

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWARD ENDINO (AT LARGE) AND GERRY GALGARIN ALIAS TOTO, ACCUSED.

G.R. No. 133026. February 20, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

YIELDING to man's brutish instinct for revenge, Edward Endino, with the aid of Gerry Galgarin alias Toto, slew Dennis Aquino in the presence of a lady whose love they once shared.

On a busy street in Puerto Princesa City in the evening of 16 October 1991, an emboldened Gerry Galgarin, uncle of accused Edward Endino, suddenly and without warning lunged at Dennis and stabbed him repeatedly on the chest. Dennis' girlfriend Clara Agagas who was with him, stunned by the unexpected attack, pleaded to Galgarin to stop. Dennis struggled and succeeded momentarily to free himself from his attacker. Dennis dashed towards the nearby Midtown Sales but his escape was foiled when from out of nowhere Edward Endino appeared and fired at Dennis. As Dennis staggered for safety, the two (2) assailants fled in the direction of the airport.

Meanwhile, Dennis, wounded and bleeding, sought refuge inside the Elohim Store where he collapsed on the floor. He was grasping for breath and near death. Clara with the help of some onlookers took him to the hospital but Dennis expired even before he could receive medical attention. According to the autopsy report of Dr. Josephine Goh-Cruz, cause of death was "cardio-respiratory arrest secondary to hypovolemic shock secondary to a stab wound which penetrated the heart."^[1]

On 18 October 1991, an Information for the murder of Dennis Aquino was filed against Edward Endino and accused-appellant Gerry Galgarin and warrants were issued for their arrest. However, as both accused remained at large, the trial court issued on 26 December 1991 an order putting the case in the archives without prejudice to its reinstatement upon their apprehension.

On 19 November 1992, Gerry Galgarin was arrested through the combined efforts of the Antipolo and Palawan police forces at a house in Sitio Sto. Niño, Antipolo, Rizal. He was immediately taken into temporary custody by the Antipolo Police. Early in the evening of the following day, he was fetched from the Antipolo Police Station by PO3 Gaudencio Manlavi and PO3 Edwin Magbanua of the Palawan police force to be taken to Palawan and be tried accordingly.

On their way to the airport, they stopped at the ABS-CBN television station where accused Galgarin was interviewed by reporters. Video footages of the interview were taken showing Galgarin admitting his guilt while pointing to his nephew Edward Endino as the gunman. According to Galgarin, after attacking Aquino, they left for Roxas, Palawan, where his sister Langging who is Edward's mother, was waiting. Langging gave them money for their fare for Manila. They took the boat for Batangas, where they stayed for a few days, and proceeded to Manila where they separated, with him heading for Antipolo. Galgarin appealed for Edward to give himself up to the authorities. His interview was shown over the ABS-CBN evening news program TV Patrol.

The case against accused-appellant Gerry Galgarin was established through the testimony of Clara Agagas who said that she was with the victim Dennis Aquino standing outside the Soundlab Recording Studio, a barhouse owned by him, when Galgarin suddenly approached them and without any prior warning stabbed Dennis. Dennis tried to run away, but Edward, a spurned lover who harbored ill-feelings towards her and Dennis, shot Dennis. She recognized Edward and Gerry because the street was sufficiently lighted.[2]

The testimony of Clara Agagas was corroborated by Anita Leong, next-door neighbor of Dennis, who testified that a little past six o'clock in the evening of 16 October 1991 Gerry Galgarin together with a companion went to her house looking for Dennis. She instructed them to proceed to the Soundlab Recording Studio as Dennis might still be there. But a few minutes later she heard a Instinctively, she instructed her two (2) young daughters to duck for cover while she anxiously waited for her seven (7)-year old daughter Josephine who was out of the house for an errand for her. Soon enough she heard Josephine knocking at their door. She was crying because she said her Kuya Dennis had been shot and stabbed.[3]

Josephine confirmed her mother's testimony and even said that she had seen Gerry Galgarin stab her Kuya Dennis and she could remember Gerry very well because of the mole below his nose.[4]

