

RICARDO MEDINA, JR. Y ORIEL, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 161308. January 15, 2014

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

Credibility of witnesses is determined by the conformity of their testimonies to human knowledge, observation and experience.

The Case

Ricardo Medina Jr. (Ricardo) appeals by petition for review on certiorari the affirmance of his conviction for homicide with modification of the penalty and civil liability by the Court of Appeals (CA) through the decision promulgated on July 7, 2003.[1] He had assailed his conviction handed down under the decision rendered on January 31, 2001 by the Regional Trial Court (RTC), Branch 266, in Pasig City.[2] His brother and co-accused, Randolph Medina (Randolf), was acquitted by the RTC for insufficiency of evidence.

Antecedents

This case concerns the fatal stabbing of Lino Mulinyawe (Lino) between 9:00 and 10:00 o'clock in the evening of April 3, 1997 at Jabson Street in Acacia, Pinagbuhatan, Pasig City. The stabbing was preceded by a fight during a basketball game between Ross Mulinyawe, Lino's son, and Ronald Medina, the younger brother of Ricardo and Randolph. In that fight, Ronald had hit Ross with a piece of stone. Hearing about the involvement of his brother in the fight, Randolph rushed to the scene and sent Ronald home. Ross was brought to the hospital for treatment. Once Lino learned that his son had sustained a head injury inflicted by one of the Medinas, he forthwith went towards the house of the Medinas accompanied by his drinking buddies, Jose Tapan and Abet Menes. He had a bread knife tucked in the back, but his companions were unarmed. Along the way, Lino encountered Randolph whom he confronted about the fight. The two of them had a heated argument. Although Randolph tried to explain what had really happened between Ross and Ronald, Lino lashed out at Randolph and gripped the latter's hand. Tapan almost simultaneously punched Randolph in the face. Lino, already holding the knife in his right hand, swung the knife at Randolph who was not hit. Randolph retreated towards the store and took two empty bottles of beer, broke the bottles and attacked Lino with them. Arriving at the scene, Ricardo saw what was happening, and confronted Lino. A commotion ensued between them. Ricardo entered their house to get a kitchen knife and came out. Lino made a thrust at Ricardo but failed to hit the latter, who then stabbed Lino on the left side of his chest, near the region of the heart. Lino fell face down on the ground. After that, Ricardo walked away, while Randolph threw the broken bottles at the fallen Lino.

Lino's injuries were described as follows:

Fairly nourished, fairly developed male cadaver, in rigor mortis, with postmortem lividity at the dependent portions of the body. Conjunctive lips and nailbeds are pale.

HEAD, CHEST AND LEFT KNEE:

- (1) Lacerated wound, left parietal region, measuring 2 by 0.7 cm, 5 cm from the midsagittal line.
- (2) Abrasion, left parietal region, measuring 1.2 by 0.6 cm, 8 cm from the anterior midline.
- (3) Abrasion left maxillary region, measuring 2 by 0.3, 4.5 cm, from the anterior midline.
- (4) Stab wound, left mammary region, measuring 3.6 by 1.4 cm, 5.5 cm from the anterior line, 12 cm deep, directed posteriorwards, downwards, and medialwards, thru the 4th left intercostal space, piercing the pericardial sac and left ventricle.

Cause of death is Stab wound of the chest.[3]

On April 4, 1997, the Office of the City Prosecutor of Pasig City charged Randolph with homicide.[4] The information was amended with leave of court to include Ricardo as a co-conspirator, alleging thusly:

On or about April 3, 1997 in Pasig City and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and both of them mutually helping and aiding one another, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, stab and employ personal violence upon the person of Lino M. Mulinyawe, thereby inflicting upon the latter stab wound, which directly caused his death.

Contrary to law.[5]

The Defense claimed that it was Lino who had attacked Ricardo with a knife, and that Lino had accidentally stabbed himself by falling frontward and into his own knife.

Judgment of the RTC

In its judgment rendered on January 31, 2001,[6] the RTC acquitted Randolph but convicted Ricardo of homicide. It found no evidence of conspiracy between Randolph and Ricardo because their actions appeared to be independent and separate from each other and did not show that they had mounted a joint attack against Lino. It rejected Ricardo's defense that the fatal stab wound of Lino had been self-inflicted, ratiocinating that:

The fatal wound of the deceased is: 'stab wound, left mamary [sic] region, measuring 3.6 by 1.4 cm, 5.5 cm from the anterior midline, 12 cm deep, directed posteriorwards, downwards, and medialwards, thru the 4th left intercostal space, piercing the pericardial sac and left ventricle.' (See Exh. J).

