

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PRINCE FRANCISCO Y ZAFE, ACCUSED-APPELLANT.

G.R. No. 192818. November 17, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the Decision[1] dated March 29, 2010 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03041, which affirmed with modification the Judgment[2] dated October 5, 2007 in Criminal Case No. 3007 of the Regional Trial Court (RTC), Branch 43 in Virac, Catanduanes. The RTC found accused-appellant Prince Francisco y Zafe guilty beyond reasonable doubt of the crime of Murder.

The Facts

In an Information[3] filed on January 23, 2002, appellant was indicted for murder under Article 248 of the Revised Penal Code (RPC), allegedly committed as follows:

That on or about the 24[th] day of October 2001 at around 8:50 o'clock in the evening, in barangay San Juan, municipality of Virac, province of Catanduanes, Philippines, within the jurisdiction of the Honorable Court, the above-named accused, with evident premeditation, treachery and deliberate intent to take the life of Ramil Tablete did then and there, willfully, unlawfully, feloniously and criminally, attack, assault and stab the latter, with the use of a bladed instrument (kitchen knife) wounding mortally his chest, abdomen and different parts of his body which wounds were necessarily mortal causing the direct and immediate death of said Ramil Tablete, to the damage and prejudice of his surviving heirs.

During arraignment, appellant pleaded not guilty to the crime charged. However, during the pre-trial on March 4, 2003, he withdrew his former plea. Consequently, on the same hearing, he was re-arraigned and he pleaded guilty[4] to the crime charged.

Through the March 4, 2003 Order from the pre-trial proceeding, it was shown that the RTC conducted searching questions to determine that appellant voluntarily entered his guilty plea and that he understood its consequences. The RTC further ordered the setting of the case for the prosecution to adduce evidence proving the guilt of appellant beyond reasonable doubt and to determine the degree of his culpability. The March 4, 2003 RTC Order states:

When this case was called for pre-trial this morning, the accused thru counsel manifested his desire to withdraw his former plea and to enter a plea of guilty to the offense charged. Thereafter, the accused was rearraigned and he entered a plea of guilty to the offense charged. He agreed to pay the amount of P131,313.50 as actual damages and another P50,000.00 for the life of Ramil Tablete.

The Court proceeded to ask the accused searching questions to determine the voluntariness of his plea and as to whether he understood the consequences of the same. Satisfied that the accused willingly and voluntarily

pleaded guilty with full knowledge of the consequence of the same and, in addition that he was given proper [advice] by his counsel prior to entering said plea, the Court sets the hearing of this case to April 22, 2003 at 8:30 a.m. to determine the degree of culpability of the accused as required under the Rules in cases of capital offenses.

Let a subpoena duces tecum be issued to Dr. Elmer Tatad and Dr. Lalaine A. Bernardo, all of IPHO, Virac, Catanduanes, to testify and bring with them the medical record of Ramil Tablate on the said date of hearing. As requested by the prosecution.

SO ORDERED.[5] (Emphasis supplied.)

In its November 12, 2003 Order,[6] the RTC stated that during the hearing conducted on the same date, the defense admitted the fact of death of Ramil Tablate due to stab wounds and that it was appellant who stabbed Ramil.

To prove appellant's guilt beyond reasonable doubt, the prosecution presented the testimonies of Dr. Lilian Olfindo, Joseph Romero, Christopher Tablate, and Napoleon Mandac, and established the following facts:

On October 24, 2001, at around 8:50 p.m., Joseph, Christopher, and Napoleon were at the wake of one Sulpicio Go in San Juan, Virac, Catanduanes. While they were watching a game of pai-cue, the victim, Ramil, was sitting nearby on a parked motorcycle talking to someone. Appellant then appeared from behind and started stabbing Ramil using a knife. Ramil pleaded with appellant to stop, saying: "Tama na PRINCE magadan na ako." ("That is enough PRINCE, I will die.") When Christopher heard the commotion and saw his brother Ramil being assaulted, he went to Ramil and told appellant: "Tama na PRINCE magadan na ang tugang ko." ("That is enough PRINCE, my brother will die.") Efren Francisco, father of appellant, told appellant to stop the assault and embraced Ramil, but appellant relentlessly continued stabbing Ramil. Fearing for his brother's life, Christopher grabbed a plastic chair and hit the back of appellant, who got more enraged and turned upon Christopher, stabbing him five times in the arm.[7] Christopher ran away with appellant chasing him until he was able to ride a tricycle which rushed him to the hospital. In the emergency room, Christopher was given medical attention and was stunned to eventually see the lifeless body of Ramil on a stretcher.[8]

