

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OLEGARIO PASCUAL, JR. Y MARAMAG, ACCUSED-APPELLANT.*G.R. No. 132870. May 29, 2002*

Ponente: YNARES-SANTIAGO, J.

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At 9:30 in the evening of January 16, 1992, Henry de la Paz, a resident of Purok Maligaya, Mambugan, Antipolo, Rizal, noticed a taxicab parked near the dead-end portion of the road near his house. Moments later, the taxicab moved backwards and hit the wall of a nearby handicraft shop. Two men alighted from the vehicle, followed by the driver, Arnold Nuarin, who cried out, “Tulungan po ninyo ako, sinaksak ako.” The two men sprinted away. Henry left to call for help.[1]

Andro Paglinawan, together with a team of barangay watchmen patrolling the area, heard Arnold’s cry for help. They found Arnold’s lifeless body sprawled on the ground about four posts away from the taxicab.[2] They saw two men fleeing and ran after them.

Meanwhile, PO3 Amando Alfonso and PO3 Hidalgo Gomez of the Antipolo police received a report about the incident and proceeded to the scene.[3] They found several persons chasing two men towards the squatters’ area. The two police officers joined in the chase. They caught up and apprehended accused-appellant Olegario Pascual, whose clothes were stained with blood. His companion, identified as alias “Johnny Bonglay,” escaped. PO3 Alfonso searched accused-appellant and found a bloodied fan knife, measuring eight to ten inches in length, in his back pocket.[4] Further investigation disclosed that the victim had been robbed of his earnings.

The victim was rushed to E. Rodriguez Hospital in Marikina City, but he later expired.[5] According to the postmortem examination conducted by medico-legal officer Dr. Dario Gajardo, the victim suffered stab wounds in the cheek, neck, nape and chest. Judging from the nature of the wound, a single-bladed weapon was used. The cause of death was cardio-respiratory arrest due to shock and hemorrhage.[6]

On January 24, 1992, an information[7] was filed with the Regional Trial Court, Branch 72, Antipolo, Rizal, docketed as Criminal Case No. 92-7608, charging accused-appellant with violation of Presidential Decree No. 532, Section 3 (b), also known as the Anti-Highway Robbery Law, committed as follows:

That on or about the 16[th] day of January 1992, in the municipality of Antipolo, province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one alias “Johnny”, whose true identity and present whereabouts is still unknown and mutually helping and aiding each other, armed with a fan knife with intent to gain and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously hold-up, take and divest one Arnold Nuarin y Vila of cash money while the latter was driving a motor vehicle owned by R & E taxi along Mambugan, Antipolo, Rizal which is a Philippine Highway, to the damage and prejudice of the said owner in an undetermined amount; that on the occasion of said robbery and for the purpose of enabling them to take, rob and carry away the said cash money and in pursuance of their conspiracy with intent to kill, did then and there willfully, unlawfully and feloniously stab said Arnold Nuarin y Vila of cash money while the latter was driving

a motor vehicle owned by R & E taxi along Mambugan, Antipolo, Rizal which is a Philippine Highway, to the damage and prejudice of the said owner in an undetermined amount; that on the occasion of said robbery and for the purpose of enabling them to take, rob and carry away the said cash money and in pursuance of their conspiracy with intent to kill, did then and there willfully, unlawfully and feloniously stab said Arnold Nuarin y Vila on the different parts of his body, as a result of which the latter sustained mortal stab wounds which directly caused his death.

CONTRARY TO LAW.

Accused-appellant pleaded not guilty when arraigned.[8]

In his defense, accused-appellant testified that he was a construction worker at Soliven Construction Company. At 8:00 in the evening of January 16, 1992, he was at the house of his supervisor, Lando Padilla, located in Francisville, Mambugan, Antipolo, Rizal, more than four kilometers from the scene of the crime.[9] While he was resting in the said house, six armed persons in civilian clothes arrived and arrested him.[10] Lando was asked to come along for questioning,[11] but he was later allowed to go home while accused-appellant remained in detention.

Accused-appellant claimed that during the investigation, he was tortured by the investigating officers into admitting responsibility for the crime.[12] Accused-appellant professed his innocence of the robbery and killing. He categorically denied that a bloodied fan knife was recovered from him at the time of his arrest, saying that the balisong presented in court was not his. Accused-appellant disavowed any association with “Johnny Bonglay” and insisted that he did not know any such person.[13]

The trial court rejected accused-appellant’s defense and, on November 24, 1997, rendered judgment as follows:

WHEREFORE, this Court finds accused Olegario Pascual y Maramag, GUILTY BEYOND REASONABLE DOUBT of the crime of violation of the Anti-Highway Robbery as defined under Section 3 (b) of P.D. 532, he is hereby sentenced to suffer imprisonment of Reclusion Perpetua and to indemnify the relatives of the victim in the amount of P50,000.00 as actual damages, P28,000.00 as funeral expenses and P300,000.00 as moral damages.

