

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICKY ROGER AUSTRIA Y SACATANE, DEFENDANT-APPELLANT.

G.R. No. 134279. March 08, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Accused-appellant Ricky Roger Austria was charged before the Regional Trial Court (RTC) of Manila with Murder in an information reading:

That on or about June 21, 1995, in the City of Manila, Philippines, the said accused, did then and there wilfully, unlawfully and feloniously, with intent to kill, with treachery and evident premeditation, attack, assault and use personal violence upon one AGUSTIN ABAD y ARAGUEZ, by then and there stabbing him on the chest, thereby inflicting upon him serious stab wounds which are necessarily fatal and mortal and which were the direct and immediate cause of his death thereafter.

Contrary to law.[1]

Arraigned on August 9, 1995, accused-appellant pleaded not guilty to the above charges. Trial ensued thereafter.

The prosecution presented as its only eyewitness thirteen-year old Rowena Junio.

On June 21, 1995, at around 10:00 in the evening, in Bagong Barangay, Zamora, Pandacan, Manila, Rowena went to a store in the plaza to buy ice. Failing to buy any, Rowena started walking back home. On the way, she saw three (3) men accost another man, who they took to a narra tree. Rowena heard one of the three men instruct the man brought to the narra tree to bring out something. Suddenly, accused-appellant hit the man with a piece of wood and simultaneously stabbed him. A lamppost lighting the area enabled Rowena to see accused-appellant's face when the latter looked to see if anyone else was around.[2]

SPO2 Rodolfo Rival of the Homicide Division of the Western Police District Command (WPDC), Manila, conducted an investigation of the incident. SPO2 Rival testified that at around 10:45 in the evening of June 21, 1995, SPO2 Danilo Caballero of the Pandacan Police Station reported the presence of a dead male person at Bagong Barangay, Zamora, Pandacan, Manila. SPO2 Rival examined the crime scene where he found the victim's remains lying on its back at the grassy portion of the sidewalk beside the estero. The body had a lone stab wound on the mid-chest and a deep-cut wound on the face. There were also splotches of blood on the ground at the first gate of Bagong Barangay.

SPO2 Rival interviewed several persons regarding the incident but none of them gave any "good information." On June 22, 1995, however, Rowena Junio went to the station and gave her statement identifying accused-appellant as the one who stabbed the victim.[3]

Dr. Manuel Lagonera, medico-legal officer of the Western Police District, conducted an autopsy on the body of the victim. Dr. Lagonera testified that the victim, who was identified as Agustin Abad,[4] sustained one penetrating stab wound located at the right anterior thorax, and that the proximate cause of death was shock

secondary to stab wounds. The depth of the stab wound was 12 centimeters, piercing the heart of the victim. From the nature of the wound, he concluded that the weapon used by the assailant was consistent with a sharp-pointed, sharp-edged instrument, and that the assailant could have been fronting the victim. Death was immediate.[5] Dr. Lagonera's findings are contained in his Autopsy Report.[6]

Accused-appellant, 26, married, and a resident of 1901 Interior 60, Zamora Street, Pandacan, Manila, denied killing Agustin Abad. He claimed that at the time of the incident on June 21, 1995, he was at his house with his parents and sons trying to put his six-month old child to sleep. He said Agustin was his neighbor who lived a block away from their house. Accused-appellant had known Agustin since childhood and saw him frequently.

He alleged that he learned of the stabbing incident that same night at around 10:00 p.m. Somebody near accused-appellant's house shouted that Agustin had been stabbed. Accused-appellant went to the scene where he saw the victim wounded but still alive. He did not recognize the victim as Agustin since the latter's face was too bloodied. He stayed at the scene for about five (5) minutes. A certain Roberto, a neighbor and an agent of the National Bureau of Investigation, was also there and took the victim's wallet. Accused-appellant learned from his sister that Agustin was the victim only when he was in the police station.[7]

On April 28, 1998, the trial court rendered a decision convicting accused-appellant of Murder and sentencing him to suffer the penalty of reclusion perpetua, thus:

WHEREFORE, this Court finds the accused Ricky Roger Autria y Sacatane (sic), guilty beyond reasonable doubt of the crime of murder and is sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law, and to pay the costs. Moreover, the accused is ordered to pay actual, moral and nominal damages in the sums of P13,000.00, P50,000.00 and P25,000.00 respectively, and an additional sum of P50,000.00 for the death of the victim, with interest thereon at the legal rate from the date of the filing of this case, July 3, 1995, until fully paid.

