

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELIAQUIM MEJARES, ACCUSED-APPELLANT.

G.R. No. 140204. August 15, 2002

Ponente: CORONA, J.

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CORONA, J.:

On appeal is the decision dated July 26, 1999 of Branch 15 of the Regional Trial Court of the 10th Judicial Region, stationed in Ozamiz City, finding accused-appellant Eliaquim Mejares guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.

Accused-appellant was charged with the crime of murder in an information dated January 20, 1997, which alleged:

“That on or about April 21, 1996 at more or less 10:00 o’clock in the evening, in the City of Ozamiz and within the jurisdiction of this Honorable Court, abovenamed accused with treachery and evident premeditation did then and there wilfully, unlawfully and feloniously shot four (4) times victim Joey Cabugas by the use of a handgun, inflicting multiple fatal gunshot wounds to said Joey Cabugas which was the direct and efficient cause of his death.

“CONTRARY to Article 248 of the Revised Penal Code in relation to Section 6 of Republic Act 7659.”[1]

Upon arraignment, accused-appellant pleaded not guilty to the charge. At the ensuing trial, the prosecution proved the following operative facts and circumstances surrounding the commission of the crime.

At around 10 o’clock in the evening of April 21, 1996, victim Joey Cabugas was watching a benefit dance at the barangay hall in Sitio Tuminanos, Manaka, Ozamiz City with Celso Balos, Eusebio Belegolo and Roel Cabugas. Moments later, Gomer Permano, who was also watching the dance show, saw accused-appellant approach the victim, point a handgun at him and shoot the latter in the forehead. When the victim collapsed on the floor, accused-appellant shot him three more times in the body. Accused-appellant fired his gun until he ran out of bullets. Accused-appellant then ran away. Gomer was able to identify accused-appellant not only because the dance hall was illuminated by a fluorescent lamp but also because accused-appellant is his cousin.[2]

The victim was immediately rushed to Misamis University Medical Center but he was pronounced dead on arrival. Dr. Isaac Pala examined the victim and found a gunshot wound on the left frontal side of the face just above the left eye and three gunshot wounds on the upper left part of the abdomen.[3]

In defense, accused-appellant advanced alibi and denial. He claimed that during the months of March and April 1996, he was in Manila because he was enrolled at the PATTS College of Aeronautics in Pasay City and he stayed with his sister in Navotas for the duration of the summer vacation. He started attending his classes in June, 1996, and only returned to Ozamiz City on October 12, 1996 for the burial of his father. He testified that he did not know of any reason why he was implicated in the killing of Joey Cabugas, and why his cousin, Gomer Permano, testified against him.[4]

To corroborate accused-appellant's claim, Federico Beñas maintained that accused-appellant stayed with him and his wife (accused-appellant's sister) in Navotas from March to October of 1996, as accused-appellant was enrolled at PATTS College of Aeronautics.[5]

On July 26, 1999, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered, finding the accused Eliaquim (Eliakim) Mejares guilty beyond reasonable doubt of the crime of murder defined and penalized under Art. 248, Revised Penal Code, as amended by R.A. 7659, and sentences him to suffer the penalty of Reclusion Perpetua with all accessory penalties provided for by law; and to pay the cost.

"The accused is ordered to pay the heirs of Joey Cabugas the sum of P50,000.00 for his life; P10,000.00 for embalming, funeral services and burial expenses; and P20,000.00 for moral damages.

"SO ORDERED."[6]

Accused-appellant now assails that the court a quo erred: 1) in not appreciating the defense of alibi of accused-appellant; (2) in appreciating the testimony of witness Celso Balos; and (3) in not acquitting accused-appellant on the ground that the prosecution had never adduced evidence regarding the motive of accused-appellant in killing Joey Cabugas.[7]

Accused-appellant's all too familiar defense of alibi cum denial does not inspire the slightest belief or consideration. This Court has unfailingly upheld the doctrine that alibi and denial cannot prevail over the positive identification of the accused as the perpetrator of the crime.[8]

In the instant case, prosecution witness Gomer Permano positively identified accused-appellant as the culprit, as can be gleaned from his testimony, thus:

"Q: While you were looking at this dancing activity at the dancing hall, was there any unusual incident that happened that evening on April 21, 1996?

"A: Yes, there was Joey Cabugas was shot by Eliaquim Mejares.

"Q: Now, how many times did Eliaquim Mejares shoot Joey Cabugas?

"A: Six times, ma'am.

"Q: How many gunbursts have you heard?

"A: I heard four gunbursts.

"Q: You said, there were six times that Joey Cabugas was shot at by Eliaquim Mejares but you have only heard four shots, why?

"A: I saw Eliaquim Mejares aiming his gun at Joey Cabugas. There were three positions. (WITNESS DEMONSTRATING) There were three series of actions.

