

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMIL MARQUINA, ACCUSED-APPELLANT, DIEGO ESGUERRA, (ACQUITTED) BEN PRIELA, (ACQUITTED) ACCUSED.

G.R. No. 130213. January 31, 2002

Ponente: PUNO, J.

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PUNO, J.:

The above-named accused were charged with the crime of Murder, allegedly committed as follows:[1]

“That on or about the 17[th] day of August, 1991, in the municipality of Pasig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, with intent to kill, treachery and evident premeditation, taking advantage of superior strength and armed with deadly weapons, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence against the person of Enrico Gaon, by then and there stabbing him on the different parts of his body, as result of which, the said Enrico Gaon sustained mortal wounds which caused his death.

CONTRARY TO LAW.”

All the accused pleaded not guilty when arraigned.[2] Trial ensued. Thereafter, the trial court rendered its decision, acquitting accused Diego Esguerra and Ben Priela and convicting accused-appellant Ramil Marquina of the crime of Murder. The dispositive portion of the trial court’s decision reads:[3]

“WHEREFORE, in view of the foregoing, judgment is hereby rendered convicting accused Ramil Marquina of the crime of Murder of Enrico Gaon qualified by treachery, defined and penalized under Article 248 of the Revised Penal Code, as amended, and sentences (sic) him to suffer the penalty of reclusion perpetua and to indemnify the heirs of the offended party in the amount of P50,000.00 with costs.

SO ORDERED.”

The tragic incident happened in the evening of August 17, 1991, along a dark alley in Villa Reyes Compound, Bambang, Pasig, fifty (50) meters away from the victim’s house and twenty (20) meters away from the store of Amelia Dequiña (Ka Amy).[4]

That fateful night, Ka Amy was tending her store at the ground floor of her house. Her daughter, Alma, was upstairs, watching television. It was drizzling. At about 8:30 p.m., a customer of Ka Amy’s told her about a commotion somewhere along the alley. Used to the rowdiness in their area, Ka Amy was unperturbed.[5]

Accused Ben Priela was one of Ka Amy’s customers that night. He was buying kerosene. At about 9:00 p.m., a tricycle driver parked in front of the store and related to Ka Amy that someone was sprawled on the ground. Afraid that it could be her brother, Enrique, Ka Amy asked Alma and accused Priela to accompany her to the place of the incident. They brought with them an emergency light.[6]

When they reached the crime scene, they found the victim, Enrico Gaon, sprawled in an open canal in front of the house of one Aida Calugay. The victim seemed lifeless.[7] Three (3) minutes later, Ka Amy left with Alma, leaving behind accused Priela alone at the crime scene to illuminate[8] the place with the emergency light. Alma returned to the store. Restless, Ka Amy rushed to the house of the victim to inform his family about the incident. While Ka Amy was on her way to the house of the victim, a crowd started to mill at the crime scene. Among those who gathered around the victim was accused Diego Esguerra.[9]

The victim's common-law wife, Elisa Molina, and his younger brother, Romel Gaon, were home when Ka Amy arrived. Ka Amy related to Romel what she had just seen. Elisa immediately ran to the crime scene. Romel followed Elisa after five (5) minutes. When Elisa arrived at the crime scene, she tried to approach the victim. Allegedly, accused Esguerra sternly warned her not to get near the victim while accused Priela dissuaded her from touching the victim because the police would soon arrive. Nonetheless, Elisa was able to get close to the victim. The victim had several stab wounds on his face and on his neck, but he was still breathing. Instinctively, she held his hand to kiss it. It was still warm. However, she got scared when she saw a big gash on his hand. At that instance, Romel arrived at the scene. Elisa then immediately left and returned to their house to ask help from her parents-in-law.[10]

Meanwhile, Romel lifted up the victim from the canal and asked him, "Bakit ka pumunta rito? Sino ang may gawa nito?" Allegedly, the victim clearly replied, "Ramil Marquina! Ramil Marquina!" The victim's mouth was near Romel's ears as their faces were only five (5) inches away from each other when the victim uttered the name of accused Marquina. Romel carried his brother to their house. Before they reached it, the victim died.[11] Enrico Gaon was 28 years old at the time of his death.[12] He was survived by his common-law spouse, Elisa Molina, then 25 years old, and their child who turned one (1) year old on September 20, 1991.[13]

That tragic night, the police went to the victim's house and conducted an investigation. Elisa suspected that accused Esguerra and Priela had something to do with the killing of the victim because they prevented her from getting near the victim.

