PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO DIAZ Y SEVILLETA, JOJO FLORES Y BARDAJE, JOVIE ENAO Y CARBAQUIN, AND JOHN DOE, ACCUSED-APPELLANTS.

G.R. No. 140912. October 26, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

RODRIGO DIAZ, JOJO FLORES, JOVIE ENAO and JOHN DOE were charged and found guilty of murder by the trial court on two (2) counts for the killing of Maguindanao Espina and Jun Caolboy and sentenced each to suffer two (2) penalties of reclusion perpetua. They were also ordered jointly and severally to pay each set of heirs of the two (2) victims P50,000.00 as civil indemnity and P100,000.00 as moral damages.[1]

Accused-appellants now assail their conviction on the ground that their guilt has not been proved beyond reasonable doubt.

On 30 March 1999, at around 10:00 o'clock in the evening, Gyndolyn Cariño, while waiting by the roadside for her husband who was a tricycle driver, saw her sister Maguindanao talking with accused Jojo Flores, Rodrigo Diaz, Jovie Enao and a number of other persons at the Kiko Camarin Market, Caloocan City. Gyndolyn approached her sister Maguindanao and told her to go home as it was already late in the evening. But Maguindanao paid no attention to her sister's advice; instead, she replied that she was not going home yet as she would want to "back ride" with Jun Pilay Caolboy in his tricycle.

Early in the morning of 31 March 1999, Shorab Espina rushed to Gyndolyn's house to inform her that their sister Maguindanao was found dead at a dumpsite in Kiko Camarin, Caloocan City. Gyndolyn instructed Shorab to immediately report the matter to the police and to take pictures of the cadaver and then make arrangements with the funeral parlor for an autopsy.

Three (3) days after the killing, a neighbor told Gyndolyn about the presence of accused Rodrigo Diaz who had just arrived and was seen to have scratch marks all over his body. She immediately asked her brother Shorab to call the police and investigate Rodrigo Diaz as a possible suspect in the killing.

Rufina Caolboy, widow of the other victim Jun Pilay Caolboy, testified that on 31 March 1999 Roy Diaz, a neighbor, went to their house and broke to her the news about her husband's death. So she proceeded to the dumpsite where she saw her husband's bloody corpse sprawled on the ground with his hands and feet tied together. Rufina likewise testified that a couple of days prior to her husband's death, he revealed to her that he had a heated exchange with Rodrigo Diaz, one of the accused.

Salvador Bandol, testifying for the prosecution, narrated that on 31 March 1999, at around 1:00 o'clock in the morning, while he was on his way home after a visit to a friend in San Vicente Ferrer, Caloocan City, he heard a woman screaming, "Tulungan ninyo ako! tulungan ninyo ako." Uncertain of what to do, Salvador hid behind a nearby cluster of plants. Then he saw Maguindanao disembarking from a tricycle in an attempt to flee but accused

Rodrigo Diaz gave chase and pulled her back to the tricycle. While Maguindanao was furiously struggling with Rodrigo Diaz, accused Jojo Flores, Jovie Enao and a certain "Frank" were ganging up on the other victim Jun Caolboy. With "Frank" restraining Jun Caolboy, Jojo Flores bound his arms and legs while Jovie Enao was seated behind the wheel of the tricycle. From his hiding place, he saw the tricycle pass by him going towards the direction of Meycauayan, San Vicente Ferrer, with the accused Rodrigo Diaz, Jojo Flores, Jovie Enao and "Frank" and their two (2) victims on board. According to Bandol, he easily recognized the accused and their two (2) victims because the street was well lighted by street lamps and the flourescent lights of the nearby stores. When he learned about the death of Maguindanao and Jun Caolboy at about 7:00 o'clock that morning, he proceeded to the dumpsite and there saw the cadavers of Maguindanao and Jun. Bandol also testified that a couple of months prior to the killing, Maguindanao disclosed to him that Rodrigo Diaz touched her breasts so she slapped him on the face but he got mad instead.