Dr. Olfindo made the post-mortem examination on the victim.[9] The result showed that Ramil suffered a total of 16 wounds in various parts of the body, 13 of which were stab wounds.[10] Ramil died of cardiac arrest secondary to cardiac tamponade, secondary to multiple stab wounds in the chest and abdomen.[11]

The prosecution rested its case and made its formal offer of exhibits without any objection from the defense.

After admitting the death of Ramil resulting from appellant's assault, the defense, however, did not present any witnesses, but simply argued that the offense of appellant is only homicide and not murder. Contending that no treachery attended the assault, the defense asserted that appellant did not attack Ramil from behind.

The Ruling of the RTC

The trial court rendered its decision on October 5, 2007, convicting appellant of the crime of Murder, the dispositive portion reading:

WHEREFORE, this Court, after determining the degree of culpability of PRINCE, who pleaded guilty to the crime of Murder, hereby, sentences Prince Francisco to suffer a penalty of reclusion perpetua and to indemnify the family of the victim the amount of ONE HUNDRED THIRTY-ONE THOUSAND THREE HUNDRED THIRTEEN AND 50/100 (Php131,313.50) PESOS as actual damages and FIFTY THOUSAND (P50,000.00) PESOS for taking the life of Ramil Tablate, as previously agreed upon.

SO ORDERED.[12]

The RTC found the evidence presented by the prosecution sufficient to prove beyond reasonable doubt that appellant committed the crime charged qualified by treachery. But it opined that appellant acted upon an impulse so powerful as naturally to have produced passion or obfuscation, considering an altercation appellant had with Ramil earlier at a billiard hall.[13]

Unperturbed, appellant appealed to the CA, raising the lone issue of whether the RTC erred in convicting him of murder.

The Ruling of the CA

In its Decision dated March 29, 2010, the appellate court affirmed with modification the ruling of the RTC. The fallo reads:

Wherefore, the Decision dated 5 October 2007 of the Regional Trial Court, Fifth Judicial Region, Virac, Catanduanes, Branch 43, in Criminal Case No. 3007, is hereby AFFIRMED WITH MODIFICATIONS in that appellant PRINCE FRANCISCO y ZAFE is ORDERED to pay the heirs of Ramil Tablate the additional sums of P50,000.00 and P25,000.00 as moral and exemplary damages, respectively.

SO ORDERED.[14]

The appellate court likewise found appellant guilty beyond reasonable doubt of the crime of Murder. It held that, while there were no transcripts of stenographic notes in the records pertaining to the searching inquiry conducted by the RTC on March 4, 2003, still the prosecution was able to establish the culpability of appellant by means of evidence independent of his admission of guilt. The prosecution witnesses testified in detail how the stabbing incident transpired that caused the death of Ramil.

The CA found the killing of Ramil qualified by alevosia or treachery based on the prosecution witnesses' testimony that Ramil was stabbed from behind by appellant, without any provocation from Ramil nor affording Ramil any opportunity to defend himself.

The appellate court did not consider passion and obfuscation to mitigate appellant's culpability. The CA pointed out that Christopher's testimony on the altercation between appellant and Ramil in the billiard hall was hearsay, for Christopher had no personal knowledge of the supposed altercation since he only learned about it from another person.

Anent damages, the appellate court awarded to the heirs of the victim moral damages of PhP 50,000 and exemplary damages of PhP 25,000.

Thus, we have this appeal.

The Issues

Both appellant and the Office of the Solicitor-General (OSG), representing the People of the Philippines, opted not to file any supplemental brief, since neither new issues were raised nor supervening events transpired. Considering that both appellant and the OSG did not file a supplemental brief, the sole issue for our consideration, therefore, is the same one appellant raised before the CA⁴whether the RTC erred, and consequently the CA for its affirmance of the former, in convicting appellant of the crime of murder.

The Court's Ruling

The appeal has no merit.

