

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISABELO PEREZ Y HALOG, DEOGRACIAS MENDOZA Y PEREZ, DENNIS MENDOZA, GEORGE VALDEZ AND “BOYET,” ACCUSED, ISABELO PEREZ Y HALOG, ...

G.R. No. 130501. September 02, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In rejecting this appeal, this Court relies on the time-honored doctrine that the assessment by the trial court of the credibility of the witnesses and their testimonies deserves great respect. Appellant has not convinced us that the lower court overlooked any important fact or misapprehended any relevant information which, if properly weighed and considered, would negate or erode its assessment.

The Case

Before this Court is the appeal[1] of Isabelo Perez seeking a reversal of the May 22, 1996 Decision[2] of the Regional Trial Court of Mamburao, Occidental Mindoro, Branch 44, in Criminal Case No. Z-617, finding him and his co-accused guilty of murder beyond reasonable doubt and sentencing them to reclusion perpetua.

Accused of murder in an Information filed by Assistant Provincial Prosecutor Loreto F. Jaravata on March 13, 1991, were Isabelo Perez, Deogracias Mendoza, George Valdez, Dennis Mendoza and one nicknamed Boyet. The crime was allegedly committed as follows:

“That on or about the 6th day of January, 1991 at around 9:00 o’clock in the evening, more or less, in Barangay Payompon, Municipality of Mamburao, [P]rovince of Occidental Mindoro, and within the jurisdiction of this Honorable Court, the abovenamed accused being then armed with a deadly weapon, with intent to kill and with treachery and evident premeditation, conspiring and confederating and helping one another, did then and there willfully, unlawfully and feloniously attack, assault and beat with the said weapon one Marion Perol Y Canete, thereby inflicting mortal wounds upon the latter which caused his untimely death.

“That as a result of the unlawful acts of the accused, the heirs of Mario Perol suffered damages for which they should be indemnified in an amount which the Honorable Court may deem just and proper under the circumstances.”[3]

Upon arraignment, Isabelo Perez, Deogracias Mendoza and Dennis Mendoza, assisted by counsel,[4] pleaded not guilty to the crime charged; George Valdez and Boyet remained at large. Trial on the merits proceeded against the first three accused. However, on November 17, 1992, prior to the promulgation of the assailed Decision, Deogracias Mendoza died. Thereafter, the trial court rendered the assailed judgment, the dispositive portion of which reads:

“WHEREFORE, the Court finds [A]ccused ISABELO PEREZ Y HALOG and DENNIS MENDOZA guilty beyond reasonable doubt as principals by direct participation in the crime [of m]urder, qualified by treachery,

and hereby sentences them to suffer imprisonment [for] the period of RECLUSION PERPETUA and, to pay jointly and solidarily the heirs of MARIO PEROL the sum of P50,000.00 for the death of said victim"[5]

Hence, this appeal.[6]

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General presents the following narration of facts:“

On January 1, 1991, Deogracias or 'Domeng' Mendoza and his son Dennis Mendoza went to Mario Perol's house at Brgy. 9, Payompon, Mamburao, Occidental Mindoro and invited the latter and one Fermin Verwel to a drinking spree. During the course of the drinking spree, Deogracias offered Mario the amount of Ten Thousand (P10,000.00) Pesos if the latter would kill a certain Gregg. Mario rejected the offer. (TSN, Sept. 17, 1991, pp. 3, 9-12)

“A few days later, this Gregg passed by Mario's house. Mario told Gregg about Deogracias' proposal. While the two were conversing by the door of Mario's house, Deogracias was apparently staring at them (Ibid, pp. 16-17).

“On January 6, 1991, at around 8:00 p.m., Deogracias and Billy Perez were seen by Mario's wife Gliceria Perol drinking in Deogracias' house. Deogracias then shouted for Mario to come out of his house. Afterwards, Deogracias went inside Mario's house, woke Mario up and asked the latter to come with him to settle their differences (Ibid, pp. 19-21).

“At around 9:00 p.m. of the same day, Domingo Bernardo Jr. and his friend Nelson Magpantay were walking along Bansutan St., Payompon, Mamburao, Occidental Mindoro going towards Dennis Mendoza's house. About 6 meters before reaching the said house, the two saw Deogracias angrily pointing and shouting invectives at Mario stating, 'patayin iyan, patayin iyan, babayaran iyan.' They heard Mario reply, 'Huwag kang magbiro ng ganyan Kuya Doming' (TSN, Sept. 16, 1991, pp. 7-11).

