

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. DOMINADOR ESPINOSA Y PANSOY, ACCUSED-APPELLANT.

G.R. No. 228877. August 29, 2018

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

We resolve the appeal[1] from the August 2, 2016 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07212 which affirmed with modification the May 12, 2014 Decision[3] of the Regional Trial Court (RTC), San Mateo, Rizal, Branch 76, finding appellant Dominador Espinosa y Pansoy (appellant) guilty beyond reasonable doubt of the crime of parricide.

The Antecedent Facts

On August 4, 2009, appellant was charged with parricide in an Information[4] which reads:

That on or about the 14[th] day of March 2009, in the Municipality of Rodriguez, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously push to the wall of the house the cradle of his biological child Junel Medina y San Jose, six (6) months old, who was then inside said cradle, thereby causing the latter to sustain "traumatic injuries to the head and trunk" which directly caused his death soon thereafter.

CONTRARY TO LAW.[5]

Appellant pleaded not guilty to the charge.[6] After the conduct and termination of the pre-trial, trial proceeded.

Version of the Prosecution

The prosecution presented the testimony[7] of Edeltrudes Medina (Medina), the mother of the victim (Junel), and live-in partner of appellant.[8] She narrated that on March 14, 2009, she left Junel, then six months old, under appellant's care as she went to help in her aunt's catering business.[9] On March 15, 2009, while at her aunt's house, she received a phone call from appellant informing her that Junel had fallen off the cradle and died.[10] Medina immediately went home where she found appellant seated before the lifeless body of Junel.[11] Noting that Junel's mouth had injuries, his upper lips and chest had cigarette burns and his chest had hematomas,[12] she was unconvinced that Junel had really fallen off the cradle.[13]

The prosecution also presented the testimony[14] of Dr. Felimon C. Porciuncula, Jr. (Dr. Porciuncula) who conducted the autopsy on the body of the victim and issued Medico-Legal Report No. A-164-09.[15] Dr. Porciuncula testified that Junel had several contusions on the lips, ear, head, lungs and lower back; abrasions on the lips, head, chest and lower back; and fractures on two different parts of the head – injuries which were not sustained merely from falling off a cradle.[16] He concluded that the cause of death of the victim was the traumatic injuries sustained in the head and trunk.[17]

Version of the Defense

The defense presented the testimony[18] of appellant who stated that he worked as a construction worker but was home on that day because he had been sick.[19] He claimed that, while Medina had always looked after their children, Junel and two-year-old Althea, he looked after them on that day because Medina had to help out at her aunt's house.[20] He claimed that at around 1:00 p.m. of March 14, 2009, he went out to fetch water after he had put the two children to sleep, Junel in the hammock and Althea on the bed.[21] When he came back, he found Junel lying face down on the floor with blood on his lips.[22] He noticed that the rope used in tying the hammock to the ceiling had come loose.[23] Appellant insisted that Junel was still alive at that time as he had even given him milk and put him back to sleep.[24] During the night, however, he was roused from his sleep by Althea's cries and, while he was preparing milk for the two children, he noticed that Junel was already lifeless.[25] He then sought help from the neighbors and informed Medina through the phone about what happened.[26]

Ruling of the Regional Trial Court

The RTC found appellant guilty as charged, viz.:

WHEREFORE, judgment is hereby rendered finding accused Dominador Espinosa y Pansoy GUILTY beyond reasonable doubt of the crime of PARRICIDE as defined and penalized under Article 246 of the Revised Penal Code, in relation to Republic Act 8369, as amended and sentencing him to suffer the penalty of Reclusion Perpetua and to indemnify the heirs of the victim in the amount of P50,000.00 as death indemnity and P50,000.00 as moral damages. No pronouncement as to cost.

x x x x

SO ORDERED.[27]

The RTC ratiocinated that:

[T]he injuries sustained by the victim are too plainly shown by the Autopsy Report to be open to doubt. The principal question that projects itself for resolution is simply whether or not the injuries were inflicted by the [accused] under the circumstances threshed out by the prosecution witnesses so as to render them amenable to the liability for the charge leveled against him.

The instant Information provides that the accused with intent to kill willfully, unlawfully and feloniously push to the wall of the house the cradle of the six (6) month old victim causing the latter traumatic injuries on the head and trunk that caused his death.

