

"A None, sir."

[10] TSN, February 4, 1997, p. 3.

[11] People vs. Luzorota, 286 SCRA 487 [1998].

[12] Abad vs. Court of Appeals, 291 SCRA 56 [1998].

[13] RTC Decision, p. 6.

[14] People vs. Quitarior, 285 SCRA 196 [1998].

[15] People vs. Hilario, 284 SCRA 344 [1998].

[16] Cosep vs. People, 290 SCRA 378 [1998].

[17] Abad vs. Court of Appeals, 291 SCRA 56 [1998].

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