PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL TALAVERA ALIAS “MANING”, ACCUSED-APPELLANT.

G.R. No. 139967. July 19, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

By holding a young child by her feet and smashing her head on the concrete floor which resulted in the child's death, accused-appellant, a former prisoner was charged with murder in an information which reads:

> That on or about October 10, 1996, in the Municipality of Sto. Tomas, Province of Davao, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with treachery and evident premeditation, with intent to kill, armed with a hunting knife, did then and there wilfully, unlawfully and feloniously attack, assault and smash into the cemented floor, one Genelyn S. Onia, thereby inflicting upon her wound, which caused her death, and further causing actual, moral and compensatory damages to the heirs of the victim.
>
> The commission of the foregoing offense is attended by the aggravating circumstance of superior strength, the victim being three years old only.[1]

The information was filed with the Regional Trial Court of Panabo, Davao, Branch 34, and docketed as Criminal Case No. 97-13.

When arraigned, accused-appellant pleaded guilty. Nonetheless, the prosecution presented evidence against accused-appellant as ordered by the trial court. In the course of the proceedings below, the trial court heeded the defense counsel's request for psychiatric evaluation of accused-appellant.[2] Two months later, the trial court issued a directive to the jail warden to subject accused-appellant to a mental evaluation.[3] However, despite the lapse of five months, no such examination was held. Thus, the trial court considered the case submitted for decision for failure of the defense counsel to follow up his request for the mental examination of accused-appellant.[4] Judgment was thereafter rendered convicting accused-appellant as charged and sentencing him to suffer the penalty of death.[5]

The case is now before us on automatic review.

Accused-appellant does not deny culpability but instead prays that the death penalty imposed on him be reduced to reclusion perpetua for "humanitarian considerations." He also invokes in his favor two mitigating circumstances of plea of guilty and outraged feeling analogous to passion and obfuscation as a further justification for the reduction of his penalty.[6]

The undisputed facts:

Three years before the fatal day, accused-appellant was a kargador who used to board in the house of Francisco Onia at Sto. Tomas, Davao. At about 8:30 o'clock in the evening of October 10, 1996, while Francisco Onia was having supper in their house, accused-appellant came to see him. Francisco invited accused-appellant to supper,

but instead they went out of the house to talk. Accused-appellant told Francisco that he was looking for a job and that the police in Tagum, Davao del Norte were looking for him for an alleged debt. Francisco then offered to help accused-appellant settle his obligations and to talk to the police, as he did not want to be implicated in accused-appellant's case. While the two were talking, Francisco's grandson, 4-year old Jim Louis Marc Embalsamado, approached Francisco. When he saw the boy, accused-appellant gave him P20.00 but Francisco told him to stay away from his grandson. Without warning, accused-appellant suddenly grabbed the child by his feet and slammed his head on the cement floor several times. As a consequence, the young Jim Louis was rendered unconscious. When Francisco tried to take his grandson away from accused-appellant, the latter pulled out a knife and moved towards him. Thinking that his grandson was dead, Francisco went to seek police help.

Meanwhile, Merlyn Onia, daughter of Francisco and aunt of Jim Louis was present and saw what accused-appellant did to the boy. She was able to stop accused-appellant from further hurting her nephew. She then brought Jim Louis to the hospital leaving behind in their house accused-appellant with her three-year old daughter Genelyn.[7] From the hospital, she rushed back home and saw accused-appellant holding Genelyn by her feet and slamming her on the ground, as he had done with Jim Louis. Merlyn saw blood oozing from her daughter's mouth and shouted to appellant "Enough, Nong Maning". She tried to take away her daughter from accused-appellant, but the latter grabbed her by the neck, choked her and held her head.

Walter Bascos, a neighbor of Merlyn, heard her shouting for help. He came to her rescue and threw stones at accused-appellant, hitting him on the nape and rendering him unconscious. Merlyn then picked up her unconscious daughter and brought her to a clinic. The medical staff in the clinic, however, advised her to bring Genelyn instead to the hospital. Despite undergoing surgery at the hospital, Genelyn never recovered consciousness. The cause of her death was described as intra-cerebral hemorrhage, a bleeding inside the brain which caused it to swell, due to a strong external force applied to the head.[8]

As mentioned above, accused-appellant does not deny culpability but simply prays for the reduction of the death penalty to reclusion perpetua,[9] to which the Solicitor-General agrees.[10]

At the outset, the Court deems it essential to discuss the request of accused-appellant's counsel for the mental examination of his client. This was not conducted allegedly because accused-appellant's former counsel failed to follow-up the directive of the trial court.