The findings contained in Medico-Legal Report No. A-164-09 sufficiently prove [d] the criminal responsibility of the accused considering the calculative injuries sustained were obviously expected to end the life of the victim especially so when [his] age is taken into account. The defense [of accident] posed by the accused x x x finds no support in the light of the overwhelming evidence presented by the prosecution. In a way the accused admitted responsibility. He was the only adult companion of the victim at the time of the incident such that it is therefore not difficult to conclude that he was the only one who could have inflicted the injuries sustained that resulted to the victim's death.[28]

Ruling of the Court of Appeals

On appeal, appellant argued that the trial court erred in finding that his guilt had been proven beyond reasonable doubt.[29] He claimed that the narration of Medina in her Sworn Statement[30] that their neighbors, Andrea Barona and Angelyn Tulbo, heard Junel's cries, appellant's shouts, and the pounding on the wall, and that they saw how Junel's cradle twice hit the wall while he was being carelessly rocked, should not be given probative weight for being hearsay.[31] Appellant also argued that the neighbors who had initially executed Sworn Statements[32] were not even presented during trial.[33] He further claimed that the trial court erred in finding

him guilty based only on the medico-legal report.[34]

On the other hand, the People, through the Office of the Solicitor General (OSG), maintained that the guilt of appellant for the crime of parricide was proven beyond reasonable doubt.[35] According to the OSG, the totality of the following circumstantial evidence warranted a conviction: (1) Medina left Junel well and healthy with appellant; (2) appellant was the only adult companion of Junel at the time; (3) Junel suffered injuries in the mouth, cigarette burns on the upper lip and chest, and hematomas on the chest; (4) appellant merely reasoned that what happened was an accident; (5) the autopsy report revealed injuries - contusion and abrasions - which could have been sustained before the victim died; and (6) the testimony of the medico-legal officer indicated that considering the nature of the injuries, it could not be possible that Junel had merely fallen off his cradle.[36]

The appellate court affirmed the ruling of the RTC, with modification as to the amounts of damages, to wit:

WHEREFORE, the appeal is DENIED. The assailed disposition is MODIFIED increasing the award of civil indemnity from Fifty Thousand Pesos (PhP50,000.00) to One Hundred Thousand Pesos (PhP100,000.00) and moral damages from Fifty Thousand Pesos (PhP50,000.00) to One Hundred Thousand Pesos (PhP 100,000.00); awarding exemplary damages in the amount of One Hundred Thousand Pesos (PhP 100,000.00); with legal interest of six percent (6%) per annum on all monetary awards from the finality of this judgment until fully paid. Costs against Accused-Appellant.

SO ORDERED.[37]

Hence, this appeal.

Our Ruling

The appeal lacks merit.

Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of accused.[38] In the instant case, all the elements of the crime were clearly and sufficiently proved beyond reasonable doubt by the prosecution.

It is settled that "[d]irect evidence of the actual killing is not indispensable for convicting an accused when circumstantial evidence can sufficiently establish his guilt." [39] Circumstantial evidence can be the basis for conviction if there is more than one circumstance, the facts from which the inferences are derived have been proven, and the combination thereof produces a conviction beyond reasonable doubt.[40]

In the instant case, the circumstances already identified and enumerated by the appellate court bear restating. First, appellant was the only adult present at the time of the incident. Second, Junel suffered several hematomas and cigarette burns on different parts of his body which were inconsistent with the alleged accidental falling off the cradle. Third, the medico-legal report revealed that Junel had sustained injuries which could not have been caused by mere falling off the cradle.

The extent of the injuries sustained by Junel and the impossibility that these had been sustained by mere falling off the cradle were sufficiently explained by Dr. Porciuncula as follows:

Q

And what does this sketch of the human head refer to, what injuries, Mr. Witness?

A

On the anterior portion of the head there is contusion on the oral region, upper and lower lips and on the buccal

region, there is abrasion, sir. At the back of the head underneath the scalp, there is scalp hematoma and at the right side of the head there is an abrasion, a scalp hematoma and at the right parietal and right temporal region are fractured and on the left ear there is a contusion. Inside the head, sir, there is a massive brain hemorrhage and on the rear portion of the chest there is x x x contusion and there is also abrasion on the vertebral portion, sir. This chest produced massive pulmonary contusion or wherein the lungs are contused, sir.

Q

Going first on the head portion, Mr. Witness, it would appear that the injuries are located on different portion[s] of the head?

