

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO CABRERA AND LORETO SIPE, ACCUSED. RICARDO
CABRERA, ACCUSED WHOSE DEATH SENTENCE IS UNDER REVIEW.**

G.R. No. 51858. January 31, 1985

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Before us for automatic review is the Decision of the then Court of First Instance of South Cotabato, Branch II, at Koronadal (in Criminal Case No. 537), finding Ricardo Cabrera (the APPELLANT, for brevity) guilty of Murder with Assault upon an Agent of a Person in Authority and imposing upon him the penalty of capital punishment. His co-accused, Loreto SIPE, was found guilty of Direct Assault upon an Agent of a Person in Authority and was sentenced to "the penalty of PRISION CORRECCIONAL in its medium or 2 years, 4 months and 1 day to 4 years and 2 months period (sic)"; but after crediting him with the period of his preventive imprisonment, he was ordered released by the Trial Court.

The facts upon which conviction rested disclose that in the evening of September 16, 1972, Patrolmen Victor Poral and Felix Fellores (the latter hereinafter referred to as the VICTIM, for short) were assigned to keep peace and order at a dance party in Barrio Guinsangan, Norala, South Cotabato.

At around 11:00 o'clock that evening, an unidentified man approached them reporting that he was being chased by somebody armed with a gun. Hieing to the place, they saw accused SIPE holding a .20 gauge "paltik". They each fired a warning shot in the air and ordered SIPE to drop his firearm. SIPE refused. Instead, he sought cover in a nearby canal and fired at the VICTIM, who was hit in his right thigh. The VICTIM fired back hitting SIPE on his left thigh near the buttocks. While the VICTIM was loading his rifle for the next shot, APPELLANT, armed with a bladed weapon called "pinuti" (Exhibit "B") rushed from behind and knifed him on the right side of his body killing him on the spot. APPELLANT then scampered away. The foregoing, in substance, was the testimony of Patrolman Poral who added that he was unable to fire at the fleeing APPELLANT as his pistol jammed.

The autopsy findings disclosed a stab wound "over the lateral aspect of the right chest" of the VICTIM, and a bullet wound on the right thigh. Death was attributed to severe hemorrhage secondary to the stab wound.

At about 2:00 o'clock in the morning of September 17, 1972, APPELLANT was arrested by the Chief of Police in the house of Gerardo Maroma where APPELLANT was staying, located about a kilometer away from the site of the incident. The bladed weapon used, still stained with blood, was allegedly found inside said house.

In separate sworn statements given by APPELLANT at the police headquarters on September 19, 1972[1] and before Municipal Judge Amandito Araneta on September 21, 1972[2], he confessed to having stabbed the VICTIM.

During the trial, however, APPELLANT repudiated his statements alleging that they were obtained by force and that he admitted his guilt because of the maltreatment to which he was subjected.

As his alibi, APPELLANT maintained that in the evening in question, he attended the dance in the barrio with Hector Azucena, Eugenio Valle and two ladies. Hector Azucena also stayed in the house of Gerardo Maroma for the harvest season. After the dance, at about 11:00 P.M., he and Hector went home together and when they were already nearing the house, they heard gunshots. They paid no heed and just went to sleep. At dawn, policemen arrived, manhandled the owner, Gerardo Maroma, and thereafter brought APPELLANT down the house and took him to the municipal building, together with Maroma and Valle. APPELLANT denied that he was found hiding in the ceiling and that a bloodied knife was found on his person as the Chief of Police had testified. When queried why he killed a policeman, APPELLANT replied that he knew nothing of what they were asking him. At the police headquarters, however, they forced him to sign a confession threatening to kill him if he refused.

The Trial Court discredited the defense version and as aforesated, meted out conviction for both accused.

In this appeal, APPELLANT faults the Trial Court with the following errors: in holding that he had executed his extrajudicial confession voluntarily; in concluding that he had been positively identified by Patrolman Poral; in failing to appreciate the testimony of Benjamin Maca who pointed to Andresito Sipe as the real culprit; in not giving weight and credence to his defense of alibi; and in not acquitting him.

A review of the evidence discloses overriding considerations, which engender reasonable doubt regarding APPELLANT's culpability.

To prove maltreatment, Dr. Arturo P. Pingoy, before whom APPELLANT was brought on September 30, 1972 for examination and treatment of the injuries that he had suffered, testified that he found APPELLANT "weak and frustrated" with "a generalized kind of wounds appearing from the head to the lower extremities"[3], some of which had healed, others were healing[4] while others were infected. The medical certificate that he had issued (Exhibit "4") particularized the injuries as follows:

"TO WHOM IT MAY CONCERN:

This is to certify that Mr. Ricardo Cabrera, a 28 years old male, single, had consulted and been given treatment in this hospital this day 30th of September - 1972, because of generalized body weakness and pain, and multiple infected injuries all over the body. The following are the approximate injuries noted:

Head - infected incised wound (R) parieto occipital region 2 cm. long, 1/4 cm. deep. Healed incised wound posterior aspect of (1) pinna 3 cm. no. 2. Near healing incised wound posterior to (L) mastoid 3 cm.

Face

- punctured wound (L) side of the bridge of the nose, 1/4 cm in diameter.

Left Upper Extremities

- Abrasions: elbow joint posterior aspect 1/3 x 1/2 cm. no. 5; forearm lateral aspect 2 cm. no. 2; volar middle finger 3 cm.

Punctured wounds - elbow joint posterior aspect with pus, 1 cm. diameter.

Incised wounds

- wrist, medial aspect 4 cm. long, 1/3 cm. deep.

Right Upper Extremities

- Abrasions; linear, wrist joint posterior aspect 1½ cm.