SO ORDERED.[8]

Accused-appellant now appeals his conviction, and the Court grants him acquittal on the ground of reasonable doubt.

Accused-appellant has pointed to inconsistencies in the testimony of the alleged eyewitness, Rowena Junio, regarding her acquaintance with accused-appellant that cast doubt on accused-appellant's guilt.

First, Rowena stated that she saw accused-appellant for the first time only during the stabbing incident.

COURT:

By the way, the accused was not the first time you met [sic], when you saw him during the stabbing incident?

A:

That was my [sic] first time I saw him.[9]

The Court also notes that the witness repeated this declaration when asked how long she has known accused-appellant. She replied that she had only met him on that tragic occasion:

Q: How long have you known Ricky?

A: I only met him on that occasion, when I saw his face.

Q: Now, Madam Witness, you said that you know him only when you saw his face, is that correct?

A: Yes, Sir.

Q: In sort, [sic] you have not known him for a long time, is that correct Madam Witness?

A: Yes, Sir.[10]

However, when confronted with the Affidavit[11] she executed the day after the incident, Rowena contradicted herself and claimed she had known accused-appellant for a long time.

Q:

I want to invite your attention to the affidavit that you executed, paragraph 11 and tell me if that is the statement that you made?

COURT: Read it.

A: (Witness reading the statement, pp 11)

"Ito bang si Ricky ay matagal mo nang kilala?

COURT: Read the answer.

A: "Sa mukha po ay matagal ko na siyang kilala"

ATTY.

ASKALI: So, "matagal mo nang kilala". So, it is not

COURT: Wait, wait, what did you mean by that, when you said "Matagal mo na siyang kilala sa mukha"?

A: Because he is from that place and I used to see him.

COURT:

When you saw the face of the accused in the evening of June 21, 1995, during the stabbing incident [sic], that was not the first time you saw him?

A: Yes, your honor.[12]

Rowena was also inconsistent concerning her residence. When asked to state her personal circumstances, she said that she was residing at 1953 Zamora, Pandacan, Manila.[13] She also testified that she was born there and had been staying there since childhood.

Q:

How long have you been living with [sic] this address, Mr. [sic] Witness, 1953 [Zamora Street, Pandacan, Manila].

A:

I was born in that place.

Q:

So from childhood you have been staying at 1953 Zamora Street, Pandacan, Manila. Is that correct?

A:

Yes, sir.[14]

However, in other parts of her testimony, she said that she was not from the area but was merely visiting, and that she did not know anyone there.

Q: How long have you been residing in the said area, in that place in Pandacan, Manila?

A: I only visited the place, Ma'm [sic].[15]

x x x

ATTY.

ASKALI:

Madam Witness, you said that you are not living permanently in that place at Pandacan, you only visited the place, is that correct?

A: Yes, Sir.

Q: Where do you live before you visited the place?

A: I only visited the place and there was also a wake.

Q: And when you said wake, who died Madam Witness?

A: The grandfather of the accused.

COURT: Who died, do you know?

A:

I do not know, your honor. I merely accompanied my mother. It's my mother who attend the deceased [sic].

Q: So you are very knew [sic] in that place you do not know anyone there, is that correct?

A: Yes, Sir.[16]

The prosecution failed to clarify these inconsistencies in Rowena's testimony.