A few days after the killing, Elisa allegedly received a "report" that Alma Dequiña saw the incident and knew that accused Ramil Marquina killed the victim. Alma allegedly heard the victim pleading for his life saying, "Pareng Ramil, wala naman akong atraso sa'yo, bigyan mo ako ng pagkakataong mabuhay, may pamilya at anak ako. Kung gusto mo, baldadohin mo na lang ako." [14] Despite the report, Elisa feigned ignorance of the identity of the assailants of the victim because one of her suspects, accused Ramil Marquina, is a son of a certain Capt. Francisco Marquina of the Pasig Police Station.[15]

On August 23, 1991, the police conducted a reinvestigation of the case. Upon ocular inspection of the crime scene, the police found a fan knife with bloodstains in the open canal in front of the house of Aida Calugay.[16] Thereafter, Romel Gaon gave his sworn statement, implicating for the first time accused Ramil Marquina to the crime on account of the victim's dying declaration.[17]

Dr. Emmanuel Aranas of the Philippine National Police Crime Laboratory Service, NCRU, Central Police District Command, conducted an autopsy on the victim on August 18, 1991. He found forty-eight (48) wounds on the victim's head, neck and trunk. The fatal wounds sustained by the victim were mostly located on the victim's neck and body, to wit:[18]

"x x x x x x x x x x

(22) Stab wound, neck, measuring 1 by 0.3 cm., 1 cm. right of the anterior midline, 8 cm. deep, directed upwards, lateralwards and posteriorwards, lacerating the trachea.

x x x x x x x x

(24) Stab wound, neck, measuring 2 by 0.5 cm., 3 cm. left of the anterior midline, 7 cm. deep, directed upwards, lateralwards, posteriorwards, lacerating the left common carotid artery.

x x x x x x x x

(26) Stab wound, left infraclavicular region, measuring 2 by 0.5 cm., 3 cm. from the anterior midline, 8 cm. deep, directed downwards, medialwards and posteriorwards, passing thru the 1st left intercostal space along the parasternal line, lacerating the upper lobe of the left lung.

x x x x x x x x

(28) Stab wound, left mammary region, measuring 1.7 by 0.6 cm., 2.5 cm. from the anterior midline, 9 cm. deep, directed downwards, medialwards and posteriorwards, passing thru the 3rd left intercostal space, lacerating the lower lobe of the left lung.

(29) Stab wound, right mammary region, measuring 2.5 by 0.8 cm., 4 cm. from the anterior midline, 10 cm. deep, directed downwards, lateralwards and posteriorwards, passing thru the 3rd right intercostal space, lacerating the middle lobe of the right lung.

(30) Stab wound, left costal region, measuring 2.4 by 0.5 cm., 18 cm. from the anterior midline, 9 cm. deep, directed upwards, medialwards and anteriorwards, passing thru the 7th left intercostal space, lacerating the lower lobe of the left lung.

x x x x x x x x

(37) Stab wound, left scapular region, measuring 2.3 by 1 cm., 8 cm. from the posterior midline, 10 cm. deep, directed upwards, medialwards and anteriorwards, passing thru the 5[th] left intercostal space, lacerating the upper lobe of the left lung.

x x x x x x x x

(39) Stab wound, left infrascapular region, measuring 2 by 1 cm., 11 cm. from the posterior midline, 10 cm. deep, directed upwards, medialwards, and anteriorwards, passing thru the 6[th] left intercostal space, lacerating the lower lobe of the left lung.

(40) Stab wound, left lumbar region, measuring 2.5 by 1 cm., 4 cm. from the posterior midline, 10 cm. deep, directed upwards, medialwards and anteriorwards, passing thru the 8[th] left intercostal space, lacerating the lower lobe of the left lung.

x x x x x x x x

(45) Stab wound, left lumbar region, measuring 1.5 by 0.6 cm., 3 cm. from the posterior midline, 10 cm. deep, directed upwards, medialwards and anteriorwards, passing thru the 9[th] left intercostal space, lacerating the lower lobe of the left lung.

x x x x x x x x

(47) Stab wound, lumbar region, measuring 1.5 by 0.5 cm., just right of the posterior midline, 7 cm. deep, directed upwards, lateralwards and anteriorwards, passing thru the 8[th] right intercostal space, lacerating the lower lobe of the right lung.

x x x x x x x x”

In his Sworn Statement,[19] dated March 19, 1992, Dr. Aranas made the following declarations:

“x x x x x x x x

5. If a person suffered or sustained wound nos. 22, 24, 26, 28, 29, 30, 37, 39, 40, 45 and 47 all at the same time, will he be able to talk? Will he die on the spot? Why?

