

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HERMINIANO SATORRE @ EMIANO SATORRE, APPELLANT.

G.R. No. 133858. August 12, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Appellant Herminiano Satorre alias Emiano Satorre was charged with Murder in an information which reads:

That on or about the 25[th] day of May, 1997 at 2:00 o'clock dawn, more or less, in Sitio Kamari, Barangay Calidngan, Municipality of Carcar, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with the use of .38 paltik revolver and by means of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack and shoot ROMERO PANTILGAN, hitting the latter at the head which caused his instantaneous death.

CONTRARY TO LAW.[1]

On arraignment, appellant pleaded "not guilty". Trial on the merits then ensued.

Gliceria Saraum, wife of the victim Romero Pantilgan, testified that at 2:00 a.m. of May 25, 1997, she and her two children were asleep inside the house of her parents at Tagaytay, Calidngan, Carcar, Cebu. Her mother, Florida Saraum, was also in the house. Her husband, Romero, went out to attend a fiesta. While she was asleep, she was awakened by a gunshot. Gliceria got up and went out to the porch, where she found her dead husband lying on the ground. Blood oozed out of a gunshot wound on his head.

Rufino Abayata, a barangay kagawad, testified that around 7:00 a.m. of May 25, 1997, his fellow barangay kagawad, Pio Alvarado, fetched him from his house and, together, they went to verify a report regarding a dead person on the porch of the Saraum residence. Upon confirming the incident, they reported the matter to the Carcar Police. Rufino further narrated that appellant's father, Abraham Satorre, informed them that it was appellant who shot Pantilgan. They looked for appellant in the house of his brother, Felix Satorre, at Dumlog, Talisay, Cebu, but were told that he already left. Nevertheless, appellant's brothers, Margarito and Rosalio Satorre, went to Rufino's house and surrendered the gun which was allegedly used in killing Pantilgan.

Flavio Gelle narrated that he accompanied appellant and his father, Abraham, to the Barangay Captain of Can-asohan, Carcar, Cebu where appellant admitted killing Pantilgan. Thereafter, appellant was detained.

Corroborating Gelle's story, Cynthia Castañares, Barangay Captain of Can-asuhan, Carcar, Cebu testified that Abraham Satorre and Gelle brought appellant to her residence where he confessed having killed Pantilgan. Appellant allegedly informed her that he killed Pantilgan because the latter struck him with a piece of wood. That same evening, she went to the Carcar Police Station with appellant where she executed an affidavit. She further averred that appellant voluntarily narrated that he killed Pantilgan with the use of a handgun which he wrestled from his possession.

Dr. Plebia Villanueva, Municipal Health Officer of Carcar, Cebu certified that the cause of Pantilgan's death was

gunshot wound.[2]

Bonifacio Ayag, NBI Ballistician, testified that the deformed bullet taken from Pantilgan's head wound was fired from the gun surrendered by appellant's brothers to the Carcar Police.[3]

Denying the charges against him, appellant claimed that he was asleep inside his house at the time of the incident. He alleged that Rufino Abayata had a grudge against him because of an incident when he tied Rufino's cow to prevent it from eating the corn in his farm. He denied having confessed to the killing of Pantilgan. He disclaimed ownership over the paltik .38 revolver and stated that he could not even remember having surrendered a firearm to Castañares.

Abraham Satorre corroborated appellant's testimony. He denied having accompanied appellant to Castañares' house to surrender him.

Appellant's brother, Rosalio Satorre, claimed that he never accompanied appellant to Castañares' house to surrender. His other brother, Felix, also testified that he never surrendered any firearm to anybody.

After trial, the court a quo gave credence to the prosecution's evidence and rendered a decision convicting appellant of Murder,[4] the dispositive portion of which reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, accused Herminiano Satorre is found guilty beyond reasonable doubt of the crime of Murder and is hereby imposed the penalty of RECLUSION PERPETUA, with accessory penalties of the law; to indemnify the heirs of Romero Pantilgan in the sum of P50,000.00 and to pay the costs. The accused is, however, credited in full during the whole period of his detention provided he will signify in writing that he will abide by all the rules and regulations of the penitentiary.

SO ORDERED.

Appellant interposed this appeal, contending that the trial court erred: (1) in giving full faith and credence to the testimonies of prosecution witnesses; (2) in proceeding with the trial of the instant case amounting to lack of due process provided by law due to its denial of accused's motion for preliminary investigation or reinvestigation; and (3) in rejecting the testimony of the defense's witnesses.

The appeal has merit.

In particular, appellant claims that his alleged confession or admission, which was concocted by the Barangay Captain, is inadmissible in evidence for being hearsay and for being obtained without a competent and independent counsel of his choice. In effect, the quantum of evidence adduced by the prosecution was not sufficient to overcome the constitutional presumption of innocence. The bare allegation that he confessed or admitted killing Romero Pantilgan is not proof of guilt.

