

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO CUDAL, ACCUSED- APPELLANT.

G.R. NO. 167502. October 31, 2006

Ponente: CARPIO-MORALES, J.

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CARPIO-MORALES, J.:

Under final review is the Court of Appeals Decision[1] of February 11, 2005 affirming that of Branch 39 of the Regional Trial Court of Lingayen, Pangasinan[2] convicting Pablo Cudal (appellant) of parricide and meting out to him the penalty of reclusion perpetua.

About 2:00 o'clock in the morning of January 1, 1998,[3] as appellant arrived home in Barangay Bonlalacao, Mangatarem, Pangasinan from a drinking spree with his cousins and nephews, he roused his 79-year old father Crispin Cudal (the victim) from his sleep. Appellant then asked money from the victim so he could go back to the drinking session and pay for the liquor that he consumed. The victim replied that he had no money, and told appellant that he was already drunk.[4] This drew the two to a fight.[5]

Some 50 meters away from the place of the incident, Camilo Cudal (Camilo), appellant's first cousin who was then in the house of his mother-in-law, heard the commotion.[6] Camilo immediately rushed to the place and there saw the victim sitting on his bed and wiping blood oozing from his forehead. When asked about what happened, the victim quickly replied that he quarreled with appellant and that he was hit by him with a stone.[7]

When Camilo confronted appellant, the latter reasoned out that he was asking money from his father but the latter refused.[8]

Camilo brought the wounded victim to the house of his (victim's) brother Segundino Cudal[9] where first aid was applied on his wounds. Camilo then fetched from Urbiztondo, Pangasinan the victim's daughter Leoncia[10] who brought the victim to a nearby hospital where he expired the following day, January 2, 1998, at about 4 o'clock p.m.[11] The postmortem report prepared by Dr. Cleofe Orence, Rural Health Physician of Mangatarem, Pangasinan who examined the body of the victim revealed the following findings:

External Physical Injuries:

- (1) Lacerated wound, old, about 4 cm. midfrontal area.
- (2) Hematoma, dorsal aspect right hand.
- (3) Contusion 2x3 cm., right upper quadrant area, abdomen.

Probable Cause of Death:

INTERNAL HEMORRHAGE secondary to Craniocerebral Injury secondary to Trauma

T/C Ruptured Viscus, abdomen.[12]

Appellant was arrested by police authorities on January 3, 1998[13] and brought for treatment at the Mangatarem District Hospital on the same day. The medical findings on him showed:

- (-) Negative alcoholic breath
- Stab wound 2 cm., left side face
- Stab wound 1.5 cm. zygomatic area left
- Periorbital hematoma left superimposed with punctured wound .5 cm. left lower eyelid
- Punctured wound left eyebrow
- Contusion hematoma 1x1 cm. occipital area[14]

An Information was soon filed against appellant reading:

x x x x

That on or about January 1, 1998, at about 2:00 o'clock dawn, in barangay Bonlalacao, municipality of Mangatarem, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously (sic), and with evident premeditation (sic), that is, having conceived and deliberated to kill his own father with whom he was living with, and with treachery, attack, assault and hit with the use of stone his father, Crispin Cudal, on the head and other parts of his body, inflicting upon the latter mortal wounds which directly caused his death, to the damage and prejudice of the heirs of the said victim Crispin Cudal.

CONTRARY to Article 246 of the Revised Penal Code.[15]

x x x x

Denying having struck the victim, appellant claimed that it was he who was assaulted with a bolo,[16] and that while going after him, the victim accidentally fell down and hit the bedpost in the process, wounding himself on the forehead.[17] Asked how the victim sustained injury on his abdomen, appellant explained that the victim subsequently fell on the floor, hitting his abdomen with the handle of the bolo he was holding.[18]

After trial, Branch 39 of the Regional Trial Court of Lingayen, Pangasinan, by Decision of October 28, 1998, convicted appellant of parricide, but considered his intoxication at the time of the commission of the offense as a mitigating circumstance under paragraph 3, Article 15 of the Revised Penal Code. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing considerations, the Court finds the accused Pablo Cudal Guilty beyond reasonable doubt of the crime of Parricide for the killing of his father Crispin Cudal, on the early morning of New Year, January 1, 1998 with the presence of one (1) mitigating circumstance, and accordingly the Court sentences the said accused to reclusion perpetua. He is also ordered to pay the heirs of the accused the sum of P30,000.00 representing funeral expenses, plus indemnity of P50,000.00 without subsidiary imprisonment in case of insolvency; and to pay the costs.

