PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LYNDON SAÑEZ Y LACSON, ACCUSED-APPELLANT.

G.R. No. 132512. December 15, 1999

Ponente: VITUG, J.

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VITUG, J.:

What greater irony and tragedy could there be than to find a son turn against, indeed take the life of, the man to whom he owes his being? Most unfortunately, it can happen, and the Court is called upon to review one such case and thereupon to decide the fate of the son.

LYNDON SAÑEZ Y LACSON was charged with, and convicted of the crime of Parricide, defined and penalized under Article 246 of the Revised Penal Code, in an Information that read:

> "That on or about October 29, 1995, in the Municipality of Imus, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who was the son of one RAULITO SAÑEZ Y CAMERINO, with intent to kill, with treachery, armed with bladed weapon, did then and there, willfully, unlawfully and feloniously stab, attack and assault with the said bladed weapon his father RAULITO SAÑEZ Y CAMERINO, inflicting upon the latter stab wounds, afterwhich did, then and there, wilfully, unlawfully and feloniously dump the body into the canal, causing the subsequent death of the victim, to the damage and prejudice of his heirs.
>
> "CONTRARY TO LAW."[1]

The accused pled not guilty on arraignment, and trial ensued.

The version of the facts, culled from the People's brief, makes out the case for the prosecution.

On 29 October 1995, at close to midnight, Alberto Sañez was in his house in 110 Medicion I, Imus, Cavite, when he heard a commotion outside. He promptly stepped out. He was told that his younger brother, Raulito Sañez, living next door within the same compound, was found sprawled in a canal across the street. Raulito was still alive. Alberto called for help to rush Raulito to a hospital. Alberto's son and a companion responded. Lifting Raulito from the canal, Alberto saw that Raulito had three hack wounds, two on the nape and one on the forehead, as well as scratches on his back. Alberto's son drove the family car while Alberto held Raulito at the back seat. On their way to the Dasmariñas hospital, Raulito told Alberto that he was hacked by Lyndon. Minutes later, Raulito expired. Alberto reported the incident to the police and gave his statement, mentioning the declaration made to him by the victim moments before the latter died.

Cary Bataclan, at the time of the incident, was standing along the Medicion I road while waiting for a tricycle to take him to Mercury Drug when he saw appellant come out of his house, in front of which was an electric lamp post, about fifty (50) meters away from where Cary was standing. Accused-appellant was dragging the body of a person by its two feet across the road and then dumping it into a canal. Accused-appellant rushed back to his house and brought out some rags with which to clean the path where he dragged the body. When a tricycle passed

by, Cary boarded it but asked the driver to slow down a bit at the place where the body was dumped. Cary heard a moaning sound but, afraid for his own life, he did not stop to see who it was nor did he report the incident to the police.

Dr. Ruben Anonuevo, the Municipal Physician of Imus, Cavite, conducted a Post-Mortem Examination on Raulito Sañez at approximately 2:40 a.m. of 30 October 1995. The physician found the victim to have suffered from -

> "Multiple and lacerated wounds, frontal region ® cheek ®, temporal region, left, abrasion with hematoma, anterior chestwall, abrasion-contusions back."[2]

He testified that the immediate cause of death of the victim was a skull fracture and massive blood loss. Dr. Anonuevo said that the lacerated wounds on the head were caused by a "blunt instrument with not too sharp (an) edge"[3] and that judging from the appearance of the wound on the forehead and right cheek, the attack was frontal with the victim in a position likely lower than that of the assailant.

At about nine o'clock that same morning, SPO3 Arsenio Gomez, accompanied by Alberto Sañez, conducted an investigation around and inside the house of the victim. In the course of his investigation, SPO3 Gomez noticed that the water at the back of the house of the victim was reddish in color. Tracing it, he found the reddish substance to have been due to blood coming from the washroom. SPO3 Gomez also discovered human tissues with hair and blood in the room. Traces of blood could also be seen staining the door of the washroom up to the gate of the house and in the canal located at the main road across the house of the victim. The suspected human flesh and hair found inside the washroom were submitted by him to the NBI for examination. During the whole time that SPO3 Gomez was conducting an investigation, accused-appellant could be seen just lying down, seemingly unperturbed, in his own room inside the house.

The defense presented a different story. Accused-appellant claimed that on that fateful day of 29 October 1995, he went to bed rather early, at about eight o'clock in the evening. At four o'clock the following morning, he was awakened by Barangay Captain Noel del Rosario to inform him that his father was bumped by a vehicle. He proceeded to the scene of the accident with Barangay Captain del Rosario, his brother, and a cousin but his father by the time had already been brought to the hospital. He asserted that his relatives refused to bring him to the hospital. On cross examination, he said that his uncle, Alberto Sañez, might have implicated him only because of his possible interest over certain property left to him by his deceased aunt. Prosecution witness Cary Bataclan, accused-appellant claimed, was paid to testify against him.

