

MIGUEL DANOFRATA Y BAUTISTA PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 143010. September 30, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review assails (1) the decision[1] of the Court of Appeals, dated November 26, 1999, in CA-G.R. CR No. 19732 as well as (2) its resolution,[2] dated April 18, 2000, denying petitioner's Motion for Reconsideration. Both upheld the judgment[3] of the Regional Trial Court of Malabon City, Branch 74, in Criminal Case No. 15423-MN, convicting petitioner of homicide.

In a charge sheet dated October 10, 1994, the Office of the City Prosecutor charged herein petitioner as follows:

That on or about the 9[th] day of October 1994, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and stab with the said weapon one ALFREDO GONZALES Y LACSON, hitting the victim on his left chest, thereby inflicting upon the victim stab wound which caused his immediate death.

Contrary to law.[4]

Upon arraignment, petitioner pleaded not guilty and waived pre-trial. Trial on the merits then ensued.

The prosecution's version of the case showed that at about six o'clock in the evening of October 9, 1994, prosecution witness Reynaldo Francia was standing in front of his house in Champaca Street, San Roque, Navotas. Then and there he saw petitioner Miguel Danofrata engage in a slugging match with his wife, Leonor. She struck petitioner with a plastic chair, while he punched her by way of retaliation. Petitioner then ran home but shortly afterwards, he rushed outside again, kicking the neighbors he encountered. In turn, without further ado, three of the neighbors whom he had treated so uncivilly ganged up on him and mauled him, causing petitioner to run home anew.

Petitioner then armed himself with a knife and went back to the place where he had received a mauling. He proceeded to the house of one Mang Mario Gonzales, the father of Alfredo "Loloy" Gonzales. Petitioner then challenged Mang Mario to a fight. At this juncture, petitioner spotted Alfredo, who was on his way home. Without warning, petitioner stabbed Alfredo in the chest fatally.

Horried, witness Reynaldo Francia called the police. When the agents of the law arrived, Francia informed them about the incident and later he gave a written statement to SPO1 Daniel Ferrer.[5]

Petitioner did not wait for the law enforcers to arrive, but immediately made himself scarce. Prosecution witness Benjamin Bautista, who was then on his way to Gatbonton Street to buy medicine, saw the petitioner fleeing. Bautista observed that petitioner's clothing was bloody. He also saw petitioner drop a bladed weapon, which Bautista picked up and turned over to the police investigator.[6]

A post-mortem examination was conducted on the remains of Alfredo Gonzales. According to witness Dr. Florante Baltazar, the medico-legal examination he had conducted revealed that the victim suffered two (2) injuries, namely: a) penetrating stab wound, left infra-clavicular region, piercing the left common carotid artery and left sub-clavian vein; b) multiple abrasions, posterior or proximal 3rd right forearm. The stab wound suffered by the victim on his left chest appeared to be the fatal wound.[7]

During the trial, petitioner denied stabbing the victim. He claimed that Alfredo Gonzales accidentally stabbed himself with a knife, following a tumble.

Petitioner gave an entirely different version of the tragic incident. He narrated on the witness stand that at around 5:00 p.m. of October 9, 1994, he was carousing with his brother-in-law, Vergel Gaspar and one Jojo Tambio at the latter's house. Because Tambio's house was very noisy, they decided to continue their drinking spree at the petitioner's house instead.[8]

In the midst of their merriment, petitioner's wife arrived and started an argument with him. The argument turned violent and his wife lunged at him with a chair, but he was able to parry the blow.[9] The scene was witnessed by his neighbors who were next door playing "panya." They began laughing at him and petitioner felt humiliated as a result. Because of his annoyance, petitioner said he kicked the "panya" table. This incensed his neighbors and a melee erupted with three of his neighbors ganging up on him. Petitioner said he received a beating, but he was able to run home.

Once home, the enraged petitioner got hold of a knife. He soon went out, proceeding to the house of Mang Mario Gonzales, where he saw two of his neighbors who mauled him, one "Sonny" and a certain "Dingdong" talking with Mang Mario. Upon seeing two of his assailants, petitioner said he went berserk. He challenged them, shouting, "Akala ninyo natatakot ako sa inyo" (You think I am afraid of you) all the while holding his knife.[10] At this point, according to petitioner, Mang Mario whipped out a gun and pointed it at him, prompting petitioner to seek cover by hiding in a neighboring house.[11] Suddenly, petitioner said, he was struck from behind by a certain "Rey" with a length of lead pipe, while Alfredo "Loloy" Gonzales stabbed him from the back with a knife.[12] Alfredo then tried to run away, according to petitioner, only to trip and fall flat on his face and on the knife he was holding.[13]