Conviction based on evidence of prosecution and not on plea of guilt by appellant

First, appellant assails the March 4, 2003 Order of the trial court as being precipitate considering that the trial judge failed to ascertain the voluntariness of his plea of guilt when he did not fully understand its consequences and significance, for the records show neither proof nor a transcript of the proceedings on March 4, 2003 that appellant indeed voluntarily made a guilty plea and that he fully understood its import.

We are not persuaded.

Section 3, Rule 116 of the Revised Rules of Criminal Procedure pertinently provides:

Section 3. Plea of guilty to capital offense; reception of evidence.--When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.

The indispensable requirement of searching inquiry was elucidated in *People v. Mangila*:

To breathe life into this rule, we made it mandatory for trial courts to do the following:

- (1) conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the accused's plea;
- (2) require the prosecution to prove the guilt of the accused and the precise degree of his culpability; and
- (3) inquire whether or not the accused wishes to present evidence on his behalf and allow him to do so if he so desires.[15] (Emphasis supplied.)

Moreover, the trial court must be satisfied that:

the accused has not been coerced or placed under a state of duress either by actual threats or physical harm coming from malevolent or avenging quarters, and this it can do either by eliciting from the accused himself the manner in which he has been brought into the custody of the law and whether he had the assistance of competent counsel during the custodial and preliminary investigations or by ascertaining from him the conditions of his detention and interrogation during the investigation.[16]

It is also imperative that "a series of questions directed at defense counsel on whether or not counsel has conferred with the accused and has completely explained to him the meaning of a plea of guilt are well-taken steps along those lines." [17]

In *People v. Bello*, the Court explained that: "A 'searching inquiry,' under the Rules, means more than informing cursorily the accused that he faces a jail term but so also, the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony." [18]

Lastly, it has been mandated that the accused or his or her counsel be furnished with a copy of the complaint and the list of witnesses against the accused.

It has to be made clear that the purpose of the searching inquiry is "not only to satisfy the trial judge himself but also to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea." [19]

We reproduce the March 4, 2003 RTC Order:

When this case was called for pre-trial this morning, the accused thru counsel, manifested his desire to withdraw his former plea and to enter a plea of guilty to the offense charged. Thereafter, the accused was

rearraigned and he entered a plea of guilty to the offense charged. He agreed to pay the amount of P131,313.50 as actual damages and another P50,000.00 for the life of Ramil Tablate.

The Court then proceeded to ask the accused searching questions to determine the voluntariness of his plea and as to whether he understood the consequences of the same. Satisfied that the accused willingly and voluntarily pleaded guilty with full knowledge of the consequence of the same and, in addition that he was given proper [advice] by his counsel prior to entering said plea, the Court sets the hearing of this case to April 22, 2003 at 8:30 a.m. to determine the degree of culpability of the accused as required under the Rules in cases of capital offenses.

Let a subpoena duces tecum be issued to Dr. Elmer Tatad and Dr. Lalaine A. Bernardo, all of IPHO, Virac, Catanduanes, to testify and bring with them the medical record of Ramil Tablate on the said date of hearing, as requested by the prosecution.

SO ORDERED.[20] (Emphasis supplied.)

In the instant case, the records do not include any transcript of stenographic notes pertaining to the searching inquiry into the voluntariness and full comprehension of the consequences of the plea of guilty made by appellant on March 4, 2003 during the pre-trial. The March 4, 2003 Order of the RTC unequivocally demonstrates that the trial court conducted a searching inquiry ascertaining the voluntariness and full comprehension of appellant. The unavailability of the transcript of stenographic notes does not necessarily connote that no searching inquiry was made by the trial court. The trial court is entitled to the presumption of regularity of performance of duty under Sec. 2(m),[21] Rule 131 of the Revised Rules of Criminal Procedure, absent any factual or legal basis to disregard this presumption.[22]

Lastly, the March 4, 2003 Order should have been challenged within the reglementary period to prevent its finality, if the contents were false or inaccurate, which appellant failed to do. The Order became final, which buttresses the validity of the directive.

