

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FREDDIE ABILLAR, RAFAEL MEDINA AND MARLON BAUTISTA (at large), ACCUSED-APPELLANT.

G.R. No. 134606. November 29, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

A rule of ancient respectability now sculpted into tradition is that circumstantial evidence suffices to convict only if the following requisites concur: first, there is more than one circumstance; second, the facts from which the inferences are derived are proved; and third, the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[1] Indeed, circumstantial evidence may be likened to a tapestry which is made up of strands that create a pattern when interwoven. The circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person, i.e., the circumstances established must be congruent with each other, consistent with the hypothesis of guilt of the accused, and at the same time inconsistent with any other hypothesis except that of guilt. It is on the basis of these principles that the instant case shall be resolved.

NOEL ANCHETA was missing for almost seven (7) days. He was last seen by Joel Samson and Robert Lozano on the night of 17 March 1996 in the company of his first cousins Freddie Abillar and Rafael Medina, and Marlon Bautista. On 24 March 1996 his body was found in a hilly cornfield in Purok Capaoan, Capirpiriwan, Cordon, Isabela, already in a state of decomposition.

On the basis of circumstantial evidence, a Criminal Complaint was filed by Police Chief Inspector Romeo G. Espiritu and PO3 Bernardino N. Labog on 26 March 1996,[2] in the Municipal Trial Court of Cordon, Isabela, against Freddie Abillar, Rafael Medina and Marlon Bautista.[3] A warrant for the arrest of the three (3) accused was immediately issued. Rafael was arrested on 17 April 1996 at Capirpiriwan, Cordon, Isabela,[4] while Freddie was arrested on 30 June 1996 at Gabaldon, Nueva Ecija.[5] Marlon however has remained at large.

On 27 May 1996 Freddie Abillar, Rafael Medina and Marlon Bautista were formally charged as co-conspirators with murder in an Information filed by OIC-Provincial Prosecutor Anthony A. Foz before the Regional Trial Court of Santiago City.[6] Upon being arraigned, both Freddie and Rafael pleaded not guilty. Marlon could not be arraigned since, as already stated, he has remained at large.

At the trial, Joel Samson testified that on the night of 17 March 1997 he together with Noel Ancheta and Robert Lozano was at the pooling center owned by one Fernando Seculles. From there they went to the store of Binyang Talbo to buy eggs. On their way home they were blocked by three (3) persons, namely, Freddie Abillar, Rafael Medina and Marlon Bautista. Freddie was holding a knife on his left hand and a stone on his right. Rafael had a stone on his left hand. Freddie placed his right arm around the shoulder of Noel Ancheta. When Joel asked Freddie what was their intention in holding Noel, Freddie answered that they would just talk to Noel in the basketball court. He assured Joel that they would not harm Noel as he was their cousin. As they moved towards

the direction of the basketball court, Rafael was behind Noel while Marlon was in front of them. Rafael kept pushing Noel with his right hand. Joel and Robert proceeded to Joel's house and waited for Noel. After some time, they returned to the basketball court to look for Noel but found no one there. They went to Noel's house but Noel was not there either. They went back to the basketball court still looking for him until they reached the boundary of their barangay. Again, unable to find Noel they went to his house but there was no sign of him.

Joel Samson continued his search for Noel the following day, 18 March 1996. When he could not find Noel, he looked for Freddie, Rafael and Marlon. Joel saw Rafael that evening watching television with his mother at the store of Binyang Talbo. Joel asked Rafael if he had seen Noel. Rafael, without looking at him, replied in the negative. On Tuesday, 19 March 1996, Joel saw Freddie on the way to Santiago in the same vehicle he was in. He also asked Freddie if he saw Noel but Freddie also said "no." Already alarmed by this time, Joel told Noel's parents to report the matter to the police, which they did that very same day.[7]

PO3 Bernardino Labog, another witness for the prosecution, narrated that upon being informed that Noel had been missing for two (2) days already he went to the house of Freddie, Rafael and Marlon at Bgy. Capirpiriwan, but did not see any one of the accused there. When Noel's body was found on 24 March 1996 he made inquiries again on the whereabouts of Freddie, Rafael and Marlon. First, he went to the Purok Chairman who informed him that the accused went into hiding.[8] Next, he asked the parents of the accused and they told him that they were no longer in their respective houses and that they did not know where they were.[9]

