

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NIEL PIEDAD Y CONSOLACION, LITO GARCIA Y FRANCISCO AND RICHARD PALMA Y IDER, ACCUSED. NIEL PIEDAD Y CONSOLACION AND LITO GARCI...

G.R. No. 131923. December 05, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused Niel Piedad y Consolacion, Lito Garcia y Francisco and Richard Palma y Ider were charged with Murder in an information, which reads as follows:

That on or about the 10th day of April, 1996, in Quezon City, Philippines, the said accused, conspiring and confederating with and mutually helping with another person whose true identity and other personal circumstances of which has not as yet been ascertained and mutually helping one another, did then and there wilfully, unlawfully and feloniously with intent to kill, qualified with treachery and evident premeditation and with grave abuse of superior strength, assault, attack and employ personal violence upon the person of MATEO LACTAWAN Y DAGUINOD by then and there hitting him with an empty bottle on the head, ganging him up and mauling him, hitting him with a big stone on the head and stabbing him with a bladed weapon hitting him on the right back portion of his body, thereby inflicting upon him serious and grave wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said MATEO LACTAWAN Y DAGUINOD.

CONTRARY TO LAW.[1]

Upon arraignment, all the accused pleaded not guilty to the charge. Trial ensued thereafter.

Luz Lactawan, widow of the victim Mateo Lactawan, testified that on April 10, 1996, at around 11 o'clock in the evening, she left her house at No. 2 Scout Bayoran, Barangay South Triangle, Quezon City, to follow Mateo, who had earlier gone. As she was walking by the gate of the company compound where they reside, she heard Fidel Piquero shouting for help because Mateo was being mauled by a group of men. She rushed out of the compound and saw her husband being beaten up by Niel Piedad, Richard Palma, Lito Garcia and five others. She tried to pacify the aggressors, but was beaten herself. Luz embraced Mateo in an effort to protect him. It was then that Niel picked up a large stone, measuring about a foot and a half, and struck Mateo's head with it. Then, Lito approached Mateo's side and stabbed him at the back, while Richard hit Mateo in the face.

Fidel Piquero, who resides in the same company compound as the Laktawans, corroborated Luz's testimony. While eating at Aling Digna's eatery, he saw Mateo and Andrew Gaerlan come out of the compound and buy two bottles of beer at a nearby store. They consumed their beer and were about to leave when Niel, for no apparent reason, struck Mateo with a Tanduay Rhum bottle on the head. Andrew hurled a plastic chair towards Niel, which caused the latter to scamper away.

Shortly thereafter, Fidel saw Niel returning to the store with several companions. Upon seeing the approaching

group, Mateo and Andrew ran towards the compound. Fidel also ran towards the company compound to ask for help. Later, Fidel emerged from the compound followed by Luz. They saw Mateo leaning by the compound gates and being beaten up by Niel's group. Luz quickly came to the succor of her husband and embraced him. Niel hit Mateo on the head with a large stone. Fidel also saw Richard, Lito and Rodel Albuena at the scene of the crime. Lito stabbed Mateo with a balisong. Richard, on the other hand, chased and mauled Andrew.

Mateo was rushed to the East Avenue Medical Center where he later died because of the injuries he sustained.

Dr. Ma. Cristina B. Freyra, chief of the Biological Science Branch of the Philippine National Police Crime Laboratory Service in Station 10, EDSA, Kamuning, who conducted the post-mortem examination of the body of Mateo, testified that the stab wound inflicted on the deceased was 15 centimeters deep and that the pressure applied on his head by means of a blunt object was enough to bring about hemorrhage inside the skull.[2] The doctor further revealed that both wounds were fatal.[3] Abrasions on the right ear and right shoulder were also found.[4] No defense wounds were present.[5] Dr. Freyra concluded that the cause of death was traumatic injury in the head and a stab wound at the back.[6]

SPO4 Lovino Acharon, SPO2 Diosdado Lagajino and two other members of the mobile patrol division responded to the phone call from the East Avenue Medical Center regarding the stabbing and mauling incident. They repaired to the crime scene and apprehended Lito and a certain Luis Rodel. Richard and Niel, meanwhile, were surrendered to the police station by their parents and the barangay chairman of South Triangle.