Even assuming arguendo that there was no searching inquiry made, still the ascribed error will not grant relief to appellant for belatedly raising the issue for the first time on appeal.[23] And most importantly, the conviction of appellant was not made solely on his guilty plea--improvident or not--but on the evidence adduced by the prosecution proving beyond reasonable doubt appellant's culpability and liability for murder. Consequently, even if his plea of guilt during the pre-trial on March 4, 2003 be viewed as improvident, still appellant's conviction for murder stands as duly proved by the prosecution. Thus, the Court emphatically ruled in *People v. Baun*:

Where the trial court receives evidence to determine precisely whether or not the accused has erred in admitting his guilt, the manner in which the plea of guilty is made (improvidently or not) loses legal significance, for the simple reason that the conviction is based on the evidence proving the commission by the accused of the offense charged.[24] (Emphasis supplied.)

This is so, as the rule now stands, "even in cases in which the accused pleads guilty to a capital offense, the prosecution is still required to present evidence to prove his guilt and the precise degree of his culpability." [25] In other words, notwithstanding the plea of guilt, evidence must be adduced to determine the precise participation of the accused in the perpetuation of the capital offense--whether as principal, accomplice, or accessory--as well as the presence or absence of modifying circumstances. And "the accused may also present evidence in his behalf" [26] either to rebut the prosecution's evidence or to show the presence of mitigating circumstances.

Appellant waived his right to present evidence

Second, appellant maintains that he was not given opportunity to present evidence and that the case was submitted for decision immediately after the prosecution filed its offer of evidence.

We do not agree.

The Minutes of the hearing conducted on August 7, 2007 shows otherwise:

Defense has no more witness to present. Prosecution is given 15 days to file formal offer of exhibits. 15 days for the defense for comments/objections. Case submitted for decision.[27]

The defense chose not to present any witnesses which amounts to a waiver to present evidence. This was not objected to by appellant. Thus, there was an implied acquiescence on the part of appellant not to present himself or other witnesses even though he was entitled to present evidence to prove, inter alia, mitigating circumstances under Sec. 3 of Rule 116. Appellant is, consequently, estopped from questioning the rendition of the trial court's disposition of the case without the presentation of any evidence by the defense, unless there are exceptional reasons justifying the additional reception of evidence for the defense. Appellant has not shown any cogent justification to set aside the defense's waiver of right to present evidence. Moreover, the records show that appellant filed neither comment nor objection to the prosecution's Formal Offer of Exhibits. We also take note that under Sec. 3, Rule 116, the accused may present evidence in his behalf--it is, therefore, not mandatory for the defense to present evidence but is only accorded an opportunity to do so, which, in the instant case, was waived by the defense.

Besides, we further note that in the proceedings before the trial court, the defense neither assailed the non-presentation of its witnesses nor asserted its right to adduce evidence. Thus, issues raised for the first time on appeal are barred by estoppel--arguments not raised in the original proceedings cannot be considered on review.[28]

Treachery proved in qualifying the killing

Third, appellant argues, assuming his valid plea of guilt, that the trial court gravely erred in convicting him of murder by appreciating the presence of treachery. According to him, there were certain flaws in the testimonies of the prosecution witnesses that cast doubt as to the existence of treachery in order to deprive Ramil of the chance to defend himself since it was uncertain on how appellant's attack on Ramil commenced.

The argument is bereft of merit.

Art. 248 of the RPC provides in part that:

Art. 248. Murder.³⁴Any person who, not falling within the provisions of article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion temporal in its maximum period to death, if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity.

To be liable for murder, the prosecution must prove that: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances mentioned in Art. 248; and (4) the killing is neither parricide nor infanticide.[29]

The prosecution competently proved the guilt of appellant and his precise degree of culpability. First, it was established that Ramil was killed. Second, appellant was the one who stabbed Ramil resulting in the latter's death. Third, the killing was attended by treachery. And fourth, the killing is neither parricide nor infanticide. Aside from the testimonies of Joseph, Christopher, and Napoleon, who positively identified appellant as the one who stabbed Ramil, Dr. Olfindo corroborates the testimonies of the other prosecution witnesses that the death of Ramil was caused by the stab wounds he suffered.

The prosecution presented the Certificate of Death of Ramil G. Tablate,[30] signed by Dr. Lilian L. Olfindo, Municipal Health Officer of Virac, Catanduanes, and the Post-Mortem Examination Report,[31] which states that Ramil Tablate died of Cardiac Arrest Secondary to Cardiac Tamponade, Secondary to Multiple Stab Wounds on the Chest and Abdomen.[32]

The third element of the crime of murder is being questioned by appellant who argues that treachery was not present. One with the courts a quo, we see no doubt that appellant committed murder qualified with treachery. Joseph Romero testified:

THE COURT

Q.