At first gunbursts, I saw Eliaquim Mejares aiming his gun at Joey Cabugas after which Eliaquim Mejares shot three times Joey Cabugas and upon falling down to the ground, he was shot again but there was no bullet, only clicks.

"Q: Now, how far were you while you were watching on these series of actions which Eliaquim Mejares, you said, shot six times Joey Cabugas?

"WITNESS:

"A: More or less one fathom, ma'am.

"Q: Now, from where was Eliaquim Mejares located at the first shot when you saw him in relation to the

deceased Joey Cabugas?

“A: At the back of Joey Cabugas, ma’am.

“Q: During the three shots following thereat, where was he, this Eliaquim Mejares?

“A: He was still there standing.

“Q: You mean, the same location while he was releasing three shots on the body of deceased victim Joey Cabugas?

“A: Same location, ma’am.

“Q: While at the fourth, fifth and sixth shots, was he on the same location this Eliaquim Mejares?

“A: Yes, ma’am.

“Q: Now, this Eliaquim Mejares whom you have said shot at Joey Cabugas on that fateful evening on April 21, 1996, is he in court today?

“A: Yes, ma’am he is here.

“PROS. ANGOT:

“Q: Can you point to the court?

“WITNESS:

(POINTING TO THE ACCUSED SITTING INSIDE THE COURTROOM WHO WHEN ASKED OF HIS NAME ANSWERED THAT HE IS: ELIAQUIM MEJARES)

“Q: Are you familiar with accused Eliaquim Mejares before the incident?

“A: Yes, ma’am because we are cousins.”[9]

The above testimony clearly and categorically established accused-appellant’s identity and culpability in this case. Gomer had a clear view of the shooting incident as he was standing just one meter from where the crime happened. Moreover, the dance hall was sufficiently illuminated and this enabled him to see not only the perpetrator but also the manner in which the crime was committed. Also, the fact that Gomer is the cousin of accused-appellant bolsters the truthfulness of his declaration, for indeed recognition was easy as accused-appellant was very familiar to him.

Neither was it shown that Gomer had any ill-motive to make false accusations against accused-appellant. In fact, even accused-appellant himself was baffled as to why his cousin testified against him. Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial.[10]

Likewise, Eusebio Belegulo and Celso Balos, who were with the victim on the night of April 21, 1996, substantiated the testimony of Gomer on its material points. They witnessed the shooting incident as they too were only one meter away from accused-appellant.

The testimony of the examining physician and the Trauma Chart[11] corroborated the eyewitnesses’ recollection of the specific details of the crime the number of times the victim was shot, the use of a handgun and the position of the assailant. A detailed testimony acquires greater weight and credibility when confirmed by medical findings.[12]

Further, in order for alibi to be plausible, the accused must prove not only that he was somewhere else when the crime was committed but he must also show that it was physically impossible for him to be at the scene of the crime at the time of its commission.[13]

Accused-appellant claimed that he was in Manila on the night Joey Cabugas was killed, as he was enrolled at PATTS College of Aeronautics for the first semester of school year 1996-1997. But, as the trial court noted, the incident occurred on April 21, 1996 which was still two months away from the regular opening of classes in June. Thus, granting *arguendo* that accused-appellant was in Manila in March, 1996 to enrol, there was still the possibility that he could have gone home to Ozamiz City, between the months of April and June (when classes were scheduled to start.) Accused-appellant thus fails to convince us that it was highly impossible for him to be at the scene of the crime in Ozamiz City on April 21, 1996.

To buttress his defense that he was in Manila at the very time the crime occurred, he presented a certification from PATTS College to the effect that he was enrolled therein for the school year 1996-1997.[14] However, said certification did not in any way indicate the exact whereabouts of accused-appellant prior to the opening of classes or more specifically on the night of the incident on April 21, 1996. What it merely showed and proved was that accused-appellant was enrolled at said school for the “school year 1996-1997” which this Court understands to be from June-October 1996 and November 1996-March 1997. We likewise note that this certification issued by the school ought be considered as mere hearsay since the School Registrar who signed the same was never presented as a witness.

Accused-appellant also attempts to discredit prosecution witness Celso Balos inasmuch as it took the latter eight months before executing his affidavit anent the shooting incident. He contends that Balos’ silence for a long time was contrary to human experience and behavior. We are not convinced. We have held that people do not necessarily react the same way to a given situation, and there is no standard manner of behavioral response when one is confronted with a strange, startling or frightful experience.[15] Delay in reporting a crime to police authorities does not impair the credibility of a witness if such delay is satisfactorily explained.[16]

In the present case, Balos adequately explained that initially he was reluctant to give an account of the incident for fear of reprisal from accused-appellant. He was nervous and afraid that what happened to Joey Cabugas might also happen to him. We do not find that such behavior deviates from natural human conduct. Fear has its bizarre way of immobilizing people especially in life-and-death situations.[17]

Nonetheless, a thorough evaluation of the records of this case reveals that Balos and the other eyewitnesses testified in a candid and straightforward manner. It is a time-tested doctrine that a trial court’s assessment of the credibility of the witnesses is accorded great respect and finality unless it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would alter the result of the case.[18] There is no cogent reason for us to depart from this rule, as accused-appellant’s arguments are not supported by the law and evidence on record.