In the determination of culpability of every criminal actor, voluntariness is an essential element. Without this, the imputation of criminal responsibility and the imposition of the corresponding penalty cannot be legally sanctioned. The human mind is an entity, and understanding it is not purely an intellectual process but depends to a large degree upon emotional and psychological appreciation. A man's acts is presumed voluntary,[11] for every person is presumed to be of sound mind.[12] It is based on the moral and legal presumption that freedom and intelligence constitutes the normal condition of a person.[13] The presumption, however, may be overthrown by factors such as insanity, which exempts a person from criminal liability.[14] Insanity exists when there is a complete deprivation of intelligence in committing the act. Mere abnormality of the mental faculties will not exclude imputability.[15] The accused must be so insane as to be incapable of entertaining a criminal intent.[16] He must be deprived of reason and act without least discernment because there is a complete absence of the power to discern or a total deprivation of freedom of the will.[17] In determining a defendant's competency to stand trial, the test is whether he has the capacity to comprehend his position, to understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate, communicate with, and assist his counsel to the end that any available defense may be interposed.[18]

Whenever the facts of the case show that a defendant's behavior when he committed the crime is such that it

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creates doubt as to the voluntariness of his acts, the court should conduct appropriate measures to determine the mental state of the person. Our courts are designed not merely for purposes of establishing the commission of a crime but also to ascertain whether a "criminal mind" was responsible for its commission. This is the rationale why our penal laws recognize certain circumstances which exempt a person from criminal liability, among which is insanity.[19] Concomitant with this is the Estrada insanity test laid down by the court in People v. Estrada, which requires determination of two distinct matters:

> (1)
>
> whether the defendant is sufficiently coherent to provide his counsel with information necessary or relevant to constructing a defense; and
>
> (2)
>
> whether he is able to comprehend the significance of the trial and his relation to it.[20]

These matters help ascertain if a person comprehends the state which he is in, particularly the relationship between the defendant and his counsel and the defendant vis-à-vis the court proceedings. The insanity tests should have been particularly observed in cases where the supreme penalty of death may be imposed upon the accused considering that life once taken can never be restored by man. All protective measures must be exercised so as not to wrongfully punish one who does not deserve it regardless of how heinous the crime committed may be.

However, the mere fact that accused-appellant's felonious acts are so bizarre does not necessarily mean that he is insane or that he should be immediately subjected to mental examination. Insanity is usually invoked by offenders in order to seek reduction of their penalty, avoid criminal prosecution or just plainly attract compassion instead of condemnation. The court should consider the factual circumstances of the case and whether it was intended for the actual determination of the defendant's mental state or simply to delay or interrupt judicial proceedings or frustrate justice.

In this case, accused-appellant suddenly held the feet of two very young children and smashed their heads on the floor. He did this after giving the first child P20.00,[21] and after the second child was left alone with him. From accused-appellant's friendly behavior, there was a sudden violent change when he smashed their heads for no apparent reason. But a sudden or perhaps a treacherous attack, even for a trivial reason that the attacker allegedly "lost his mind," is not equivalent to insanity nor does it presume an insane mind. Accused-appellant argues that his acts constitute a mitigating circumstance analogous to passion and obfuscation. It should be noted, however, that a mitigating circumstance differs from an exempting circumstance. The former presupposes the existence of both the crime and the criminal while the latter recognizes only a felonious act but admits that there is no criminal offender because the performance of the act was not attended with voluntariness on the part of the human actor.

