

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE AGOMO-O, ACCUSED, EDDY PANEZA AND OSCAR SERVANDO, ACCUSED-APPELLANTS.

G.R. No. 131829. June 23, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from a decision [1] of the Regional Trial Court, Branch 23, Iloilo City, finding accused-appellants Eddy Paneza and Oscar Servando, together with accused Ronnie Agomo-o, [2] guilty of highway robbery under P.D. No. 532, and sentencing them to suffer the penalty of reclusion perpetua and to indemnify the heirs of the victim, Rodito Lasap, in the amount of P50,000.00.

The information [3] against accused-appellants and their co-accused Ronnie Agomo-o charged -

That on or about the 22nd day of September, 1993, along the national highway, in the Municipality of San Enrique, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring confederating and mutually helping one another, armed with a pistolized homemade shotgun and bladed weapons announced a hold-up when the passenger jeepney driven by Rodito Lasap reached Barangay Mapili, San Enrique, Iloilo, and by means of violence against or intimidation, did then and there willfully, unlawfully and feloniously, with intent to gain, take steal and carry away cash money, in the amount of FIFTY PESOS (P50.00), Philippine Currency and a wrist watch with a value of THREE THOUSAND PESOS (P3,000.00) both belonging to JOSE AMADOR, another amount of ONE HUNDRED THIRTY PESOS (P130.00) belonging to FREDDIE AGRABIO, and the amount of TWO HUNDRED PESOS (P200.00) belonging to the driver, RODITO LASAP, with a total value of THREE THOUSAND THREE HUNDRED EIGHTY PESOS (P3,380.00), Philippine Currency, to the damage and prejudice of the aforesaid persons and on the occasion of said robbery, the accused, with intent to kill shot the driver RODITO LASAP, with the firearms they were provided at that time which resulted [in] the death of Rodito Lasap and with deliberate intent to kill likewise stab one FREDDIE AGRABIO with a bladed weapon they were provided thus hitting him on the left elbow, thus commencing the commission of homicide directly by overt acts but did not perform all the acts of execution which would produce the felony by reason of some cause or accident other than their own spontaneous desistance.

The prosecution evidence showed that, on September 22, 1993, at around 7:30 in the evening, a passenger jeepney driven by Rodito Lasap en route to Passi, after coming from Sitio Gomez, Barangay Abaca, San Enrique, Iloilo, was stopped by three men, among them was the accused in this case, Ronnie Agomo-o, who, armed with a gun, announced a hold-up and ordered the driver to turn off the engine. After Lasap obeyed, Ronnie Agomo-o shot him just the same.[4] That same night, Rodito Lasap died as a result of multiple gunshot wounds.[5] A passenger, Freddie Agrabio, who was seated beside the driver, transferred, out of fright, to the rear portion of the jeep. He was then told to lie face down on the floor of the vehicle. Afterwards, he was asked to hand in his wallet containing P130.00 to one of the robbers. The accused then ordered the passengers to alight from the jeepney and keep their hands up. As they were doing so, accused-appellant Paneza stabbed Agrabio, hitting him on the left

elbow. Agrabio ran from the scene.[6]

Another passenger of the jeepney was Jose Amador. He saw the three accused coming from the sugarcane field at Barangay Mapili. The three stopped the passenger jeepney. Eddy Paneza took Amador's wallet containing P50.00 as well as his wrist watch, all the while pointing a "pinote" at him. He thought it was Oscar Servando who stabbed Freddie Agrabio. When Agrabio ran, Amador also ran.[7] Amador said that he was seated behind the driver and was thus able to see the accused as the moon was bright and there was light coming from the jeepney.[8]

SPO1 Joely Lasap and his companions received a report of the hold-up. Some of them went to Barangay Mapili to respond to the report of the incident. At around four o'clock in the morning of the following day, SPO1 Lasap and his companions found three empty shells of a 12-gauge shotgun.[9] SPO1 Lasap is a first cousin of the victim Rodito Lasap.[10]

Dr. Jason Palomado of the Passi District Hospital treated Freddie Agrabio for a wound on his left elbow. The wound was two centimeters in length and two centimeters in depth. Agrabio was discharged from the hospital the following morning.[11] Dr. Palomado issued a medical certificate[12] stating that Agrabio needed treatment for a period of 9 to 30 days.