“At that precise moment, Isabelo Perez held the right hand of Mario and twisted it towards the latter's back while Deogracias took a sledgehammer and struck Mario's left eyebrow. Dennis Mendoza and George Valdez took lead pipes which they used in beating Mario while one alias 'Boyet' and two unidentified persons mauled Mario. When the latter lay prostrate on the ground, Domingo saw Isabelo strike Mario with the use of a sledge hammer (Ibid., pp. 12-15).

“Afraid of what they witnessed, Domingo and Nelson decided to go straight to their respective homes that night. On January 10, 1991, the two (2) executed their joint sworn statement, 'Pinagsamang Salaysay' which became the basis of the present charge of [m]urder against appellant and his co-accused (Ibid., pp. 15 & 18).”[8]

Version of the Defense

For his part, appellant presents the following version of the facts as culled from the testimonies of the defense witnesses:[9]

“Olive Mendoza x x x

xxx xxx xxx

“That she was at their house at about 7:00 o'clock in the evening on January 6, 1991, with her two children, her husband and Isabelo Perez (appellant);

“That Isabelo Perez was there because they had not seen each other with her husband for a long time;

“That her husband told her to prepare the table, and while doing so, Boyet Perol shouted from his house, only 10 meters far, 'Tio Domeng may alak ka ba dian?', and her husband, Domeng, answered, 'mayroon';

“That at that instant, Boyet Perol walked to the[i]r house unsteadily (pasuray-suray); that he was 'pasuray-suray' because she had seen him to have just awaken[ed] xxx up from a drinking spree the whole afternoon 1991; there were many who went to his house whom she did not know but who came from Alacaac; that they had started drinking from 7:30 o'clock in the morning;

“That as soon as he entered their house, Perol said, 'nasaan Tio Domeng ang sinasabi mo?', to which her husband answered, 'just wait', and then my husband got the liquor from the store that she [was] tending.

“That when Perol arrived, he was looking at Isabelo Perez and then said, 'Tio Domeng, may bisita ka palang baboy, masarap giliten [ang] leeg' to which her husband remarked, 'don't mind my visitor, just attend to the liquor';

“That reacting to Perol's remarks, Perez said, 'huwag na lang ako ang gilit[a]n mo ng leeg, iyon na lang mga alagang baboy ni Olive';

“Then Perol stood up, and said, 'ano ang magagawa mo kung ikaw ang trip ko'; that Perez just kept quiet; while her husband told Perol to sit down; but Perol said, 'I will not sit down';

“That when Perol repeated what he had already earlier said, Perez just stood up to go away; then Perol followed him and put his hand around Perez' shoulder and told the latter, 'don't go away because you will be killed, it is much better to die near the sea'; then my husband invited both of them to go inside as he told me to prepare the food;

“That I gave them plates; that while Perez was eating his food, Perol was laughing; and after Perez ha[d] eaten about 3 spoonfuls Perol grabbed his plate and exchanged his empty plate with spoon and fork, saying, 'it is not fit for you to eat foods of humans, the proper food for you is food for the pigs'; at that juncture her husband told her to take away the plates; on the part of Perez, the latter was 'nagsisikip ang dibdib' as he asked for water;

“That Perez stayed in their house for about 30 minutes; then he proceeded to the shop of Dennis Mendoza, son of Domeng, which [was] about 300 meters away, at Bansutan St.; followed by her husband, Domeng, leaving Perol inside our house, just looking at the two who just left him;

“Then Perol shouted, 'hintayin mo akong baboy ka pupuntahan kita dian'; and then Perol went to his house; and got a bolo which she 'felt it from his back as I was tr[y]ing to grab it, but he said, 'Hindi, Ate Olive, hu[w]ag mo akong pigilan' (don't stop I will go to the shop);

“That when I failed to stop Perol, I went to his brother, Restituto, a CAFGU, and told him to follow Boyet because he had a bolo and 'pinagtatangkaan niya si Isabelo Perez'; however, Restituto said 'I cannot follow because I will be late [for] my duty'; and so I just proceeded to our house