During the trial, P03 Antonio Torrente identified a blood-stained concrete slab which he had found at the scene of the crime, allegedly the one used to hit Mateo's head. On cross examination, however, Torrente admitted that the alleged blood stains were not submitted for forensic examination to confirm whether the stains were indeed human blood or not.

Accused-appellants denied the charges against them and gave a different version of the incident.

Niel Piedad averred that in the evening of April 10, 1996, he and Richard Palma went to Mang Aga's store to buy a bottle of Tanduay Rhum. They saw Mateo and Andrew drinking at another store nearby. Niel and Richard were about to buy their liquor from the store counter when Mateo cut their path and got ahead to the counter to buy beer for himself. When Niel finally got the bottle of Tanduay Rhum that he bought, Mateo grabbed it from him. Niel took the bottle back and pushed Mateo. Apparently provoked, Mateo got hold of his bottle of beer and was about to hit Niel with it, but the latter hit Mateo on the head first with the bottle of Tanduay Rhum. Andrew saw what happened and retaliated by picking up a plastic chair and hitting Niel at the back. Niel and Richard dispersed and ran towards their houses. Mateo and Andrew followed and threw bottles of beer at Niel and Richard. A throwing exchange of bottles ensued. During this sequence of events, a group of people suddenly appeared and joined in the fray. Niel was about to approach the group of people, when Fidel suddenly blocked his way. A fistfight between the two followed.

Richard essentially corroborated Niel's testimony. Richard left Niel to ask for help from the barangay hall. When Richard returned to the scene, he saw Niel engaged in a fistfight with Fidel. Richard's friends were also present. Lito broke up the fight between Niel and Fidel.

At the same time, a melee occurred on another street. After the fistfight, Richard and his friends left for home. Like the other accused in this case, Richard denied any involvement in Mateo's death.

Lito Garcia, on the other hand, averred that he went out to buy cigarettes and on his way home, he noticed several people running. A brawl was taking place along Mother Ignacia Street. Lito saw Niel and Fidel exchange blows. Lito insisted that he does not know Mateo, nor the latter's wife, Luz. He also denied any involvement in Mateo's

death.

Wilson Palma and Bernard Rasol, by and large, corroborated Niel's and Richard's version of the incident. Rasol added that Luz was not present during the brawl.

The trial court rendered a decision[7] the dispositive portion of which reads:

WHEREFORE, the Court finds accused Niel Piedad and Lito Garcia guilty beyond reasonable doubt of the crime of murder with no modifying circumstances present, and hereby sentences each of them to suffer the penalty of reclusion perpetua pursuant to Art. 248 of the Revised Penal Code. Accused Niel Piedad and Lito Garcia are likewise held solidarily liable to indemnify the heirs of the victim Mateo Lactawan in the sum of P50,000.00.

Accused Richard Palma is hereby acquitted on the ground of reasonable doubt.

Hence, the instant appeal by Niel Piedad and Lito Garcia.

In his Brief, accused-appellant Niel Piedad raised the following errors:

I.

THAT THE LOWER COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN:

- ADMITTING AND RELYING ON THE IN-COURT IDENTIFICATION OF ACCUSED-APPELLANT PIEDAD DURING THE TRIAL WHEN IT WAS TAINTED BY A POINTEDLY SUGGESTIVE AND FATALLY FLAWED PRE-TRIAL IDENTIFICATION.

- FAILING TO SUBJECT THE TESTIMONIES OF THE ALLEGED WITNESSES TO RIGID SCRUTINY AS MANDATED BY THE DECISIONS OF THIS HONORABLE COURT IN CASES WHERE THE WITNESSES HAVE CLOSE RELATIONSHIP TO THE VICTIM.