Evidence shows that before going to Francisco's house, accused-appellant first played checkers at a barber shop.[22] He claimed that he had not eaten for two days and just drank coffee twice because he had no more money.[23] Yet when Francisco offered him supper, he refused.[24] These facts, if considered together is not sufficient for the Court to grant the request for mental examination. Besides, accused-appellant pleaded guilty to the charge and the trial court propounded questions in order to determine whether he understood his plea and the consequences thereof. Thus,

> Q:
>
> Mr. Talavera, on March 17, 1997 you pleaded "guilty" to the crime of Murder, are you aware of that?
>
> A:

Yes, sir.

Q:

What tribe you belong?

A:

Leyteño Cebuano.

Q:

Did you understand the visayan dialect to which you were arraigned?

A:

Yes, sir.

Q:

For how long you speak cebuano dialect?

A:

The same with the dialect here.

Q:

What do you mean by "just the same?"

A:

Just the same the conversation here.

Q:

In Leyte where you came from is just the same dialect just like here in Court?

A:

Yes, sir.

Q:

How long have you been staying in the Province of Davao?

A:

About 12 years.

Q:

Are you aware when you pleaded "guilty", the Court can convict you and to suffer death penalty?

A:

As far as I know, life only, sir.

Q:

I just tell you that the Court can convict you if the evidence is sufficient, you know that?

A:

Yes, sir.

Q:

I am informing you that you can present your evidence for any purpose including the lowering of penalty, are you aware to that?

A:

Yes, sir.

Q:

Will you be presenting evidence later on if you will be given a chance?

A:

Yes, sir.

Q:

The Court will grant you the right to present your evidence if you desire?

A:

Yes, sir.[25]

Moreover, accused-appellant himself testified in court and there was nothing in his testimony which would show that he is suffering from mental illness. He answered questions directly and even offered his own version of what transpired, that in anger he threw the chair which allegedly hit the child. At no time during the proceedings did accused-appellant invoke mental incapacity. Besides, the burden of proving insanity lies on him who invokes it.[26]

A review of the evidence on record sustains accused-appellant's guilt beyond reasonable doubt. Murder is committed when the killing of another person is attended by qualifying circumstances, among which are treachery and evident premeditation.[27]

Two persons witnessed accused-appellant's act of smashing Jim Louis' head on the floor - the latter's aunt, Merlyn,[28] and his grandfather, who both testified in court.[29] The same Merlyn likewise saw accused-appellant do the same thing to her own daughter Genelyn.[30] Merlyn directly witnessed how accused-appellant held the feet of Genelyn and smashed the young girl's tender body on the ground. Per medical examination, a strong external force was applied to the head of the child,[31] causing it to swell and bleed, rendering her unconscious, and which eventually resulted in her death.

The killing of a child, who by reason of tender years could not be expected to put up a defense, is considered attended with treachery even if the manner of attack was not shown.[32] A child three years of age cannot be expected to appreciate a danger to her life especially when she is left with strangers and is not within the immediate reach of her mother. Accused-appellant appears to be a strong man since he used to do heavy work as a palay kargador.[33] Certainly, the young victim was no match against him. Even the victim's grandfather and mother could not do anything against accused-appellant. Accordingly, based on the testimony of the prosecution's witnesses, which is not tainted with any semblance of incredibility, accused-appellant's guilt was duly proven. There is sufficient evidence on record upon which to predicate his conviction even if the Court is to disregard his

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plea of guilty.[34]

The accused-appellant is more concerned that the trial court should have considered his plea of guilty as a mitigating circumstance as well as the fact that he was allegedly outraged when he lost his job and did not see his wife for more than a year. He argued that such outrage is a circumstance analogous to passion and obfuscation. The relevance of these two circumstances would not affect his culpability but only the penalty that may be imposed on him. Murder is punishable with reclusion perpetua to death. Under Article 63 of the Revised Penal Code, when the penalty prescribed is composed of two indivisible penalties and there are some mitigating but no aggravating circumstances, or when there are neither mitigating nor aggravating circumstances, the lesser penalty shall be applied. There are no aggravating circumstances attendant in this case, since treachery was already considered in qualifying the killing to murder. The allegation of abuse of superior strength cannot be separately considered since it is absorbed by the qualifying circumstance of treachery.[35] Thus, regardless of whether the plea of guilty or the analogous circumstance of passion and obfuscation was proven, the appropriate imposable penalty is still the lesser penalty of reclusion perpetua and not death pursuant to Article 63 of the Revised Penal Code.