Incised wound

- arm anterior aspect 3 cm. long, ¼ cm. deep.

Left Lower Extremities

- Incised wound - thigh, lateral aspect, horizontal, 11 cm. long, ¼ cm. deep, crossed by vertical wound 14 cm. long, and 1/4 cm. deep.

Anterior aspect, upper 1/3 of leg, 1 1/2 cm. Anterior aspect, lower 1/2 of leg, 1 cm.

Right Lower Extremities - Linear abrasion with hema-toma - anterior aspect of the leg, 1/3 to 1 cm. no. 7.

(SGD.) DR. ARTURO P. PINGOY" (Exhibit "4")

The question then arises as to whether the injuries described were inflicted before or after APPELLANT's confessions were taken. The prosecution would have us believe that it was after and that the injuries had no bearing to those confessions.[5] However, no proof has been submitted to substantiate the same. We are also faced with the following considerations. The crime was committed on September 16, 1972. APPELLANT was arrested on September 17, 1972. He executed his confessions on September 19 and 21, 1972, respectively, and he continued to be under police custody from the time of his arrest until September 30, 1972, the date that he was examined by Dr. Pingoy. Obviously, the maltreatment occurred within that period and the only purpose would have been to force APPELLANT to admit guilt against his will. The objective having been achieved, there would have been no reason for further maltreatment thereafter. Moreover, as APPELLANT had declared, when his statement was taken by the Municipal Judge, he (APPELLANT) complained about the maltreatment he received at the hands of the police; that the Judge noted his injuries as he was merely in shorts and shirt, and that the Judge even inquired why he had many wounds but that when he gave the reason, the Judge merely stated that the police were "bad".[6]

True, the Chief of Police and the Municipal Judge, each in his turn, testified that APPELLANT was in good physical shape when the latter gave his statements before them. However, their testimonies cannot prevail over the physical evidence as shown by the medical findings. During the trial, APPELLANT also exhibited to the Trial Court the scars from the injuries that he had received.

APPELLANT's confessions having been extracted by force and violence, they stand discredited in the eyes of the law and cannot be the basis for sustaining a judgment of conviction. Such a verdict would now rest largely on Patrolman Parol's identification of APPELLANT, which, however, we do not find as indubitable. Said police

officer maintained that he witnessed the stabbing of the VICTIM by APPELLANT. Notwithstanding, in addition to APPELLANT, the police arrested seven (7) other people, three of whom were subjected to investigation, and according to them, they were also subjected to maltreatment. It is likewise strange that Patrolman Poral was not even listed as one of the witnesses for the prosecution in the criminal complaint filed before the Municipal Court on September 19, 1972.[7] Surely, in three days' time, he could have informed the Chief of Police that he was an eyewitness. It was only on October 16, 1972, at the preliminary investigation before the Fiscal, or one month after the crime had been committed that he gave his version of the incident.[8]

Furthermore, one Benjamin Maca, who had also attended the dance that evening and who was apparently also in the scene of the crime, graphically described how the VICTIM was attacked. He testified that when the VICTIM was firing his gun at accused Loreto SIPE, Andresito Sipe approached from behind, went under the VICTIM's right arm and stabbed him as a result of which the latter went limp.[9] He was certain that it was Andresito Sipe and not APPELLANT who had stabbed the VICTIM, but explained that since they both had the same height and build, Patrolman Poral must have mistaken one for the other, since the latter was not personally acquainted with APPELLANT. The fact that Benjamin admitted not having informed the police of what he saw that same evening of the incident would not detract from his testimony for, as he had explained, the next day the police had made arrests and he was confident that the "truth will come out."

Indeed, no motive has been attributed to APPELLANT for stabbing the VICTIM, whereas, it was but natural that Andresito Sipe would go to the aid of accused SIPE, who was his brother, and at whom the VICTIM was aiming his firearm at the time the latter was stabbed.

With the foregoing considerations taken into account, we have failed to arrive at that moral certainty sufficient to convict.

At this juncture, we reiterate the reminder to Judges and Fiscals before whom declarants are brought for swearing to the truth of their statements to adopt the practice of having the confessants physically and thoroughly examined by independent and qualified doctors before administering the oath, even if it is not requested by the accused. If physicians are not available then they should themselves examine the bodies of the declarants for signs of possible violence. This would not only deter attempts to secure confessions through violence but would also preclude future controversies on whether the statements were obtained through torture or not, which only delay criminal trials.[10] Then Municipal Judge Amandito Araneta was not only wanting in the observance of the prescribed practice but was also indifferent to APPELLANT's plight and should be, as he is hereby, censured.

WHEREFORE, on reasonable doubt, the appealed judgment is hereby REVERSED, and appellant Ricardo Cabrera is hereby acquitted. Costs de officio.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Concepcion, Jr., Abad Santos, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, and Cuevas, JJ., concur.

Aquino and Alampay, JJ., no part.

Fernando, C.J., on official leave.

[1] Exhibits "C-2" and "C-3", pp. 15-16, Original Records.

[2] Exhibits "C" and "C-1", pp. 17-18, *ibid*.

[3] T.s.n., July 10, 1975, pp. 136, 138.

[4] T.s.n., *ibid.*, p. 141.

[5] Appellee's Brief, p. 8.

[6] T.s.n., February 17, 1975, p. 109.

[7] Original Records, p. 3.

[8] T.s.n., September 13, 1973, pp. 26-27.

[9] T.s.n., July 10, 1975, pp. 149-150.

[10] *People vs. Castro*, 11 SCRA 699 (1964); *People vs. Francisco*, 74 SCRA 159 (1976).

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