SO ORDERED.[14]

In this appeal, accused-appellant argues that there was no direct evidence linking him to the crime, considering that the pieces of evidence presented by the prosecution were circumstantial and not sufficient to overcome the presumption of innocence; and that the trial court should not have relied on the weakness of his defense, but on the strength of the prosecution.

The contention is untenable. Well-settled is the rule that direct evidence of the commission of the crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[15] Even in the absence of direct evidence, conviction can be had if the established circumstances constitute an unbroken chain, consistent with each other and to the hypothesis that the accused is guilty, to the exclusion of all other hypothesis that he is not.[16]

The following circumstances as established by the prosecution indicate a high indicia of guilt of the accused-appellant, to wit: (1) he was present at the vicinity of the crime; (2) he was seen running away from the taxi followed by the wounded victim, Arnold Nuarin; (3) he was one of the two men chased by the patrolling barangay watchmen; (4) he was caught and apprehended by the responding barangay watchmen; (5) a bloodied fan knife was recovered in his possession; and (6) the medico-legal findings disclosed that the victim sustained stab wounds inflicted by a single-bladed weapon.

In the absence of an eyewitness, reliance on circumstantial evidence becomes inevitable.[17] Circumstantial evidence is defined as that which indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established.[18] Such evidence is founded on experience and observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved.[19]

The requisites of circumstantial evidence are: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[20]

Contrary to accused-appellant's contention, the tapestry of circumstances presented by the prosecution created a strong impression of his guilt sufficient to overcome the mantle of presumptive innocence. Doubtless, it is not only by direct evidence that an accused may be convicted of the crime for which he is charged. Resort to circumstantial evidence is essential since to insist on direct testimony would, in many cases, result in setting felons free and denying proper protection to the community.[21]

Accused-appellant further argues that the trial court should not have relied on the weakness of his defense but on the strength of the prosecution's evidence. The argument deserves no merit. A review of the evidence extant on record shows that the testimonies of the prosecution witnesses were candid, straightforward, categorical, and unmarred by any inconsistency or contradiction.[22] Taken together, their testimonies are not only consistent in all material respects but also abound with uniform details on the perpetration of accused-appellant's criminal acts. This harmony in the testimonies of the prosecution witnesses leads to the conclusion that they were telling the truth.[23] The conglomeration of the circumstances yielded no conclusion other than that accused-appellant was guilty of the offense being imputed against him.

Moreover, absent evidence to indicate that the prosecution witnesses were moved by improper motive, the presumption is that no such ill motive exists, and their testimonies are entitled to full faith and credit.[24] A witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent is a credible witness.[25]

The defense of bare denial and alibi is inherently weak. Furthermore, accused-appellant's version of the whole incident is doubtful and replete with questionable details.

Accused-appellant alleged that he was arrested at the house of his supervisor, Lando Padilla, at 8:00 in the evening of January 16, 1992. The testimony of his supervisor as corroborative proof of his whereabouts at the time of the commission of the crime would have been to his benefit. Curiously, however, for reasons unbeknown to this Court, the defense failed to present Padilla on the witness stand.

Further, accused-appellant's claim that he was tortured and mauled to force an admission from him is doubtful at best. Aside from his self-serving statements, no other evidence was presented to support his claim. He could have presented his brother-in-law to corroborate this claim because it was he who allegedly saw the bruises when he first visited accused-appellant in detention.[26] More importantly, accused-appellant did not submit himself to physical examination or call the attention of the inquest prosecutor to the alleged mauling.[27]

Settled is the rule that the defense of alibi must be established by positive, clear and satisfactory proof that it was physically impossible for the accused-appellant to have been at the scene of the crime at the time of its commission, and not merely that he was somewhere else.[28] Physical impossibility refers to the distance between the place where the accused-appellant was when the crime transpired and the place where it was committed, as well as the facility of access between the two places. It must be demonstrated that the accused-appellant was so far away that he could not have been physically present at the place of the crime or its

immediate vicinity at the time of its commission.[29]

In the case at bar, both the locus criminis and accused-appellant's residence are situated within the same barangay of Mambugan, Antipolo, Rizal, separated by a distance of only about four kilometers. As such, it was not physically impossible for accused-appellant to have committed the crime due to the facility of access and the relatively short distance between the two places.