Randolph Medina testified that Lino Mulinyawe attacked him with a knife held with his right hand. The trajectory of the stab wound sustained by Lino Mulinyawe at his left mammary region as shown by the Medico Legal Report and Medico Legal Examination on the cadaver of the deceased (Exhs. J and L) is incompatible and inconsistent with the defense of the accused that when Mulinyawe was making a thrust, he fell frontward and accidentally stabbed himself. If the knife was held with the right hand of Lino Mulinyawe, the stab wound would not have been from the 'anterior midline, 12 cm deep, directed posteriorwards, downwards, and medialwards, thru the 4th left intercostal space, piercing the pericardial sac and left ventricle.' The trajectory of the stab wound would have been leftward and upward the body of the deceased if he really fell frontward upon it.[7] (Emphasis supplied)

The RTC disposed and decreed:

WHEREFORE, postulates considered, this Court ACQUITS Randolph Medina for insufficiency of evidence to

prove his guilt of the charge of homicide against him.

However, the evidence of the prosecution has proven beyond reasonable doubt the GUILT of the accused Ricardo Medina, Jr. y Oriel for homicide and he is hereby sentenced with a penalty of imprisonment of Fourteen (14) years and Eight (8) Months and One (1) day to Seventeen (17) years and Four (4) Months of reclusion temporal in its medium period there being neither aggravating nor mitigating circumstance (Art. 64, par. 1, Revised Penal Code).

The widow Marivi Mulinyawe is hereby awarded the amount of Thirty Thousand Pesos (P30,000.00) as actual damages and the amount of Fifty Thousand Pesos (P50,000.00) as moral damages, payable by Ricardo Medina, Jr. y Oriel.

The bonds posted by both accused are hereby cancelled.

SO ORDERED.[8]

Decision of the CA

Ricardo appealed, but the CA affirmed his conviction with modification of the penalty and the civil liability under the decision promulgated on July 7, 2003,[9] to wit:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED and the decision appealed from in Criminal Case No. 112091 is hereby AFFIRMED with MODIFICATIONS in that accused-appellant Ricardo Medina, Jr. y Oriel is hereby instead sentenced to suffer an indeterminate prison term of eight (8) years and one (1) day to prison mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, and that the award of actual damages is hereby reduced from Thirty Thousand Pesos (P30,000.00) to Twenty Thousand Pesos (P20,000.00) and the sum of Fifty Thousand Pesos (P50,000.00) is further granted as death indemnity in addition to the award of Fifty Thousand Pesos (P50,000.00) as moral damages.

With costs against the accused-appellant.

SO ORDERED.

After his motion for reconsideration was denied on November 21, 2003,[10] Ricardo appealed to the Court.

Issues

Ricardo now submits the following errors for consideration, namely:

I

THE LOWER COURT GRAVELY ERRED IN ITS FACTUAL FINDING THAT THE [PETITIONER] STABBED LINO MULINYAWE IN SPITE OF THE FACT THAT:

- THE PROSECUTION WITHHELD THE PRESENTATION OF THE ACTUAL KNIVES DURING THE HEARING OF THE CASE – WHICH PRESENTATION AND BLOOD ANALYSIS ON THE TWO KNIVES COULD HAVE PROVEN THAT LINO MULINYAWE FELL ON HIS OWN KNIFE.
- THE MEDICO-LEGAL TESTIMONY CORROBORATED THE FACT THAT LINO MULINYAWE FELL ON HIS OWN KNIFE.

II

THE COURT OF APPEALS GRAVELY ERRED IN ADOPTING THE TRIAL COURT'S OPINION THAT

THE 'FATAL WOUND COULD NOT HAVE BEEN SELF-INFLICTED' WHICH WAS THE DIRECT OPPOSITE OF THE OPINION OF THE ONLY MEDICO-LEGAL EXPERT PRESENTED WHO POSITIVELY TESTIFIED THAT THE FATAL WOUND CAN POSSIBLY BE SELF-INFLICTED.

III

THE COURT OF APPEALS ERRED IN MAKING A FINDING THAT THE [PETITIONER] STABBED THE DECEASED BUT DISREGARDED X X X THE JUSTIFYING CIRCUMSTANCE OF DEFENSE OF A RELATIVE (ART. 11, RPC) X X X

IV

THE COURT OF APPEALS, EVEN ON THE ASSUMPTION THAT PETITIONER STABBED LINO MULINYAWE, DID NOT IMPOSE THE PROPER SENTENCE BY DISREGARDING THE PRESENCE OF MITIGATING CIRCUMSTANCES AND THE LACK OF AGGRAVATING CIRCUMSTANCE ATTENDANT TO THE CASE.[11]

Ruling of the Court

The appeal has no merit.