He will not be able to talk but may not die on the spot considering that the injuries, although fatal, may not cause an instantaneous death.

6. Referring to your findings in Medico legal report No. M-1621-91 to one ENRICO GAON, after receiving all the wounds enumerated in your findings, could he still talk? Why?

No. Because aside from the fatal injuries, his trachea or windpipe which also aids in speech is lacerated & contains blood and blood clots.

x x x x x x x x”

Dr. Aranas explained at the trial that wound no. 22 was on the frontal aspect of the neck and the track was directed upwards, outwards and towards the back. The trachea or the windpipe was lacerated and it contained blood and blood clots. With the said wound, the victim could only produce sounds like moans, but the possibility of producing legible clear words is impossible.[20] The victim could still talk within a few seconds after the infliction of the wound.[21] He concluded that it was possible that the wounds sustained by the victim could have been caused by more than one instrument, considering their dimensions, and there could have been more than one assailant.[22] The victim died primarily due to “hemorrhage as a result of multiple stab wounds on the neck and the trunk.”[23]

Accused Priela and Esguerra denied any complicity in the killing. Accused Priela claimed that he was merely requested by Amelia Dequiña (Ka Amy) to accompany her and her daughter, Alma, to the crime scene. They were the first ones to arrive at the scene. A couple of minutes later, Ka Amy and Alma left and headed towards the victim’s house. He was left behind to provide light in the area. Soon after, people started to gather at the crime scene. He admitted that he discouraged Elisa from touching the victim because he thought that the police would arrive soon and the victim would be brought to the hospital. However, he denied that he blocked her way or prevented her from getting near the victim. Ka Amy and Alma Dequiña corroborated his story that they merely requested him to accompany them to the crime scene to check who the victim was.[24] Ka Amy also stressed that she was willing to help accused Priela as she felt responsible that he was jailed because of her.

Accused Esguerra, on the other hand, claimed that when the incident happened, he was playing mahjong with his neighbors, namely, Norma Cruz, Erlinda Amarante and Rosita Santos. They only stopped playing when somebody shouted that a body was found along the alley in Villa Reyes Compound. He and his co-players went to the crime scene. Norma Cruz and Erlinda Amarante corroborated his alibi. According to Norma Cruz, Esguerra merely viewed the victim’s body at the crime scene and did nothing more.[25]

For his part, accused Marquina chose to remain silent and banked on the medical findings of Dr. Aranas that the victim’s lacerated windpipe would make it impossible for the latter to speak clearly.

After the trial, accused Ramil Marquina was convicted of the crime of murder while his co-accused, Diego Esguerra and Ben Priela, were acquitted on reasonable doubt. Hence, the appeal by accused Ramil Marquina.

In his Brief, the appellant raises the sole issue that the trial court erred in giving much weight and credence to the dying declaration of the deceased.

We acquit the appellant on the ground that his guilt was not established beyond reasonable doubt.

One of the essential rights given to a person charged with a criminal offense is that he is presumed innocent unless

the contrary is proved[26] and the proof required must be one that is beyond reasonable doubt.[27]

In the case at bar, the only evidence that supports the appellant's conviction was the alleged dying declaration of the victim to prosecution witness Romel Gaon. According to Romel, before his brother died, the latter had declared to him that appellant Ramil Marquina was his assailant. Romel testified:[28]

“Q:

When you reached your brother what happened?

A:

When I saw my brother was dying, I carried him with my two hands, sir.

ATTY. GANA:

May I manifest that the witness is making a motion with his both hands as if he was holding a person in front.

Q:

After you carried your brother, what happened?

A:

I asked him, “bakit ka pumunta rito, sino ang may gawa nito?”

Q:

What happened after you asked that?

A:

He mentioned the name of Ramil Marquina for two times, sir.