A

Yes, sir.

x x x x

Q

Could they have been made on a single time, the injuries, single infliction?

A

No, sir.

Q

Why so?

A

Because the location of the injuries are located on different parts of the body, especially on the left and right side[s] of the head including the back portion of the head, the anterior portion of the head, sir. All portions of the head were injured, sir.[41]

Thus, even if there was no direct evidence presented and even if the testimony of Medina pertaining to what the neighbors had told her was not given probative value, the attendant circumstances as enumerated all point to appellant as the guilty person. Moreover, it must be stressed that only moral certainty, and not absolute certainty, is required for a conviction. Here, based on the attendant circumstances, we are morally convinced that appellant's guilt for the crime of parricide has been proved beyond reasonable doubt.

Under Article 246 of the Revised Penal Code, as amended by Republic Act (RA) No. 7659, the penalty for parricide is reclusion perpetua to death. Under the prevailing circumstances, the proper imposable penalty is reclusion perpetua there being no modifying circumstances alleged or proved. Hence, both the RTC and the CA correctly imposed upon appellant the penalty of reclusion perpetua. Pursuant to Section 3 of RA No. 9346, appellant is not eligible for parole. As regards the damages awarded, prevailing jurisprudence[42] instructs that, for the crime of parricide punishable by reclusion perpetua, the amounts of damages should be as follows: P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P75,000.00 as exemplary damages. In addition, temperate damages in lieu of actual damages in the amount of P50,000.00 is awarded. Finally, all monetary awards shall earn interest at the rate of 6% per annum from the finality of this Decision until full payment.[43]

WHEREFORE, premises considered, the appeal is hereby DISMISSED. The August 2, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07212 finding appellant Dominador Espinosa y Pansoy GUILTY beyond reasonable doubt of the crime of parricide and sentencing him to suffer the penalty of reclusion perpetua

is AFFIRMED with MODIFICATION that appellant is not eligible for parole and is directed to pay the heirs of Junel Medina y San Jose civil indemnity of P75,000.00; moral damages of P75,000.00; exemplary damages of P75,000.00; and temperate damages of P50,000.00. In addition, all monetary awards shall earn interest at the legal rate of 6% per annum from the finality of this Decision until full payment.

SO ORDERED.

Leonardo De-Castro, (C.J.), Bersamin,[*] Jardeleza, and Tijam, JJ., concur.

[*] Per Special Order No. 2586 dated August 28, 2018.

[1] Rollo, p. 12.

[2] Id. at 2-11; penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Samuel H. Gaerlan and Ma. Luisa C. Quijano-Padilla.

[3] CA rollo, pp. 39-42; penned by Presiding Judge Josephine Zarate Fernandez.

[4] Records, pp. 1-2.

[5] Id. at 1.

[6] Id. at 34.

[7] TSN, October 4, 2010, pp. 1-12.

[8] Id. at 1-2.

[9] Id. at 4.

[10] Id.

[11] Id.

[12] Id. at 5.

[13] Id.

[14] TSN, November 8, 2010, pp. 1-16.

[15] Records, p. 74.

[16] TSN, November 8, 2010, pp. 15-16.

[17] Id. at 7.

[18] TSN, March 14, 2013, pp. 1-8; TSN, May 27, 2013, pp. 1-13.

[19] TSN, March 14, 2013, p. 4.

[20] Id. at 4.

[21] Id. at 5.

[22] Id. at 6.

[23] Id.

- [24] Id. at 7.
- [25] Id.
- [26] Id. at 7-8.
- [27] CA rollo, p. 42.
- [28] Id. at 41-42.
- [29] Id. at 32.
- [30] Records, p. 15.
- [31] CA rollo, p. 34.
- [32] Records, p. 16 (Sworn Statement of Andria Barona); id. at 17 (Sworn Statement of Angelyn Tulbo).
- [33] CA rollo, p. 34.
- [34] Id. at 35.
- [35] Id. at 65.
- [36] Id. at 66-67.
- [37] Rollo, p. 10.
- [38] LUIS B. REYES, The Revised Penal Code, 2006 Edition, Book II, p. 457.
- [39] *People v. Calonge*, 637 Phil. 435, 453 (2010).
- [40] Id. at 453-454.
- [41] TSN, November 8, 2010, pp. 6-7.
- [42] *People v. Jugueta*, 783 Phil. 806 (2016).
- [43] *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

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