First of all, Ricardo argues that his stabbing and inflicting of the fatal wound on Lino were not proven beyond reasonable doubt.

The argument of Ricardo is a mere reiteration of his submissions that the CA had already exhaustively considered and passed upon. He has not added anything of substance or weight to persuasively show that the CA had erred in affirming the RTC.

Time and again, this Court has deferred to the trial court's factual findings and evaluation of the credibility of witnesses, especially when affirmed by the CA, in the absence of any clear showing that the trial court overlooked or misconstrued cogent facts and circumstances that would justify altering or revising such findings and evaluation.[12] This is because the trial court's determination proceeds from its first-hand opportunity to observe the demeanor of the witnesses, their conduct and attitude under grilling examination, thereby placing the trial court in the unique position to assess the witnesses' credibility and to appreciate their truthfulness, honesty and candor.[13] But here Ricardo has not projected any strong and compelling reasons to sway the Court into rejecting or revising such factual findings and evaluation in his favor.

Secondly, Ricardo contends that the State did not present as evidence in court the two knives wielded by him and Lino despite repeated demands for their presentation; that had the knives been presented, it could have been demonstrated to the trial court that the smaller knife used by Lino had more blood stains than the knife held by him and would fit the size of the mortal wound; that his assertion that Lino had stabbed himself when he stumbled and lost his balance while swinging his knife at Randolph would have been thereby validated; and that in his testimony, Dr. Emmanuel Aranas of the PNP Crime Laboratory Service, Southern Police District, did not rule out the possibility that the wounds sustained by Lino were self-inflicted.

The contention deserves no serious consideration.

To start with, the following findings of the CA indicate that the evidence supporting the conviction for homicide was already overwhelming even without the presentation of the knife held by the victim, to wit:

Reviewing the records, We find that appellant's guilt as the perpetrator of the unlawful killing of the victim Lino Mulinyawe had been adequately proven by prosecution evidence, both testimonial and physical. The credible and categorical testimonies of two (2) eyewitnesses during the entire incident on the night of April 3,

1997, Jeffrey and Sherwin, positively point to appellant as the one (1) who delivered the single fatal stabbing blow upon the victim while the latter was trying to counter the assault of appellant's brother, co-accused Randolph who was then holding a broken bottle. The lone knife thrust was directed at the heart of the victim, the wound penetrating said vital organ up to 12 centimeters deep, the direction, trajectory and depth of the stab wound clearly showing the intent to kill him. The medico-legal findings of Dr. Aranas sufficiently corroborate the account of said eyewitnesses that the victim was attacked frontally and the fatal stab wound caused by a single-bladed kitchen knife such as the one (1) identified in court, previously identified by the witness but only the photographs thereof were formally offered in evidence by the prosecution.

The totality of prosecution evidence more than satisfactorily proves the commission of the offense and appellant's authorship thereof. Contrary to appellant's contention, the non-presentation of blood samples from the victim and the accused as well as the instrument which accused used in perpetrating his felonious acts do not negate criminal liability – it is enough for the prosecution to establish by the required quantum of proof that a crime was committed and the accused was the author thereof. The presentation of the weapon is not a prerequisite for conviction. Such presentation and identification of the weapon used are not indispensable to prove the guilt of the accused much more so where the perpetrator has been positively identified by a credible witness. Appellant's insistence, therefore, that the presentation of the two (2) knives would prove his innocence is futile, irrelevant and immaterial, in the face of positive identification by two unbiased and credible eyewitnesses. Positive identification where categorical and consistent and without any showing of ill-motive on the part of the eyewitnesses testifying on the matter prevails over a denial. Denial being negative evidence which is self-serving in nature, cannot prevail over the positive identification of prosecution witnesses. More so in this case where the defense of denial is not corroborated by disinterested and credible witnesses: the mother of the accused whose presence in the crime scene was not sufficiently established and Edgar Erro whose testimony is found to be doubtful and not without bias.[14]

The non-identification and non-presentation of the weapon actually used in the killing did not diminish the merit of the conviction primarily because other competent evidence and the testimonies of witnesses had directly and positively identified and incriminated Ricardo as the assailant of Lino.[15] Hence, the establishment beyond reasonable doubt of Ricardo's guilt for the homicide did not require the production of the weapon used in the killing as evidence in court, for in arriving at its findings on the culpability of Ricardo the RTC, like other trial courts, clearly looked at, considered and appreciated the entirety of the record and the evidence. For sure, the weapon actually used was not indispensable considering that the finding of guilt was based on other evidence proving his commission of the crime.[16]

In addition, the witnesses incriminating Ricardo were not only credible but were not shown to have harbored any ill-motive towards him. They were surely entitled to full faith and credit for those reasons, and both the RTC and the CA did well in according such credence to them. Their positive identification of him as the assailant prevailed over his mere denial, because such denial, being negative and self-serving evidence, was undeserving of weight by virtue of its lack of substantiation by clear and convincing proof.[17] Hence, his denial had no greater evidentiary value than the affirmative testimonies of the credible witnesses presented against him.[18]

And, thirdly, Ricardo's attribution of serious error to the CA for not appreciating the justifying circumstance of defense of a relative in his favor was bereft of any support from the records.