Evelyn Alladin, first witness for the defense, recounted that at around 11:00 o'clock in the morning of 29 March 1999, while she was at a store talking with a certain kumare, she saw Maguindanao Espina talking with her former common-law-husband, a certain Nelson, and Bong whom she later identified as Salvador Bandol. According to Evelyn, she heard Maguindanao shouting, "Hindi mo makukuha ang anak ko hanggang hindi ako mamatay."[2] Nelson angrily responded saying, "Magkikita pa tayo,"[3] and then pulled down the cap of Maguindanao over her face. At this juncture, she heard Bong asking Nelson, "Pare, kailan natin uumpisahan?" (Friend, when are we going to start?), and Nelson answered, "Pag-iisipan ko pa" (I'll think it over). A couple of days later or on 31 March 1999, she was informed of the death of Maguindanao by a certain Mang Godoy, owner of the talbusan (cassava plantation) where the bodies of the two (2) victims were found. Evelyn positively averred that before Maguindanao's death, she was having an illicit relationship with her co-victim Jun. She also learned from Maguindanao's mother that the family was eyeing on Nelson as the prime suspect in the double killing.

Accused Jojo Flores testified that on Valentine's day of 1999 he met Salvador Bong Bandol, a known pusher in the neighborhood, when the latter accosted him while he was playing pool. Bong pulled him aside and proposed that they sell shabu together. He however refused and unceremoniously turned his back on Bong who, apparently was slighted by his refusal to accommodate him, uttered a veiled threat before leaving. From then on, they were no longer on speaking terms. He also belied the claim of Bong that on 31 March 1999 he (Jojo Flores) and his companions abducted Maguindanao Espina and Jun Caolboy, asserting that the accusation had no basis because as early as 4 March 1999 he was staying with his sister in Bicutan until the first day of the following month.

On his part, accused Jovie Enao narrated that on 30 March 1999 he spent the night in the house of one Daniel Bransela in Langka Camarin, Caloocan City, where he usually spent the nights because the approach to his residence in San Vicente Ferrer, Camarin, was very narrow and his tricycle could hardly pass the alley. According to him, at about 8:00 o'clock in the evening of 30 March 1999 he retired early from his tricycle driving chore and went directly to his friend's house, went to bed at 9:00 o'clock in the evening and woke up at 7:00 o'clock the following morning. His testimony was affirmed by Leria Carreon, his friend's mother-in-law, who claimed that on the night of 30 March 1999 until the following morning he (Jovie) stayed with her family.

Like his co-accused, Rodrigo Diaz also declared that in the evening of 30 March 1999 he was at the house of a certain uncle at Kiko Camarin, Caloocan City. Early the following morning, while he was walking home from the market where he worked as a butcher, he was told by his neighbors that Maguindanao and Jun were stabbed to death. Rodrigo mentioned that he was approached by Bandol and asked to peddle shabu but he declined. Bandol even asked him if he could consume the illegal stuff at his (Rodrigo) house but again he refused. He affirmed that Maguindanao was separated from her common-law-husband Nelson and was maintaining an illicit relationship with Jun Pilay. Rodrigo surmised that Maguindanao and Jun were lovers because he always saw her "back-riding"

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with Jun in his tricycle. He insisted that the scratches on his body, supposedly seen by Gyndolyn, were actually caused by his wife when they had a quarrel. He denied knowing personally his co-accused Jojo Flores whom he met for the first time at the police station. However he admitted knowing Jovie Enao for about a year prior to the killing because he sometimes rode in Enao's tricycle as a passenger.

Edgar Sevillano, another defense witness, testified that at about 9:30 o'clock in the evening of 30 March 1999 while he was driving a pedicab he saw a man pulling Maguindanao from a tricycle. As the victim was furiously fighting back, a man held her shoulders and dragged her towards a waiting tricycle. When his pedicab went closer, he glanced upon Salvador Bandol among the group trying to abduct Maguindanao.[4] According to Edgar, with the exception of Bandol, he failed to recognize the other persons who were with him. He is certain however that Jovie Enao was not among the group.

