

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JUAN PERALTA, JOSE PERALTA AND FELIPE PERALTA, DEFENDANTS AND APPELLANTS.

G.R. No. 45752. April 12, 1939

Ponente: MORAN, J.

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MORAN, J.:

At daybreak of March 18, 1937, in the barrio of Inaon, municipality of Pulilan, Province of Bulacan, fire alarms were heard, caused by a pile of rice straws which was burning in the house yard of one named Juan Manuel. The people rushed to the scene of the fire and found the charred corpse of a person which, after being washed by the municipal sanitary inspector, turned out to be that of the old woman Elena Dionisio, wife of Juan Manuel. The sanitary president performed the autopsy of the corpse, during which he found the neck almost completely cut, this being undoubtedly the cause of the death of the victim.

The municipal authorities conducted the corresponding investigation which culminated in the filing of an information for murder against the herein defendants and appellants, Juan Peralta, Jose Peralta and Felipe Peralta, who, after trial, were found guilty by the Court of First Instance of Bulacan and sentenced to suffer reclusion perpetua, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs. Because of the nature of the penalty imposed, the defendants appealed directly to this court.

The judgment of conviction principally rests on the testimony of Marcos Zamora, corroborated, as alleged therein, by an extrajudicial statement of Felipe Peralta, one of the defendants. Marcos Zamora, who lived in a house very near that of the deceased, testifies that at daybreak of March 18, 1937, he woke up and went to the kitchen of his house in order to satisfy a minor call of nature, and, while there, he saw three persons carrying light. One of them, Felipe Peralta, called and invited him, under threats of death if he did not accede, in order to obtain explanations from Elena Dionisio regarding the elopement of a certain girl named Maxima Zamora with one Dominador Santiago. The witness, through fear, yielded to the invitation, and Felipe Peralta took him to a mango tree which was some fifty meters away from the house of Elena Dionisio, with instructions to remain there as watcher. In the meantime Juan Peralta and Jose Peralta went to a chicken-house and dispersed the chickens therein for the purpose of waking up Elena Dionisio who in fact woke up and came down from her house murmuring; whereupon they took hold of her, the first asking her about the elopement of Maxima Zamora with Dominador Santiago, to which she answered that she brought it about. She was taken to a banana plantation, and thereafter they called Felipe Peralta who, in turn, ordered the witness to take hold of the feet of Elena Dionisio who was already being held by Juan, Peralta by the thighs. The victim was in this position when Felipe Peralta, who was then near her head, grasped her forehead with his left hand and cut her neck with a knife which he had in his right hand. Felipe Peralta went up Elena's house, later came down therefrom, and delivered to the witness two pesos, asking the latter to return to his house with the threat that if he was not found therein after a while, he would be killed. The witness obeyed and returned, but while he was doing so he turned his head and saw the three defendants carrying the corpse of Elena Dionisio towards a pile of rice straws, to which it was tied. After a while

he heard that he was called by Felipe Peralta, undoubtedly to find out whether he, the witness, was in his house, and after he had answered Felipe left. Later on fire alarms were heard, and it was the pile of rice straws that was burning.

Prior to the incident in question, the defendant, Jose Peralta, had amorous relations with Maxima Zamora, sister of the witness, and the other defendant, Juan Peralta, father of Jose, asked Elena Dionisio, who had some influence over Maxima Zamora, to support said relations; but Elena Dionisio caused Maxima to elope with Dominador Santiago, as a result of which the Peraltas were displeased.

It results, therefore, that Marcos Zamora, by his own admission, is a co-author of the offense charged. Consequently, his testimony comes from a polluted source and should be scrutinized with much caution and, unless itself convincing, it cannot be the basis of a conviction except when sufficiently corroborated (U. S. vs. Ocampo, 5 Phil., 339; U. S. vs. Remigio, 37 Phil., 599; U. S. vs. Maharaja Alim, 38 Phil., 1; People vs. De Otero, 51 Phil., 201; People vs. Baccay and Zipagan, 58 Phil., 780), especially when the offense sought to be proved is grave (People vs. Bumanglag, 56 Phil., 10).

The testimony of Marcos Zamora contains suspicious details. It is a rare coincidence that at the dawn in question he would wake up at the very hour when the three defendants were proceeding towards the house of Elena Dionisio. It is somewhat strange that Felipe Peralta, already knowing beforehand that Marcos Zamora was awake, would go to him for the purpose of inviting him to the house of Elena Dionisio. And it is incomprehensible that the invitation would be accompanied by threats of death, as if the participation of the witness in the commission of the offense was so necessary that, without it, the offense was impossible. But, the invitation accepted, all that the witness practically did, by order of Felipe Peralta, was to hold the feet of the old woman Elena Dionisio who was already sufficiently held by Jose Peralta by the thighs and by Juan Peralta below the arms. To obtain such help which was rather superfluous, it was not only unnecessary but imprudent to bring to the scene of the offense a stranger to the conspiracy. It might be said that Felipe Peralta, in inviting Marcos Zamora upon threats of death, had no other purpose than to prepare a witness who can afterwards testify against him and his two companions. But this is of course improbable.