What was the position of Ramil when he was stabbed?

A.

He was sitting on the motorcycle, your Honor.

Q.

And from where did the accused come from when he approached Ramil Tablate?

A.

From San Pablo, your Honor.

Q.

Immediately prior to the incident when the accused stabbed the victim where did the accused come, did he come from the front or did the accused approach him from the back?

A.

At the back, your Honor.

Q.

In other words, Ramil did not notice that the accused was approaching him in order to stab him?

A.

Yes, your Honor.

x x x x

Q.

If that is now the kind of statement which you relayed to the court, how were you able to tell the court that the accused approached Ramil from behind?

A.

There were some vacant spaces wherein my view was not obstructed.

x x x x

Q.

When the accused [sic] was stabbed, what did the accused do?

A.

He ran away going to the police station, your Honor.

Q.

What about the victim?

A.

He was brought to the hospital, your Honor.

Q.

At the time when the victim was stabbed, did he fight back?

A.

No, your Honor.[33]

On cross-examination, Joseph[34] further testified:

THE COURT

Q.

So what was the position of the accused in stabbing Christopher, the brother of Ramil?

A.

Christopher was stabbed behind by Prince.

Q.

How about Ramil, because it was Ramil who died and Christopher is alive. So how about Ramil, what was the position of the accused in stabbing Ramil?

A.

Ramil was stabbed from behind by the accused your Honor.[35] (Emphasis supplied.)

Christopher Tablate, brother of Ramil, corroborated Joseph's testimony, as follows:

COURT

Just one or two questions from the Court.

Q.

You said that you saw Prince Francisco stab your brother and you came to rescue your brother by getting hold of the plastic chair and hitting Prince at his back. My question is, what was the position of your brother when you hit Prince at his back?

A.

My brother was sitting on a motorcycle when he was stabbed by Prince several times and Prince came from the dark place and he suddenly stabbed Ramil.[36]

On cross-examination, Christopher[37] reiterated how his brother was treacherously murdered by appellant, thus:

COURT

Q.

Why did you not inform your brother about the fact that you saw Prince Francisco pass you by carrying a knife knowing that there was an incident at the billiard hall? Can you please explain the sequence of the incident from the time you saw Prince Francisco up to the time you saw you [sic] your brother being stabbed by him?

A.

When Prince Francisco passed by going to the dark portion, he suddenly attacked my brother and continuously stabbed my brother.

COURT

Q.

When Prince Francisco passed by you and you saw him carrying a weapon, did you follow his move with your eyes until he went to the dark place and turned around and stabbed your brother?

A.

Yes, ma'am.

COURT

Continue.

ATTY. SAMONTE

Q.

You saw Prince Francisco coming from the dark?

A.

Yes, sir.

Q.

You saw Prince Francisco from the dark going to your brother?

A.

Yes, sir.[38]

Moreover, prosecution witness Napoleon corroborated the testimonies of Joseph and Christopher that appellant was the assailant of Ramil by testifying that, at first, he thought Ramil and appellant were simply engaged in a fistfight, but later on, he saw appellant holding a knife and stabbing Ramil who was lying on the ground.[39]

The witnesses of the prosecution positively testified that appellant came from behind Ramil and started stabbing Ramil at the back with a stainless knife. Appellant continued the relentless stabbing of the unarmed Ramil, who was unable to defend himself or repel the attack of appellant. Thus, the presence of treachery as aptly found by the courts a quo.