On September 28, 1993, Jocelyn Agomo-o went to the San Enrique Police Station and turned over a wrist watch allegedly taken during the hold-up. The watch was eventually returned to its owner, Jose Amador.[13] The defense of the accused was alibi. Ronnie Agomo-o claimed that he was at the Provincial Hospital with his mother from September 21 to September 23, 1993 to watch over his sick brother.[14] Accused-appellant Eddy Paneza said he was in his aunt's house in Rizal, Palapala, Iloilo in the morning of September 22, 1993 and that, at around 10 o'clock, he accompanied his aunt, Teresa Escultero, to Brgy. Madarag, San Enrique, arriving there at three o'clock in the afternoon. They went there to talk with the family of the prospective husband of his aunt's daughter. Eddy Paneza slept in the groom's house and proceeded to Barangay Bawatan the following morning.[15] Teresa Escultero corroborated Eddy Paneza's testimony.[16] Lastly, Ma. Elena Servando, sister-in-law of Oscar Servando, testified that on September 22, 1993, accused-appellant Oscar Servando accompanied her to Sitio Baclayan, San Enrique to gather corn. They went back home at around six o'clock in the evening. They removed the corn ears from the cob and finished doing so at 11 o'clock that evening. The following morning, they dried the corn until the afternoon.[17]

The lower court then rendered a decision on February 5, 1997 finding the accused guilty. The dispositive portion of its decision states:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Ronnie Agomo-o, Eddy Paneza and Oscar Servando GUILTY beyond reasonable doubt of violating the provisions of Section 3, Paragraph (b) of Presidential Decree No. 532, otherwise known as the Anti-Piracy and Anti-Highway Robbery Law of 1974, particularly the last portion thereof, and sentences them to suffer a penalty of imprisonment of Reclusion Perpetua, and to pay the heirs of Rodito Lasap civil indemnity in the amount of P50,000.00.

The accused Ronnie Agomo-o, Eddy Paneza and Oscar Servando who are presently detained are entitled to be credited in full with the entire period of their preventive detention.

SO ORDERED.[18]

It is from this judgment that Paneza and Servando appealed. Ronnie Agomo-o did not appeal. Accused-appellants contend:

I. THE TRIAL COURT ERRED IN FINDING ALL THE ACCUSED RONNIE AGOMO-O, EDDY PANEZA and OSCAR SERVANDO GUILTY BEYOND REASONABLE DOUBT OF VIOLATING THE

PROVISIONS OF SECTION 3, PARAGRAPH (b) OF PRESIDENTIAL DECREE NO. 532, OTHERWISE KNOWN AS THE ANTI-PIRACY AND ANTI-ROBBERY LAW OF 1974, IN SPITE OF THE FACT THAT THERE WAS NO PROOF OF CONSPIRACY.

II. THE TRIAL COURT FURTHER ERRED IN IMPOSING A PENALTY OF IMPRISONMENT OF RECLUSION PERPETUA TO ALL THE ACCUSED AND TO PAY THE HEIRS OF RODITO LASAP CIVIL INDEMNITY IN THE AMOUNT OF P50,000.00.

III. THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT OSCAR SERVANDO IN SPITE OF THE ABSENCE OF PROOF AS TO HIS PARTICIPATION.

We find the appeal to be without merit.

First. Accused-appellants claim that the testimony of Freddie Agrabio was incredible and highly improbable. They contend that Agrabio could not have been beside the driver when the latter was shot; otherwise, he, too, would have been injured considering his proximity to the driver.[19] That Freddie Agrabio could also have been hit is sheer speculation and conjecture and, therefore, not a valid argument against the veracity of his testimony. Freddie Agrabio could not have been hit because Rodito Lasap was shot at close range.[20] The latter was shot on the chest,[21] hence, the scattered pellets only hit that area. Moreover, Freddie Agrabio was the only one seated in front of the jeepney beside the driver.[22] Under such circumstances, the passenger could have moved away from the driver. He may have been seated next to the driver but not close enough to be within the range of the shotgun.