Being a detention prisoner, the said accused is credited with his detention to its full extent.

SO ORDERED.[19]

Appellant appealed his conviction before this Court, assailing the trial court for "accept[ing] the prosecution's account as gospel truth despite the fact that its witnesses were not actually direct witnesses to the crime charged." [20] The appeal was docketed as G.R. No. 140637.

By Resolution[21] of August 30, 2004, this Court ordered the transfer of the case to the Court of Appeals for appropriate action and disposition conformably with *People v. Mateo*. [22]

The appellate court affirmed, with modification, appellant's conviction. The decretal text of the decision reads:

WHEREFORE, the assailed Decision of Branch 39 of the Regional Trial Court of Lingayen, Pangasinan, dated

October 28, 1998, in Criminal Case No. L-5778, convicting the appellant, Pablo Cudal, of the crime of parricide and sentencing him to suffer the penalty of reclusion perpetua is hereby AFFIRMED. The last sentence of the first paragraph of its dispositive portion is however hereby modified to read, as follows: "Accused-appellant Pablo Cudal is also ordered to pay the heirs of the victim, Crispin Cudal, the sum of P30,000.00 representing funeral expenses, plus indemnity of P50,000.00 without subsidiary imprisonment in case of insolvency; and to pay the costs."

No pronouncement as to costs.[23] (Emphasis in the original)

Hence, the elevation of the case to this Court for final review.

In a Manifestation dated September 7, 2005,[24] appellant informed that he was opting not to file a Supplemental Brief.

The appeal fails.

Article 246 of the Revised Penal Code provides:

ART. 246. Parricide. - Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.

Prosecution witness Camilo Cudal narrated what he knew of the circumstances surrounding the incident as follows:

Q Do you still recall where you were on the late evening of December 31, 1997 before midnight?

A I could remember, sir.

Q Where were you?

A I was in the house of my in-laws, sir.

Q Will you please tell the name of your in-laws?

A Marissa Dancel, sir.

Q Where is the place of Marissa Dancel located?

A Bulalakao, Mangatarem, sir.

Q Why were you there at the house of your mother-in-law, Marissa Dancel?

A Because we were celebrating the New Year['s] Eve, sir.

Q Now by the way, how far is your house from the house of your mother-in-law where you were celebrating New Year['s] Eve?

A Around 50 meters away, sir.

Q Now, at about 2:00 o'clock in the early mornignof (sic) January 1, 1998, can you tell us where you were?

A Yes, sir, I was in the house of my in-laws.

Q As you were stay (sic) there, can you still recall if there was unusual thing that you observe[d] when you were at the house of your mother-in-law?

A Yes, sir, there was.

Q What was that that you observe[d]?

A I heard something like quarreling on the house of Crispin Cudal, sir.

Q Now, can you tell us why do you say that there is a sounds (sic) like warning in the house of Crispin Cudal?

A Because they were uttering words, sir.

Q Can you tell us if you could recognize that voices as you said they are quarreling?

A Yes, sir.

Q Please tell the Honorable Court whose voice is that?

A Pablo Cudal and Crispin Cudal, sir.

Q Now, what did you [do] if any when you heard this quarreling voices of accused Pablo Cudal?

A Because I went near, sir.

Q How did you go near?

A I walked towards the house of Crispin, (sic) Cudal and I was listening to them, sir.

Q Where did you go when you went near?

A I [e]ntered there (sic) house, sir.

Q Whose house?

A House of Crispin Cudal, sir?

Q How did you [e]nter the house of Crispin Cudal?

A The door was opened, sir.

Q As you [e]ntered the door of the house of Crispin Cudal, what did you see, if any?

A I saw blood oozing from the forehead of Crispin Cudal, sir.

Q Where did you see Crispin Cudal inside the house blooded as you have pointed in the forehead?

A In the place where he sleep (sic), sir.

Q What was his position when you saw him blooded on the forehead?

A He was seating down and he was wiping the blood of his forehead, sir.

Q When you saw wiping his blood on the forehead, what next happened?

A I asked him, "Uncle what happened,[]" and he answered, "we quarreled with Pablo Cudal,[]" he said.

Q Do you remember having asked, what caused the injury of the forehead?

A Yes, sir, I asked him.