- ADMITTING INTO EVIDENCE AND RELYING ON THE ALLEGED MURDER WEAPON WHEN IT WAS NOT DULY AUTHENTICATED AND IN ANY EVENT HAS LITTLE PROBATIVE VALUE; AND IN

- PLAINLY OVERLOOKING MATERIAL FACTS CRUCIAL TO THE OUTCOME OF THE CASE.

II.

ASSUMING ARGUENDO THAT APPELLANT PIEDAD PARTICIPATED IN THE MELEE, THE LOWER COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN FINDING HIM GUILTY OF MURDER INSTEAD OF HOMICIDE IN THE ABSENCE OF ANY PROOF BEYOND REASONABLE DOUBT OF TREACHERY OR OTHER QUALIFYING CIRCUMSTANCES.

For his part, accused-appellant Lito Garcia raised the following errors:

I.

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESSES.

II.

THE LOWER COURT ERRED IN HOLDING THAT THE PROSECUTION WAS ABLE TO PROVE

BEYOND REASONABLE DOUBT THAT ACCUSED-APPELLANT KILLED MATEO LACTAWAN.

III.

THE LOWER COURT ERRED IN HOLDING THAT THE PROSECUTION WAS ABLE TO ESTABLISH, BY PROOF BEYOND REASONABLE DOUBT, THAT MATEO LACTAWAN WAS TREACHEROUSLY STABBED.

IV.

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The appeals are devoid of merit.

Accused-appellants raise basically similar assignment of errors, which shall be discussed jointly.

Accused-appellant Niel Piedad argues that the way that he was identified by prosecution witnesses was suggestive and fatally flawed. Niel claims that he should have been put in a police lineup instead of being shoved into a “confrontation” with the alleged witnesses and immediately singled out by the police as suspects. He further claims that he was denied his right of counsel during the most crucial stage of the police investigation - that is, his identification as one of the assailants by eyewitnesses.

We do not agree.

The claim by the defense that Niel’s pre-trial identification was suggestive due to the absence of a police lineup is more theoretical than real. It must be pointed out that even before the incident, Luz Lactawan knew the accused.[8] Fidel, on the other hand, knew Niel because they played basketball together.[9] Hence, the witnesses were not identifying persons whom they were unfamiliar with, where arguably, improper suggestion may set in. On the contrary, when the accused were presented before the witnesses, they were simply asked to confirm whether they were the ones responsible for the crime perpetrated. The witnesses did not incriminate the accused simply because they were the only ones presented by the police, rather, the witnesses were certain they recognized the perpetrators of the crime.[10]

Besides, there is no law which requires a police lineup before a suspect can be identified as the culprit of a crime.[11] What is important is that the prosecution witnesses positively identify the persons charged as the malefactors.[12] In this regard, this Court finds no reason to doubt the veracity of Luz’s and Fidel’s testimony. The records show that Luz and Fidel positively, categorically and unhesitatingly identified Niel as the one who struck Mateo on the head with a stone, and Lito as the one who stabbed Mateo on the back, thereby inflicting traumatic head injuries and a stab wound which eventually led to Mateo’s death. Indeed, if family members who have witnessed the killing of a loved one usually strive to remember the faces of the assailants,[13] this Court sees no reason how a wife, who witnessed the violence inflicted upon her husband and who eventually died by reason thereof, could have done any less. It must be stressed that Luz was right beside her husband when the concrete stone was struck on his head, hence, Luz could not have mistaken the identity of the person responsible for the attack. She was only a foot away from Niel before the latter hit Mateo on the head.[14]

Lito on the other hand was identified by both Luz[15] and Fidel[16] as the one who was shirtless at the time of the incident. There was light from a bulb five (5) meters away from the scene of the crime.[17] Experience dictates that precisely because of the unusual acts of violence committed right before their eyes, eyewitnesses can remember with a high degree of reliability the identity of the criminals at any given time.[18] Hence, the proximity and attention afforded the witnesses, coupled with the relative illumination of the surrounding area,

bolsters the credibility of identification of the accused-appellants.