It appears that in the afternoon of the day in question, Marcos Zamora signed an affidavit, Exhibit J, which is contrary to his testimony in court. He states therein that at about three in the morning of that day, when he went to the kitchen of his house to urinate, he saw three persons proceeding towards the entrance hall of the house of Elena Dionisio and recognized one of them, Felipe Peralta, who was carrying light; he came down to observe the three persons from a mango tree; he heard Felipe Peralta ask Elena Dionisio where her husband was, and she answered that he had gone to the church to take communion; Felipe Peralta asked Elena why Maxima Zamora eloped with Dominador Santiago, and she answered that she was responsible therefor. Whereupon Felipe Peralta told her: "this is your end," and the other two persons seized and carried her to a banana plantation by the side of a wire fence, and there Felipe Peralta held her forehead with his left hand and cut her neck with his right hand by means of a knife. Elena's corpse was carried to a pile of rice straws to which it was tied, and the deponent returned to his house.

This affidavit of the witness, Marcos Zamora, contradicts on essential points his testimony during the trial. Nothing is said in that affidavit regarding the invitation and the death threats which, according to his testimony in court, were made to him by Felipe Peralta, or regarding his participation in the commission of the offense. According to that affidavit it was Felipe Peralta who asked for explanations from Elena Dionisio with respect to the elopement of Maxima Zamora with Dominador Santiago, and not Juan Peralta as testified to by the witness during the trial. But the most conspicuous is that in said affidavit Juan Peralta and Jose Peralta are not mentioned as the two companions of Felipe Peralta. Affiant states that he recognized the latter because of the light he was

then carrying, thereby making it understood unequivocally that he was not able to recognize the former because they did not carry any light. However, in his testimony in court, he expressly mentions the names of Juan Peralta and Jose Peralta as the companions of Felipe Peralta in the perpetration of the murder, inasmuch as he undoubtedly recognized them because he states that they helped in holding the victim's body at the moment the latter received on the neck the mortal blow of Felipe Peralta.

No satisfactory explanations have been given regarding the discrepancies between that affidavit of the witness and his testimony during the trial. However, during the cross-examination, he stated that Felipe Peralta instructed him, again upon threats of death, not to tell the truth to the authorities and that he should fabricate his own version of the crime; wherefore he narrated the facts now appearing in said affidavit. But it is queer that he should have told a story incriminating solely and exclusively Felipe Peralta, if it were true that he did so in fear of and in obedience to him.

And the worst is that this affidavit was branded as false by the chief of police of Pulilan when he testified for the prosecution at the trial, because he states that immediately after its signing he went to the scene of the crime with the witness, the provincial fiscal and Lieutenant Bartolome, and it was there graphically verified that from the mango tree, from which, according to Marcos Zamora, he could observe the commission of the offense, those who were at the point where Elena Dionisio was killed could not be seen in view of the density of the banana plantation. Consequently, Marcos Zamora was again investigated and he, on the next day, or on March 19, 1937, signed another affidavit marked Exhibit 1 wherein he assures, after stating that at the dawn in question he saw three persons, one of whom was Felipe Peralta and the other two were unknown to him, heading towards the house of Elena Dionisio, that Juan Peralta and Jose Peralta were the only ones who entered the fenced yard of Elena Dionisio; that while they were there, he heard a noise and afterwards a moan; that when the pile of straws was set on fire, he saw Juan Peralta and Jose Peralta facing him and Elena Dionisio facing the burning pile of straws; and that in the meantime Felipe Peralta was outside the fence of said yard.