In order that defense of a relative is to be appreciated in favor of Ricardo, the following requisites must concur, namely: (1) unlawful aggression by the victim; (2) reasonable necessity of the means employed to prevent or repel the aggression; and (3) in case the provocation was given by the person attacked, that the person making the defense took no part in the provocation.[19] Like in self-defense, it is the accused who carries the burden to prove convincingly the attendance and concurrence of these requisites because his invocation of this defense amounts to an admission of having inflicted the fatal injury on the victim.

In invoking defense of a relative, Ricardo states that his immediate impulse upon seeing Randolph being attacked by Lino with a knife was to get his own weapon and to aid in the defense of Randolph. But that theory was inconsistent with his declaration at the trial that Lino's fatal wound had been self-inflicted, as it presupposes direct responsibility for inflicting the mortal wound. Thus, his defense was unworthy of belief due to its incongruity with human experience.

Verily, the issue of credibility, when it is decisive of the guilt or innocence of the accused, is determined by the conformity of the conflicting claims and recollections of the witnesses to common experience and to the observation of mankind as probable under the circumstances. It has been appropriately emphasized that "[w]e have no test of the truth of human testimony, except its conformity to our knowledge, observation, and experience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance." [20]

In fine, Ricardo has not convinced the Court in this appeal that the RTC and the CA overlooked, or misappreciated, or misread some fact or circumstance of weight and consequence that would have changed the outcome of the case in his favor.

The Court needs to raise the civil indemnity from P50,000.00 to P75,000.00 in order to conform to the current judicial policy on the matter. [21] The other awards of civil liability are sustained because of the absence of any challenge against them.

WHEREFORE, the Court DENIES the petition for review for its lack of merit; AFFIRMS the decision promulgated on July 7, 2003 in all respects, subject to the MODIFICATION that the civil indemnity is increased to P75,000.00; and ORDERS the petitioner to pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-De Castro, [*]Peralta, and Reyes, JJ. concur.

[*] Vice Associate Justice Martin S. Villarama, Jr., who penned the decision under review, pursuant to the raffle of May 8, 2013.

[1] Rollo, pp. 26-37; penned by Associate Justice Martin S. Villarama, Jr., (now a member of this Court) with Associate Justice Elvi John Asuncion and Associate Justice Mario L. Guariña, III concurring.

[2] Records, pp. 408-417.

[3] Records, p. 199-b.

[4] Id. at 1-2.

[5] Id. at 82-84.

[6] Supra note 2.

[7] Records, p. 416.

[8] Id. at 417.

[9] Supra note 1.

[10] Rollo, pp. 39-41.

[11] Id. at 8.

[12] *People v. Malicdem*, G.R. No. 184601, November 12, 2012, 685 SCRA 193, 201; *People v. Dumadag*, G.R. No. 176740, June 22, 2011, 652 SCRA 535, 543-544.

[13] *People v. Villacorta*, G.R. No. 186412, September 7, 2011, 657 SCRA 270, 277.

[14] CA rollo, pp. 135-136.

[15] *People v. Fernandez*, G.R. No. 134762, July 23, 2002, 385 SCRA 38, 45.

[16] *People v. Bagcal*, G.R. No. 107529-30, January 29, 2001, 350 SCRA 402, 409.

[17] *People v. Agcanas*, G. R. No. 174476, October 11, 2011, 658 SCRA 842, 847, citing *People v. Caisip*, 290 SCRA 451, 456.

[18] *Id.*

[19] *People v. Dano*, G.R. No. 117690, September 1, 2000, 339 SCRA 515, 528.

[20] Salonga, *Philippine Law on Evidence*, 3rd Ed., 1964, p. 774, quoting *New Jersey Vice Chancellor Van Fleet* in *Daggers v. Van Dyck*, 37 N.J. Eq. 130.

[21] *People v. Bokingo*, G.R. No. 187536, August 10, 2011, 655 SCRA 313, 334; *People v. Teriapil*, G.R. No. 191361, March 2, 2011, 644 SCRA 491, 495.

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