“That he[r] husband arrived at about 9:30 o'clock that night.

x x x x x x x x

“ISABELO PEREZ x x x

x x x x x x x x

“That he arrived at Mamburao at about 5 to 6 o'clock in the evening on January 6, 1991; that he proceeded to the shop of Domeng Mendoza because that [was] his garage and repair shop at Bansutan St., and they had [to weld] of the ream of the tires of his bus, which was finished at 6:30 p.m.;

“That from the shop he was invited by Dennis the son of Domeng to have a dinner at their house and [he] arrived thereat at about 7:00 o'clock;

“That while they were talking with Domeng and the wife, Olive, was preparing food, Boyet Perol arrived/asked for liquor from Domeng; that while Domeng was getting the liquor, Perol looked at him and said; 'you have a visitor who is like a pig and nice to cut the neck', to which he answered kiddingly, 'hu[w]ag naman ako, [iyon] na lang baboy ni Olivia sa kulungan' thinking that Boyet Perol was just joking;

“That when Domeng gave the liquor, Perol drank the same straight from the bottle, without the use of glasses; then Domeng asked his wife to prepare the food and gave them plates and when they were eating and after only about 3 spoonful[s], Perol grabbed his plate and said, 'this is not fit for you, what is fit for you is food for the pigs'; that he stood up and kept quiet, while Domeng admonished Boyet Perol not to do that because he may be their boss in the future, but he said[,] 'but he is my trip';

“That when Perol put his hand around his shoulder and asked him to sit down because he was leaving, xxx he sat down; and Domeng told his wife to keep the food; that xxx he again stood up and actually left the house of Domeng;

“As he was leaving, Perol said, 'wait for a while and I will come back'; and told him that he [would] be killed here in the seashore'; at that moment he asked for a glass of water to drink, and then hurriedly left; then Domeng followed him; and later also Perol to the shop of Dennis Mendoza at Bansutan Street;

“That his bus was across the right side of the bus facing the door of the shop, blocking the door of the welding shop, allowing people to be able to enter only at the southern side where there [was] an opening;

“That the entrance [was] about 5 to 6 meters;

“That he was the one who parked the bus in front of the shop blocking the entrance of the welding shop;

“That he saw Domeng Mendoza when he arrived at the place of Dennis who was there with George Valdez, with a bottle of liquor but not yet consumed;

“That inside the bus, there was the conductor and passengers who were stranded on their trip from Abra de Ilog, all sleeping inside the bus;

“That the bus left Mamburao for San Jose at 4:00 o'clock in the morning;

“That when Mario Perol arrived at Dennis' shop, he was standing and then seated himself behind Dennis while Domeng remained standing;

“That upon arriving, Perol placed his bolo on the table; he was advised by Domeng to keep it away; and so Perol put that the bolo under the table near his feet; and then he drank from the bottle of wine;

“Then he pointed to him and challenged him to a fight, saying, 'putang ina mo, maghubad ka at magsuntukan tayo';

“That he did not react; in fact he offered [a] cigarette to him and told him to smoke; and he lighted the cigarette and smoked; then he continued to challenge him;

“That at that point Domeng was broiling fish; and told Perol not to molest his visitor; then suddenly Perol overturned the table and got his bolo and simultaneously swayed to hack Domeng;

“That was the time that he pushed Domeng, and held Perol's hand; and they struggled for the possession of the bolo; in the process both of them fell in a prone position; that at that juncture, he said 'it's enough, it's enough' while Perol was uttering, 'putang ina ninyo, papatayin ko kayo';

“That he did not know what Domeng may have done; but suddenly, Perol became weak and so he released the bolo from his hand;

“That at that point, he helped him to stand up, but when he saw him bloodied, he released him and he fell on the ground in an upward position; and I requested somebody to call for a police;

“That although nobody was able to call for a police, Perol's brother, a CAFGU member arrived, with four other CAFGU members; that his brother inquired what happened and then he ordered that his brother be brought to the hospital;

“That he himself brought Perol to the hospital, with the assistance of the CAFGU members;

“That from the hospital, on the suggestion of the CAFGU members, they all went to the barracks to report the matter; that he stayed at the barracks up to 2 o'clock in the morning, although there was no investigation;

“That after leaving the barracks, he made the usual trip and left Mamburao at about 4:00 o'clock a.m.[]