According to petitioner, although he was himself badly injured and bleeding, he ran away from the scene of the fracas, but found himself being chased by his tormentors. He heard a gunshot and Mang Mario yelling, "Habulin nyo, habulin nyo, hold-upper yan" (Go after him, go after him. That fellow's a hold-upper). Petitioner ran towards Kapalaran Street, where he sat on a rock to rest and examine his injuries. Suddenly, he heard another gunshot from behind him. Turning around, he saw Mang Mario handing the gun he was holding to another person. Petitioner then crawled into a nearby canal to hide. He was still there when a certain Redentor Tiburcio came up holding a gun. On seeing him, Tiburcio said, "Patay na si Loloy" (Loloy is dead). Without further ado, Tiburcio then shot at him but missed. Petitioner then ran away to seek refuge in a nearby uninhabited dwelling. It was there that the police caught up with him. The law enforcers then brought petitioner to the Tondo General Hospital for treatment.[14]

Dr. Arnel Angeles, a hospital physician, testified that he examined and treated the petitioner's injuries. These included a stab wound and a gunshot wound at the back.[15]

Petitioner stated that despite his injuries, he did not bother to report the incident to the police. Nor did he file any charges against Mang Mario and other neighbors because, petitioner said, he was only a lowly paid driver who had neither the time nor the money to pursue a legal case.[16]

The trial court disbelieved petitioner's defense and found the prosecution's version more credible. It found petitioner guilty, in this wise:

WHEREFORE, in the light of the foregoing, and finding the accused, Miguel Danofrata y Bautista guilty beyond reasonable doubt of homicide, defined and penalized under Article 249 of the Revised Penal Code, there being one mitigating circumstance analogous to passion or obfuscation, and no aggravating circumstance, he is hereby sentenced to undergo in undeterminate (sic) sentence of 10 years and 1 day to 14 years and 8 months. He is likewise ordered to pay the heirs of the deceased in the actual amount of P16,500.00 representing expenses for funeral services and embalming. Moreover, he is hereby directed to pay the heirs of the deceased in the amount of P50,000.00 by way of actual and compensatory damages. With costs de oficio.

SO ORDERED.[17]

In convicting petitioner, the trial court ruled that the circumstances established by the prosecution's evidence were not only consistent with each other but likewise consistent with the guilt of the petitioner and inconsistent with his innocence.[18] It also found the testimony of Reynaldo Francia both credible and logical. The trial court observed that the defense did not adduce any evidence to prove that he was motivated by any ill-motive to testify against the petitioner. It then went on to say that the defense theory of an accidental death was unpersuasive as the nature of the fatal wound inflicted on the victim, Alfredo Gonzales, clearly shows that it could only have been inflicted by another person. However, the court appreciated a mitigating circumstance analogous to passion and obfuscation as it was established that petitioner was severely mauled by the kinfolk of the deceased prior to the stabbing incident, and that his mind was relatively disturbed due to quarrels with his wife.

Petitioner appealed his conviction to the Court of Appeals, docketed as CA-G.R. CR No. 19732. The appellate court, however, found no sufficient reason to disturb the findings of the lower court and affirmed[19] the decision of the trial court, with costs against herein petitioner.

Hence, the instant petition presenting a single issue for our resolution:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT IN SPITE OF THE FACT THAT THE SAME DOES NOT CONFORM TO THE EVIDENCE ON RECORD.[20]

Simply stated, the issue involves the sufficiency of the prosecution evidence to sustain the petitioner's conviction for homicide and the propriety of the penalty imposed on him.

Before us, the petitioner insists that he cannot be held criminally liable for the death of Alfredo Gonzales since it was purely accidental. He calls our attention to the testimony of Jojo Tambio, which allegedly supports his version of the incident. According to petitioner, Tambio's credibility was not impeached by the prosecution.

For the State, the Office of the Solicitor General points out that neither the trial court nor the Court of Appeals erred in giving great weight and credence to the testimony of Reynaldo Francia, not only because it was corroborated by Benjamin Bautista but also because petitioner had not ascribed any evil motive on the part of Francia to falsely testify against him. The OSG points out that neither of the courts below may be faulted for disbelieving Tambio's testimony, given its inconsistency with the medico-legal findings. The Solicitor General also stresses that the instant petition focuses on questions of fact, which are not proper in a petition under Rule 45 of the Rules of Court. Hence, the petition should be dismissed, the OSG said.