Dr. Rufino Tagoda explained the result of his autopsy of the body of Noel which was already in an advanced state of decomposition.[10] According to him, Noel's death could have been caused by shock resulting from internal hemorrhage secondary to a stab wound on the chest.[11] Moreover, there was also a fracture on the outer portion at the back of Noel's head and blood clot in his chest[12] which could have been caused by a sharp instrument inflicted on the chest, while the fracture in the head could have been caused by a violent blow on the head with a blunt instrument.[13]

Both Freddie Abillar and Rafael Medina invoked alibi in their defense. Virginia Medina, mother of accused Rafael, testified that during the entire evening of 17 March 1996 Rafael was with her in their house attending to her as she was then having an asthma attack.[14] She also said that Freddie was no longer living with them as he had already established permanent residence in Mangandingay, Angadanan, Isabela, with his wife Maribel. Upon being informed that her sons Freddie Abillar and Rafael Medina[15] were suspects in the killing of Noel, she went to Angadanan to look for her son Freddie as instructed by the Cordon police. There she learned that Freddie and his wife had left for Gabaldon, Nueva Ecija, prompting her to proceed to Gabaldon and inform the authorities about the charge against her son Freddie.[16]

Maribel Abillar testified that her husband Freddie was at her parents' house in the evening of 17 March 1996. According to her, she and Freddie visited her parents to ask forgiveness as they had eloped in December 1995. On 24 March 1996 they went back to their home in Angadanan to tend to their farm as they were farmers. Upon her prodding, they went for a vacation in Gabaldon, Nueva Ecija, on 3 April 1996 and stayed there until 30 June 1996 when her husband was arrested at her grandmother's house.[17]

Rafael Medina denied any involvement in the death of Noel. He testified that he was present and even helped in the three (3)-day wake for Noel.[18] Freddie Abillar, for his part, testified that he learned that he was being implicated in the killing of Noel only on 30 June 1996 when he was arrested and brought to the police station where he met his mother.[19]

On 15 June 1998 the trial court sentenced both Freddie Abillar and Rafael Medina to death as co-conspirators in the killing of Noel Ancheta aggravated by evident premeditation. Their conviction was based mainly on the

following circumstantial evidence: (a) On 17 March 1996, Noel, who was on his way home, was blocked by the accused and brought to the basketball court; (b) Freddie was armed with a knife and stone, while Rafael was holding a stone; (c) Noel was last seen alive in the company of the accused who were positively identified by prosecution witness Joel Samson; (d) From the time the accused brought Noel to the basketball court, he could no longer be located until 24 March 1996 when his decomposing body was found in a hilly cornfield about 600 meters away from the basketball court; (e) During the search for Noel, Joel asked Rafael whether he had seen Noel and Rafael, without looking at him, answered in the negative. Joel elicited the same response from Freddie; (f) The accused disappeared on 24 March 1996 when the body of Noel was found; (g) PO3 Labog ascertained the whereabouts of the accused immediately after the discovery of the body but he was informed by the purok chairman that they were no longer in Capirpiriwan; (h) The autopsy of the body of Noel showed blood clot in the chest area which could have been caused by a sharp instrument and a fracture in the head which could have been caused by a blunt instrument; and, (h) The advanced state of decomposition of the body showed Noel could have been dead for about a week already.[20]

It is now the burden of this Court to carefully scrutinize such evidence and determine whether it sufficiently supports the theory of the prosecution lest the vindication for the death of the deceased be made at the expense of two (2) innocent persons.

After a thorough examination of the records of this case, we find that the circumstances harnessed to establish the criminal liability of accused-appellants are miserably inadequate in weight and anemic in value to affirm their conviction, as required by the Rules on Evidence. Preliminarily, there is no question that, on the basis of the medical findings, the death of Noel Ancheta could have been due to a stab wound in the chest and a bashed skull. But as to who inflicted them, how they were inflicted, and where they were inflicted, the records are silent. In fact, while "sharp" and "blunt" instruments were possibly used in the commission of the crime according to the medico-legal officer, the records do not reflect the existence of such instruments. Apparently, the decision of the court a quo is anchored on purely circumstantial evidence carved out principally from the testimonies of Joel Samson, PO3 Bernardino Labog and Dr. Rufino Tagoda which, as will be discussed hereafter, suffer from a boghole of uncertainties.