“That Domeng and Dennis were not at the barracks;

“That he did not see the CAFGU members except Perol's brother;

“That when he brought Perol to the hospital, Domeng was inside the bus; while Dennis was probably at his house;

“He denied the testimony of Domingo Bernardo and Liberato Sadiasa that he twisted the hands of Perol and later boxed him; he said the testimony of the two were entirely false.

x x x x x x x x

“DENNIS MENDOZA, x x x

x x x x x x x x

“That at about 7 p.m., he was with George Valdez at his welding shop where they were drinking up to 8 p.m., when his father Domeng (Deogracias Mendoza) and Billy Perez (Isabelo Perez), arrived;

“That on arrival, both Domeng and Billy Perez sat beside them; and then Perol later arrived alone;

“That when Perol arrived, he scolded Billy Perez, saying, “putang ina mo, Billy papatayin kita”;

“That to that remark, Billy said, ‘wala naman tayong pinagawayan, bakit mo ako minumura?’.

“That as owner of the place, he told Perol not to utter bad words, and Perol obliged; but after a while, he started to speak bad words again, but Billy Perez said, ‘wala naman tayong pinagaawayan, uminom ka’, giving Perol a glass and Perol accepted the offer and drank;

“That for the third time, Perol uttered more bad words, and his father Domeng pacified him; but then Perol suddenly stood up, picked up his bolo, and tried to hack his father, Domeng;

“That Billy pushed his father; and he was able to hold the right hand of Perol with his left hand; and then Perol and Billy struggled for about 2 minutes; while his father fell on the metal files, ‘sumubsub sa bakal’;

“That it was then that George Valdez struck Perol and the latter lost possession of the bolo, and Billy disengaged Perol; then the brother of Perol arrived, with about 8 Cafgu members; that the brother of Perol told them to bring him to the hospital.

x x x x x x x x

“PHILIP JIMENEZ, x x x

x x x x x x x x

“That he was a bus helper on January 6, 1991 [in the bus] driven by Billy Perez; that after their arrival at Mamburao, they proceeded to the repair shop of Dennis Mendoza that afternoon; there were then two helpers, George Valdez and himself; that Billy went to the house of Domeng Mendoza; and it was about 9:00 o’clock in the evening that he returned to the shop with Domeng;

“That the persons in the shop were Dennis, Domeng Mendoza, Billy Perez and George Valdez; while he was inside the bus already resting; that he saw a certain drunk person [arrive], drunk because he was walking waywardly; he proceeded to the table and sat where the four others were seated;

“That he saw him drink something, maybe liquor, and then he heard him utter “papatayin kita, baboy ka”, pointing to Billy Perez who remarked, “wala naman tayong pinagaawayan a”;

“That he learned later that the [name] of the drunk person was Mario or Boyet Perol; that he had a bolo under the table, placed by Perol himself;

“That when Billy Perez [said] “wala naman tayong pinagaawayan,” Perol stood up and boxed the table;

“That Domeng uttered, ‘hu[w]ag mong bastusin and bisita ko’, and that was the time Perol stood up and immediately struck Domeng with his bolo; that at that instant, Billy Perez pushed Domeng and was able to hold the hand of Perol and they struggled, ‘grappling together’;

“That during the struggle, he heard Perol utter two times, ‘bitawan ninyo ako at papatayin ko kayong lahat’;

“That he saw George Valdez [who was] holding a blunt instrument (in the form of a hammer) [strike] the head of Perol three times (p. 23, t.s.n.);

“That Billy Perez then stood up and then helped Perol to stand up (p. 24, t.s.n.);

“That in the case of Dennis, he was stunned; while Domeng was just standing up and then later trying to separate Perol and Perez;

“That it was only George Valdez that he saw strike Perol; that Dennis did nothing; and he did not hear xxx Domeng ever utter, ‘patayin, patayin’; the word ‘papatayin’ were words that came out only from Perol;

“That about 2 minutes later, the CAFGU arrived; and with guns aimed at Billy Perez, said, ‘bakit mo pinatay?’ to which Perez did not say anything; that when they ordered Perol to be brought to the hospital, Billy Perez brought Perol to the hospital;

“That during the time that there was a struggle between Perol and Perez, he did not notice any person along the road.”