Transfiguracion Espina, mother of Maguindanao Espina, rebutting the defense version that her daughter Maguindanao and her common-law-husband Nelson quarreled because, according to her, their separation was a mutual agreement between the couple as Nelson was jobless and could not support his family. She vehemently denied having told one of the accused that she suspected Nelson as the murderer of her daughter. Then and there she revealed that she witnessed the killing of Salvador Bandol on 14 September 1999 while they were on their way home from the scheduled trial of the accused which was however postponed. Bandol was sitting inside a tricycle when he was stabbed by an unidentified person. She decried rumors that her daughter Maguindanao was maintaining an illicit relationship with other men, particularly Jun Pilay. She explained that it was in the nature of Maguindanao to be friendly with men, including Jun Pilay, Jojo Flores and Jovie Enao. Additionally, she disclosed that as she moved around selling banana cue she would often see accused Flores, Enao and Diaz in the company of other men using illegal drugs near the house of Jojo Flores.

Ludovica Enao, mother of accused Jovie Enao, by way of surrebuttal, branded as false the claim of Transfiguracion Espina that she did not tell anyone about Nelson being a suspect in the double murder. The truth of the matter, according to Ludovica, is that during the wake for her daughter Maguindanao, Transfiguracion was asked by the mourners and she pointed to Nelson as the perpetrator of the crime.

Apparently, the prosecution failed to present any eyewitness to the actual stabbing of the victims. In the absence thereof, the trial court relied on circumstantial evidence to pin culpability on Rodrigo Diaz, Jojo Flores and Jovie Enao. The court a quo explained, and soundly so, that the confluence of the following circumstantial evidence established beyond reasonable doubt the guilt of the three (3) accused: (a) At around 10:30 o'clock in the evening of 30 March 1999, Gyndolyn Cariño saw her sister Maguindanao at Kiko Camarin Market helping a friend in selling "balut" and talking with Jun Caolboy and the three (3) accused; (b) At around 1:00 o'clock in the morning of 31 March 1999, Salvador Bandol saw Maguindanao crying for help while being forcibly dragged by accused Rodrigo Diaz into a waiting tricycle; (c) At that precise moment he saw Jun Caolboy ganged up by Diaz' cohorts Flores, Enao and a certain Frank, all armed with knives, while the same victim was being tied by Flores; (d) Three (3) hours later, witness Sotero Deo saw the two (2) victims lying lifeless at the dumpsite of Kiko Camarin, Caloocan City; (e) These aforementioned facts were confirmed by the medical findings of the PNP Medico-legal officer who found ligature marks in Caolboy's arms and legs; (f) The testimony of Bandol that the accused were armed with knives jibed with the medico-legal findings that the victims sustained multiple stab wounds; (g) Gyndolyn noted the presence of what appeared to be human flesh in the fingernails of her sister Maguindanao and accused Diaz was also seen to be sporting scratch marks on his face and body.

Accused-appellants impute error to the trial court in giving credence to the testimony of prosecution witness Salvador Bandol while discrediting the testimonies of defense witnesses Evelyn Alladin and Edgar Sevillano. Appellants assert that while Salvador Bandol purportedly saw the abduction of the two (2) victims at 1:00 o'clock

in the morning of 31 March 1999, he suspiciously failed to report the matter to the police authorities or barangay officials. Contrarily, defense witness Evelyn Alladin was categorical in her declaration that prior to the killing incident she heard the estranged couple Maguindanao and Nelson, in the company of Salvador Bandol, arguing about the custody of their love child. As far as accused-appellants are concerned, the fact that Bandol had a hand in the double killing was bolstered by the testimony of Edgar Sevillano that he saw Bandol as one of the assailants.

As a general proposition, the findings of the trial court are not to be disturbed on appeal unless there are substantial facts which have been clearly misappreciated and if duly considered would affect the result of the case. Corollarily, where the issue involves the credibility of the witnesses, the findings of the trial court on the matter will not be interfered with, considering that it is situated in a peculiar vantage point of observing the gestures, features, demeanor and manner of testifying of the witnesses, unless the trial court demonstrably overlooked facts of substance.