This second affidavit is diametrically opposed to the first, inasmuch as in the latter Felipe Peralta is alleged to be the sole author of the offense without any mention as to Juan Peralta and Jose Peralta or their respective participations, and in the former Juan Peralta and Jose Peralta are alleged to be the sole perpetrators of the offense without any intervention on the part of Felipe Peralta. Marcos Zamora wanted to explain that second affidavit by saying that it was signed in the terms it is couched upon requests and threats of Felipe Peralta made in the presence of the chief of police and other persons in the upper part of the municipal building of Pulilan while said affidavit was being prepared. But the proof is clear in the sense that, while the said affidavit was in course of preparation, Felipe Peralta was never present, he being already in jail by reason of the first affidavit, Exhibit J, of Marcos Zamora. It was after that first affidavit had been prepared and before it was signed and sworn to before the municipal president of Pulilan that Felipe Peralta was taken to the upper part of the municipal building in order also to make his affidavit, Exhibit K, which will hereafter be referred to. On that occasion Marcos Zamora and Felipe Peralta met face to face, and the former accused the latter as the one who cut the neck of Elena Dionisio, against which accusation Felipe Peralta protested. Notwithstanding that protest, after the affidavit of Felipe Peralta had been prepared, Marcos Zamora was brought before the municipal president Vicente Esguerra together with Felipe Peralta, and there he signed under oath that statement in which he charged Felipe Peralta with being the principal killer of Elena Dionisio. This shows that Marcos Zamora acted not out of fear of Felipe Peralta but with deliberated falsehood. A person who, under oath, easily changes his statements regarding essential facts of the crime, deserves no credit, and his testimony cannot be the basis of conviction.

The lower court considers the testimony of Marcos Zamora as being sufficiently corroborated by the affidavit of Felipe Peralta, marked Exhibit K, the translation of which is Exhibit K-l. In this affidavit Felipe Peralta states that,

in the evening of March 17, 1937, Juan Peralta and Jose Peralta invited him to go with them to the house of Elena Dionisio, and when, at daybreak of the same day, they were already heading towards said house, he learned that his companions had bad intentions. At any rate he followed them with the intention of advising them to desist from their designs, but his counsel was fruitless. His companions, Juan Peralta and Jose Peralta, entered the houseyard of Elena Dionisio, while he remained outside with his lamp. When Juan Peralta and Jose Peralta were already inside, the chickens were dispersed, and thereafter he heard the noise of persons who were fighting; whereupon he ran back to his house. At the time he did not know yet what happened to Elena Dionisio, but when he returned to the place later on, she was already dead and charred. He does not know with what instrument Elena was killed because, even with the lamp he carried, the place was very dark on account of the shadows of the banana plants.

This affidavit, though deliberately made by Felipe Peralta, is not admissible and has no probative value as against Juan Peralta and Jose Peralta, not even as corroboration of the testimony of Marcos Zamora, because it is hearsay. It is an extra judicial statement which, although under oath, was given in the absence of Juan Peralta and Jose Peralta who had no opportunity to cross-examine the affiant. That statement is not admissible as against the interest of the affiant Felipe Peralta, for the reason that the latter does not therein admit his guilt. And even supposing it to be a statement against his own interest, it cannot likewise be admitted as evidence against third persons, because the affiant is not yet dead.

That affidavit is also not corroborative of the testimony of Marcos Zamora as regards the participation of Felipe Peralta in the commission of the offense, inasmuch as the latter denies in said affidavit having had such participation. And if that denial should be discarded because, according to the prosecution, it is incredible, the effect would be the same, for the reason that there would be nothing in the affidavit which directly or indirectly could corroborate what was stated by Marcos Zamora.

There are other indications in the record which might incriminate Felipe Peralta. For instance, there is the testimony of Ireneo Espino, barrio lieutenant of Inaon, to the effect that very early in the morning in question, when he talked with Marcos Zamora, the latter told him that Felipe Peralta had something to do with the offense. But this item again comes from Marcos Zamora who not only is a polluted source but has demonstrated himself to be unworthy of credit.

Lieutenant Bartolome testifies that in the morning in question, when he went to the place of the crime, he saw there Felipe Peralta who was pale and nervous, and that, when he arrested him in the afternoon, he observed that he was also nervous. Whether or not a person is nervous is a matter of personal appreciation which, although legally admissible, does not constitute decisive proof unless accompanied by other evidence showing guilt. On the other hand, the presence of Felipe Peralta in the place in question shortly after the commission of the offense is a circumstance favorable to him, because, as a general rule, the wicked flee when no man pursueth, but the righteous are as bold as a lion.

Considering the nature of the evidence presented by the prosecution, and ignoring already the defense of alibi interposed by the defendants, we cannot with a peaceful mind affirm the judgment of conviction rendered by the trial court.

In view of the foregoing considerations, the appealed judgment is set aside and the defendants and appellants are acquitted, with costs de oficio. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Laurel, JJ., concur.

Concepcion, J., see dissenting opinion

DISSENTING OPINION

CONCEPCION, J.:

Moved by a firm conviction, I am compelled to dissent from the majority opinion which I altogether respect. In my opinion, however, a case can hardly be found in which the defendants' guilt has been as well shown as in the instant case.