Ruling of the Trial Court

After carefully examining the evidence on record, the trial court gave greater weight to the clear, cohesive and straightforward testimony of Domingo Bernardo Jr., which was amply corroborated by another witness, Liberato Sadiasa. The trial court explained that neither of the two was impelled by any improper motive to falsely implicate herein appellant of so serious a crime.

In contrast, the testimonies of the defense witnesses were full of inconsistencies and improbabilities. For instance, the trial court found it odd that a supposedly heavily intoxicated Mario Perol wobbled from his house to the motor shop of Dennis Mendoza, just so he could follow, confront and quarrel with Appellant Isabelo Perez, who was not even alone but was with the other accused.

The trial court likewise concluded that there was conspiracy between the accused since the attack they had carried out was closely coordinated. In addition, treachery was deemed to have been used against the victim, considering that his hands were first held behind his back by the appellant, thus enabling the latter's companions to strike the former repeatedly with a sledgehammer and lead pipes, thereby causing the injuries that ultimately led to the victim's death.

The Issues

Appellant submits for the consideration of this Court the following alleged errors:“

I

“The trial court erred in giving weight to the testimony of Prosecution Witnesses Domingo Bernardo, Jr., and Liberato Sadiasa, even as they had not in fact actually witnessed the whole incident, and whose testimonies contradict[ed] each other on material points.

II

“The trial court erred in not giving weight and in not believing the testimon[ies] of the appellant and the other defense witnesses that herein appellant merely parried the blow of the victim holding a bolo against co-accused Deogracias Mendoza alias Domeng Mendoza, and had not attacked at all the deceased Perol whom he knew was very drunk.

III

“The trial court erred in concluding a conspiracy among the accused in the clear absence of evidence therefor, and in concluding that there was treachery on the part of the accused.

IV

“The trial court erred in convicting the appellant [of] murder in the absence of proof beyond reasonable doubt of his guilt of the charge against him.”[10]

We shall discuss the four assigned errors seriatim.

The Court's Ruling

The appeal is not meritorious.

First Issue:

Credibility of Prosecution Witnesses

Appellant claims that the testimonies of the prosecution witnesses, Domingo Bernardo Jr. and Liberato Sadiasa, are not only implausible but even contradictory as well. Bernardo testified that he saw appellant hold the hands of Mario Perol and then strike him with a sledgehammer. Sadiasa, on the other hand, stated that appellant merely held the hands of the deceased.

We are not persuaded. As a general rule, the evaluation of the credibility of witnesses is a matter that particularly falls within the authority of the trial court, as it had the opportunity to observe the demeanor of the witnesses on the stand. For this reason, appellate courts adhere to the time-honored doctrine that a trial court's assessment of the credibility of a witness is accorded great weight and even deemed conclusive and binding, unless tainted with arbitrariness or oversight of some fact or circumstance of weight and substance.[11]

In this case, the trial court, which had the opportunity to hear and examine the testimonies of the two witnesses, Bernardo and Sadiasa, was convinced of their credibility. They accurately narrated the participation of all the accused, including herein appellant, in the killing of Perol. Bernardo's testimony proceeded as follows:

"Q: You said that Deogracias alias Doming while uttering these words, 'patayin yan, patayin yan, babayaran yan' was pointing towards whom or what?

A: Pointing towards Boyet Perol, sir.

Q: Who is this Boyet Perol, if you know him?

A: The one that was killed, sir.

Q: And after Deogracias alias Doming Mendoza uttered those words, 'patayin yan, patayin yan, babayaran yan' while pointing his finger [at] the deceased Boyet Perol what happened next, if any?

A: Boyet Perol uttered, 'huwag kang magbiro ng ganyan, Kuya Doming'.

Q: And after Boyet Perol uttered those words, 'huwag kang magbiro ng ganyan Kuya [D]oming what followed next, if any?

A: Boyet Perol was held at his right hand, was twisted towards his back by Billy Perez, sir.

Atty. ALEXANDER RESTOR:

Q: After that what happened next?

A: They simultaneously struck him, sir.

Q: And when you said that Boyet Perol was simultaneously struck by them, you are referring to whom?

A: To the companions of Billy Perez, sir.

Q: Do you know them?

A: Yes, sir.

Q: What are their names?