In a catena of cases, treachery is found obtaining "when the offender commits the crime employing means, methods or forms in its execution which tend directly and specially to insure its execution, without risk to himself arising from the defense that the offended party might make." [40]

Settled jurisprudence prescribes two (2) essential elements in order to support the finding of alevosia as an

aggravating circumstance:

- (1) the employment of means, methods or manner of execution that would ensure the offender's safety from any retaliatory act on the part of the offended party, who has, thus, no opportunity for self-defense or retaliation; and (2) deliberate and conscious choice of means, methods or manner of execution.[41]

In this factual setting, the selection of the knife as the weapon to kill Ramil was arrived at so as not to create any noise that can alert the victim. Appellant planned to attack Ramil when Ramil's back is turned from appellant to preclude any window for self-defense or retaliation on the part of Ramil. The attack was swift and unexpected. Appellant rained numerous stabbing blows on the body of Ramil to ensure the success of his assault. Ramil was unarmed at the time of the attack depriving him of any opportunity to defend himself. Indeed, there was a deliberate, premeditated choice of the means, method, or manner of executing the crime that would shield appellant from any counterattack from Ramil. Ergo, the two elements of treachery were unquestionably met.

While appellant may claim that the attack is frontal and Ramil had the opportunity to defend himself, the Court explained in *People v. Segobre* that "treachery exists even if the attack is frontal if it is sudden and unexpected, giving the victim no opportunity to repel it or defend himself, for what is decisive in treachery is that the execution of the attack made it impossible for the victim to defend himself or to retaliate." [42] This is the unfortunate case of Ramil who was unable to repel the attack except only to plead for his life. As the CA aptly pointed out, even if Ramil was attacked frontally--which is definitely not the case--he was bereft of any opportunity to defend himself due to the swiftness and suddenness of the attack.

Consequently, we cannot agree with appellant that he only committed homicide on account of the absence of treachery. As a matter of course, "a qualifying circumstance like treachery changes the nature of the crime and increases the imposable penalties for the offense." [43] The CA is correct in imposing the penalty of reclusion perpetua in view of the plea of guilt.

Anent the proper damages, we find proper the grant by the RTC of PhP 131,313.50 as actual damages as duly proved during trial. Consistent with prevailing jurisprudence, [44] we find it proper to increase the award of civil indemnity and moral damages to PhP 75,000 each. We likewise increase the award of exemplary damages to PhP 30,000 in line with recent jurisprudence. [45]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 03041 finding accused-appellant Prince Francisco y Zafe guilty beyond reasonable doubt of the crime of Murder is AFFIRMED with MODIFICATION in that he is ordered to pay the heirs of the victim, Ramil Tablate, the amounts of PhP 131,313.50 as actual damages, PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and PhP 30,000 as exemplary damages.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Peralta, [*] and Perez, JJ., concur.

[*] Additional member per Special Order No. 913 dated November 2, 2010.

[1] Rollo, pp. 2-20. Penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Remedios Salazar-Fernando and Francisco P. Acosta.

[2] Records, pp. 244-249. Penned by Judge Lelu P. Contreras.

[3] Id. at 33.

- [4] Id. at 80.
- [5] Id. at 82-83.
- [6] Id. at 121.
- [7] TSN, August 6, 2007, pp. 7-11.
- [8] Id. at 11-12.
- [9] TSN, February 3, 2005, pp. 3-4.
- [10] Id. at 4-15.
- [11] Id. at 13.
- [12] Records, p. 249.
- [13] Id. at 248.
- [14] Rollo, p. 19.
- [15] G.R. Nos. 130203-04, February 15, 2000, 325 SCRA 586, 593.
- [16] People v. Estomaca, G.R. Nos. 117485-86, April 22, 1996, 256 SCRA 421, 437; citing People v. Petalcorin, G.R. No. 65376, December 29, 1989, 180 SCRA 685; People v. Parba, G.R. No. 63409, May 30, 1986, 142 SCRA 158; People v. Badilla, G.R. No. 69317, September 11, 1985, 138 SCRA 513.
- [17] People v. Estomaca, id.
- [18] G.R. Nos. 130411-14, October 13, 1999, 316 SCRA 804, 813.
- [19] People v. Sevileno, G.R. No. 129058, March 29, 1999, 305 SCRA 519, 528.
- [20] Records, pp. 82-83.
- [21] (m) That official duty has been regularly performed.
- [22] Suplico v. National Economic and Development Authority, G.R. No. 178830, July 14, 2008, 558 SCRA 329, 331, 354.
- [23] People v. Lazaro, Jr., G.R. No. 186418, October 16, 2009, 604 SCRA 250, 274; citing People v. Sta. Maria, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633-634.
- [24] G.R. No. 167503, August 20, 2008, 562 SCRA 584, 597.
- [25] People v. Ignacio, G.R. No. 134568, February 10, 2000, 325 SCRA 375, 380-381.
- [26] RULES OF COURT, Rule 116, Sec. 3.
- [27] Records, p. 225.
- [28] See People v. Lazaro, Jr., supra note 23.
- [29] People v. Ranin, Jr., G.R. No. 173023, June 25, 2008, 555 SCRA 297, 305.
- [30] Exhibit "A," records, p. 2.
- [31] Exhibits "B" & "B-1," id. at 4-5.