Neither is the lack of counsel during the pre-trial identification process of the accused-appellants fatal.

The right to counsel accrues only after an investigation ceases to be a general inquiry into an unsolved crime and commences an interrogation aimed at a particular suspect who has been taken into custody and to whom the police would then propound questions which tend to elicit incriminating statements.[19] The presence of counsel during such investigation is intended to prevent the slightest coercion as would lead the accused to admit something false.[20] What is thus sought to be avoided is the evil of extorting from the very mouth of the person undergoing interrogation for the commission of an offense, the very evidence with which to prosecute and thereafter convict him.[21] In the case at bar, however, accused-appellants did not make any extrajudicial confession or admission with regard to the crime charged.[22] While Niel and Lito may have been suspects, they were certainly not interrogated by the police authorities, much less forced to confess to the crime imputed against them. Accused-appellants were not under custodial investigation. In fact, Niel averred during cross-examination that the police never allowed them to say anything at the police station on the day they voluntarily presented themselves to the authorities.[23]

Likewise, Lito testified that he did not talk to any of the police officers nor sign any written statement at the police station when he was invited.[24] Moreover, the rights accorded an accused under Section 12, Article III of the Constitution applies only against testimonial compulsion and not when the body of the accused is proposed to be examined, as was done in this case - presented to the witnesses to be identified. Accused-appellants were not thus denied their right to counsel.

On the issue of relationship, it has been held time and again that the close relationship of a witness to the victim will not affect the former's testimony. It is basic precept that relationship per se of a witness with the victim does not necessarily mean that the former is biased.[25] On the contrary, it is more in accord with human nature for a friend, not to mention the wife of a victim, to have more interest in telling the truth, for they would naturally want the real culprits brought to justice and meted their punishment, rather than prevaricate and send an innocent man to rot in jail. Their relationship to the victim would even lend credence to their testimonies as their natural interest in securing the conviction of the guilty would deter them from implicating persons other than the culprits; otherwise, the conviction of the innocent would thereby grant immunity to the guilty.[26]

The alleged inconsistencies by the prosecution witnesses do not impair the credence given to their testimonies and do not change the fact that accused-appellants were positively identified as the attackers of the deceased. It is perfectly natural for different witnesses testifying on the occurrence of a crime to give varying details as there may be some details which one witness may notice while the other may not observe or remember. In fact, jurisprudence even warns against a perfect dovetailing of narration by different witnesses as it could mean that their testimonies were prefabricated and rehearsed.[27] As the Solicitor General correctly observed:[28]

To be sure, the testimonies may not be described as flawless, but the triviality of such "inconsistencies" hardly affect either the substance or veracity and weight of testimony which, just to the contrary, can serve to reinforce, rather than weaken credibility. In any case, there is no valid reason shown to deny the trial court the respect due it in the determination of credibility of witnesses. The fact remains that the injuries that caused the death of Mateo were inflicted by appellant and Lito Garcia. (Emphasis provided).

Niel Piedad likewise assails the admissibility of the alleged murder weapon for lack of proper authentication. Lito Garcia for his part impugns the non-presentation of the knife used in stabbing the deceased.[29]

It must be conceded that the handling by the police of the concrete stone used by Niel in hitting Mateo on the head leaves much to be desired. As aptly pointed out by the defense counsel, no tags, no signature, or any kind of

identification containing the date and place where such evidence was found, was ever made on the specimen retrieved as the murder weapon.[30] And while P04 Antonio Torrente did claim to have made a marking[31] on the stone, there is no evidence on record which suggests that the stone presented in court bore the same markings made by Torrente. Furthermore, while it is the prosecution's contention that the concrete stone was stained with blood,[32] the blood stain was never brought for forensic examination to confirm whether or not the stain was of human blood. In fine, an important piece of evidence like the concrete stone herein should have been handled more properly by the authorities so as to obviate any doubt as to its authenticity when it is finally presented as object evidence in court.