A: Domingo Mendoza, Dennis Mendoza, George Valdez and one alias Boyet, sir.

Q: Aside from these people you mentioned as the companions of Billy Perez, any other persons aside from these four (4)?

A: There are still two (2) whom I never have known xxx, sir.

Atty. ALEXANDER RESTOR:

Q: You said that Billy Perez held the right hand of the deceased Boyet Perol and simultaneously was struck by the companions of Billy Perez[;] what particular instrument, if any, were used by the companions of Billy Perez in striking the deceased Boyet Perol?

A: Sledgehammer and lead pipes, sir.

x x x x x x x x

Q: Mr. Witness, can you still remember the persons holding the two (2) lead pipes?

A: Yes, sir.

Q: And who are they?

A: Dennis Mendoza and George Valdez, sir.

Q: And who were holding and using the sledgehammers?

A: Domingo Mendoza and Billy Perez, sir.

Q: You mentioned also a certain alias Boyet during that incident[;] what was his participation, if any?

A: When the striking started, this one alias Boyet boxed him together with his two (2) companions, sir.

Q: Now, after the companions of Billy Perez simultaneously struck the deceased Boyet Perol with lead pipes and sledgehammers[,] what happened next, if any?

A: Boyet Perol was released by Billy Perez and so he fell down to the ground, sir.

Q: After falling to the ground what happened next, if any?

A: Billy Perez got the sledgehammer and struck Boyet Perol who was lying down on the ground, sir.”[12]

For his part, Liberato Sadiasa testified in this wise:

“Q: After Billy Perez grabbed both hands of Mario Perol, bringing both hands to his back, what happened next if you still remember?

A: I saw Deogracias Mendoza hit Mario Perol by a sledge hammer, sir.

Q: And after Domeng Mendoza hit Mario

ATTY. RESTOR:

Q: (continued)..... Perol by a sledge hammer, what happened next if any?

A: I saw the persons hit him with a lead pipe, sir.

Q: Are you familiar with these two persons who hit Mario Perol with a lead pipe?

A: I am only familiar with one[.]

Q: What is the name of that person whom you are familiar with?

A: Dennis Mendoza, sir.

Q: And after Dennis Mendoza and the other one hit Mario Perol with a lead pipe, what followed next if any?

A: I saw three (3) persons [box] him, sir.

ATTY RESTOR:

Q: And after these three persons boxed Mario Perol, what followed next if you still remember?

A: I heard shouts, 'Kung sino and tumestigo ay susunod naming papatayin' and they parted their ways, sir.

Q: And after persons parted their ways, do you know the condition of Mario Perol at that time?

A: I saw him rolling on the ground, sir.

Q: Now, after you heard the words, 'Kung sino and tumestigo ay susunod naming papatayin', do you know who uttered these words?

A: Deogracias Mendoza, sir."[13]

Moreover, the trial court found that the foregoing testimonies were not motivated by any ill will or motive to falsely implicate appellant and the other accused. Clearly, the alleged inconsistencies on whether appellant struck the victim are not material. What is important is that the two prosecution witnesses were consistent in their vivid narration of the attack, and in their identification of herein appellant as one of Perol's assailants.

Second Issue:

The Lack of Credibility of Appellant's Defense

Appellant claims that he did not take part in the assault on the victim. He says that he merely parried the blow intended for one of his companions and continuously grappled with Perol in an effort to prevent the latter from striking with a bolo.

Appellant's claim is implausible. Without ruling on the veracity of the testimony that Bernardo saw appellant actually strike the victim, this Court agrees with the trial court's finding that appellant did not merely try to prevent Perol from harming his companions, but actively participated in the assault on the victim. It is hard to believe that appellant only held on to Perol, who was supposedly quite drunk, merely to prevent the latter from harming the former's companions; and that appellant was seemingly oblivious to the fact that those very same companions, armed with lead pipes and a sledgehammer, were mauling the same man he was holding. Appellant would have us believe, then, that while Perol was being struck, the former was holding on to the latter without any effort to stop the said companions from inflicting further harm. In fact, appellant let go of Perol only when the wounds caused by the former's companions were severe enough to cause the latter's death.

In addition, the trial court found it quite odd that Perol, who allegedly had difficulty walking because of his heavily intoxicated state would follow appellant all the way to the motor shop, only to quarrel and threaten the victim, who was not even alone but was with the other accused.