The trial court stamped the testimony of principal witness Salvador Bandol with the earmarks of trustworthiness and credibility and dismissed the testimonies of the defense witnesses as a futile and pathetic attempt to implicate Bandol and ultimately shatter his credence. A thorough review of the records will show no shred of doubt that the prosecution witnesses Salvador Bandol was impelled to come out in the open and testify for no other reason than to ferret out the truth and bring the culprits to justice. Bandol's reluctance to report the frightful incident to the authorities would not taint his testimony for at the outset he adequately explained his reticence when he testified that he would not want him and his family to be embroiled in a potentially dangerous situation and expose them to harm. Unfortunately, his foreboding of danger was not totally unfounded for he was assassinated before he could finally see his efforts bear to fruition.

We are not inclined to give credit to Edgar Sevillano's statement that he saw Bandol among the group of assailants who abducted the two (2) victims in the evening of 30 March 1999. Sevillano reeks the stench of a polluted witness. He was admittedly a friend of the accused Jovie Enao; was introduced by the latter's mother to testify in his son's behalf; but more importantly, a mystery enwraps the circumstances on how he ended up as a defense witness. Ludovica Enao, Jovie's mother, testified that she learned about Sevillano as a possible witness from a certain Dodong, a padjak driver who in turn was informed by another unidentified person. How Dodong came to know that Sevillano was in possession of a vital information remains unexplained considering that Sevillano himself denied having uttered a word on the matter to any living soul. In fact, Ludovica disclosed that Sevillano did not reveal to her what he knew even as they would meet in the jailhouse to visit accused Enao. As compared to Bandol, Sevillano is a biased witness whose testimony is irredeemably sullied with suspicious partisanship and bias.

Nor can we blindly accord credence to the testimony of defense witness Evelyn Alladin implicating Maguindanao's former common-law-husband to her murder. The family of Maguindanao flatly denied that there was bad blood between the former lovers who got separated only after they mutually agreed to do so in view of Nelson's inability to support his family. By all indications, Nelson, who had been separated from his wife for more than two (2) years, had no strong motivation to belatedly summon any residual affection to his wife and generates enough anger and indignation of a cuckolded husband to perpetrate the sordid killings.

Concededly, the case for the People, i.e., the conviction of the accused-appellants, is rooted on circumstantial evidence, no direct evidence having been presented to the actual stabbing of the two (2) victims. In People v. Madriaga IV[5] this Court once again recognized the necessity of resorting to circumstantial evidence -

> Where the events constitute a compact mass of circumstantial evidence, the existence of every bit of which was satisfactorily proved, and the proof of each is confirmed by the proof of the other, and all without exception

> leading by mutual support to but one conclusion, the circumstantial evidence are sufficient to establish the culpability of the accused beyond reasonable doubt x x x x In determining the sufficiency of circumstantial evidence to support a conviction, each case is to be determined on its own peculiar circumstances and all the facts and circumstances are to be considered together as a whole, and when so considered, may be sufficient to support a conviction, although one or more of the facts taken separately would not be sufficient for the purpose. . . . No general rule has been formulated as to the quantity of circumstantial evidence which will suffice for any case but that matters not. For all that is required is that the circumstances proved must be consistent with each other, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt.

Our review has been focused on a thorough determination of whether the combination of circumstantial evidence would lead to the conclusion that the accused-appellants are guilty as charged. In this venture we were ably assisted by the trial court's felicitous assaying of the circumstantial evidence which, with our approbation, we now set out hereunder albeit with modifications -

One. - Gyndolyn Cariño saw her sister Maguindanao with the three (3) accused-appellants past 10:00 o'clock in the evening of 30 March 1999;

Two. - During the wake for victim Maguindanao, it was observed that her finger nails had "some human flesh" and accused-appellant Rodrigo Diaz was seen to have scratch marks all over his face and body;[6]

Three. - At around 1:00 o'clock on 31 March 1999, Salvador Bandol saw Maguindanao, who was fighting back her attacker, being manhandled by accused Rodrigo Diaz, while a certain Frank held Jun Caolboy who was at the same time being tied by Jojo Flores. For his part, Jovie Enao was seated in the tricycle, and at the time of the incident the accused-appellants were armed with knives;[7]