[32] Exhibit "A-1," *id.* at 2. Dr. Olfindo explained that "cardiac arrest secondary to cardiac tamponade is a condition wherein the heart ceases to beat because of the presence of the fluid into the cardiac sac causing the heart to bleed profusely. The cardiac sac closes the heart filled with fluid, that portion specifically that sac filled with blood and it causes the heart to stop that is the cardiac tamponade." TSN, February 5, 2005, p. 13.

[33] TSN, November 24, 2005, pp. 4-8.

[34] Cf. *Id.* at 2-3, 8. The testimony of Joseph also pertinently shows the following:

Q.

On October 24, 2001, at around 8:50 o'clock in the evening, where were you?

A.

I am at the wake of the dead person.

Q.

At whose wake are you attending?

A.

Sulpicio Go.

Q.

Where is that location of such wake?

A.

San Juan, Virac, Catanduanes, ma'am.

Q.

While you were attending the wake of [Sulpicio] Go at San Juan, Virac, Catanduanes, do you recall of any unusual incident that happened?

A.

Yes, ma'am.

Q.

What was that unusual incident all about?

A.

I have seen that somebody was stabbed.

Q.

Who was that person stabbed?

A.

Ramil Tablate, ma'am.

Q.

If you know, who stabbed Ramil Tablate?

A.

Prince Francisco, ma'am.

THE COURT

Q.

Were you present at the place of incident?

A.

Yes, your Honor.

x x x x

Q.

If the accused is in court today, can you point to him?

A.

Yes, ma'am, (At this juncture, witness is pointing to the accused Prince Francisco)

[35] TSN, July 17, 2006, p. 9.

[36] TSN, August 6, 2007, p. 13.

[37] Cf. Id. at 4-14. The testimony of Christopher also pertinently shows the following:

PROS. TANON

Q.

Mr. Christopher Tablate the subject matter of this case is about an incident that happened on October 24, 2001 in the hours between 8:00 to 9:00 in the evening in Barangay San Juan, Virac, Catanduanes, regarding the fatal stabbing for several time[s] of the accused, Prince Francisco that led to the death of your brother, Ramil Tablate and so this case was docketed as Crim. Case No. 3007. Because of such incident[,] you were also inflicted of five (5) stand [sic] wounds as such there was a case for homicide against Prince Francisco docketed as Crim. Case No. 3034. These two cases were upon arraignment by the accused Prince Francisco, pleaded guilty for Frustrated Homicide and for murder, are you aware of that?

A.

Yes, ma'am.

Q.

Because of these two incidents that led to the filing of these two cases, were you investigated by the police?

A.

Yes, ma'am.

x x x x

PROS. TANON

Q.

Mr. Witness, you said you had seen the accused Prince Francisco with the use of bladed weapon stabbed to death your brother, what was the length of the knife?

A.

Eight (8) inches.

Q.

Including the handle?

A.

Yes, ma'am.

Q.

Showing to you this knife marked as our Exhibit D, is that the on[e] you are referring to?

A.

Yes, ma'am.

Q.

When you were asked during the investigation, "When and where did this incident happened?" Your answer was, "Last October 24, 2001 in between the hours of 8:00 to 9:00 in the evening in Barangay San Juan, Virac, Catanduanes particularly in front of the house of the late Ompi Go." Is that correct, is that what you answered?

A.

Yes, ma'am.

Q.

And the follow up question was, "How did it happen?", and you answered, "While I was viewing a pai-cue game at the wake of the late Ompi Go in San Juan, Virac, my brother Ramil Tablate who was sitting on a motorcycle at the back, talking to someone when suddenly Prince Francisco arrive[d] coming from the dark, carrying a bladed weapon, stainless with yellow handle and without any apparent reason stab my brother for several times[,] hitting the body." Is that correct?