Petitioner's ascription of accidental but fatal stab wounds to the victim's own action is, in our view, unworthy of belief. In rejecting petitioner's theory of accidental death, the trial court observed:

... This court did not believe the testimony of the defense witness, Mr. Jojo Tambio, that the death of Alfredo

Gonzales was an accident. The hard proof shows that the stab wound suffered by the victim was inflicted by another person as could be shown by the nature of the wound. Dr. Florante Baltazar in his findings and in his testimonies made emphasis on the fact that the wound suffered by the victim was penetrating stab wound which pierced the left common carotid artery and left sub-clavian vein. It is highly improbable even we have to assume that the victim while running criss-crossed his legs and in the process thereof fell down and accidentally hit his chest, to suffer said nature and extent of the wound as examined by Dr. Florante Baltazar.[21]

For its part, the appellate court found that:

Exhibit "K" shows the findings of the laboratory examination indicating the penetrating stab wound, left infra-clavicular region, thru the 1st left intercostal space, 140 cms. from the heel, 6.5 cms. from anterior midline, measuring 2 x 0.5 x 6 cms. depth, directed upwards, backwards, towards midline, piercing the left common carotid artery and left subclavian vein x x x which caused the death of Alfredo Gonzales. It is highly improbable, even assuming that the victim, while running criss-crossed his legs and in the process thereof, fell down and accidentally hit his chest with the knife which pierced the left common carotid artery and left sub-clavian vein, in the manner as described in the medico-legal report.[22]

We find no cogent reason to review much less depart now from the findings of the lower court as affirmed by the Court of Appeals. When the trial court's factual findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court, for it is not our function to analyze and weigh the parties' evidence all over again except when there is serious ground to believe a possible miscarriage of justice would thereby result. Our task in an appeal via certiorari is limited, as a jurisdictional matter, to reviewing errors of law that might have been committed by the Court of Appeals.[23]

In one last desperate bid for freedom, however, petitioner prays that we review a vital aspect of his case. He faults the Court of Appeals for drawing the wrong conclusion from a portion of Dr. Florante Baltazar's testimony, which he insists supports his theory of the victim's accidental death, to wit:

Q:

Now, it occurs on your examination upon the cadaver, have you observed any sign that may show that said victim engaged in any struggle?

A:

I said the only external injuries we noted:

1.

penetrating stab wound

2.

multiple abrasions, posterior proximal 3rd of the right arm that abrasion which I believe was due to the falling of the victim hitting the elbow with the pavement that is the injury sustained by the victim aside from penetrating stab wound.[24]

Petitioner's stance is, to put it kindly, unconvincing. A simple perusal of the underscored portion of the testimony which the petitioner relies upon clearly shows that it refers to the multiple abrasions suffered by the victim and not to the penetrating stab wound, which was the cause of death. At most, it only established the cause of the

abrasions found in the body of the victim. It did not state nor imply that the latter accidentally stabbed himself. As observed by the Court of Appeals:

Appellant's position that the wound on the victim's elbow could have been caused by his fall, hitting his elbow on the pavement, as opined by Dr. Baltazar, as would probably been the fall that caused the stab wound, does not deserve credence, for there is nothing in his testimony that would suggest, even faintly, that the fall caused the stab wound suffered by the victim on his left chest which appeared to be the fatal wound.[25]

As petitioner's theory of accidental death has no leg to stand on, all that is left of his defense is bare denial. But such denial cannot prevail over the positive identification of him as the assailant by prosecution witness Reynaldo Francia, whom the trial court found to be credible and who does not have any ill-motive to falsely testify against petitioner. Petitioner himself admits Francia's trustworthiness as a witness, to wit:

Q:

The witness for the prosecution by the name of Reynaldo Francia testified here in Court pointing to you as the very person who stabbed Alfredo Gonzales, my question is do you know this Reynaldo Francia?

A:

He is our neighbor, sir.

Q:

Do you know of any reason why Reynaldo Francia testified here in this Court pointing to you as the very person who stabbed Alfredo Gonzales?

A:

None, sir.

Q:

You never had any quarrel or ill feeling with Mr. Reynaldo Francia before October 9, 1994?

A:

None, sir.[26]

In the absence of any ill motive on the part of the prosecution witness to impute so grave a wrong against the appellant, the defense of denial hardly deserves probative value.[27] Like alibi, a denial is inherently weak. It crumbles in the light of positive declarations of truthful witnesses who positively testify that the accused was at the scene of the incident and was the victim's assailant.[28] 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 denial which, if not substantiated by clear and convincing proof, is a negative and self-serving evidence undeserving of weight in law.[29]

In fine, we are in agreement with the appellate court when it observed that:

... Reynaldo Francia's credibility is bolstered by the failure of the defense to show any dubious reason or improper motive as to have compelled him to prevaricate and to testify falsely against the accused or implicate

him in a crime.[30]

But was the appellate court correct in sustaining the trial court's finding that the petitioner was entitled to a mitigating circumstance analogous to passion and obfuscation?