Q What did the victim answer if any when you asked him what caused his injury on the forehead if he answer (sic) you?

A I was hit with the stone by Pablo Cudal.[25] (Emphasis supplied)

Another prosecution witness, Segundino Cudal, declared that when his brother the victim was brought to his house by Camilo, the victim who was "strong," albeit his face was bloodied, told him that he was struck with a stone by appellant.

FISCAL CHIONG:

Q Do you know where you were on the early morning of January 1, 1998?

A I was at home, sir.

Q Do you recall if there is unusual incident that came to your knowledge involving your brother Crispin Cudal?

A None yet when I am at home.

Q Do you know, if any one came to your house that morning of January 1, 1998?

A Yes, Crispin Cudal, sir.

Q How was your older brother Crispin Cudal brought to yourhouse (sic) by Camilo Cudal?

A He was loaded in a tricycle, sir.

Q Now, when you saw your brother when he was brought to your house, can you tell us his physical appearance or condition?

A He was strong but his face was bloody, sir. Even his clothes were stained or tainted with blood, sir.

Q Now, when you saw your brother's face bloody as well as his clothes, what did you do, if any as he was already in your house?

A I asked him what happened to him and he told me "I was struck with stone by my son[.]"

Q Did you ask him who is this son of him who struck him with stone?

A Yes, sir his name is Pablo Cudal.[26] (Emphasis and underscoring supplied)

At the witness stand, defense witness Dr. Orence, declared:

Q Is it also possible Doctor[a] that this contusion was due to the force of a stone struck on the victim? Stone is a hard object?

A It could be, sir.

Q Likewise, this hematoma on the dorsal right hand of the victim was possibly caused by the impact of the stone being thrown at the victim when the victim tried to parry it, is that not also possible, Doctora?

A Yes sir, it is possible.[27] (Underscoring supplied)

That the complained act of appellant was the proximate cause of the death of the victim is evident from the above-quoted postmortem report on the body of the deceased showing the probable cause of his death as "INTERNAL HEMORRHAGE secondary to Craniocerebral Injury secondary to Trauma" and "T/C Ruptured Viscus, abdomen."

It is axiomatic in criminal jurisprudence that when the issue is one of credibility of witnesses, an appellate court will normally not disturb the factual findings of the trial court unless the latter has reached conclusions that are clearly unsupported by evidence, or unless some facts or circumstances of weight or influence were overlooked which, if considered, would affect the result of the case. The rationale for this is that trial courts have superior advantages in ascertaining the truth and in detecting falsehood as they have the opportunity to observe at close range the manner and demeanor of witnesses while testifying.[28] In the absence of any showing that the trial court, whose findings were affirmed by the appellate court, acted arbitrarily in the appreciation of evidence, this Court respects the same.

That Camilo and Segundino were not eyewitnesses to the incident does not render their testimonies inadmissible, for they may be considered part of the *res gestae*,[29] an exception to the hearsay rule. For the same to be considered part of the *res gestae*, the following requisites must concur:

(1) the principal act or *res gestae* must be a startling occurrence; (2) the statement is spontaneous or was made before the declarant had time to contrive or devise a false statement, and the statement was made during the occurrence or immediately prior or subsequent thereto; and (3) the statement made must concern the occurrence in question and its immediately attending circumstances.[30]

The spontaneity of the utterance and its logical connection with the principal event, coupled with the fact that the utterance was made while the declarant was still "strong" and subject to the stimulus of the nervous excitement of the principal event, are deemed to preclude contrivance, deliberation, design or fabrication, and to give to the utterance an inherent guaranty of trustworthiness.[31] The admissibility of such exclamation is based on experience that, under certain external circumstances of physical or mental shock, a stress of nervous excitement may be produced in a spectator which stills the reflective faculties and removes their control, so that the utterance

which then occurs is a spontaneous and sincere response to the actual sensations and perceptions already produced by the external shock. Since this utterance is made under the immediate and uncontrolled domination of the senses, rather than reason and reflection, and during the brief period when consideration of self-interest could not have been fully brought to bear, the utterance may be taken as expressing the real belief of the speaker as to the facts just observed by him.[32]

The victim's information to Camilo and Segundino as to the material facts was made immediately after the startling incident occurred. It is as categorical as it is spontaneous and instinctive. It cannot be concluded that in a very short span of time, taking into consideration the ripe age of the victim, his relationship to appellant, and the cruelty and suffering which immediately preceded the confession, the victim had the opportunity to concoct the facts surrounding the incident and its authorship. Besides, there appears to be no reason or motive on the part of the victim to point his son as the culprit if such were not indeed the truth.