A.

Yes, ma'am.

Q.

Did you really see your brother stabbed by Prince Francisco?

A.

Yes, ma'am.

Q.

What was your distance to your brother who was sitting on the motorcycle?

A.

Around six (6) to seven (7) meters.

Q.

And you further answered, "Then I heard my brother Ramil talking in Bicol dialect to wit: "Tama na Prince magadan na ako." Is that correct?

A.

Yes, ma'am.

Q.

Then you answered more, "I pacified Prince by telling him in Bicol dialect to wit: Tama na Prince magadan na ang tugang ko." Is that correct?

A.

Yes, ma'am.

Q.

When you bade Prince by saying, "Tama na Prince ta magadan an ang tugang ko," did Prince Francisco stop?

A.

No, ma'am, he did not stop stabbing my brother.

Q.

So you said something that Prince did not stop stabbing your brother and you took a plastic chair and struck Prince with it, is that correct?

A.

Yes, ma'am.

Q.

Did you hit Prince?

A.

Yes, ma'am.

Q.

What part of the body of Prince was hit with the plastic chair?

A.

On his back.

Q.

When you struck Prince with a plastic chair and you further said that your purpose was to stop him from stabbing your brother but instead Prince turned to you and stabbed you while his father Efren was beside him, meaning Prince, is that correct?

A.

Yes, ma'am.

Q.

How many times did Prince hit you when she stabbed you?

A.

Five (5) times.

Q.

Because you were injured five (5) times by Prince, were you referred to a doctor, were you treated by a doctor?

A.

Yes, ma'am.

There is here a medico legal certificate on record. We move that this be marked as our Exhibit G, the medical certificate of Christopher Tablate.

x x x x

COURT

Just one or two questions from the Court.

Q.

You said that you saw Prince Francisco stab your brother and you came to rescue your brother by getting hold of the plastic chair and hitting Prince at his back. My question is, what was the position of your brother when you hit Prince at his back?

A.

My brother was sitting on a motorcycle when he was stabbed by Prince several times and Prince came from the dark place and he suddenly stabbed Ramil.

Q.

The question is, when you approached your brother in fact you got a plastic chair and hit Prince, was your brother still on top of the motorcycle?

A.

Yes, Your Honor.

Q.

He did not fall to the ground?

A.

After the stabbing, the motorcycle fell down together with my brother.

COURT

Q.

You mean to say when your brother fell down with the motorcycle the motorcycle was on top of your brother?

INTERPRETER

The witness demonstrating that his brother was in sitting position when the motorcycle fell down.

Q.

At what instance did you see Prince stab your brother the first time because I was looking at the result of the post mortem and the wound was all over. Which portion of the body was first stabbed by Prince when you saw him first?

A.

At the front portion.

Q.

When you approached your brother, which part of his body was being stabbed by Prince?

A.

I could not recall anymore because he stabbed my brother in succession. He did not stop. He stabbed continuously.

[38] TSN, August 7, 2007, pp. 17-18.

[39] *Id.* at 25-29.

[40] *People v. Mondigo*, G.R. No. 167954, January 31, 2008, 543 SCRA 384, 391. See also *People v. Ranin, Jr.*, *supra* note 29, at 309; *People v. Dela Cruz*, G.R. No. 174371, December 11, 2008, 573 SCRA 708, 722; *People v. Bohol*, G.R. No. 178198, December 10, 2008, 573 SCRA 557, 567; *People v. Cuasay*, G.R. No. 180512, October 17, 2008, 569 SCRA 870, 878.

[41] *People v. Villa, Jr.*, G.R. No. 179278, March 28, 2008, 550 SCRA 480, 498.

[42] G.R. No. 169877, February 14, 2008, 545 SCRA 341, 348-349.

[43] *People v. Eling*, G.R. No. 178546, April 30, 2008, 553 SCRA 724, 737.

[44] *People v. Serenas*, G.R. No. 188124, June 29, 2010; *People v. Satonero*, G.R. No. 186233, October 2, 2009, 602 SCRA 769, 782.

[45] *People v. Serenas*, *id.*; *People v. Mortera*, G.R. No. 188104, April 23, 2010; *People v. Gutierrez*, G.R. No. 188602, February 4, 2010, 611 SCRA 633, 647.

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