The trial court correctly relied on the positive identification of the accused made by Freddie Agrabio and Jose Amador. No reason has been advanced why the testimonies of these witnesses should not be believed. Hence, the trial court's evaluation of the witnesses' testimonies must be accorded great respect since it had the opportunity to observe and examine the witnesses' conduct and demeanor on the witness stand.[23]

On direct examination, Freddie Agrabio testified as follows:

Q. Mr. Freddie Agrabio, on September 22, 1993, around 7:30 in the evening, more or less, could you remember where were you?

A. Yes, sir.

Q. Where were you?

A. I was sitting in the front seat of the jeepney.

Q. Why were you there?

A. I was going to town.

Q. Of what town?

A. Passi.

Q. Where did you come from?

A. From Sitio Gomez.

Q. What municipality?

A. Sitio Gomez, Brgy. Abaca, San Enrique, Iloilo.

Q. While riding on the said jeepney, could you remember if any incident that happened?

A. When we arrived at the crossing Ronie Agomo-o appeared bringing with him a firearm.

Q. Could you remember what crossing was that?

A. Crossing [Barangay] Mapili.

Q. Of what municipality is Brgy. Mapili?

A. San Enrique.

Q. Was Ronie Agomo-o alone?

A. There were three of them.

Q. Could you remember who were his other companions?

A. Eddy Paneza and Servando.

Q. By the way, do you know the full [name] of this certain Servando?

A. I just knew him as Servando.

Q. Why do you know this Ronie Agomo-o?

A. Because he often drive a jeep and we often pass that place.

Q. If Ronie Agomo-o is inside the courtroom, could you point out where is he?

A. Yes, sir.

Q. Point to him?

A. He is there. (witness pointing to man seated on the accused bench who when asked [identified himself] as Ronie Agomo-o.)

Q. How about this Eddy Paneza, could you point out where is he in this Court?

A. Yes, sir, he is also there. (witness pointing to another seated on the accused bench who when asked identified himself as Eddy Paneza)

Q. How about a certain Servando you mentioned?

A. He is there. (witness again pointing to another man situated on the accused bench and when asked his name identified himself as Oscar Servando)

Q. After you saw this Ronie Agomo-o appeared with a shotgun and declared hold-up, what happened further?

A. He instructed the driver Rodito Lasap to turn off the engine of the jeep and upon instructing Rodito he shot Rodito Lasap.

Q. Was Rodito Lasap hit by Ronie Agomo-o?

A. Yes, sir.

Q. And what happened further?

A. Then I transferred to the back portion of the jeep at the passengers area.

Q. After you transferred at the back portion of the passenger jeep, what did the three (3) outlaws do, if any?

A. They told us to give our money to them and not to do anything bad.

COURT

Q. Who ordered the passengers to turn over their money?

A. The three (3) of them, Your Honor.

....

Q. After the three (3) accused in this case ordered you and your companions to give your money, did you follow their order?

A. Yes, sir, I gave to them my wallet.

Q. Was your wallet empty at the time you gave them to the holdupper?

A. There was. The money inside was P130.00.

COURT

Q. To whom did you give your wallet?

A. I really don't know to whom I gave because I was facing down when I gave my wallet.

Q. Why did you lie down?

A. They told me.

Q. What did they tell you?

A. They told me not to do anything bad.

COURT

Proceed.

PROSECUTOR

Q. After you gave your wallet to the holdupper, what happened further, if any?

A. They instructed us to alight from the jeep and kept our hands up.

Q. And what happened further?

A. And then Eddy Paneza stabbed me.

Q. Were you hit?

A. Yes, sir.

COURT

Q. Where?

A. Here, Your Honor. (witness pointing his left elbow)

Q. How many times did Eddy Paneza stab you?

A. Once. After he stabbed me I ran away.

Q. Were you injured?

A. Yes, Your Honor. (witness showing to the Bench his left elbow with a scar)

....

COURT

Proceed.

