

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BAYANI JACINTO Y VALLE ALIAS “BOY JUANING”;
DEFENDANT-APPELLANT.**

G.R. No. 51908. November 29, 1984

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

In Criminal Case No. C-4162 (73) of the Court of First Instance of Rizal, Bayani Jacinto y Valle alias "Boy Juaning" was charged with the crime of Murder committed as follows:

"That on or about the 27th day of June, 1973, in Kalookan City, Philippines and within the jurisdiction of this Honor-able Court, the above-named accused, with-out any justifiable cause, with deliberate intent to kill and with treachery and evi-dent premeditation, did then and there wilfully, unlawfully and feloniously stab one Wenifredo Bantigue y Zaplan with a knife which the accused was then provided, hitting the latter at the back, thereby in-flicting upon said Wenifredo Bantigue y Zaplan serious physical injuries, which injuries caused his death after several days of confinement at the San Lazaro Hospital, Manila."

After trial, the said accused was found guilty of the offense charged and sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law, to indemnify the heirs of the deceased Wenifredo Bantigue in the amount of P12,000.00, and to pay the costs. From that sentence, the accused appealed to this Court.

The inculpatory facts of the case are as follows:

"On June 27, 1973, at a billiard hall located at the Bagong Barrio Market place, this City, Wenifredo Bantigue was treacherously stabbed on his back by the accused who used a kitchen knife. Immediately after the stabbing, the accused had run away.

"The victim was brought to the MCU hospital and later to the Caloocan City Hospital where first aid was administered. He was later transferred to the Jose Reyes Memorial Hospital where he was further treated then sent home. In the latter hospital it was discovered that he had sustained a 'wound, stabbed, sutured 1.5 inches level of T 9 paravertebral line right' and 'wound, lacerated, 1.5 cm. prox. phalange 5th finger, left' (Exhibit D).

"On July 11, 1973, Wenifredo Bantigue died of 'meningo encephalitis' (Exhibit E-1) which according to Dr. Nieto Salvador, a medico legal officer of the National Bureau of Investigation, was secondary to the stab wound he suffered which penetrated his spinal cord and caused its fatal infection."

The defense is alibi. According to the accused, on June 27, 1973, at about 12:00 o'clock noon, the day and time Wenifredo Bantigue was stabbed at Bagong Barrio, he (accused) was working in Novaliches, Quezon City, a few kilometers away. He claimed that he left his house at Bagong Barrio early that morning and did not return until late that afternoon.

In this appeal, the accused vigorously assails the trial court for giving weight and credence to the alleged

ante-mortem statement of the deceased Wenifredo Bantigue, taken by Pat. Cesar Antonio at 9:00 o'clock in the evening of June 27, 1973 wherein the said Wenifredo Bantigue named his assailant as one "Boy Juaning", on the ground that the said statement does not fall under the category of a dying declaration since it was not executed under a consciousness of impending death as the deceased was discharged from the hospital on the same day, and death occurred 14 days after the incident, and that there is no evidence that he is the "Boy Juaning" referred to by the deceased.

The contention is without merit. We do not find it error for the trial court to admit the testimony of Pat. Cesar Antonio regarding the dying declaration of the deceased Wenifredo Bantigue, wherein he identified his assailant as "Boy Juaning" since the circumstances under which the deceased made the identification have fulfilled the requirements of a dying declaration. The fact that the deceased died 14 days after the statement was taken does not affect its admissibility. It is sufficient that the circumstances are such as to lead inevitably to the conclusion that, at the time the statement was made, the declarant did not expect to survive the injury from which he actually died.[1] Judged by the nature and extent of the wound inflicted - a deep wound at the back which penetrated the vertebra and spinal cord - Bantigue could not have ignored the seriousness of his impending death.

Besides, the same identification can also be considered as part of the *res gestae* since it was made immediately after the stabbing incident and appears to be natural and spontaneous, and made before the deceased, who had no enmity towards the accused-appellant, could contrive or devise a plan to incriminate him.

At any rate, the appellant's conviction was not based solely upon the ante mortem statement of the deceased, but also upon the testimonies of Crisanta Zaplan, Nicolas Dionisio and Joseronce Yecla who categorically stated that they saw the appellant stab the deceased at the back and then run away.

The appellant claims, however, that the testimonies of these witnesses are not reliable since they are related to the deceased. The fact that these witnesses are related to the deceased does not necessarily indicate that they have testified falsely, in the absence of ill-feeling towards the appellant. A reading of the record will show that the testimonies of these witnesses are positive and convincing and that they were not guided by their relationship when they testified against the accused. Besides, they had no motive nor ill-feelings towards the appellant for them to incriminate him. While there may be some discrepancies and contradictions in their testimonies, the said contradictions or discrepancies refer to minor details which cannot detract from their credibility.

The appellant also contends that he could not have committed the offense charged since he was in his place of work in Lagro, Quezon City when the stabbing incident took place, and that it was his mother who reported the incident to the police. The appellant argues that it would be unnatural for his mother to have reported the incident to the police if he were involved in it. The appellant further contends that no motive for the killing has been established.

The defense of alibi, however, in order to be given full faith and credit, must be clearly established and must not leave any room for doubt as to its plausibility and verity. He must not only prove that he was somewhere when the offense was committed, but also that it was physically impossible for him to have been at the scene of the offense at the time. In the instant case, the appellant admitted that the billiard hall inside the Bagong Barrio market in Caloocan City where Wenifredo Bantigue was stabbed on June 27, 1973 at about 12:00 o'clock noon, can be reached from his place of work within 30 minutes and vice-versa, as the distance between them is only a half-hour ride away by means of a passenger jeepney, and that on the said day, he worked from 8:00 o'clock in the morning to 12:00 o'clock noon and ate his lunch only at 1:00 o'clock in the afternoon.[2] It was not, therefore, physically impossible for him to be at the scene of the crime at the time of its commission. Besides, the appellant had been positively identified as the person who stabbed the deceased. Alibi cannot prevail over the positive identification

of three eyewitnesses who have not demonstrated any motive to perjure themselves against the appellant.

The fact that it was the mother of the appellant who reported the stabbing incident to the police does not prove that the appellant did not commit the crime for which he is charged since the testimony of his mother is to the effect that while he saw the victim of the stabbing incident, she did not see the assailant "because there is already a commotion wherein many people were involved."^[3] His mother may have reported the incident to the police without knowing that her son was involved in that incident.

With regard to the motive in the killing of the deceased, this Court has repeatedly held that motive is pertinent only when there is doubt as to the identity of the culprit. Where the accused was positively identified by credible witnesses to be the assailant, as in this case, proof of motive is not essential for conviction. Motive is a state of mind and it is only the accused who can state his real motive in committing the crime.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**, with the modification that the indemnity to be paid to the heirs of the victim is increased to P30,000.00. With costs against the appellant.

Makasiar (Chairman), Aquino, Abad Santos, Escolin, and Cuevas, JJ., concur.

[1] People vs. Devaras, G.R. No. L-25165, Feb. 27, 1971, 37 SCRA 697.

[2] tsn of Aug. 1, 1978, pp. 4, 10, 13.

[3] tsn of Feb. 28, 1978, pp. 11, 17.

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