

RIMBERTO T. SALVANERA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND LUCITA PARANE, RESPONDENTS.

G.R. No. 143093. May 21, 2007

Ponente: PUNO, C.J.

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PUNO, C.J.:

On appeal are the Decision dated April 30, 1999 and the two Resolutions of the Court of Appeals, dated September 22, 1999 and May 11, 2000, in CA-G.R. SP No. 46945. The Court of Appeals discharged accused Feliciano Abutin and Domingo Tampelix from the Information in Criminal Case No. TM-1730 for Murder, pending before the Regional Trial Court of Trece Martires City, to become state witnesses. The appellate court likewise cancelled the bail bond of petitioner Rimberto Salvanera.

First, the facts:

In an Information[1] dated November 30, 1996, petitioner Rimberto Salvanera, together with Feliciano Abutin, Edgardo Lungcay and Domingo Tampelix, is charged with the murder of Ruben Parane, committed as follows:

That on or about October 23, 1995, in the Municipality of Gen. Trias, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with treachery and evident premeditation, then armed with a firearm, did, then and there, wilfully, unlawfully and feloniously assault, attack and shoot one RUBEN PARANE Y MAGSAMBOL, inflicting gunshot wound on his body, resulting to his instantaneous death, to the damage and prejudice of the heirs of the said victim.

CONTRARY TO LAW.

As per theory of the prosecution, petitioner was the alleged mastermind; Lungcay, the hired hitman; Abutin, the driver of the motorcycle which carried Lungcay to the place of the commission of the crime; while Tampelix delivered the blood money to the latter. All the accused have been arrested and detained, except Edgardo Lungcay who remained at-large.

Respondent Lucita Parane is the spouse of victim Ruben Parane.

On January 22, 1997, petitioner applied for bail. The prosecution, on March 4, 1997, moved for the discharge of accused Feliciano Abutin and Domingo Tampelix, to serve as state witnesses.

In an Omnibus Order[2] dated September 5, 1997, the trial court granted petitioner's application for bail and denied the prosecution's motion for the discharge of accused Abutin and Tampelix. The prosecution moved for reconsideration but the motion was denied.

The prosecution then appealed to the Court of Appeals. It contended that the trial court committed grave abuse of discretion when it denied the motion to discharge accused Abutin and Tampelix to be state witnesses. It alleged that the testimonies of the two accused are absolutely necessary to establish that petitioner masterminded the

murder of Ruben Parane. The prosecution likewise claimed that it was premature and baseless for the trial court to grant petitioner's application for bail because the prosecution had not yet rested its case in the hearing for the discharge of the two accused.

The Court of Appeals sustained the prosecution. It discharged accused Feliciano Abutin and Domingo Tampelix from the Information to become state witnesses, and cancelled the bail bond of petitioner Salvanera. In its Resolution dated September 22, 1999, it denied petitioner's Motion for Reconsideration. Petitioner then filed his Motion for Clarification with Leave of Court. The same was also denied in a Resolution dated May 11, 2000.

Hence, this appeal.

Petitioner enumerates the grounds for his appeal, as follows:

- RESPONDENT COURT OF APPEALS COMMITTED SERIOUS ERROR IN RENDERING THE FIRST, SECOND AND THIRD ASSAILED ORDERS DEFYING LAW AND JURISPRUDENCE THEREON WHEN IT RULED THAT THE "SUBSTANTIAL CORROBORATION" REQUIREMENT UNDER SECTION 9, RULE 119 OF THE REVISED RULES OF COURT WAS SATISFIED BY THE PROSECUTION DESPITE THE FACT THAT -
- THE "SUBSTANTIAL CORROBORATION" REQUIREMENT MUST BE SATISFIED THROUGH THE TESTIMONY OF THE OTHER PROSECUTION WITNESSES WHO ARE NOT AN (sic) ACCUSED SOUGHT TO BE DISCHARGED AS STATE WITNESS, NOT BY ANOTHER ACCUSED LIKEWISE SOUGHT TO BE DISCHARGED.
- THE SWORN STATEMENT OF AN ACCUSED SOUGHT TO BE DISCHARGED CANNOT BE USED AS EVIDENCE FOR PURPOSES OTHER THAN HIS OWN DISCHARGE PRIOR TO THE ISSUANCE BY A COMPETENT COURT OF THE ORDER OF HIS DISCHARGE.
- THE TESTIMONIES OF ABUTIN AND TAMPELIX CANNOT BE SUBSTANTIALLY CORROBORATED IN ITS MATERIAL POINTS BY THE OTHER PROSECUTION WITNESSES.
- THE TESTIMONY GIVEN BY AN ACCUSED SOUGHT TO BE DISCHARGED AS STATE WITNESS CANNOT BE USED TO CORROBORATE THE TESTIMONY GIVEN BY ANOTHER ACCUSED LIKEWISE SOUGHT TO BE DISCHARGED AS STATE WITNESS.
- RESPONDENT COURT OF APPEALS COMMITTED SERIOUS ERROR IN RENDERING THE FIRST, SECOND AND THIRD ASSAILED ORDERS, DEFYING LAW AND JURISPRUDENCE ON THE MATTER, WHEN IT CANCELLED PETITIONER'S BAIL BOND DESPITE THE FACT THAT THE TRIAL COURT JUDGE ALREADY RULED THAT THE EVIDENCE OF HIS GUILT IS NOT STRONG.[3]

We uphold the ruling of the Court of Appeals.