PROSECUTOR

Q. You said that Eddy Paneza, one of the accused in this case stabbed you. Were you able to have your wound treated?

A. Yes, sir.

....

COURT

Q. In what hospital were you treated?

A. At Passi.

....

PROSECUTOR

Q. After Eddy Paneza stabbed you, what happened?

A. We scampered away and when I turned my back I saw Jose Amador following me.

Q. Was Jose Amador one of the passengers in the said jeepney?

A. Yes, sir.[24]

Freddie Agrabio was steadfast in his testimony despite rigorous cross-examination by defense counsel. He further testified:

CROSS EXAMINATION

BY ATTY. ACEBUQUE

Q. You said you were sitting on the front seat when this Ronie Agomo-o appeared from the sugarcane plantation, is that correct?

A. Yes, sir.

Q. And immediately after Ronie Agomo-o appeared from the sugarcane plantation, he shouted hold-up, is that correct?

A. Yes, sir.

Q. And you were still on the front seat of the passenger jeep at the time when he announced there was hold-up, is that correct?

A. I was beside the driver, at the right.

Q. You mean to tell this Honorable Court that immediately he shouted hold-up, he shot the driver, is that correct?

A. Yes, sir.

Q. And at the time you were near the driver?

A. Yes, sir.

Q. You said that Ronie [Agomo-o] used a pistolized homemade shotgun, is that correct?

A. I cannot identify what kind of firearm because it was dark.

Q. Are you sure of that, Mr. Witness?

A. Yes, sir.

....

WITNESS

A. I am sure that the firearm is a pistolized homemade shotgun.

ATTY. ACEBUQUE

Q. When Ronie Agomo-o shot the driver Rodito Lasap, how far were you then sitting on the front seat with the Rodito Lasap?

A. We were side by side.

Q. And you saw at the time Ronie Agomo-o shot Rodito Lasap, is that correct?

A. Yes, sir.

Q. Where was Ronie Agomo-o at the time when he shot Rodito Lasap?

A. He was at the left side of the driver.

COURT

Q. How far was Ronie Agomo-o from Rodito Lasap when he shot the latter?

A. About one arm's length.

Q. You saw the accused pointed that shotgun to Rodito Lasap?

A. Yes, Your Honor.

Q. When you saw Ronie Agomo-o pointed that firearm to the driver, Rodito Lasap, could you tell this Court what was the distance of the tip of the barrel of the shotgun to the body of Rodito Lasap?

A. The tip of the barrel is about six (6) to seven (7) inches.

COURT

From the body of Rodito Lasap. Proceed.

ATTY. ACEBUQUE

Q. In what particular part of the body of Rodito Lasap did Ronie Agomo-o pointed the shotgun?

A. Middle of his breast.

Q. And you were situated beside Rodito Lasap, is that correct?

[Q]. You did not hide when Ronie Agomo-o pointed the shotgun to Rodito Lasap?

A. I was not able to move.

Q. You mean to tell this Honorable Court when the firearm was fired, you were still beside Rodito Lasap, is

that correct?

A. When the firearm was fire[d] I was still beside Rodito Lasap.

Q. And despite the burst of the shotgun you were not injured by that particular burst?

A. I was not hit.

Q. The only injury which you suffered at the time was the stab wound which Eddy Paneza inflicted upon your person, is that correct?

A. Yes, sir.

COURT

Q. What happened to Rodito Lasap when he was shot by Ronie Agomo-o?

A. He laid down in the front seat.

COURT

Proceed.

ATTY. ACEBUQUE

Q. How about you after the shot, what did you do?

A. I transferred to the back portion of the jeep.

Q. You mean to tell this Honorable Court you went down from the front seat then you transferred to the back portion of the jeep?

A. No, sir, I just climbed at the back.

Q. At the time of the incident, how many persons were sitting at the front seat excluding the driver?

A. There were three (3) of us.

Q. Who were your companions, could you remember?

A. Joey and Junior.

Q. And this Joey and Junior were still sitting at the front seat when Ronie Agomo-o shot Rodito Lasap together with you?

A. No sir, they were not there anymore. They alighted one by one.

....