On the civil liability of accused-appellant, the award of exemplary damages is improper there being no aggravating circumstances that attended the commission of the crime.[36] On the other hand, moral damages should have been awarded since it may be recovered in criminal offenses resulting in physical injuries or death.[37] The deceased's mother, Merlyn, testified that she cannot accept the death of her child.[38] Mental anguish is certainly caused by the untimely demise of one's own blood relative especially a young daughter, thus justifying the award of moral damages.

WHEREFORE, the decision of the Regional Trial Court of Panabo, Davao, Branch 34, finding accused-appellant guilty beyond reasonable doubt of the crime of Murder, is AFFIRMED with the MODIFICATIONS that the penalty of death imposed on appellant is REDUCED to reclusion perpetua; the award of exemplary damages is DELETED; and accused-appellant is ordered TO PAY the heirs of Genelyn Onia the amount of P50,000.00 as moral damages in addition to the civil indemnity of P50,000.00 awarded by the trial court.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Pardo, Buena, Gonzaga-Reyes, and De Leon, JJ., concur.
Quisumbing, J., out of town on official business.
Sandoval-Gutierrez, J., on leave.

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[1] RTC Records, p. 1.

[2] RTC Order dated June 1, 1998; Records, p. 71.

[3] RTC Order dated September 2, 1998; Records, p. 75.

[4] RTC Order Dated November 10, 1998; Records, p. 76.

[5] RTC (Branch 34, Davao) Decision dated July 16, 1999 penned by Judge Gregorio A. Palabrica, the dispositive portion of which reads: "WHEREFORE, finding the accused Manuel Talavera, guilty of the crime of murder, the court sentences Manuel Talavera to suffer the death penalty and to indemnify the heirs of Genelyn Onia the sum of P50,000.00 and exemplary damages of P20,000.00." (Records, p. 88)

[6] Appellant's Brief, p. 14; Rollo, p. 61.

[7] Also spelled "Jenelyn" in some parts of the records.

[8] Rollo, pp. 81-83.

[9] Appellant's Brief, p. 14.

[10] Apellee's Brief, p. 13.

[11] US v. Gloria, 3 Phil. 333 (1904).

[12] Article 800, Civil Code.

[13] People v. Sia Teb Ban, 54 Phil. 52 (1929).

[14] People v. Renegado, 57 SCRA 275 (1974).

[15] People v. Ambal, 100 SCRA 325 (1980); People v. Cruz, 109 Phil. 288 (1960).

[16] People v. Torres, 3 CAR 9.

[17] People v. Puno, 105 Phil. 151 (1958); People v. Formigones, 87 Phil. 658 (1950).

[18] 21 Am Jur 2d. Criminal Law, Sec 97.

[19] Article 12, Revised Penal Code.

[20] People v. Estrada, G.R. No. 130487, June 19, 2000.

[21] TSN, July 21, 1997, p. 6.

[22] TSN, June 1, 1998, p. 4.

[23] TSN, June 1, 1998, p. 6.

[24] TSN, July 21, 1997, p. 5.

[25] TSN, June 24, 1997, pp. 2-3.

[26] People v. Diaz, 320 SCRA 168 (1999).

[27] Article 248, Revised Penal Code.

[28] TSN, June 24, 1997, p. 7.

[29] TSN, July 21, 1997, p. 6.

[30] TSN, June 24, 997, p. 7.

[31] TSN, November, 27, 1997, pp. 6-8.

[32] People v. Gonzales, 311 SCRA 547 (1999).

[33] TSN, July 21, 1997, p. 4.

[34] See People v. Petalcorin, 180 SCRA 685 (1989); People v. Derilo, 338 Phil. 350 (1997).

[35] People v. Sanchez, 308 SCRA 264 (1999) cited in People v. Ellado, G.R. No. 124686, March 5, 2001.

[36] People v. Tañeza, G.R. No. 121668, June 20, 2000; People v. Bergante, 286 SCRA 629 (1998); People v.

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Reyes, 287 SCRA 229 (1998).

[37] People v. Monte, G.R. No. 125332, March 2, 2000.

[38] TSN, June 24, 1997, p. 11.

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