All told, denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence undeserving of any weight in law.[30] In comparison with the clear and straightforward testimony of the prosecution witnesses, the defenses of denial and alibi, which accused-appellant relies upon, are discredited and shopworn.[31]

However, the trial court erred in convicting accused-appellant of the crime of highway robbery with homicide. To be sure, the crime accused-appellant committed was robbery with homicide, not highway robbery as defined in P.D. 532.[32] Conviction for highway robbery requires proof that several accused were organized for the purpose of committing it indiscriminately.[33]

In the case at bar, there is no proof that accused-appellant and "Johnny" organized themselves to commit highway robbery. The prosecution established only a single act of robbery against a particular person. This is not what is contemplated under P.D. 532, the objective of which is to deter and punish lawless elements who commit acts of depredation upon persons and properties of innocent and defenseless inhabitants who travel from one place to another, thereby disturbing the peace and tranquility of the nation and stunting the economic and social progress of the people.[34]

Consequently, accused-appellant should be held liable for the special complex crime of robbery with homicide. Under Article 294 of the Revised Penal Code, when homicide is committed by reason or on occasion of the robbery, the penalty to be imposed is reclusion perpetua to death. There being no modifying circumstance, accused-appellant shall suffer the penalty of reclusion perpetua, pursuant to Article 63 of the Revised Penal Code.[35]

The amount of P28,000.00 awarded by the trial court as actual damages for reimbursement of the expenses incurred for the wake, burial, and funeral expenses is affirmed, the same being supported by receipts. Likewise, the award of P50,000.00 as death indemnity is sustained. However, the trial court's award of P300,000.00 as moral damages should be deleted inasmuch as the prosecution did not adduce any evidence to substantiate the same.[36]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Antipolo, Rizal, Branch 72, in Criminal Case No. 92-7608, is MODIFIED as follows: Accused-appellant is found guilty beyond reasonable doubt of the crime of robbery with homicide and is sentenced to suffer the penalty of reclusion perpetua. Further, he is ordered to pay the heirs of the victim, Arnold Nuarin, the sum of P28,000.00 as actual damages and the sum of P50,000.00 as death indemnity. The moral damages awarded by the trial court in the amount of P300,000.00 is DELETED for lack of factual basis.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Austria-Martinez, JJ., concur.

[1] Exhibit I; TSN, December 7, 1992, pp. 11-12.

- [2] TSN, January 11, 1993, pp. 3-5.
- [3] TSN, November 23, 1992, p. 7.
- [4] Ibid., p. 11.
- [5] TSN, December 7, 1992, p. 9.
- [6] Ibid., pp. 2-6.
- [7] Records, pp. 1-2.
- [8] Ibid., p. 16.
- [9] TSN, January 16, 1996, p. 7.
- [10] Ibid., p. 10.
- [11] Ibid., pp. 3-5.
- [12] Ibid., pp. 8-9.
- [13] Ibid., pp. 6-7.
- [14] Rollo, p. 19; penned by Presiding Judge Rogelio L. Angeles.
- [15] *People v. Bantilan*, 314 SCRA 380, 395 [1999].
- [16] *People v. Raquiño*, 315 SCRA 670, 678-679 [1999], citing *People v. Maliput*, 252 SCRA 519 [1996].
- [17] *People v. Rendaje*, 344 SCRA 738, 746 [2000].
- [18] *People v. Fabon*, 328 SCRA 302, 316 [2000]; *People v. Caparas, Jr.*, 290 SCRA 78, 89 [1998]; *People v. Rondero*, 320 SCRA 383, 396 [1999].
- [19] *People v. Mansueto*, 336 SCRA 715, 729-730 [2000]; *People v. Raganas*, 316 SCRA 457, 468 [1999].
- [20] *People v. Guarin*, 317 SCRA 234, 240 [1999]; *People v. Ortiz*, 316 SCRA 407, 412 [1999]; *People v. Faco*, 314 SCRA 505, 520 [1999].
- [21] *People v. dela Cruz*, 343 SCRA 374 [2000], citing *People v. Geron*, 281 SCRA 36, 46 [1997].
- [22] *People v. Salvame*, 270 SCRA 766, 772 [1997].
- [23] *People v. Noay*, 296 SCRA 292, 304 [1998].
- [24] *People v. Gomez*, 332 SCRA 661, 669 [2000]; *People v. Panganiban*, 241 SCRA 91, 100 [1995].
- [25] *Vda. de Arago v. Alvarez*, 270 SCRA 379, 389 [1997].
- [26] TSN, January 16, 1996, p. 12.
- [27] Ibid., p. 13.
- [28] *People v. Manzano*, G.R. No. 138303, November 26, 2001; *People v. Ramirez*, G.R. No. 136094, April 20, 2001.
- [29] *People v. Navales*, 266 SCRA 569, 587 [1997].
- [30] *People v. Preciados*, 349 SCRA 1, 23 [2001], citing *People v. Fajardo*, 315 SCRA 283, 293 [1999].

[31] People v. Pili, 289 SCRA 118, 140 [1998].

[32] People v. Versoza, 294 SCRA 466, 482 [1998].

[33] People v. Reanazes, 334 SCRA 624, 631[2000].

[34] Ibid.

[35] People v. Castillon III, G.R. No. 132718, October 5, 2001.

[36] People v. Ramirez, supra.

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