First. The horn that impaled accused-appellants consists chiefly of Joel Samson's testimony to the effect that the victim was last seen with them who were armed with a bladed weapon and pieces of stone. While this circumstance inevitably made accused-appellants the prime suspects, it is far too inadequate to support a conviction for it does not exclude other possibilities. This particular kind of evidence cannot rise above the level of mere conjecture or suspicion of guilt, especially considering that apart from that testimony of Joel Samson there is nothing else to link accused-appellants to the violent death of the victim. Clearly, there was a considerable interval of seven (7) days from the time of the victim's disappearance up to the discovery of his decomposing body in a hilly cornfield in Capirpiriwan, Cordon, Isabela.[21] A host of possibilities may be imagined that could have transpired in those seven (7) days which may not have been brought to our knowledge. The victim may have unknown enemies in the locality who could have decided to do away with him during the period of his disappearance. For sure, we can only speculate at this stage on how Noel Ancheta met his death as there is absolutely nothing on record to provide us with any better clue than what has heretofore been surmised. Be that as it may, it must be stressed that mere suspicions and speculations, no matter how strong, can never be the bases of a conviction in a criminal case. We are not called upon to speculate on who committed the crime and how it was committed. Our task is only to determine whether the prosecution has presented sufficient evidence that a crime was committed and that accused-appellants committed it. The prosecution miserably failed in this regard.

Second. This leads us to the failure of the prosecution to prove any motive on the part of accused-appellants in

order to implicate them in the ghastly murder of Noel Ancheta. It is indeed rare and unusual for a person - without any known motive - to liquidate a first degree cousin, as Noel was to accused-appellants. Motive is missing in this case, nay, even a hint at it. For a man to kill his kin, there must be a very strong reason that impels him to do it, and there is none at all in the instant case.

As an accepted principle, proof of motive in criminal prosecutions is neither indispensable nor necessary if the guilt of the accused is otherwise established by sufficient evidence, as the absence of motive or the apparent lack of it is not proof of innocence. But when there is no eyewitness and there is doubt as to whether the accused is or is not the person who committed the offense charged, the question of motive becomes important. In such case, proof of motive is a substantial aid in completing the proof of the commission of the crime by the accused and in attaining the necessary judicial perspective of the case. In the instant case, this lacuna in the evidence lays bare a substantial weakness in the case for the prosecution that engenders very grave doubts as to the guilt of accused-appellants.

Third. Reliance by the trial court on the principle that "flight is an indication of guilt" is manifestly misplaced, for no such flight could be ascribed to accused-appellants. The records clearly show that they remained in the locality during the immediately succeeding days since their cousin Noel Ancheta was last seen alive, and were even present during the wake for the victim, which are clearly incompatible with the finding that accused-appellants fled and went into hiding. Furthermore, we should not hastily and peremptorily conclude, as what the purok chairman did, that simply because accused-appellants were not in their homes when PO3 Labog went to look for them, they were already in hiding. Accused-appellant Freddie Abillar sufficiently explained his absence in Capirpiriwan, Cordon, Isabela. According to him, he was a resident of Mangandingay, Angadanan, Isabela, and only visited Capirpiriwan on the date in question to ask forgiveness from his parents-in-law for eloping with their daughter.

As for accused-appellant Rafael Medina, there is no showing that he intentionally made his presence scarce in his community. In fact, he even returned to his mother's place in Caoacan, Cordon, Isabela, and that was the very day he was arrested. Flight, in order to be considered an indication of guilt, presupposes that a person eludes the authorities to escape prosecution. It should not include those situations where the accused, as in this case, returns to his home where he may be picked up for questioning at any time in connection with the investigation of a crime.

Fourth. Oddly enough, the trial court would consider as adverse circumstantial evidence the fact that when Joel Samson saw accused-appellants Freddie Abillar and Rafael Medina on separate occasions, he inquired whether they had seen the victim and both answered in the negative. Certainly, there was nothing unusual about the answer given by accused-appellants, as it could really be the truth that they had no knowledge of the victim's whereabouts at that precise time they were questioned by Joel Samson. This circumstance, definitely, cannot lead to any inference that accused-appellants had something to do with the disappearance and death of Noel Ancheta.

Fifth. Neither can we agree to the proposition that since the medical findings show that the victim could have died of a stab wound in the chest and a bashed skull, and accused-appellants were armed with a bladed weapon and stones on the night they supposedly saw Noel Ancheta, ergo, accused-appellants were the ones responsible for his death. Surely, it cannot be discounted that others who may have some grudges against him - not accused-appellants - did it.