Q:

Could you show to us how he mentioned the name of Ramil Marquina?

A:

When I was holding him and I asked him, he mentioned the name of Ramil Marquina, sir.

Q:

How clear was his voice when he said it?

A:

It was very clear because my ear is near his mouth, sir.

Q:

How far away were you from your brother?

A:

I was carrying him when his face was about five inches away from my face, sir.”

(emphases ours)

Contrary to the testimony of Romel Gaon, the medical report of Dr. Aranas reveals that it was impossible for the victim to speak clearly, considering the wounds he sustained, particularly those inflicted on his neck. Dr. Aranas testified as follows:[29]

“CROSS-EXAMINATION

ATTY. SARDILLO:

Q:

Dr., will you please expound to us on your findings, more particularly Wound No. 22 which read: stab wounds (sic), measuring 1 x 0.3 cm., 1 cm. right of the anterior middle midline, 8 cm. deep, directed upwards, lateral wards and posterior wards, lacerating the trachea. Would you please explain to us the implication of this wound to a person who receive this kind of findings?

WITNESS:

A:

Well sir, this stab wounds (sic) which is eight (8) cm. deep is found on the frontal aspect of the neck and the track of the stab wound is directed upwards, outwards and towards the back. The same stab wound likewise lacerated the trachea or in layman’s term, this is the windpipe.

Q:

Now, based on your findings, if a person receive a lacerated wound on his windpipe, will he be able to speak or say something?

A:

In this particular injuries, he may still produce sounds.

ATTY. SARDILLO:

Q:

What kind of sounds?

A:

He may still moan or he may still frown (sic). But the possibility of producing legible clear words are impossible.”

(emphases ours)

We hold that the medical findings of Dr. Aranas and his expert testimony on the effect of the nature of the neck injuries of the victim on the latter’s ability or inability to speak should prevail over the uncorroborated testimony of the prosecution witness, Romel Gaon.

Physical evidence is a mute but eloquent manifestation of truth, and it ranks higher in our hierarchy of trustworthy evidence. In criminal cases such as murder or rape where the accused stands to lose his liberty if found guilty, this Court has, on many occasions, relied principally upon physical evidence in ascertaining the truth. Where the physical evidence on record runs counter to the testimony of witnesses, the primacy of the physical evidence must be upheld.[30]

Still, the Office of the Solicitor General argues that the medico-legal officer himself stated that the victim could still moan or groan, despite his injuries. Hence, it was possible that the victim was able to speak when Romel Gaon arrived at the crime scene.

Again, we are not persuaded. Being able to moan or groan is quite different from being able to speak clearly. A moan is a low prolonged sound indicative of pain or any similar low mournful or murmuring sound.[31] A groan is a deep, usually inarticulate and involuntary often strangled sound, typically abruptly begun and ended and usually indicative of pain or grief.[32] To speak, on the other hand, is to utter words.[33]

The victim sustained at least four (4) stab wounds on his neck that include wound nos. 22 and 24. The first was eight (8) centimeters deep, lacerating the trachea, and the second, seven (7) centimeters deep, lacerating the left common carotid artery. On re-direct examination, the doctor clarified that in a matter of seconds or a few minutes upon infliction of the wounds on the windpipe, the victim may still speak but, thereafter, there would be an accumulation of the blood in the windpipe that would block it and render the victim incapable of talking.[34] He further stated:[35]

“COURT:

Excuse me.

Q:

The creation (sic) of the blood clot would normally depend on the time of the infliction?

A:

Yes, Your Honor. That’s the area where the blood accumulates.

Q:

How much time would it take for the blood to clot?

A:

Well ma'am, it is not the clotting but even if the blood is not clotted, then delinquent blood will also accumulate.

Q:

How much time?

A:

Well this could be in seconds only ma'am.

Q:

When you speak how many, five seconds after the infliction of the injuries?

A:

Less than a minute considering that because this is lacerated, a big artery on the neck."