Q. When you transferred at the back portion passing through the front seat back, were Joey and Junior whom you mentioned a while ago still in the front seat?

A. They were not there anymore. Only Rodito Lasap was there.

Q. You testified that your were divested the amount of P130.00. Who divested you of that amount?

A. I cannot tell which one of them because I was facing down.

Q. So you were not sure who divested you of the amount of P130.00?

A. I am not sure. I could not determine who took the money.

Q. When for the first time were you able to identify the accused, the three (3) accused here?

A. I identified Ronie Agomo-o because I saw him come out from the sugarcane plantation.

Q. When for the first time you come to know the name of Ronie Agomo-o?

A. For long time already.

COURT

Q. How long before the incident on September 22, 1993 did you come to personally know Ronie Agomo-o?

A. About five (5) years.

....

ATTY. ACEBUQUE

Q. You said you were confined at the Passi District Hospital for two (2) days, is that correct?

A. Yes, [s]ir.

Q. Immediately upon confinement at the Passi District Hospital, were there policemen who came to the hospital and investigated about the incident?

A. Joely Lasap came to me.

Q. What is his relation to Rodito Lasap?

A. They are first cousins. Joely Lasap is a policeman of San Enrique.

Q. And this Pat. Lasap investigated you at the said hospital, is that correct?

A. Yes, sir.

Q. When he investigated you, were you able to identify the three accused immediately?

A. Yes, sir.

....

COURT

Q. You said awhile ago you came to know Ronie Agomo-o for the last five (5) years. How about Eddy Paneza, when for first time have you come to know him personally?

A. I already know them, Your Honor.

....

Q. How about Oscar Servando, for how long have you known him?

A. The same year.

Q. You know Oscar Servando for the last five (5) years yet you were not able to know what was his first name?

A. Because I forgot since my house is far away.

....

ATTY. ACEBUQUE

Q. When you first knew the three (3) accused for the last five (5) years, have you ever met them before the incident of September 22, 1993?

A. Yes, sir.

Q. How many times have you met the three (3) accused before the incident?

A. Many times.[25]

Jose Amador corroborated Agrabio's testimony as to what transpired in the evening of September 22, 1993. He testified:

Q On September 22, 1993 in the evening, where were you?

A I was inside the jeep.

Q Why were you there?

A I am intending to go to Passi.

Q Could you remember the name of the driver of that particular jeep where you were riding on that particular time?

A Yes, sir. The name is Rodito Lasap.

Q Could you likewise remember some of your co-passengers on that particular time?

A There others I could remember but the others I could not.

Q And at what particular time was that?

A 7:30 o'clock.

Q While the jeep where you were riding was on its way to Passi, could you remember if there was an unusual incident that happened?

A When we were about to cross at the crossing of Brgy. Mapili within the municipality of San Enrique going to Banate, three persons came out from the camp.

COURT:

Q What kind of camp was that?

A The [t]hree persons came out from the sugarcane field.

Q And what did they do?

A And they pointed a gun saying "This is hold-up."

PROSECUTOR:

Q How many were holding a gun?

A One.

Q Could you remember the person who was holding the gun on that particular time?

A Yes, sir I could recall.

Q Who was he?

A Ronie Agomo-o.

Q If Ronie Agomo-o is inside the Court, could you point out where is he?

A Yes, sir.

INTERPRETER:

(Witness pointing to a person and when asked of his name answered Ronie Agomo-o).

PROSECUTOR:

Q How about his companions, could you remember them?

A I could identify them when the police pointed them to me but during the incident I don't know them.

Q Could you name the names of the two other companions?

A Servando and Paneza.

Q If these other two companions of Ronie Agomo-o are inside the Court, could you point out where are they now?

A Yes, sir.

Q Point to them.

INTERPRETER:

(The witness pointed to a man sitting on the right side of the bench, who, when asked of his name answered Paneza and at the left side answered Servando.)

PROSECUTOR:

Q Now after Ronie Agomo-o and his companions came out of the sugarcane field and pointed out his gun, what happened further, if any?

A Paneza took away P50.00 and he also got my wrist watch.