On the other hand, appellant's claim that he would not have accompanied the victim to the hospital if he was one of those who had attacked the latter can easily be explained: CAGU authorities ordered appellant and some others to bring the victim to the hospital.

Third and Fourth Issues:

Conspiracy, Treachery and Sufficiency of Evidence

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The agreement may be deduced from the manner in which the offense was committed;^[14] or from the acts of the accused before, during, and after the commission of the crime, indubitably pointing to and indicating a joint purpose, a concert of action and a community of interest.^[15]

In the present case, conspiracy is undoubtedly present, since all the accused performed concerted acts in pursuit of a joint purpose, that of striking and mauling the victim. As appellant held the hands of Perol behind the latter's back, the other accused proceeded to strike the victim. Appellant continued holding on to him, thereby preventing him from fighting back or escaping. Thus, his companions continued hitting and striking the victim, and these blows eventually caused his death.

Likewise, the trial court correctly concluded that treachery attended the killing, since "the means, method and forms of execution employed gave the person attacked no opportunity to defend himself or to retaliate, and xxx such means, method and form of execution were deliberately and consciously adopted by the accused without danger to his person."^[16] In this case, the victim was not afforded a chance to defend himself, as his hands were held behind his back by one of his attackers prior to and during the entire attack.

Based on the clear, convincing and straightforward testimonies of Domingo Bernardo Jr. and Liberato Sadiasa who were eyewitnesses to the crime, the prosecution firmly established appellant's guilt.

Civil Liability

Citing *People v. Victor*,^[17] the prosecution prayed that the death indemnity of fifty thousand pesos (P50,000) be increased to seventy five thousand pesos (P75,000).^[18] We disagree. In *Victor*, the Court held that the award of P75,000 as death indemnity applies only to cases in which the death penalty is imposed. Clearly, this case is not

one of them.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision AFFIRMED. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Dennis Mendoza, the other accused convicted by the trial court, did not appeal the trial court Decision anymore.

[2] Written by Judge Venancio M. Tarriela; rollo, pp. 88-98; records, pp. 206-216.

[3] Information, p. 1; rollo, p. 1.

[4] Records, p. 48.

[5] Assailed Decision, p. 11; rollo, p. 98.

[6] The case was deemed submitted for resolution on June 15, 1999, when this Court received appellant's Reply Brief.

[7] The appellee's Brief was signed by Asst. Sol. Gen. Carlos N. Ortega, Asst. Sol. Gen. Magdangal M. de Leon and Sol. Ronaldo B. Martin.

[8] Appellee's Brief, pp. 3-5; rollo, pp. 128-130.

[9] Appellant's Brief, pp. 16-32; rollo, pp. 51-67. This was signed by Atty. Vicente D. Millora.

[10] Appellant's Brief, pp. 1-2; rollo, pp. 36-37.

[11] *People v. Ferrer*, 255 SCRA 19, March 14, 1996; *People v. Lua*, 256 SCRA 539, April 26, 1996.

[12] TSN, September 16, 1991, pp. 11-15; records, pp. 11-15.

[13] TSN, September 19, 1991, pp. 28-30; records, pp. 176-178.

[14] *People v. Cawaling*, 293 SCRA 267, 306, July 28, 1998, per Panganiban, J. See also *People v. Andres*, GR No. 122735, September 25, 1998, and *People v. Sumalpong*, 284 SCRA 464, January 20, 1998

[15] *People v. Magallano* citing *People v. Compil*, 266 SCRA 305, 314, January 16, 1997, per Regalado, J. See also *People v. Albao*, 287 SCRA 129, March 6, 1998; *People v. Obello*, 284 SCRA 79, January 14, 1998; and *People v. Sumalpong*, 284 SCRA 464, January 20, 1998

[16] *People v. Castillo*, GR No. 120282, April 20, 1998; *People v. Pallarco*, GR No. 119971, March 26, 1998; *People v. Molina*, GR Nos. 115835-36, July 22, 1998; *People v. Sabalones*, G.R. No. 123485, August 31, 1998; *People v. Cawaling*, GR No. 117970, July 28, 1998.

[17] 292 SCRA 186, July 9, 1998.

[18] Appellee's Brief, p. 12; rollo, p. 137.

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