The court a quo in due course rendered its decision, dated 14 November 1997, finding the accused guilty of the crime of parricide and imposing upon him the penalty of death. It held:

> "WHEREFORE, premises considered, judgment is hereby rendered finding accused GUILTY of the crime of Parricide. Accordingly, under Sec. 5 of Republic Act No. 7659, in conjunction with Article 246 of the Revised Penal Code, accused is hereby sentenced to death.
>
> "SO ORDERED."[4]

Hence, the transmittal of the records of the case to this Court for automatic review.

In this appeal, accused-appellant bewails his conviction and insists that the court a quo has gravely erred in finding him guilty beyond reasonable doubt of the crime of parricide; specifically, he raises the following points that, he argues, should establish his innocence, thus:

First, the prosecution's theory is unrealistic and far too contrary to human experience;

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Second, the lower court has erred in appreciating the ante mortem declaration of the victim;

Third, the trial court has incorrectly acceded to the admissibility of the human tissue and traces of blood found by the police officer on the floor of the Sañez residence despite the absence of at least one competent witness during the investigation required under Section 7, Rule 126, of the Rules of Court; and

Fourth, the trial court has erred in giving full faith and credence to the testimony of Cary Bataclan.

The Court sustains the conviction of accused-appellant but, as so hereinafter explained, the penalty imposed by the trial court should be reduced from death to reclusion perpetua.

Accused-appellant conjectures that the more common way of doing away with the body of a victim of foul play would be to cut it into pieces in order to make it easier to dispose of or to have it transported away from the scene of the crime than to simply dump the corpse into a canal. Dreadful crimes do occur but it may not be right to second guess what could come next. One can never be certain, seldom if at all, of the workings or design of a criminal mind. What could perhaps only be said is that the malefactor, more often than not, would seek, whether desperately or in a calculated way, to evade the consequences of his terrible deed. The Court does not consider it inconceivable then for accused-appellant in this case to have thought of bringing the body of his father across the street simply for not seeing at the time any other easy option available to him. Quite surprisingly, he has not denied having committed the crime.

The trial court has acted correctly in accepting the ante-mortem statement of the deceased. It is impossible, accused-appellant nevertheless suggests, for the deceased Raulito to have implicated his own son. The Court does not at all find it that way; just to the contrary, it would be most difficult to believe that a dying man would point to his own son as being the perpetrator of so serious a crime as that for which the accused-appellant has been charged if it were not indeed true. Alberto Sañez testified:

"Q: When you approached him, is he still alive?

"A: Yes, sir.

"Q: Did you talk to him?

"A: Yes sir. I was able to talk.

"Q: What did you talk about?

"A: He told me that he was hacked.

"Q: Did he mention to you who hacked him?

"A: He was hacked by his son Lyndon.

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"Q: You are referring to the accused in this case, Mr. Witness?

"A: Yes, sir.

"Q:

Upon seeing him in that condition, what did you do?

"A: I picked him up.

"Q: After picking him up, what did you do?

"A: I was about to bring him to the hospital.

"Q: Did you bring him to the hospital?

"A: We were not able to bring him because he was already dead.

"Q: On your way to the hospital?

"A: Yes, sir.

"x x x x x x x x x

"COURT:

"Q: When your brother Raulito told you that he was hacked by his son, was he still in the canal?

"A: He was already in the car.

"Q: While at the canal, were you able to talk to him?

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"A: No, sir.

"x x x x x x x x x

"PROS. MADRIAGA:

(RE-DIRECT)

"Q:

Mr. Witness, you said awhile ago that it was on the way to the hospital that the deceased expire, what made you conclude that the deceased expire?

"A: When we were far he was not any more moving.

"Q: Did you attempt to talk to him while you were on the way to the hospital?

"A: Yes, sir.

"Q: How many times did you attempt to talk to the deceased?

"A: Only once.

"COURT:

"Q: What was his condition at the time you talked to him?

"A

He was still moving.

"PROS. MADRIAGA:

"Q: He was still moving when?

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"A: When he said that he was hacked by his son.

"Q: On the vehicle, was he still moving?

"A: Yes, sir.

"COURT:

"Q: By moving you mean to say he was ambulatory or moving what, what part of his body?

"A: He was still talking.

"Q:

That is the only thing? What was he saying then?

"A: That he was hacked by his son.

"PROS. MADRIAGA:

"Q: This was on the vehicle?

A: "Yes, sir.

"Q: When exactly did he expire?

"A: We were able to drive about 10 post.

"x x x x x x x x x

ATTY. TARO

(RE-CROSS)

Q: Mr. Witness, didi you ask your brother why his son hacked him?