Q When Paneza took your wrist watch, was it with your consent or not?

A Why should I not consent because he was holding a "pinote".

Q If that wrist watch be shown to you, could you still remember that wrist watch?

A Yes, sir. It is my watch.

Q Showing to you this wrist watch, how is this related to the one you are referring to?

A This is the one. There is a name "de luxe".

....

Q Before Paneza took your money and your watch, what did Ronie Agomo-o and his other companions were doing at that time?

A They told me to get down the jeep.

Q How about the driver, what was he doing at that time?

A He lay down on the chair of the jeep.

Q Do you know why he lay down the jeep?

A Because he lost consciousness for he was shot at the chest.

COURT:

Q Shot by whom?

A Ronie Agomo-o shot the driver.

PROSECUTOR:

Q Which happened first, the shooting of Rodito Lasap by Ronie Agomo-o or the taking of your watch by Paneza?

A The shooting of the driver was ahead of the taking of my watch.

Q Then upon taking your watch, what did you do?

A They told me to go down from the jeep.

Q Did you go down from the jeep?

A Yes, sir.

Q Then after that?

A Servando frisked my waist and then he stabbed Freddie.

Q That Freddie, you refer to the person of Freddie Agrabio?

A Yes, sir because he was following me.

Q Then what happened further, if any?

A No more because Freddie ran away and I also followed Freddie.[26]

As will be noted, the testimonies of Agrabio and Amador did not fit each other in every detail. For example, while Agrabio identified Eddy Paneza as the person who stabbed him,[27] Jose Amador said it was Oscar Servando.[28] Freddie Agrabio was also confused about the type of firearm Ronnie Agomo-o used, whether it was a pistolized homemade shotgun or something else.[29] Such discrepancies, however, in the testimonies of the witnesses do not detract from their truthfulness. These apparent inconsistencies may be attributed more from an honest mistake due to fleeting memory than from a deliberate intent to prevaricate. Instead of detracting from the truthfulness of the testimonies, the inconsistencies reinforce the witnesses' credibility.[30] What is important is that the testimonies of these witnesses corroborated each other in material points, to wit: (a) that the passenger jeepney they were riding on was stopped on the crossing to Barangay Mapili, San Enrique by an armed man in the person of Ronnie Agomo-o, accompanied by accused-appellants Eddy Paneza and Oscar Servando; (b) that after announcing a hold-up, Ronnie Agomo-o shot Rodito Lasap, the driver of the passenger jeepney; and, (c) that the accused then divested the passengers of their money and other valuables.

It is settled that so long as the witnesses' testimonies agree on substantial matters, the inconsequential inconsistencies and contradictions dilute neither the witnesses' credibility nor the verity of their testimonies. As this Court has held:

In sum, the inconsistencies referred to by the defense are inconsequential. The points that mattered most in the

eyewitnesses' testimonies were their presence at the locus criminis, their identification of the accused-appellant as the perpetrator of the crime and their credible and corroborated narration of accused-appellant's manner of shooting Crisanto Suarez. To reiterate, inconsistencies in the testimonies of witnesses that refer to insignificant details do not destroy their credibility. Such minor inconsistencies even manifest truthfulness and candor erasing any suspicion of a rehearsed testimony.[31]

In contrast to the clear and positive identification of Freddie Agrabio and Jose Amador, accused-appellants gave nothing but alibi and denial. They gave only self-serving testimonies, corroborated only by the testimonies of their relatives. As we have held, "[a]libi becomes less plausible when it is corroborated by relatives and friends who may then not be impartial witnesses." [32] Alibi is an inherently weak defense and must be rejected when the accused's identity is satisfactorily and categorically established by the eyewitnesses to the offense,[33] especially when such eyewitnesses have no ill motive to testify falsely.[34] In the case at bar, the defense failed to show that Freddie Agrabio and Jose Amador were motivated by ill will.