Be that as it may, even on the assumption that the concrete slab proffered by the prosecution was inadmissible and the knife allegedly used to stab the deceased was never presented, it would not alter the finding of guilt of the accused-appellants for the simple reason that the presentation of the instruments used in the killing of the deceased is not indispensable in the prosecution of the accused.[33] The weapon used in the killing, after all, is not an element of either the crimes of homicide or murder. Verily, the non-presentation by the prosecution of the items which the accused-appellants used in stoning and stabbing the victim is not fatal considering that the accused has been positively identified.[34] The case of *People v. Bagcal*[35] is in point:

x x x For conviction of an accused in criminal cases, it is enough that the prosecution proves beyond reasonable doubt that a crime was committed and that the accused committed it. Production of the weapon used in committing the crime is not a condition sine qua non for the discharge of that burden. It is not vital to the cause of the prosecution, especially where other evidence is available to support sufficiently the charges. x x x.

Finally on the issue of treachery, accused-appellant Niel Piedad claims that the attack on the victim was made upon an impulse of the moment and was not the product of deliberate intent; while Lito Garcia contends that treachery cannot be appreciated inasmuch as the attack was preceded by a quarrel and heated discussion.

We are not persuaded.

There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and especially to ensure its execution, without risk to himself arising from any defense which the offended party might make.[36] For treachery to be appreciated, the prosecution must prove: a) that at the time of the attack, the victim was not in a position to defend himself, and b) that the offender consciously adopted the particular means, method or form of attack employed by him.[37]

The essence of treachery is thus a deliberate and sudden attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape.[38] While it is true that the victim herein may have been warned of a possible danger to his person, since the victim and his companion headed towards their residence when they saw the group of accused-appellants coming back for them after an earlier quarrel just minutes before, in treachery, what is decisive is that the attack was executed in such a manner as to make it impossible for the victim to retaliate.[39]

In the case at bar, Mateo did not have any chance of defending himself from the accused-appellant's concerted assault, even if he was forewarned of the attack. Mateo was obviously overpowered and helpless when accused-appellants' group numbering around eight, ganged up and mauled him. Luz came to Mateo's succor by embracing him and pacifying his aggressors, but accused-appellants were unrelenting. More importantly, Mateo could not have actually anticipated the sudden landing of a large concrete stone on his head. The stone was thus treacherously struck.

Neither could the victim have been aware that Lito came up beside him to stab his back as persons were beating

him from every direction. Lito's act of stabbing the victim with a knife, inflicting a 15-centimeter-deep wound shows deliberate intent of using a particular means of attack. Considering the location of the injuries sustained by the victim and the absence of defense wounds, Mateo clearly had no chance to defend himself. In view of the foregoing, treachery was correctly appreciated by the trial court.

In summation, the allegation of the defense that there were two mauling incidents which happened on the night in question deserve little probative value inasmuch as the same was unconvincing and self-serving. The denials of the accused-appellants cannot overcome their positive identification by the principal witnesses. It is well settled that between the positive assertions of the prosecution witnesses and the negative averments of the accused-appellants, the former undisputedly deserve more credence and is, therefore, entitled to greater evidentiary weight.[40]

In any case, this Court sees no reason to depart from the well-entrenched doctrine that findings of facts of the lower court are accorded due respect and weight unless it has overlooked material and relevant points that would have led it to rule otherwise. The time-honored rule is that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between truth and falsehood. Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses, unless it be clearly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[41] Accused-appellants failed to show that the trial court overlooked or disregarded facts and circumstances deemed significant by them in their assignment of errors.