Rule 130, Section 26 of the Rules of Court defines an admission as an "act, declaration or omission of a party as to a relevant fact." A confession, on the other hand, under Section 33 of the same Rule is the "declaration of an accused acknowledging his guilt of the offense charged, or of any offense necessarily included therein." Both may be given in evidence against the person admitting or confessing. On the whole, a confession, as distinguished from an admission, is a declaration made at any time by a person, voluntarily and without compulsion or inducement, stating or acknowledging that he had committed or participated in the commission of a crime.[5]

Evidently, appellant's alleged declaration owning up to the killing before the Barangay Captain was a confession. Since the declaration was not put in writing and made out of court, it is an oral extrajudicial confession.

The nexus that connects appellant to the killing was his alleged oral extrajudicial confession given to Barangay

Captain Cynthia Castañares and two barangay kagawads. According to the trial court, their testimonies were positive and convincing. Appellant's retraction of his oral extrajudicial confession should not be given much credence in the assessment of evidence. However, appellant disputes the admissibility and sufficiency of the testimonial evidence offered to prove the alleged oral extrajudicial confession.

There is no question as to the admissibility of appellant's alleged oral extrajudicial confession. Indeed, as far as admissibility is concerned, Rule 130, Section 33 of the Rules of Court makes no distinction whether the confession is judicial or extrajudicial.

The rationale for the admissibility of a confession is that if it is made freely and voluntarily, a confession constitutes evidence of a high order since it is supported by the strong presumption that no sane person or one of normal mind will deliberately and knowingly confess himself to be the perpetrator of a crime, unless prompted by truth and conscience.[6]

Accordingly, the basic test for the validity of a confession is - was it voluntarily and freely made. The term "voluntary" means that the accused speaks of his free will and accord, without inducement of any kind, and with a full and complete knowledge of the nature and consequences of the confession, and when the speaking is so free from influences affecting the will of the accused, at the time the confession was made, that it renders it admissible in evidence against him.[7] Plainly, the admissibility of a confession in evidence hinges on its voluntariness.

The voluntariness of a confession may be inferred from its language such that if, upon its face, the confession exhibits no suspicious circumstances tending to cast doubt upon its integrity, it being replete with details - which could only be supplied by the accused - reflecting spontaneity and coherence, it may be considered voluntary.[8] The problem with appraising voluntariness occurs when the confession is an oral extrajudicial confession because the proof of voluntariness cannot be inferred from the testimony of a witness who allegedly heard the confessant since there is no written proof that such confession was voluntarily made. Neither can the confessant be appraised by the court since, precisely, it was made outside the judicial proceeding. The problem posed therefore by an oral extrajudicial confession is not only the admissibility of the testimony asserting or certifying that such confession was indeed made, but more significantly whether it was made voluntarily.

On the question of whether a confession is made voluntarily, the age, character, and circumstances prevailing at the time it was made must be considered. Much depends upon the situation and surroundings of the accused. This is the position taken by the courts, whatever the theory of exclusion of incriminating statements may be. The intelligence of the accused or want of it must also be taken into account. It must be shown that the defendant realized the import of his act.[9]

In the case at bar, appellant was a 19-year old farmer who did not even finish first grade. Granting that he made the confession in the presence of Barangay Captain Castañares, he may not have realized the full import of his confession and its consequences. This is not to say that he is not capable of making the confession out of a desire to tell the truth if prompted by his conscience. What we are saying is that due to the aforesaid personal circumstances of appellant, the voluntariness of his alleged oral confession may not be definitively appraised and evaluated.

At any rate, an extrajudicial confession forms but a prima facie case against the party by whom it is made. Such confessions are not conclusive proof of that which they state; it may be proved that they were uttered in ignorance, or levity, or mistake; and hence, they are, at best, to be regarded as only cumulative proof which affords but a precarious support and on which, when uncorroborated, a verdict cannot be permitted to rest.[10]

Main prosecution witness Castañares testified that after appellant's alleged oral confession, she brought the latter

to the office of the police at the Municipal Hall of Carcar, Cebu.[11] At the police station, Castañares was investigated, after which she executed her sworn statement.[12] Also at the police station, appellant allegedly admitted before policemen that he killed Pantilgan.[13] His statement was not taken nor was his confession reduced into writing. This circumstance alone casts some doubt on the prosecution's account that appellant freely and voluntarily confessed killing Pantilgan. It raises questions not only as to the voluntariness of the alleged confession, but also on whether appellant indeed made an oral confession.

To be sure, a confession is not required to be in any particular form. It may be oral or written, formal or informal in character. It may be recorded on video tape, sound motion pictures, or tape.[14] However, while not required to be in writing to be admissible in evidence, it is advisable, if not otherwise recorded by video tape or other means, to reduce the confession to writing. This adds weight to the confession and helps convince the court that it was freely and voluntarily made. If possible the confession, after being reduced to writing, should be read to the defendant, have it read by defendant, have him sign it, and have it attested by witnesses.[15]

The trial court gave credence to appellant's oral extrajudicial confession relying on jurisprudence which we find are not applicable. In the cases cited by the trial court,[16] the convictions were based on circumstantial evidence in addition to the appellants' confessions, or the extrajudicial confessions were reduced to writing and were replete with details which only appellants could have supplied. In the case at bar, however, there was no circumstantial evidence to corroborate the extrajudicial confession of appellant. More importantly, the said confession does not contain details which could have only been known to appellant.