Furthermore, accused-appellants' defense of alibi and denial cannot be believed as they themselves admitted their proximity to the scene of the crime when the offense occurred. Eddy Paneza testified that, at the time of the incident, he was in Barangay Madarag, a town within the municipality of San Enrique[35] where the robbery took place. On the other hand, Ma. Elena Servando testified that Oscar Servando went with her to gather corn in Sitio Baclayan which is also in the municipality of San Enrique.[36]

For the defense of alibi to prosper, the following must be established: (a) the presence of the accused-appellant in another place at the time of the commission of the offense; and, (b) physical impossibility for him to be at the scene of the crime.[37] These requisites were not fulfilled in this case. Considering that accused-appellants themselves admitted that they were in the same municipality as the place where the offense occurred, it cannot be said that it was physically impossible for them to have committed the crime. On the contrary, they were in the immediate vicinity of the area where the robbery took place. Thus, their defense of alibi cannot prosper.

Second. Accused-appellants contend that there can be no finding of conspiracy against them because the prosecution failed to establish their participation in the killing of Rodito Lasap.[38]

This argument is without merit. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. It may be inferred from the acts of the accused indicating a common purpose, a concert of action, or community of interest.[39] That there was conspiracy in the case at bar is supported by the evidence on record. Freddie Agrabio testified that after shooting the driver, the accused ordered the passengers to give their money and valuables.[40] Although Freddie Agrabio could not specify who among the three divested him of his wallet because he was lying face down on the floor of the jeepney,[41] it is clear that accused-appellants took part in the robbery. Accused-appellant Paneza did not only take valuables from the passengers but also stabbed Freddie Agrabio, hitting the latter on the left elbow.[42] Jose Amador identified both accused-appellants Eddy Paneza as the one who took his wrist watch and wallet while simultaneously pointing a "pinote" at him,[43] and Servando as the one who frisked his waist as he was alighting from the jeepney.[44] Clearly, therefore, accused-appellants cooperated with one another in order to achieve their purpose of robbing the driver and his passengers. "[F]or collective responsibility to be established, it is not necessary that conspiracy be proved by direct evidence of a prior agreement to commit a crime. It is sufficient that at the time of the commission of the offense, all the accused acted in concert showing that they had the same purpose or common design or that they were united in its execution." [45]

While only Ronnie Agomo-o shot and killed Rodito Lasap, accused-appellants cannot be exonerated. When conspiracy is established, all who carried out the plan and who personally took part in its execution are equally liable.[46] Accused-appellants must both also be held responsible for the death of Rodito Lasap.

Third. Accused-appellants further assert that they cannot be convicted of highway robbery as the crime was not committed by at least four persons, as required in Article 306 of the Revised Penal Code. However, highway robbery is now governed by P.D. No. 532, otherwise known as the Anti-Piracy and Anti-Highway Robbery Law of 1974. This law provides:

Sec. 2. (e). Highway Robbery/Brigandage.³⁴ The seizure of any person for ransom, extortion or other unlawful purposes, or the taking away of the property of another by means of violence against or intimidation of person or force upon things or other unlawful means, committed by any person on any Philippine Highway.

In the case of *People v. Puno*,^[47] it was held that P.D. No. 532 amended Art. 306 of the Revised Penal Code and that it is no longer required that there be at least four armed persons forming a band of robbers.^[48] The number of offenders is no longer an essential element of the crime of highway robbery.^[49] Hence, the fact that there were only three identified perpetrators is of no moment. P.D. No. 532 only requires proof that persons were organized for the purpose of committing highway robbery indiscriminately.^[50] "The robbery must be directed not only against specific, intended or preconceived victims, but against any and all prospective victims."^[51] In this case, the accused, intending to commit robbery, waited at the Barangay Mapili crossing for any vehicle that would happen to travel along that road. The driver Rodito Lasap and his passengers were not predetermined targets. Rather, they became the accused's victims because they happened to be traveling at the time when the accused were there. There was, thus, randomness in the selection of the victims, or the act of committing robbery indiscriminately, which differentiates this case from that of a simple robbery with homicide.

