

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME PINGKIAN, ET AL., ACCUSED, FELIX PINGKIAN, DEFENDANT-APPELLANT.***G.R. No. 50688. August 31, 1981*

Ponente: DE CASTRO, J.

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From the decision of the Circuit Criminal Court of Misamis Oriental convicting him of the crime of murder and sentencing him to life imprisonment and to indemnify the widow of the victim in the sum of P12,000.00 and another sum of P5,200.00 for funeral expenses and the costs, Felix Pingkian, the only one of four accused in this case who was convicted, the other three Jaime Pingkian, Jose Baculanta, and Eleuterio Maderazo having been acquitted on ground of reasonable doubt, took the present appeal.

The facts as found by the trial court, and as restated in the People's brief, from which We quote, are as follows:

"The lower court found that at about ten o'clock in the evening of May 7, 1976, while the victim, Menilo Legaspi, was walking on the road wherein his residence was located, in Buko Kinoguitan, Misamis Oriental, he was stabbed by defendant-appellant Felix Pingkian. Three of his stab wounds were found to be fatal and the immediate cause of the victim's death.

"The sole eyewitness to the incident was Victorio Cena whose house stood next to that of the victim. He testified among others that he had known for a long time the four accused, namely: Felix Pingkian and his brother Jaime Pingkian, Jose Baculanta and Eleuterio Madrazo (p. 17, t.s.n., Aug. 24, 1976); that at just about the time that the incident happened he went to the kitchen to urinate, looked through his banguera and saw the appellant hiding behind a coconut tree (p. 19, t.s.n., Id); that three other persons hid behind the banana plants (p. 19, t.s.n., Id), which was about four meters from his kitchen (p. 32, t.s.n. Id) but that he was not able to recognize them (p. 19, t.s.n., Id); that shortly thereafter, the victim who was on his way home arrived at the place where appellant was hiding (p. 20, t.s.n., Id); then he saw appellant stab the victim once on the chest with a sharp-pointed bolo about 13 inches long (id); that out of fear he immediately crawled to his bed (p. 20, t.s.n., id); that however, the appellant went up to his (witness) house carrying a blood-sustained bolo and threatened him and his wife, saying thus: 'Don't say anything because if you do I will kill all of you,' and left thereafter (pp. 20-21, t.s.n., Id); that the fact that the victim had previously testified against the appellant and his brother, Jaime, in a case for Less Serious Physical Injuries which resulted in their conviction by the Municipal Court of Kinoguitan, may have been the motive of appellant in stabbing the victim (pp. 28-29, t.s.n., Id)."[1]

The main contention of appellant in a bid for acquittal is that he was not "categorically and clearly identified," claiming that the witness of the prosecution, Victorio Cena, who testified having seen appellant stab the deceased was not entitled to credence. His only reason for this claim is the aforementioned witness having been able to identify only appellant among the four persons whom he saw hiding behind trees awaiting the approach of the victim on his way home, but not his three companions.

It is precisely his candor in admitting that he was not able to recognize the three co-accused of appellant that

makes the testimony of Cena fully deserving of credit. He testified that appellant's companions were farther from where he was than appellant. In the darkness of the night and evidently trying to conceal their identity by hiding behind trees or plants, the three companions of appellant could not as easily and unerringly be identified as appellant who came out to the open when he delivered the stabs on the victim who was on the road walking to his house.

The prosecution's eye-witness, Victorio Cena, was not shown to have any improper motive to prompt him to testify falsely against appellant. His testifying to the truth is shown by his candid admission of not being able to recognize appellant's companions, and with reason because of the greater distance there was from him to said companions, while appellant was nearer to him and exposed in the open as he stabbed the deceased. Thus exposed, and with the lamp in Cena's house and a quarter-moon for illumination, to which appellant's companions were not similarly exposed, the identifying witness spoke the truth when he admitted inability to recognize appellant's companions as positively and definitely as he identified appellant. We, therefore, find, contrary to appellant's claim, that Cena's testimony deserves full faith and credit.

Adding positiveness to appellant's identification as the knife-wielder is the testimony of Cena and his wife that appellant went up their house with a bolo dripping with blood that dropped on their sleeping mat spread on the floor, and threatened them not to make any move or say a word on the incident. This fact alone, even without the eye-witness testimony of Cena that he actually saw appellant stab the deceased, would suffice to mark him as the culprit. The bolo dripping with fresh blood in his hand, and the victim lying prostrate nearby with wounds just inflicted, and with those words of threat he uttered, would unmistakably point to appellant as the knife-wielder.

Appellant, however, would likewise impute lack of credence on the testimony of Cena's wife corroborating her husband's on appellant's going up their house to threaten them if they said anything about the incident. He considers it "abnormal and preposterous" for a person to go up a house and threaten the occupants after that person has inflicted various wounds and killed his victim.[2]

As the incident took place only two meters from the "banguera" of Cena's house where Cena had gone to urinate when the stabbing took place, it is not improbable that appellant saw Cena moments before or after the stabbing for him to believe that Cena saw him commit the dastardly act. Cena, in fact, testified that appellant saw him, their eyes even meeting just before the stabbing, and because of fear, he crawled back to bed. Appellant's act of going up Cena's house to threaten him against saying a word about the incident is thus far from being an "abnormal or preposterous" conduct or behaviour.

In further proof of appellant's going up the house of the Cenas is the sleeping mat (Exhibit "G") which the police took the day following the incident. The mat was spotted with blood which the spouses said dropped from the blood-soaked bolo of appellant. This piece of evidence could not have been so swiftly manufactured, specially when human blood is made to form part of it. The veracity of the testimony of the Cena spouses is therefore placed beyond doubt for it to be denied complete credence.

Significantly, appellant has not indicated in a direct manner what his defense was, much less discussed its force and strength, except only in reciting the facts to be that he and his co-accused were in a dance held in the evening of record, and that while the dance was going on, the Barangay Captain stopped it with the announcement that one of their brothers, Menilo Legaspi, was stabbed to death. If appellant means to offer alibi as his defense, the rule is well-settled that such a defense is futile in the face of the accused having been positively identified as the culprit by eye-witnesses devoid of any motive to testify falsely against the accused.[3]

Equally settled is the rule that on the issue of credibility as what has been solely raised herein by appellant, the finding of the trial court on the relative credibility of the opposing witnesses will generally not be disturbed but

given high respect, unless it is shown that the court has overlooked or misinterpreted certain facts of substance and value, which might affect the result of the case.[4] Appellant has failed utterly to make such a showing.

WHEREFORE, no reversible error having been noted in the appealed decision, same is hereby affirmed in toto, with costs.

**SO ORDERED.**

Barredo, (Chairman), Aquino, and Concepcion, Jr., concur.

Guerrero, J., concurred and designated to sit in with the Second Division.

Abad Santos, J., on leave.

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[1] pp. 4-5, Appellee's Brief; p. 92, Rollo.

[2] p. 9, Appellant's Brief; p. 75, Rollo.

[3] People vs. Aguel, 97 SCRA 795; People vs. Lucero, 96 SCRA 694; People vs. Ang, 94 SCRA 586; People vs. Naba-unag, 79 SCRA 33; People vs. Mercado, 38 SCRA 168; People vs. Casillas, 30 SCRA 352.

[4] People vs. Arciaga, 98 SCRA 1; People vs. Bautista, 92 SCRA 465; People vs. Mahinay, 80 SCRA 273; People vs. Oñate, 78 SCRA 43; People vs. Marcina, 77 SCRA 238; People vs. Angcap, 43 SCRA 437.

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