From these facts, we cannot at once rush to the conclusion that Noel Ancheta had been murdered by accused-appellants, and that the alleged bladed weapon and stones they displayed on the night in question were the murder weapons. For one thing, that accused-appellants accosted or waylaid Noel Ancheta on the night of 17

March 1996 while on their way home was vehemently denied by them for, according to them, they had no reason to harm their first cousin against whom they had no complain whatsoever. For another, the records do not mention the specific type of weapons used. All that the medico-legal officer, Dr. Tagonera, stated was that the chest wound and fractured skull of the victim could have been caused by a "sharp" instrument and a "blunt" instrument. Dr. Tagonera categorically testified that at the time of his examination, the body of Noel Ancheta was already in an advanced state of decomposition. Thus, although he concluded that the victim's death was caused by a stab wound, he could only surmise that the injuries might have been caused by a "sharp" instrument and a "blunt" instrument, without ruling out other possible causes of the injuries.

Lastly, while it is true that alibi - a jaded artifice long regarded by the courts as frail and inherently weak because of the facility with which it can be concocted - was set up by the defense, this will not alter the conclusion as to accused-appellants' doubtful culpability. Courts should not at once look at alibi with disfavor for there are occasions when the explanation of the accused as to his whereabouts at the time of the commission of the offense is the plain and simple truth. Alibi assumes further significance and strength in the face of improbabilities and uncertainties of the prosecution's evidence, as in this case.[22] At any rate, a conviction must rest not upon the weakness of the evidence for the defense but upon the strength and forceful stroke of the prosecution's own evidence.

For all that have been said, we are unable to let our mind rest easy on the certainty of accused-appellants' guilt. We hesitate then to declare forfeit the life or liberty of each. We are not saying that accused-appellants did not commit the crime. Their innocence may be doubted, it is true. But if we are to be guided by the established rules of evidence, and we have no reason not to do so, we must state that the prosecution has failed to pass the crucible of reasonable doubt.

It is urged in the Dissenting Opinion of Mr. Chief Justice Hilario G. Davide Jr. that since nobody directly witnessed the actual killing of the victim, accused-appellants nevertheless should be convicted of homicide, and not necessarily murder. With due respect, the proposition is not warranted at this point, much less justified, in the face of all the above considerations. The fundamental question is whether the totality of the circumstantial evidence supports the inference that accused-appellants perpetrated the crime. Clearly, our options are limited to either convicting or acquitting them of murder for utter paucity of evidence. There can be no middle ground. We veer towards acquittal.

We reiterate, for emphasis, that before conviction may be had upon circumstantial evidence, the circumstances proved should form an unbroken chain that leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator of the crime. Otherwise stated, to be considered an "unbroken chain," the set of inculpatory facts and circumstances, taken in their natural and rational order, must irresistibly lead the mind to but one conclusion - that the person charged is guilty thereof. We find the specie of circumstances in this case dismally weak and constitutes not an unbroken chain but shattered pieces in the cadena of fragmented evidence. Taken singly, the pertinent circumstances - some of which, to our mind, have not even been proved - do not in any way warrant the inference that accused-appellants murdered the victim. Collectively, they do not weave a decisive factual pattern consistent with the guilt of accused-appellants and inconsistent with their innocence. Given therefore the moral twilight between their guilt and their innocence, our sworn duty is plain - with no alternative: TO ACQUIT.

WHEREFORE, the Decision finding the accused FREDDIE ABILLAR and RAFAEL MEDINA guilty of murder and sentencing them to death is REVERSED and SET ASIDE for insufficiency of evidence. Both accused are ACQUITTED of the crime charged.

The Director of Prisons, or whoever is in charge of the custody of the accused FREDDIE ABILLAR and RAFAEL MEDINA by reason of this case, is DIRECTED to immediately release both accused from custody unless otherwise lawfully held for another cause, and further DIRECTED to inform the Court within five (5) days from receipt hereof on the action taken to enforce this Decision.

SO ORDERED.

Melo, Kapunan, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and de Leon, Jr., concur

Davide, Jr., C.J., see dissenting opinion.

Puno, Vitug, Mendoza, and Panganiban JJ., joins the dissenting opinion of the Chief Justice.

[DISSENTING OPINION]

DAVIDE, JR., C.J.:

I respectfully submit that on the basis of the evidence for the prosecution as summarized in the ponencia, overwhelming circumstantial evidence has been proved to demonstrate with moral certainty that accused-appellants Freddie Abillar, Rafael Medina and Marlon Bautista killed Noel Ancheta and are criminally liable therefor. However, for lack of evidence as to how Noel was killed, no eyewitness having been presented, accused-appellants could be held guilty of the crime of homicide only, not murder.