Sec. 3(b) of the law provides:

The penalty of *reclusión temporal* in its minimum period shall be imposed. If physical injuries or other crimes are committed during or on the occasion of the commission of robbery or brigandage, the penalty of *reclusión temporal* in its medium and maximum periods shall be imposed. If kidnapping for ransom or extortion or murder or homicide, or rape is committed as a result or on the occasion thereof, the penalty of death shall be imposed.^[52]

Since a homicide occurred during the commission of the highway robbery, the appropriate penalty to be imposed on accused-appellants would have been death. However, the crime was committed on September 22, 1993 when the imposition of the death penalty was suspended by the 1987 Constitution. Hence, the penalty next lower in degree, or *reclusión perpetua*, was correctly imposed by the trial court on accused-appellants Paneza and Servando.

In accordance with our recent rulings,^[53] the trial court correctly awarded P50,000.00 as civil indemnity in favor of the heirs of Rodito Lasap.

WHEREFORE, the decision of the Regional Trial Court, Branch 23, Iloilo City is AFFIRMED.

SO ORDERED.

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

[1] Per Judge Tito G. Gustilo

[2] Also referred to as Ronie Agomo-o in the records.

[3] Records, p. 1.

[4] TSN, pp. 4-7, May 3, 1994.

- [5] Exh. J.
- [6] TSN, pp. 7-10, May 3, 1994.
- [7] TSN, pp. 4-8, Oct. 5, 1994.
- [8] Id., pp. 12-14.
- [9] TSN, pp. 12-13, July 18, 1994.
- [10] TSN, p. 5, Aug. 10, 1994.
- [11] TSN, pp. 4-5, June 20, 1994.
- [12] Exh. A.
- [13] TSN, p. 7, Sept. 7, 1994; TSN, p. 20, Oct. 5, 1994.
- [14] TSN, pp. 6-8, Dec. 16, 1994.
- [15] TSN, pp. 3-6, May 15, 1995.
- [16] See TSN, pp. 2-6, March 14, 1995.
- [17] TSN, pp. 3-6, Sept. 6, 1995.
- [18] RTC Decision, pp. 7-8; Records, pp. 303-304.
- [19] Brief for the Accused-Appellants, p. 10; Rollo, p. 62.
- [20] TSN, p. 17, May 3, 1994.
- [21] Id., p. 18.
- [22] Id., p. 20.
- [23] People v. Sala, G.R. No. 76340-41, July 28, 1999.
- [24] TSN, pp. 4-12, May 3, 1994.
- [25] Id., pp. 12-25.
- [26] TSN, pp. 4-9, Oct. 5, 1994.
- [27] TSN, p. 9, May 3, 1993.
- [28] TSN, p. 8, Oct. 5, 1994.
- [29] TSN, pp. 13-15, May 3, 1994.
- [30] People v. Bautista, G.R. No. 117685, June 21, 1999.
- [31] People v. Biñas, G.R. No. 121630, Dec. 8, 1999.
- [32] People v. Araneta, 300 SCRA 80, 95 (1998).
- [33] People v. Grefaldia, 298 SCRA 337 (1998).
- [34] People v. Araneta, *supra*.
- [35] TSN, p. 5, May 15, 1995.

[36] TSN, p. 4, Sept. 6, 1995.

[37] *People v. Sumalde, et al.*, G.R. No. 121780, March 17, 2000.

[38] Brief for the Accused-Appellants, p. 13; Rollo, p. 65.

[39] *People v. Macahia*, 307 SCRA 404 (1999).

[40] TSN, p. 7, May 3, 1994.

[41] *Id.*, p. 8.

[42] *Id.*, p. 9.

[43] TSN, p. 7, Oct. 5, 1994.

[44] *Id.*, p. 8.

[45] *People v. Durado*, G.R. No. 121669, Dec. 23, 1999.

[46] *People v. Andales*, G.R. No. 130637, Aug. 19, 1999.

[47] 219 SCRA 85 (1993).

[48] *Ibid.*

[49] *People v. Mendoza*, 254 SCRA 61 (1996).

[50] *People v. Versoza*, 294 SCRA 466 (1998).

[51] *People v. Cerbito*, G.R. No. 126397, Feb. 1, 2000.

[52] Emphasis added.

[53] *People v. Sumalde*, *supra*. See also *People v. Cerbito*, *supra*.

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