Accused-appellant also insists that the prosecution failed to prove motive which would impel him to kill the victim. We find this argument too irrelevant to merit an extended discussion considering the positive identification of accused-appellant by prosecution witnesses. Suffice it to quote *People vs. Cabodoc*,[19] that:

“Well entrenched is the rule that the prosecution need not prove motive on the part of the accused when the latter has been positively identified as the author of the crime. As this Court previously said, lack of motive for committing the crime does not preclude conviction, considering that, nowadays, it is a matter of judicial knowledge that persons have been killed or assaulted for no reason at all (citing *People vs. Mandapat*, 196 SCRA 157 1991 ; and *People vs. Ilaoa*, 233 SCRA 231 1994).”

Be that as it may, the trial court found that treachery was duly established, leading to accused-appellants’ conviction for the crime of murder. Under substantive law, there is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and

specially to ensure its execution without risk to himself arising from the defense which the offended party might make.[20] The essence of treachery is the suddenness and unexpectedness of the assault without the slightest provocation on the part of the person attacked.[21]

It is beyond doubt that treachery was present when accused-appellant stealthily approached the unarmed victim from behind. The victim, with no inkling of danger, was totally defenseless when accused-appellant shot him in the face. This attack came without warning and without the slightest provocation on the part of the victim. The attack was indisputably deliberate and unexpected, affording the hapless, unarmed and unsuspecting victim no chance to defend, retaliate or escape. And even after the victim collapsed on the floor, accused-appellant mercilessly continued to shoot him. Given the foregoing circumstances, the Court is convinced that the assault was treacherous.

Under Article 248 of the Revised Penal Code, as amended by Republic Act 7659, the penalty for the crime of murder is reclusion perpetua to death. It is an elementary rule in criminal law that where two indivisible penalties are prescribed for an offense and there is neither mitigating nor aggravating circumstances in the commission of the crime, the lesser penalty shall be applied.[22] Inasmuch as no mitigating or aggravating circumstance is present in this case, the penalty of reclusion perpetua was correctly imposed.

The sum of P50,000.00 awarded by the lower court as civil indemnity, without need of proof of damage, is proper as it is in accord with prevailing jurisprudence.[23] In addition, moral damages in the amount of P50,000.00 should also be granted to the heirs of the victim. A violent death always results in great emotional pain and distress on the part of the victim's family. It is inherently human to suffer sorrow, torment and anger when a loved one becomes the victim of such senseless death.[24] The mental, physical and psychological anguish necessarily experienced by the family of the victim cannot be doubted as, in fact, the trauma will forever haunt them. With or without proof, this fact cannot be denied. For this reason, moral damages must be awarded in favor of the heirs of the victim even in the absence of any allegation and proof of the heirs' emotional suffering.

As to all other matters, the Court deems it proper not to disturb the findings of the trial court as they are sufficiently supported by evidence.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with the sole **MODIFICATION** that the amount of moral damages is increased to P50,000.00.

SO ORDERED.

Bellosillo, J., (Chairman), Mendoza, and Quisumbing JJ., concur.

[1] Rollo, p. 11.

[2] TSN, May 8, 1997, pp. 8-12.

[3] TSN, August 22, 1997, pp. 6-8.

[4] TSN, November 17, 1997, pp. 8-13.

[5] TSN, February 25, 1998, pp. 3-4.

[6] Rollo, p. 27.

[7] Appellant's Brief, p. 2.

[8] *People vs. Bartolome*, 323 SCRA 836 2000; *People vs. Cabebe*, 290 SCRA 543 1998.

[9] TSN, May 8, 1997, pp. 10-12.

[10] *People vs. Bibat*, 290 SCRA 27 1998.

[11] Exhibits "B" & "C", Record, pp. 59-60.

- [12] People vs. Molina, 312 SCRA 130 1999.
- [13] People vs. Blanco, 324 SCRA 280 2000.
- [14] Records, p. 89.
- [15] People vs. Espero, 346 SCRA 617 2000 .
- [16] People vs. Hilot, 342 SCRA 128 2000.
- [17] People vs. Galas, 162 SCRA 381 1996.
- [18] People vs. Banela, 301 SCRA 84 1999.
- [19] 263 SCRA 187 1997.
- [20] Article 14 (b), Revised Penal Code.
- [21] People vs. Sumalpong, 284 SCRA 464 19998.
- [22] Article 63, Revised Penal Code.
- [23] People vs. Borreros, 306 SCRA 680 1999.
- [24] People vs. Panado, 348 SCRA 679 2000

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