The trial court, therefore, did not err in convicting accused-appellants of the crime of murder.

The penalty for murder is punishable by reclusion perpetua to death.[42] The lesser of the two indivisible penalties shall be imposed, there being neither mitigating nor aggravating circumstances attending the crime.

In line with current jurisprudence[43] however, we further grant P50,000.00 as moral damages to the heirs of the victim aside from the amount of P50,000.00 as civil indemnity granted by the trial court. As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. For this reason, moral damages must be awarded even in the absence of any allegation and proof of the heirs' emotional suffering.[44]

WHEREFORE, the decision of the Regional Trial Court of Quezon City, Branch 102, finding accused-appellants Niel Piedad y Consolacion and Lito Garcia y Francisco, guilty of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua, is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellants are solidarily ordered to pay the heirs of Mateo Lactawan y Daguinod the amounts of Fifty Thousand Pesos (P50,000.00) as civil indemnity and Fifty Thousand Pesos (P50,000.00) as moral damages.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.
Azcuna, J., on official leave.

[1] Records, p. 1.

[2] TSN, August 14, 1996, p. 17.

- [3] Ibid., p. 16.
- [4] Exhibit “J”, Records, p. 55.
- [5] TSN, August 14, 1996, p. 12.
- [6] Exhibit “J”, Records, p. 55; TSN, August 14, 1996, p. 9.
- [7] Penned by Judge Perlita J. Tria Tirona of the Regional Trial Court of Quezon City, Branch 102.
- [8] TSN, July 22, 1996, pp. 6-7.
- [9] TSN, July 24, 1996, p. 14.
- [10] *People v. Alshaika*, 261 SCRA 637 [1996].
- [11] *People v. Herbias*, 265 SCRA 571 [1996].
- [12] *People v. Magdamit, et al.*, 279 SCRA 423 [1997].
- [13] *People v. Biñas*, 320 SCRA 22 [1999].
- [14] TSN, July 19, 1996, pp. 17-18.
- [15] Ibid., p. 11.
- [16] TSN, July 22, 1996, p. 24.
- [17] Ibid., pp. 37-38.
- [18] *People v. Sumallo*, 307 SCRA 521 [1999].
- [19] *People v. De la Cruz*, 279 SCRA 245 [1997].
- [20] *People v. Layuso*, 175 SCRA 47 [1989].
- [21] *People v. Rodriguez, et al.*, 341 SCRA 645 [2000].
- [22] *People v. Andal, et al.*, 279 SCRA 474 [1997].
- [23] TSN, August 21, 1996, p. 29.
- [24] Ibid.
- [25] *People v. Mendoza*, 301 SCRA 66 [1999].
- [26] *People v. Aranjuez*, 285 SCRA 466, [1988].
- [27] *People v. Locbayan*, 339 SCRA 396 [2000].
- [28] Rollo, p. 173, Brief for the Appellee.
- [29] Rollo, p. 260, Accused-appellant Lito Garcia’s Brief.
- [30] TSN, July 31, 1996, pp. 8-9.
- [31] Ibid., pp. 7-8.
- [32] Id, p. 6.
- [33] *People v. Chavez*, 278 SCRA 230 [1997].

[34] People v. Tazon, 320 SCRA 762 [1999].

[35] 350 SCRA 402 [2001].

[36] People v. Mesa, 276 SCRA 407 [1997].

[37] People v. Gelera, 277 SCRA 450 [1997].

[38] People v. Costelo, 316 SCRA 895 [1999].

[39] People v. Javier, 269 SCRA 181 [1997].

[40] People v. Chavez, 278 SCRA 230 [1997].

[41] People v. Domingo, 312 SCRA 487 [1999].

[42] Article 248, Revised Penal Code, as amended by Republic Act No. 7659.

[43] People v. Mosquera, G.R. No. 129209, August 9, 2001.

[44] People v. Cabote, G.R. No. 136143, November 15, 2001.

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