In the case of the victim, a considerable length of time had elapsed from the time he was found until the time that Romel was finally able to reach him. The records show that when Ka Amy was informed of the commotion somewhere in the alley between 8:00 p.m. to 8:30 p.m., she did not immediately leave her store. She went to the crime scene only after a tricycle driver had told her that someone was on the ground. It was then 9:00 p.m. She stayed there for 3 minutes before she went to Romel's house. Romel also did not immediately go to the crime scene. He went there five (5) minutes after Elisa left their house. Even assuming that the victim could still moan or groan when Romel lifted him up from the canal, following the doctor's expert opinion on the nature of the victim's neck injuries, by then, a lot of blood had already accumulated, if not coagulated, in the victim's windpipe. Given these facts, we are doubtful if the victim was, indeed, able to name his assailant to his brother, Romel.

The prosecution's evidence must rise and fall on its own weight. Although the testimony of the prosecution witness was straightforward, and he has no ill motive against the appellant, it cannot prevail vis-à-vis the physical evidence on hand. The prosecution has not adequately discharged the burden of proof required for the conviction of the appellant. He should be acquitted on reasonable doubt.

WHEREFORE, the decision of the Regional Trial Court, Branch 70, of Pasig City in Criminal Case No. 93843 is REVERSED. Appellant RAMIL MARQUINA is ACQUITTED of the crime of murder and he is ordered immediately released from custody unless he is lawfully held for another cause.

The Director of the 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.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Original Records, p. 1.

- [2] *Id.*, pp. 39, 53, 108.
- [3] *Rollo*, pp. 84-92.
- [4] TSN, Romel Gaon, March 10, 1993, p. 10; TSN, Amelia Dequiña, November 3, 1994, p. 20.
- [5] TSN, Amelia Dequiña, February 3, 1993, pp. 15-16.
- [6] TSN, Amelia Dequiña, November 3, 1994, pp. 8-10, 20; TSN, Alma Dequiña, February 3, 1993, pp. 5-6.
- [7] TSN, Amelia Dequiña, February 3, 1993, p. 17.
- [8] *Tinanglawan*.
- [9] TSN, Amelia Dequiña, February 3, 1993, p. 17, November 3, 1994, pp. 10-13; TSN, Alma Dequiña, February 3, 1993, pp. 7-9.
- [10] TSN, Elisa Molina, December 9, 1992, pp. 13-22; TSN, Romel Gaon, February 10, 1993, pp. 8-12, 14.
- [11] TSN, Romel Gaon, February 10, 1993, pp. 13-14.
- [12] Exh. “C”, *Original Records*, p. 182.
- [13] Exh. “A”, *id.*, pp. 179-180.
- [14] TSN, Elisa Molina, December 9, 1992, pp. 28-32.
- [15] *Id.*, pp. 60, 80-81.
- [16] Exh. “G”, *Original Records*, p. 191.
- [17] Exh. “H”, *id.*, pp. 193-194.
- [18] Exh. “D”, “D-1” to “D-4”, *id.*, pp. 183-186.
- [19] Exh. “1” for Accused Ramil Marquina, *Original Records*, p. 423.
- [20] TSN, Dr. Emmanuel Aranas, December 16, 1992, pp. 13-14, 16.
- [21] *Id.*, p. 21.
- [22] *Id.*, pp. 9-10.
- [23] *Medico Legal Report No. M-1621-91*, Exh. “D”, *supra*.
- [24] TSN, Amelia Dequiña, November 3, 1994, p. 9; TSN, Alma Dequiña, February 3, 1993, pp. 6-7.
- [25] TSN, Norma Cruz, November 15, 1993, pp. 5-14; TSN, Erlinda Amarante, November 16, 1993, pp. 3-7; TSN, Diego Esguerra, February 15, 1994, pp. 2-10.
- [26] Section 14 (2), 1987 Constitution.
- [27] Sec. 1 (a) Rule 115, *Revised Rules of Criminal Procedure*.
- [28] TSN, Romel Gaon, February 10, 1993, pp. 13-14.
- [29] TSN, Dr. Emmanuel Aranas, December 16, 1992, pp. 13-14.
- [30] *Tan, Jr., vs. CA*, 342 SCRA 643, 651 (2000); *People vs. Roche, et al.*, 330 SCRA 91 (2000); *Jose vs. Court of Appeals*, 322 SCRA 25, 31 (2000).

[31] Webster's Third New International Dictionary, unabridged ed., (1993), p. 1449.

[32] Id., p. 1001.

[33] Id., p. 2185.

[34] TSN, Dr. Emmanuel Aranas, December 16, 1992, p. 19.

[35] Id., pp. 20-21.

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