For his part, accused-appellant Gerry Galgarin disclaimed having taking part in the slaying of Dennis. Gerry asserted that on 14 October 1991 he was in Antipolo to help his common-law wife Maria Marasigan give birth to their first born. He stayed with her until the 16th of October when she was discharged from the Pedragoza Maternity Clinic.[5]

Clarita Florentino Pedragoza, the midwife who delivered his son, supported the alibi of accused-appellant. However, she admitted that when she registered the child's birth on 13 December 1993 or more than two (2) years after the delivery, she informed the civil registrar that the child's father was "unknown." [6] His story was also confirmed by Dolores Arciaga and Maria Tomenio, his co-workers at the Kainan sa Kubo Sing Along Restaurant, who testified that accused-appellant was fetched by a neighbor from the restaurant in the early afternoon of 14 October with the news that his wife was having labor pains.[7]

Accused-appellant disowned the confession which he made over TV Patrol and claimed that it was induced by the threats of the arresting police officers. He asserted that the videotaped confession was constitutionally infirmed and inadmissible under the exclusionary rule provided in Sec.12, Art. III, of the Constitution.[8]

The trial court however admitted the video footages on the strength of the testimony of the police officers that no force or compulsion was exerted on accused-appellant and upon a finding that his confession was made before a group of newsmen that could have dissipated any semblance of hostility towards him. The court gave credence to the arresting officers' assertion that it was even accused-appellant who pleaded with them that he be allowed to air his appeal on national television for Edward to surrender.

The alibi of Galgarin was likewise rejected since there was no convincing evidence to support his allegation that he was not at the locus criminis on the evening of 16 October 1991. Accordingly, accused-appellant Gerry Galgarin was convicted of murder qualified by treachery[9] and sentenced to reclusion perpetua. Additionally, he was ordered to indemnify the heirs of Dennis Aquino P50,000.00 as compensatory damages and P72,725.35 as actual damages. The case against his nephew and co-accused Edward Endino remained in the archives without prejudice to its reinstatement as soon as he could be arrested.[10]

In his Appellant's Brief, Gerry Galgarin assails the trial court for rejecting his alibi and admitting his videotaped confession as evidence against him.

The argument that accused-appellant could not be at the scene of the crime on 16 October 1991 as he was in

Antipolo assisting his wife who was giving birth on the 14th of that month, is not persuasive. Alibi is a weak defense. The testimony of Cornelio Tejero Jr.,^[11] Philippine Airlines Load Controller of the Puerto Princesa City, that the name of "Gerry Galgarin" did not appear on their passenger manifest for the 16 October 1991 Manila-Puerto Princesa flight, could not be relied upon inasmuch as he himself admitted that they could not be sure of their passengers' real identities. The testimonies of accused-appellant's co-workers that he was in Antipolo on 14 October 1991 did not fortify his defense either since these witnesses did not categorically state that they saw him in Antipolo in the evening of 16 October 1991.

With accused-appellant having been positively identified by the prosecution witnesses as the one who stabbed Dennis, his bare denial proves futile and unavailing. Josephine Leong's identification of accused-appellant was given in a very categorical and spontaneous manner. Her confidence as to the attacker's identity was clearly shown by her vivid recollection of him having a mole below his nose, which is correct. Moreover, it is inconceivable for Josephine and Anita to implicate accused-appellant, a complete stranger to them, if there was no truth to their assertion. As for Clara, her naming of accused-appellant as her boyfriend's assailant was not done out of spite, but was impelled by her desire to seek justice for Dennis.

Corroborating further accused-appellant's guilt, probably with intense incriminating effect, were his immediate flight after the slaying, and his attempt at jailbreak^[12] revealing a guilty conscience, hence, his persistent effort to evade the clutches of the law.

Apropos the court a quo's admission of accused-appellant's videotaped confession, we find such admission proper. The interview was recorded on video and it showed accused-appellant unburdening his guilt willingly, openly and publicly in the presence of newsmen. Such confession does not form part of custodial investigation as it was not given to police officers but to media men in an attempt to elicit sympathy and forgiveness from the public. Besides, if he had indeed been forced into confessing, he could have easily sought succor from the newsmen who, in all likelihood, would have been sympathetic with him. As the trial court stated in its Decision^[13]-

Furthermore, accused, in his TV interview (Exh. H), freely admitted that he had stabbed Dennis Aquino, and that Edward Endino had shot him (Aquino). There is no showing that the interview of accused was coerced or against his will. Hence, there is basis to accept the truth of his statements therein.

