

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE MORENO, DEFENDANT-APPELLANT.

G.R. No. 53915. May 28, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

Dante Moreno appealed from the decision of the Court of First Instance of Iloilo, convicting him of murder, sentencing him to reclusion perpetua and ordering him to pay to the heirs of Mayor Ramon Alcantara an indemnity of P12,000 (Criminal Case No. 2706).

Marlyn Beboso, 17, an eyewitness, a student at the Lemery Community High School, testified that in the evening of April 13, 1973, on the occasion of the graduation exercises at the Central School of Lemery, Iloilo, Dante Moreno, 28, shot in the head the town mayor, Ramon Alcantara.

He shot the mayor at the precise moment when his head was turned to the left and the mayor was looking at Zeus Doplayna, the assistant high school principal, who was before the microphone on the stage about to deliver his address.

The victim was attending the affair with his wife. Moreno was on the right side of Marlyn who was behind Alcantara, separated from him only by a waist-high bamboo fence. Moreno had stationed himself close to Marlyn so much so that she thought at first that he was going to molest her.

Marlyn remembered Moreno's facial features, notably his left eye which was slanting or "pirot" in the vernacular. After the shot was fired, the lights were put off.

The victim sustained a through and through wound. The shot entered the left parietal bone at the back of the head, passed the brain and exited in the right temporal side of the skull (Exh. A). The victim died instantly.

Moreno's mother, Lagrimas, had complained to the Secretary of National Defense about the persecutory acts of Mayor Alcantara against her children. The complaint was indorsed by the provincial commander of Iloilo to the commanding officer of the Constabulary company at Sara, Iloilo. It was dismissed on February 24, 1973 for lack of merit (Exh. D, E and G). The assassination was perpetrated less than two months later.

Dante Moreno and his brother Francisco were charged with murder. At the trial, Dante, while admitting that he was present at the graduation exercises, denied having shot the mayor. He testified that he was with Resurreccion Paciente and Emiliana Cordero. They were at some distance from the mayor. Dante was carrying on his shoulder Resurreccion's child. When they heard the shot, they scampered and left the place.

The trial court did not give credence to Dante Moreno's evidence because he was positively identified by Marlyn Beboso as the gunwielder. She was not impelled by any improper motive in testifying against him. As already stated, Dante was convicted of murder. His brother, Francisco, was absolved on the ground of reasonable doubt.

In this appeal, the accused contends that the trial court should have given credence to his evidence rather than to

the prosecution's evidence.

He calls attention to the fact that the real name of Marlyn Beboso is Marlyn Rendon. That is true but this fact does not affect her credibility. She used Marlyn Beboso because Beboso is her maternal grandmother's surname. She was then living with her grandmother. She feared that if she used Marlyn Rendon, the name she used when she enrolled in high school, Dante Moreno might be able to identify her and inflict reprisals on her.

Appellant argues that as he was allegedly on Marlyn's right, he could not have fired the shot which entered the left side of the mayor's head. However, there is no proof that the accused was right-handed. Even if he were right-handed, he must have fired at the moment when the mayor's head was turned to the left (12, 15-16 tsn October 17, 1983).

The other points raised by the appellant have been competently refuted by the Solicitor General in his brief. The guilt of the accused was proven beyond reasonable doubt.

The killing was qualified by alevosia. The accused employed a mode of attack which insured its execution without any risk to himself arising from the defense which the victim might have made.

As no other modifying circumstances were present, the trial court properly imposed the penalty of reclusion perpetua. Its judgment is affirmed with the modification that the indemnity is raised to P30,000. Costs de oficio. SO ORDERED.

Makasiar, (Chairman), Guerrero, Abad Santos, and Gutierrez, Jr., JJ., concur.

Concepcion, Jr., and Escolin, JJ., no part.

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