As culled from the ponencia the following are the pieces of circumstantial evidence established by the testimonies of prosecution witnesses Joel Samson, PO3 Bernardito Labog, and Dr. Rufino Tagoda:

1. On the night of 17 March 1996, while Joel Samson, Robert Lozano and the victim Noel Ancheta were on their way home from the store of Binyang Talbo, they were blocked by accused Freddie Abillar, Rafael Medina and Marlon Bautista.
2. Freddie was holding a knife on his left hand and a stone on his right hand, while Rafael had a stone on his left hand.
3. Noel was then brought by the three toward the direction of the basketball court, with Rafael pushing Noel with his right hand.
4. When Joel and Robert, who had proceeded to the former's home to wait for Noel, later went to the basketball court, they did not find Noel there. Neither was Noel at home.
5. The search for Noel having failed, Joel looked for Freddie, Rafael and Marlon. In the evening of the following day Joel saw Rafael with his mother, watching television show at the store. When asked whether he had seen Noel, Rafael, not looking at Joel, answered in the negative. On 19 March 1996, Joel and Freddie were on the same vehicle going to Santiago, Isabela. When asked by Joel whether he saw Noel, Freddie answered in the negative.
6. Upon receiving a report that Noel was missing for two days already, PO3 Bernardito Labog went to the house of Freddie, Rafael and Marlon in Barangay Capirpiriwan, Cordin, Isabela. The three were not in their residence.
7. After Noel's body was found on 24 March 1996 at the hilly cornfield in Purok Capaoan, Barangay Capirpiriwan, PO3 Labog went to the purok chairman, who informed the former that Freddie, Rafael and Marlon had gone into hiding. PO3 Labog was also informed by the parents of the accused that the three were no longer in their houses and did not know of their whereabouts. It was only on 17 April 1996 that Rafael was arrested. Freddie was arrested only on 30 June 1996 at Gabaldon, Nueva Ecija, while Marlon had remained at large.

8. The dead body of Noel had a stab wound on the chest; a fracture on the outer portion of the back of his head, which could have been caused by blunt instrument; and a blood clot in his chest, which could have been caused by a sharp instrument. An examination of the body showed that it had been dead for about a week already. The stab wound could have been caused by a knife, and the fracture by the stone, and Freddie was armed with a knife and stone and Rafael with a stone when they, together with Marlon, accosted Noel on the night of 17 March 1996.

These circumstances constitute an unbroken chain which lead to one fair and reasonable conclusion pointing to Freddie, Rafael and Marlon, to the exclusion of all others, as the guilty persons. These circumstances are consistent with each other, consistent with the hypothesis that they are guilty (*People v. Tiozon*, 198 SCRA 368 [1991]; *People v. Garcia*, 215 SCRA 349 [1992]; *People v. Alvero*, 224 SCRA 16 [1993]; *People v. Genobia*, 234 SCRA 699 [1994]) In short, all the elements required for circumstantial evidence to be sufficient for conviction under Section 4 of Rule 133 of the Rules of Court are present in this case.

However, accused-appellants can only be held liable for homicide, not murder, since no qualifying circumstance was proved by the prosecution.

[1] Rule 134, Sec. 4. See also *People v. Modesto*, No. L-25484, 21 September 1968, 25 SCRA 36.

[2] Record, p. 4.

[3] *Id.*, p. 16.

[4] *Id.*, p. 150.

[5] *Id.*, p. 168.

[6] Ruffled to RTC-Br. 35, Santiago City.

[7] TSN, 9 September 1996, p. 17.

[8] TSN, 16 April 1997, p. 6.

[9] TSN, 11 March 1997, pp. 10-11.

[10] Record, p. 10.

[11] *Id.*, p. 11.

[12] TSN, 17 June 1997, p. 6.

[13] *Id.*, pp. 6-7.

[14] TSN, 7 August 1997, pp. 4-5.

[15] Freddie Abillar and Rafael Medina are sons of Virginia Medina with different fathers.

[16] TSN, 12 August 1997, pp. 5-6.

[17] *Id.*, pp. 9-11.

[18] TSN, 16 April 1997, p. 78.

[19] TSN, 20 October 1997, p. 14.

[20] Decision penned by Judge Demetrio D. Calimag, Jr., RTC-Br. 35, Santiago City, pp. 7-10.

[21] In *People v. Comesario*, G.R. No. 127811, 29 April 1999, accused-appellant was acquitted on reasonable doubt although the circumstantial evidence shows that he was last seen holding a scythe while dragging a child towards the creek the day prior to the discovery of the dead body of the seven (7) year old victim near the bank of the same creek.

[22] *People v. Lagao*, G.R. No. 120279, 27 February 1998, 286 SCRA 610, 627-628.

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