In the discharge of an accused in order that he may be a state witness, the following conditions must be present, namely:

- (1) Two or more accused are jointly charged with the commission of an offense;
- (2) The motion for discharge is filed by the prosecution before it rests its case;
- (3) The prosecution is required to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge;
- (4) The accused gives his consent to be a state witness; and

(5) The trial court is satisfied that:

- a) There is absolute necessity for the testimony of the accused whose discharge is requested;
- b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;
- c) The testimony of said accused can be substantially corroborated in its material points;
- d) Said accused does not appear to be the most guilty; and,
- e) Said accused has not at any time been convicted of any offense involving moral turpitude.[4]

According to petitioner, the testimony of an accused sought to be discharged to become a state witness must be substantially corroborated, not by a co-accused likewise sought to be discharged, but by other prosecution witnesses who are not the accused in the same criminal case. Petitioner justifies this theory on the general principles of justice and sound logic. He contends that it is a notorious fact in human nature that a culprit, confessing a crime, is likely to put the blame on others, if by doing so, he will be freed from any criminal responsibility. Thus, in the instant case, petitioner supposes that both Abutin and Tampelix will naturally seize the opportunity to be absolved of any liability by putting the blame on one of their co-accused. Petitioner argues that prosecution witnesses Parane and Salazar, who are not accused, do not have personal knowledge of the circumstances surrounding the alleged conspiracy. Thus, they could not testify to corroborate the statement of Abutin and Tampelix that petitioner is the mastermind or the principal by induction.

We agree with the Court of Appeals in dismissing this reasoning as specious. To require the two witnesses Parane and Salazar to corroborate the testimony of Abutin and Tampelix on the exact same points is to render nugatory the other requisite that "there must be no other direct evidence available for the proper prosecution of the offense committed, except the testimony of the state witness." [5] The corroborative evidence required by the Rules does not have to consist of the very same evidence as will be testified on by the proposed state witnesses. We have ruled that "a conspiracy is more readily proved by the acts of a fellow criminal than by any other method. If it is shown that the statements of the conspirator are corroborated by other evidence, then we have convincing proof of veracity. Even if the confirmatory testimony only applies to some particulars, we can properly infer that the witness has told the truth in other respects." [6] It is enough that the testimony of a co-conspirator is corroborated by some other witness or evidence. In the case at bar, we are satisfied from a reading of the records that the testimonies of Abutin and Tampelix are corroborated on important points by each other's testimonies and the circumstances disclosed through the testimonies of the other prosecution witnesses, and "to such extent that their trustworthiness becomes manifest." [7]

As part of the conspiracy, Abutin and Tampelix can testify on the criminal plan of the conspirators. Where a crime is contrived in secret, the discharge of one of the conspirators is essential because only they have knowledge of the crime. [8] The other prosecution witnesses are not eyewitnesses to the crime, as, in fact, there is none. No one except the conspirators knew and witnessed the murder. The testimonies of the accused and proposed state witnesses Abutin and Tampelix can directly link petitioner to the commission of the crime.

In *Chua v. Court of Appeals*, [9] we ruled that the trial court has to rely on the information offered by the public prosecutor as to who would best qualify as a state witness. The prosecutor knows the evidence in his possession and the witnesses he needs to establish his case. In *Mapa v. Sandiganbayan*, [10] we held:

The decision to grant immunity from prosecution forms a constituent part of the prosecution process. It is essentially a tactical decision to forego prosecution of a person for government to achieve a higher objective. It is a deliberate renunciation of the right of the State to prosecute all who appear to be guilty of having

committed a crime. Its justification lies in the particular need of the State to obtain the conviction of the more guilty criminals who, otherwise, will probably elude the long arm of the law. Whether or not the delicate power should be exercised, who should be extended the privilege, the timing of its grant, are questions addressed solely to the sound judgment of the prosecution. The power to prosecute includes the right to determine who shall be prosecuted and the corollary right to decide whom not to prosecute.

We further ruled:

In reviewing the exercise of prosecutorial discretion in these areas, the jurisdiction of the respondent court is limited. For the business of a court of justice is to be an impartial tribunal, and not to get involved with the success or failure of the prosecution to prosecute. Every now and then, the prosecution may err in the selection of its strategies, but such errors are not for neutral courts to rectify, any more than courts should correct the blunders of the defense. For fairness demands that courts keep the scales of justice at equipoise between and among all litigants. Due process demands that courts should strive to maintain the legal playing field perfectly even and perpetually level.

Lastly, we affirm the ruling of the appellate court in cancelling the bail bond of petitioner. The grant of petitioner's application for bail is premature. It has to await the testimony of state witnesses Abutin and Tampelix. Their testimonies must be given their proper weight in determining whether the petitioner is entitled to bail.

IN VIEW WHEREOF, the petition is DENIED and the Decision and Resolutions of the Court of Appeals in CA-G.R. SP No. 46945, dated April 30, 1999, September 22, 1999 and May 11, 2000, respectively, are AFFIRMED in toto.

SO ORDERED.

Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.
Corona, J., on leave.

[1] CA rollo, p. 20.

[2] Id. at 19-28.

[3] Rollo, pp. 10-11.

[4] Sec. 17, Rule 119, The 2000 Revised Rules of Criminal Procedure.

[5] Sec. 17(5)(b), Rule 119, The 2000 Revised Rules of Criminal Procedure.

[6] U.S. v. Remigio, 37 Phil. 599, 612 (1918).

[7] People v. Tabayoyong, G.R. No. 31084, May 29, 1981, 104 SCRA 724, 742, citing People v. Riparip, 86 Phil. 526 (1950).

[8] Chua v. Court of Appeals, G.R. No. 103397, August 28, 1996, 261 SCRA 112, 119.

[9] Id., citing People v. Ocimar, 212 SCRA 646 (1992).

[10] G.R. No. 100295, April 26, 1994, 231 SCRA 783, 785, cited in Pontejos v. Ombudsman, G.R. Nos. 158613-14, February 22, 2006.

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