The old woman Elena Dionisio was murdered. Her neck was cut and her dead body was tied to a pile of straws which her murderers immediately set on fire. These are proven facts. The defendants Juan Peralta, his son Jose Peralta, and Felipe Peralta, the former's nephew, hated the deceased. The reason for this hatred was that said Elena had helped Maxima Zamora, sister of the witness Marcos Zamora, in eloping with Dominador Santiago, thereby rejecting the amorous advances of the defendant Jose Peralta; who pretended to have been loved again by said young lady with the intervention and help of the other defendant, Felipe Peralta. These facts are also established.

There is not in the record the least insinuation that the motive of the offense could have been anything but revenge produced by implacable hatred.

How was the offense committed? Marcos Zamora narrated the story with minute details. The latter and the three defendants, Juan, Jose and Felipe, all surnamed Peralta, at daybreak of May 18, 1937, went to the house of their victim, who was alone, and to compel her to come down they so posted themselves as to drive away her chickens. As a matter of fact, the old woman came down, cursing those who were supposed by her to be attempting to steal the chickens. Upon seeing her, one of the defendants asked her whether it was true that she helped in the elopement of Maxima Zamora and Dominador Santiago, and as she answered in the affirmative, the three defendants and Marcos Zamora took hold of her, carried her to a nearby banana plantation and placed her head between two banana stalks, and there Felipe Peralta, with a knife, cut the neck of the victim who died instantaneously.

The majority is of the opinion that the testimony of Marcos Zamora during the trial contains suspicious details and contradicts his affidavit, Exhibit J, made in the afternoon of the day in question; but immediately after an examination, it will be seen that the discrepancies between one statement and the other are brought about by the desire of the witness to exculpate himself, which is but very natural for a witness, especially when Marcos Zamora testified before the court in terms revealing his participation in the commission of the offense. (People vs. Piring, 63 Phil., 546.) One of those discrepancies, for example, is that said witness testified during the trial that he was with the three defendants at the dawn in question, when the offense was perpetrated at the instance of Felipe Peralta who threatened him with death if he did not follow them. This is not mentioned in his affidavit, it is true; but it is easily understood that the witness added to the essential part of his testimony something which, he believed, showed that he did not take any voluntary part in the commission of the offense.

The majority states that the same witness testified in court that the other defendants Juan and Jose Peralta were the companions of Felipe Peralta in the commission of the offense, while in his affidavit he did not mention them by their own names. In good logic, that does not mean that he did not also recognize them.

I don't believe that, because of the aforesaid and other discrepancies in details, the testimony of Marcos Zamora ceases to be convincing and satisfactory evidence as regards the essential part of his story, namely, that it was the defendant Felipe Peralta who, with the assistance of his co-defendants and the witness himself, cut the neck of Elena Dionisio.

That testimony is not, as the majority believes, also essentially in conflict with the other affidavit, Exhibit 1, of the same witness Marcos Zamora. According to the majority, said witness, in that second affidavit, "assures that Juan Peralta and Jose Peralta were the only ones who entered the fenced yard of Elena Dionisio; that while they were there, he heard a noise and afterwards a moan; that when the pile of straws was set on fire, he saw Juan Peralta and Jose Peralta facing him and Elena Dionisio facing the burning pile of straws; and that in the meantime Felipe Peralta was outside the fence of said yard." In the last analysis, that second affidavit of Marcos Zamora states in substance what he said before the court and in his first affidavit: that the three defendants were present at the place when the offense was committed, details being ignored. The fact that while the occurrence referred to by the witness was taking place, "Felipe Peralta was outside the fence of said yard," does not in any way support the conclusion that during the killing Felipe Peralta was also outside the fence.

The discrepancy between the testimony of Marcos Zamora during the trial and his affidavit, Exhibit 1, has been explained by the witness himself in the sense that, while said affidavit was being prepared, Felipe Peralta asked for his compassion as he had many children, as a result of which he stated what is contained in said affidavit, Exhibit 1.

I am, therefore, of the opinion that the testimony of Marcos Zamora, though of polluted origin because it is from a co-author in the commission of the offense in question, is convincing evidence and sufficient as a basis for convicting the three defendants-appellants, for the reason not only that it is competent and convincing in itself but that it is essentially corroborated by the testimony of the defendant Felipe Peralta.

This court has repeatedly ruled that the findings of fact of the trial judge, with rare exceptions, are entitled to faith and credit, and in the case before us, "The court has observed the manner in which the witness testified, and finds that the explanation given by him regarding the discrepancy between his testimony given during the trial of this case and that appearing in Exhibit I with reference to Felipe Peralta, is fully satisfactory."

Concurring in the recommendation of the Solicitor-General, I vote for the affirmance of the appealed judgment and for the prosecution of Marcos Zamora.

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