Passion and obfuscation exist when (1) there is an act, both unlawful and sufficient to produce such a condition of the mind, and (2) the said act which produced the obfuscation was not far removed from the commission of the crime by a considerable length of time, during which the perpetrator might recover his normal equanimity. There is passion and obfuscation when the crime was committed due to an uncontrollable burst of passion provoked by prior unjust or improper acts, or due to a legitimate stimulus so powerful as to overcome reason.[31] In this case it was established that petitioner and his wife had a violent altercation and that petitioner was mauled by his neighbors after he kicked some of them for laughing at him. These events and circumstances prior to the killing of Alfredo Gonzales could have caused unusual outbursts of passion and emotion on petitioner's part. These resulted in the tragic stabbing of the victim thus entitling petitioner to the mitigating circumstance analogous to passion and obfuscation.

Nor did the Court of Appeals err in sustaining the prison sentence imposed on petitioner by the lower court. Under Article 249 of the Revised Penal Code, the imposable penalty for homicide is reclusion temporal, whose duration in its entirety is from 12 years and 1 day to 20 years. Since there is one mitigating circumstance, under Article 64 of the Revised Penal Code, the penalty should be imposed in its minimum period, or from 12 years and 1 day to 14 years and 8 months of imprisonment. Applying the Indeterminate Sentence Law, the penalty should thus be within the range of prision mayor as the minimum and reclusion temporal in its minimum period as the maximum. The penalty actually imposed – 10 years and 1 day as minimum to 14 years and 8 months as maximum is within the parameters set by the Indeterminate Sentence Law.

For actual damages to be awarded, it is necessary that there be adduced competent proof, or the best evidence obtainable, such as receipts to justify an award thereof.[32] Here, while the award of P16,500.00 for funeral and embalming expenses was adequately proven by receipts, the award of P50,000.00 as actual and compensatory damages was granted by the trial court without any evidentiary support. Such award ought to be deleted for lack of sufficient basis. Instead, P50,000.00 should be awarded as civil indemnity for the victim's death. Pursuant to current jurisprudence, the victim's heirs are also entitled to exemplary damages in the amount of P25,000.00.

WHEREFORE, the decision of the Court of Appeals, dated November 26, 1999, in CA-G.R. CR No. 19732, sustaining the judgment of the Regional Trial Court of Malabon City, Branch 74, in Criminal Case No. 15423-MN is **AFFIRMED** with **MODIFICATION**. Petitioner Miguel Danofrata y Bautista is declared **GUILTY** of homicide for the killing of Alfredo "Loloy" Gonzales. Petitioner is sentenced to suffer the indeterminate sentence of ten (10) years and one (1) day of prision mayor as the minimum, to fourteen (14) years and eight (8) months of reclusion temporal as the maximum. He is also **ORDERED TO PAY** to the victim's heirs P16,500.00 as reimbursement for embalming and funeral expenses, P25,000.00 as exemplary damages, and P50,000.00 as civil indemnity. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Austria-Martinez, Callejo, Sr. and Tinga, JJ., concur.

[1] Rollo, pp. 73-77. Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Eubulo G. Verzola and Artemio G. Tuquero concurring.

- [2] Id. at 89.
- [3] Id. at 25-34.
- [4] Records, p. 2.
- [5] Id. at 31-38.
- [6] Id. at 89-93; 114.
- [7] Id. at 99-103; 118.
- [8] Id. at 158; 191-192.
- [9] Id. at 192-193.
- [10] Id. at 139.
- [11] Id. at 138.
- [12] Id. at 138 and 140.
- [13] Id. at 140.
- [14] Id. at 195-199.
- [15] Id at 213-214.
- [16] Id. at 235-238.
- [17] Rollo, p. 34.
- [18] Id. at 32.
- [19] CA Rollo, p. 70.
- [20] Rollo, p. 15.
- [21] Records, p. 264. Italics supplied.
- [22] CA Rollo, p. 69.
- [23] Uriarte v. People, G.R. No. 137344, 30 January 2001, 350 SCRA 580, 590.
- [24] Records, p. 103. Underlining supplied.
- [25] Supra, note 22. Emphasis supplied.
- [26] Records, p. 236. Emphasis supplied.
- [27] People v. Cawayan, G.R. No. 128117, 28 February 2001, 353 SCRA 62, 69.
- [28] People v. Ricafranca, G.R. Nos. 124384-86, 28 January 2000, 323 SCRA 652, 662.
- [29] People v. Jose, G.R. No. 130666, 31 January 2000, 324 SCRA 196, 205.
- [30] Rollo, p. 76, citing People v. Dayson, G.R. No. 106234, 2 March 1995, 242 SCRA 124 and People v. Flores, G.R. No. 116524, 18 January 1996, 252 SCRA 31.
- [31] People v. Feliciano, G.R. Nos. 127759-60, 24 September 2001, 365 SCRA 613, 630-631.

[32] People v. Ereño, 383 Phil. 30, 44 (2000).

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