The Office of the Solicitor General submits, however, that Rowena Junio's acquaintance with appellant is irrelevant considering that she personally identified him to be the same person whose face appeared under the illumination of the lamp right after the stabbing of the victim. If at all, any inconsistency in the narration by the witness only bolsters her credibility since it would show that her statements were unrehearsed and spontaneous.[17]

We disagree. The inconsistencies in Rowena Junio's testimony do not refer to incidental or collateral matters. The basis of her identification of accused-appellant as the victim's assailant was precisely her purported familiarity with accused-appellant. She did not pick him out of a police line-up nor did she provide the police with a description of the assailant. She pointed to accused-appellant because she allegedly knew him prior to the killing. If the witness was not at all familiar with accused-appellant, the prosecution's whole case collapses for such familiarity was its very foundation.

In the face of doubts regarding the familiarity of the witness with the alleged assailant, the distance of the witness from the scene and the visibility conditions thereat assume greater significance. Rowena was purportedly some eight (8) meters from the scene of the killing,[18] which was illuminated by a flickering lamp. She testified:

Q: What about in the place of the incident? Is it also well lighted, Madam Witness?

A:

The light in the lamp post was flicking on and off because it was defective.[19]

The prosecution did not show, however, whether the intensity of the defective lamp was sufficient to enable the witness to see accused-appellant's face, considering her distance from the scene.

Accused-appellant invoked alibi, which he failed to corroborate with other evidence. Nevertheless, this circumstance would not sustain his conviction.

As a rule, alibis should be considered with suspicion and received with caution, not only because they are inherently weak and unreliable, but also because they can easily be fabricated. But equally fundamental is the axiom that evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the defense. A conviction in a criminal case must rest on nothing less than a moral certainty of guilt. The prosecution cannot use the weakness of the defense to enhance its cause. And, where the prosecution's evidence is weak or just as equally tenuous, alibi need not be inquired into.[20]

The prosecution has also failed to establish any motive on the part of the accused-appellant to kill the deceased. While generally, the motive of the accused is immaterial and does not have to be proven, proof of the same becomes relevant and essential when, as in this case, the identity of the assailant is in question.[21]

We conclude with the following quote from *People vs. Bautista*:[22]

Considering the apparent unreliability of the evidence proffered by the prosecution, this Court is constrained to rule for an acquittal. In all criminal cases, all doubts should be resolved in favor of the accused on the principle that it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence. Conviction, it is said, must rest on nothing less than a moral certainty of guilt that we find here to be wanting.

WHEREFORE, the decision of the Regional Trial Court of Manila is REVERSED. Accused-appellant Ricky Roger Austria y Sacatane is hereby ACQUITTED on the ground of reasonable doubt. The Director of Prisons is directed to forthwith cause his release unless he is held for some other lawful cause and to inform the Court accordingly within ten (10) days from notice.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Records, p. 1.

[2] TSN, September 21, 1995, pp. 2-6.

[3] TSN, December 13, 1996, pp. 2-4.

[4] Exhibit "D," Certificate of Identification of Dead Body.

[5] TSN, May 31, 1996, pp. 2-5.

[6] Exhibit "B."

[7] TSN, April 3, 1998, pp. 2-11.

[8] Rollo, pp. 13-14. Emphasis in the original.

[9] TSN, September 21, 1995, p.7.

[10] *Id.*, at 10.

[11] Exhibit "A."

[12] TSN, September 21, 1995, pp. 10-11.

[13] Id., at 2.

[14] TSN, May 31, 1996, p. 7.

[15] TSN, September 21, 1995, p. 4.

[16] Id., at 9.

[17] Rollo, p. 64.

[18] TSN September 21, 1996 p. 9.

[19] TSN, May 31, 1996, p. 9.

[20] TSN, September 21, 1995, p. 6.18 *People vs. Milan*, 311 SCRA 461 (1999). See also *People of the Philippines vs. PO1 Aspalan Maing*, G.R. No. 122112, May 12, 2000, and *People vs. Manambit*, 271 SCRA 344 (1997).

[21] *People vs. Bautista*, 308 SCRA 620 (1999).

[22] Ibid.

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