Four. - As indicated in the autopsy report of the medico-legal officer Dr. Tomas Suguitan, both Jun Caolboy and Maguindanao Espina died as a result of hemorrhagic shock secondary to stab wounds on the neck and trunk. Further, Jun Caolboy was found to have ligature marks on both his arms and legs indicating that he was tied at the time he was killed. These findings by the medico-legal officer are consistent with the testimony of witness Bandol who averred that the accused-appellants were armed with knives and one of them tied Jun Caolboy before he and Maguindanao were brought to an undisclosed place on board a tricycle;[8]

Five. - Between 4:00 to 5:00 o'clock in the morning of 31 March 1999, or about three (3) hours after the victims were abducted on the basis of Bandol's account, Sotero Deo, a gardener, discovered the bodies of the two (2) victims, ridden with stab wounds, at the dumpsite. Maguindanao's cadaver was found lying along the road while that of Caolboy, with bound arms and legs tied together, was found in an abandoned house,[9] which observations were borne out by the medico-legal findings.

In an attempt at exoneration, accused-appellants interposed the defense of alibi and denial thus: Jojo Flores was in the house of his sister in Bicutan as early as 4 March; Jovie Enao spent the night of 30 March with his friend in Langka Camarin, Caloocan City, while Rodrigo Diaz was, according to him, in the house of his uncle at Kiko Camarin, Caloocan City.

The defense of alibi, to be given full faith and credit, must be clearly established and not leave any room for doubt as to its plausibility and verity.[10] Requirements for the defense of alibi to prosper are: (a) that the accused was not at the scene of the crime at the time it was committed; and, (b) that it was physically impossible for the accused to be at the scene of the crime at the time of its commission.[11] The defense miserably floundered in their attempt at situating the accused-appellants at other places other than the scene of the crime. Inescapable is the fact that they were well within the vicinity at the time of the commission of the crime and it was not

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impossible for all the accused to congregate in the crime scene at that time to execute their craven design.

Our ratiocination based on facts proved yield the incontrovertible conclusion that there is sufficient quantum of evidence to establish the guilt of the accused-appellants beyond reasonable doubt. The catena of proofs - that the accused-appellants were seen in the company of one of the victims at the marketplace the night before the killing incident; that they were seen manhandling the victims in the early morning of 31 March 1999; that the medico-legal findings fit snugly into the eyewitness account; that the alibi of accused-appellants were not satisfactorily established - cannot lie as to the culpability of accused-appellants. Justice therefore, inevitably, calls for conviction.

The court a quo correctly disallowed evident premeditation as an aggravating circumstance, hence, in the absence of any generic mitigating or aggravating circumstance, the penalty should be reclusion perpetua. However, the amount of moral damages should be reduced to P50,000.00 for each set of heirs of the two (2) victims.

WHEREFORE, the Decision of the trial court finding each accused-appellant Rodrigo Diaz y Sevilleta, Jojo Flores y Bordaje and Jovie Enao y Carbaquin guilty of two (2) counts of murder and imposing upon each of them two (2) penalties of reclusion perpetua, as well as the order to the accused jointly and severally to pay each set of heirs of the two (2) victims P50,000.00 as civil indemnity plus moral damages is AFFIRMED except that the award for moral damages is reduced from P100,000.00 to P50,000.00.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Decision penned by Judge Myrna Dimaranan Vidal, RTC-Br. 127, Caloocan City.

[2] TSN, 31 August 1999, p. 5.

[3] Id. p. 6.

[4] Upon questioning by the prosecution, the witness disclosed that Salvador Bandol was stabbed to death a couple of days before he took the witness stand on 16 September 1999.

[5] G.R. No. 730567, 8 March 1989, 171 SCRA 103.

[6] TSN, 21 June 1999, pp. 10-11.

[7] TSN, 14 July 1999, p. 6.

[8] TSN, 12 July 1999, pp 2-10.

[9] TSN, 27 July 1999, pp. 3-5.

[10] People v.Parangan, G.R. No. 99057, 22 April 1994, 231 SCRA 682.

[11] People v.Saguban, G.R. No. 96287, 25 April 1994, 231 SCRA 744.

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