We agree. However, because of the inherent danger in the use of television as a medium for admitting one's guilt, and the recurrence of this phenomenon in several cases,^[14] it is prudent that trial courts are reminded that extreme caution must be taken in further admitting similar confessions. For in all probability, the police, with the connivance of unscrupulous media practitioners, may attempt to legitimize coerced extrajudicial confessions and place them beyond the exclusionary rule by having an accused admit an offense on television. Such a situation would be detrimental to the guaranteed rights of the accused and thus imperil our criminal justice system.

We do not suggest that videotaped confessions given before media men by an accused with the knowledge of and in the presence of police officers are impermissible. Indeed, the line between proper and invalid police techniques and conduct is a difficult one to draw, particularly in cases such as this where it is essential to make sharp judgments in determining whether a confession was given under coercive physical or psychological atmosphere.

A word of counsel then to lower courts: we should never presume that all media confessions described as voluntary have been freely given. This type of confession always remains suspect and therefore should be thoroughly examined and scrutinized. Detection of coerced confessions is admittedly a difficult and arduous task for the courts to make. It requires persistence and determination in separating polluted confessions from untainted ones. We have a sworn duty to be vigilant and protective of the rights guaranteed by the Constitution.

With all the evidence tightly ringed around accused-appellant, the question that next presents itself is whether the

trial court correctly denominated the crime as murder qualified by treachery. Doubtless, the crime committed is one of murder considering that the victim was stabbed while he was simply standing on the pavement with his girlfriend waiting for a ride, blissfully oblivious of the accused's criminal design. The suddenness of the assault on an unsuspecting victim, without the slightest provocation from him who had no opportunity to parry the attack, certainly qualifies the killing to murder.[15]

WHEREFORE, the Decision of the court a quo finding accused-appellant GERRY GALGARIN alias Toto guilty of Murder qualified by Treachery, sentencing him to reclusion perpetua, and ordering him to indemnify the heirs of Dennis Aquino in the amount of P50,000.00 as compensatory damages and P72,725.35 as actual damages, is AFFIRMED with the MODIFICATION that accused-appellant is further ordered to compensate the decedent's heirs P50,000.00 as moral damages for their emotional and mental anguish. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] See Exh. "C;" Original Records, p. 75.

[2] TSN, 19 March 1993, pp. 80-126.

[3] TSN, 25 June 1993, pp. 127-155.

[4] TSN, 28 July 1993, pp.156-186.

[5] TSN, 3 February 1994, pp. 322-350.

[6] TSN, 28 August 1995, p. 365.

[7] TSN, 22 November 1993, pp. 228-266.

[8] Sec. 12. x x x (2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

[9] The lower court characterized the attack against Dennis Aquino as sudden and unexpected; Rollo, p. 32.

[10] Decision penned by Judge Panfilo S. Salva, RTC-Br. 49, Puerto Princesa City; Rollo, pp. 25-33.

[11] TSN, 7 February 1996, pp. 389-399.

[12] In his Order dated 9 March 1994 then Presiding Judge Sabas R. Acosta took note of accused-appellant's attempted escape from the PNP Headquarters Detention Cell sometime in October of 1993; Original Records, p. 180.

[13] See Exh. "H," p. 8; Rollo, p. 32.

[14] *People v. Vizcarra*, No. L-38859, 30 July 1982, 115 SCRA 743; *People v. Bernardo*, G.R. No. 97393, 17 March 1993, 220 SCRA 31; *People v. Andan*, G.R. No. 116437, 3 March 1997, 269 SCRA 95.

[15] *People v. Sumalpong*, G.R. No. 124705, 20 January 1998, 284 SCRA 464; *People v. Medina*, G.R. No. 113691, 6 February 1998, 286 SCRA 44; *People v. Ebrada*, G.R. No. 122774, 25 September 1998, 296 SCRA

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