A: No, sir.

Q: While still in the car , did you not ask him who was responsible for the hack wound?

A: I didi not ask him

Q: Why?

"A: Because I was confused." [5]

The essential aspect of the above testimony was the declaration made to the witness by the deceased victim just before he expired that it was his own son, Lyndon, who had hacked him. There was no major inconsistency in the testimony of Alberto Sañez. Minor discrepancies even if extent, would neither impair the essential integrity of the evidence in its material whole nor reflected adversely on the credibility of the witness.[6] Likewise unacceptable was the submission by the defense that Alberto, an uncle, had testified falsely against accused-appellant only because the former still harbored a grudge against Lyndon for havin inherited a parcel of land from his deceased aunt. This asseveration, apart from being unsubstantiated, would appear to be too shallow a claim to support a finding of ill-motive against the witness, considering particularly the gravity of the crime and the close blood relationship between them/

The declaration of the then mortally wounded victim, Raulito Sañez, testified to by Alberto Sañez, aptly qualified as a dying declaration and as evidence against accused-appellant. Concededly, the statement was made by the declarant under consciousness of an impending death; the declaration referred to the cause and surrounding circumstances of the declarant's injury and impending death; and the declarant was a competent witness.7

Anent the objection of the defense to the admissibility of the evidence taken from the house of the victim, consisting of bloodied human tissues and hair, it should suffice to say that accused-appellant never objected to the admissibility of this evidence during trial, and it would now be too late for him to raise the matter for the first time in his appeal.8 At any rate, it was established through the testimony of SPO3 Arsenio Gomez, the police officer who conducted the investigation, that Alberto Sañez was, in fact, present during the investigation.

Finally, accused-appellant assails the credibility of Cary Bataclan for having failed to identify the body of the victim. Cary himself has explained that because of fear he did not stop to take a look at the body of the victim. At all events, the trial court has found this witness to be credible. It is a fundamental and settled rule that the evaluation made by the trial court on the credibility of witnesses deserves a high degree of respect and will hardly be disturbed on appeal. Moreover, the physical evidence points to and confirms the fact that the body dragged and then dumped into the canal could have only been that of the victim Raulito Sañez.

Direct evidence of the actual killing is not indispensable for convicting an accused when circumstantial evidence can sufficiently establish his guilt. The consistent rule has been that circumstantial evidence is adequate for conviction if: a) there is more than one circumstance; b) the facts from which the inferences are derived have been

proven; and c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. All these requisites, not to mention the dying declaration of the deceased victim himself, are extant in the instant case.9

The guilt of accused-appellant for the crime of parricide has been established beyond reasonable doubt. Nevertheless, this Court finds that the death penalty pronounced by the trial court is inapt. The only aggravating circumstance alleged in the information is treachery but, referring as it does to the mode of the attack, it cannot be appreciated absent any proof on how the assault has been committed.10 There being no eyewitness to the killing or evidence on the manner of its execution, treachery cannot be considered an aggravating circumstance.

The penalty for the crime of parricide is reclusion perpetua to death.11 The two penalties being both indivisible, and there being neither mitigating nor aggravating circumstances in the commission of the deed, the lesser of the two penalties shall be applied pursuant to the second paragraph of Article 63 of the Revised Penal Code. The Court notes the failure of the trial court to decree any civil liability of the accused. Prevailing jurisprudence warrants an award in favor of the heirs of the victim of P50,000.00 by way of civil indemnity ex delicto.13

WHEREFORE, the assailed decision convicting accused-appellant LYNDON SAÑEZ Y CAMERINO of the crime of parricide is AFFIRMED with MODIFICATION by imposing, instead of death, the penalty of reclusion perpetua. Accused-appellant is likewise ordered to pay the heirs of the victim the sum of P50,000.00 by way of civil indemnity ex delicto.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ. concur.

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[1] Records, p. 1

[2] Folder of Exhibits, Exh. D-1.

[3] TSN, 04 September 1996, p. 5.

[4] Rollo, p. 48

[5] TSN, 13 June 1996, pp. 5-11.

[6] People vs. Simon, 234 SCRA 555.

[7] People vs. Salazar, 221 SCRA 170: People vs. Molas, 218 SCRA 473.

[8] People vs. Java, 227 SCRA 668.

[9] People vs. Dominguez, 217 SCRA 170; People vs. Camaddo, 217 SCRA 162; People vs.Vallena, 244 SCRA 685.

[10] People vs. Dela Cruz, 229 SCRA 754; People vs. De Guzman, 231 SCRA 737; People vs. Retuta, 234 SCRA 645.

[11] People vs. Cordero, 217 SCRA 1.

[12] Revised Penal Code

[13] People vs. Malabago, 265 SCRA 198.

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