Furthermore, the events alleged in the confession are inconsistent with the physical evidence. According to Barangay Captain Castañares, appellant narrated to her that during the struggle between him and the deceased, he fell to the ground after the latter hit him on the head with a piece of wood. In the autopsy report, however, Dr. Plebia Villanueva found that the entrance wound on the deceased was located at the top of the head or the crown, indicating that the victim was probably lying down when he was shot.[17]

Indeed, an extrajudicial confession will not support a conviction where it is uncorroborated. There must be such corroboration that, when considered in connection with confession, will show the guilt of accused beyond a reasonable doubt. Circumstantial evidence may be sufficient corroboration of a confession. It is not necessary that the supplementary evidence be entirely free from variance with the extrajudicial confession, or that it show the place of offense or the defendant's identity or criminal agency. All facts and circumstances attending the particular offense charged are admissible to corroborate extrajudicial confession.[18]

Nonetheless, the fatal gun and the slug extracted from Pantilgan's brain can not be considered as corroborative evidence. While the slug embedded in Pantilgan's brain came from the fatal gun, the prosecution was not able to conclusively establish the ownership of the gun other than the bare testimony of prosecution witnesses that appellant's brothers surrendered the gun to them. This was denied by appellant and his brothers and there was no other proof linking the gun to him.

On the whole, it appears that the trial court simply based appellant's conviction on the testimonial evidence of prosecution witnesses that appellant orally owned up to the killing. We cannot affirm appellant's conviction on mere testimonial evidence, considering that the voluntariness of said confession cannot be conclusively established because of appellant's personal circumstances and the failure of the police to reduce the alleged oral confession into writing. The doubts surrounding the alleged oral confession, the conduct of the investigation as well as the inapplicable jurisprudential precedents cited by the trial court do not lead to the same moral certainty of appellant's guilt.

To conclude, it must be stressed that in our criminal justice system, the overriding consideration is not whether the

court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt. Where there is no moral certainty as to their guilt, they must be acquitted even though their innocence may be questionable. The constitutional right to be presumed innocent until proven guilty can be overthrown only by proof beyond reasonable doubt.[19] In fact, unless the prosecution discharges the burden of proving the guilt of the accused beyond reasonable doubt, the latter need not even offer evidence in his behalf.[20]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court, Branch 18, Cebu City, convicting appellant Herminiano Satorre alias Emiano Satorre of Murder and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the heirs in the amount of P50,000.00 as well as costs, is REVERSED and SET ASIDE. For lack of evidence to establish guilt beyond reasonable doubt, appellant Herminiano Satorre alias Emiano Satorre is ACQUITTED and is ordered immediately RELEASED from confinement, unless he is lawfully held in custody for another cause.

SO ORDERED.

Vitug, Carpio, and Azcuna, JJ., concur.

Davide, Jr., C.J., (Chairman), dissent, guilt of the appellant was proved beyond reasonable doubt.

[1] Rollo, p. 4.

[2] TSN, July 29, 1997, pp. 4-5.

[3] TSN, September 17, 1997, pp. 5-6.

[4] Penned by Judge Galicano C. Arriesgado of the Regional Trial Court of Cebu City, Branch 18.

[5] United States v. Corrales, 28 Phil. 362, 365-366 [1914].

[6] People v. Lara, 334 Phil. 779, 796 [1997].

[7] Evidence, Vol. VII, Part I, 1997 Ed., Francisco, p. 411.

[8] People v. Licayan, G.R. No. 144222, 28 February 2002.

[9] Evidence, Vol. VII, Part I, 1997 Ed., Francisco, pp. 413-414.

[10] Wharton's Criminal Evidence, 11[th] Ed., Vol. II, Wharton, Sec. 642, p. 1075.

[11] TSN, July 17, 1997, pp. 4-5.

[12] Ibid., pp. 4-5.

[13] TSN, July 21, 1997, pp. 13-14.

[14] Evidence, Vol. VII, Part I, 1997 Ed., Francisco, p. 370.

[15] Ibid.

[16] People v. Lorenzo, 310 Phil. 694 [1995]; People v. Montiero, 316 Phil. 950 [1995]; People v. Nimo, G.R. No. 92533, 5 October 1993, 227 SCRA 84; People v. Ruelan, G.R. No. 106152, 19 April 1994, 231 SCRA 650; People v. Barros, 207 Phil. 32 [1983]; People v. De la Rosa, 207 Phil. 129 [1983]; People v. Carias, 207 Phil. 664 [1983]; People v. Mateo, Jr., G.R. Nos. 53926-29, 13 November 1989, 179 SCRA 303.

[17] TSN, July 29, 1997, p. 8.

[18] Underhill's Criminal Evidence, 5[th] Ed., Herrick, Sec. 402, pp. 1035-1038.

[19] People v. Asis, G.R. No. 142531, 15 October 2002.

[20] People v. Hilario, 348 Phil. 369 [1998].

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