Appellant's intoxication at the time of the commission of the crime, being an alternative circumstance under Article 15 of the Revised Penal Code, may be appreciated as aggravating if the same is habitual or intentional, otherwise it shall be considered as a mitigating circumstance. The trial court observed:

We now come to another matter, which is the fact that during the incident, the accused was drunk. This was testified to by Camilo Cudal and admitted by the wife of the accused. The accused himself admitted that he had been drinking with his cousins and nephews, but he claims that he did not drink much. Drunkenness is an alternative circumstance. It is aggravating if the accused is a habitual drunkard. It is mitigating if it is otherwise.

The date of the incident is two (2) hours after midnight which ushered in the new year. Before that, the accused and his relatives were celebrating and they drank San Miguel gin. No evidence was presented to establish that he is a habitual drunkard. It is a legal maxim that when there is doubt, the doubt should be resolved in favor of the accused. This court[,] therefore, believes that this should be taken as a mitigating circumstance, which is favorable to the accused.[33] (Underscoring supplied)

Absent any showing then that appellant's intoxication was habitual or intentional, it may only be considered as mitigating to correctly call for the imposition of the penalty of reclusion perpetua, in accordance with Article 63, paragraph 2(3) of the Revised Penal Code.[34]

WHEREFORE, the Court of Appeals Decision of February 11, 2005 which affirmed the October 28, 1998 Decision of Branch 39 of the Regional Trial Court of Lingayen, Pangasinan, convicting appellant Pablo Cudal of parricide and meting out the penalty of reclusion perpetua is AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Velasco, Jr., JJ., concur.
Tinga, J., on leave.

[1] Penned by Associate Justice Aurora Santiago-Lagman and concurred in by Associate Justices Conrado Vasquez, Jr. and Rebecca De Guia-Salvador, rollo, pp. 4-20.

[2] Penned by Judge Eugenio G. Ramos, records, pp. 68-74.

[3] TSN, April 13, 1998, p.4.

[4] TSN, July 16, 1998, p. 4.

[5] Ibid.; see also TSN, April 13, 1998, p. 4.

[6] Supra, note 3.

[7] Id. at 5.

[8] Supra, note 4.

[9] TSN, April 13, 1998, p.6.

[10] Sometimes referred to as Luncia.

[11] Records, p. 6.

[12] Ibid.

[13] TSN, July 16, 1998, p. 8.

[14] Records, p. 62.

[15] Id. at 1.

[16] Supra, note 4.

[17] Id. at 5.

[18] Id. at 16.

[19] Records, pp. 73-74.

[20] CA rollo, p. 49.

[21] Id. at 103.

[22] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[23] Rollo, p. 19.

[24] Id. at 22-23.

[25] TSN, April 13, 1998, pp. 3-5

[26] TSN, April 16, 1998, p. 9.

[27] TSN, September 3, 1998, p. 10.

[28] *People v. Dalag*, G.R. No. 129895, April 30, 2003, 402 SCRA 254, 262; See also *Libuit v. People*, G.R. No. 154363, September 13, 2005, 469 SCRA 610, 618; *People v. Avero*, No. L-76483, August 30, 1988, 165 SCRA 130, 134.

[29] Rule, 130, Sec. 42 of the Rules of Court provides:

SEC. 42. Part of the res gestae. - Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the res gestae. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the res gestae.

[30] *People v. Ignas*, G.R. Nos. 140514-15, September 30, 2003, 412 SCRA 311, 333 citing *People v. Tolentino*, G.R. No. 87085, February 2, 1993, 218 SCRA 337, 345. See also *People v. Dela Cruz*, G.R. No. 152176, October

1, 2003, 412 SCRA 503, 508; *People v. Cabrera, Jr.*, G.R. No. 138266, April 30, 2003, 402 SCRA 299, 307-308.

[31] V. Herrera, *Remedial Law*, 1999 ed., p. 686 citing 2 *Jones on Evidence* 252, Sixth Ed.

[32] *People v. Sanchez*, G.R. No. 74740, August 28, 1992, 213 SCRA 70, 78.

[33] *Records*, p. 73.

[34] ART. 63. Rules for the application of indivisible penalties. - x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties the following rules shall be observed in the application thereof:

x x x x

3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

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