

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCISCO VILLAR, ET AL., ACCUSED, FRANCISCO VILLAR,
ACCUSED-APPELLANT.**

G.R. No. 54063. July 24, 1981

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In the Court of First Instance of Rizal, Francisco Villar and Angel San Andres were accused of Murder (Criminal Case No. C-9146) which was committed according to the information as follows:

"That on or about the 24th day of August, 1977, in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause, with deliberate intent to kill and with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab with a bladed instrument at the left chest one ARTURO C. PINEDA, thereby inflicting serious physical injuries upon the latter, which injuries caused his death at the M. C. U. Hospital, this city."

Angel San Andres was acquitted on June 27, 1979. In the meantime, Francisco Villar on January 16, 1979, with the assistance of his counsel, withdrew his original plea of not guilty and substituted it with a plea of guilty. This was done after the prosecution had presented its evidence and rested its case. So Villar's guilt is not here in question. In fact in his brief, it is admitted: "There is no doubt that appellant, who pleaded guilty is the perpetrator of the crime charged." In a decision dated March 30, 1979, Villar was sentenced as follows:

"WHEREFORE, premises considered, the Court finds the accused FRANCISCO VILLAR guilty beyond reasonable doubt of the crime of MURDER without any aggravating or mitigating circumstances and hereby sentences him to Reclusion Perpetua, to indemnify the heirs of the deceased victim in the sum of Twelve Thousand (P12,000.00) Pesos, and to pay the costs."

This appeal is based on a sole assignment of error: "THAT THE TRIAL COURT ERRED IN NOT CONSIDERING MINORITY OF APPELLANT AS PRIVILEGED MITIGATING CIRCUMSTANCE."

After he had changed his plea to one of guilty, the trial court permitted Villar to present evidence to prove his claim of minority as a privileged mitigating circumstance.

Villar's evidence consisted of the following:

1. Exhibit 1 which is a certified true copy of a Certificate of Live Birth. (Expediente, p. 237.) This exhibit states that Francisco Villar was born on October 26, 1961. It is noted, however, that the certificate was prepared and submitted by Leonor Villar, Francisco's mother, only on January 12, 1979, or more than 17 years after the date when Francisco was said to have been born and 4 days before he changed his plea.
2. Leonor Villar, Francisco's mother, identified Exhibit 1 and stated that Francisco was born in Caloocan City on October 26, 1961. She said that Francisco was baptized at the Espiritu Santo Church in Manila on December 25,

1961, and that she had a copy of his baptismal certificate but gave it to a person called Eddie who never returned it. (The defense promised to submit a copy of the birth certificate at a later hearing but none appears to have been submitted.)

3. Francisco Villar himself said he was born on October 26, 1961; that Exhibit 1 is his birth certificate; and that when he committed the crime he "was only 15 years going to 16 years."

4. Evelyn Villar, sister of Francisco, said that she was born on April 22, 1960, while Francisco was born on October 26, 1961.

5. Manuel Villar, brother of Francisco, said that Evelyn Villar is his sister who was born on April 22, 1960, while Francisco Villar is his brother who was born on October 26, 1961.

On the part of the prosecution it relies on Exhibit E (Expediente, p. 191) which is the sworn statement of Francisco given on August 25, 1977, and which reads in part:

X X X X X X X X

"T - Ano ang pangalan mo at iba pang mahalagang bagay ukol sa iyong pagkatao?

S - FRANCISCO VILLAR Y DAGUIISO, Alias Boyet, 22 na taon gulang, binata, walang trabaho, tubo sa Caloocan at nakatira sa bilang 632-Dau St., 5th Ave., G.P., Cal-Metro Mla."

X X X X X X X X

Francisco, on the witness stand, admitted making the statement quoted above but denied giving his age as 22 years; he claimed that when the police asked about his age he said he was born on October 26, 1961.

Whether or not Exhibit E was executed voluntarily by Francisco is not in issue insofar as the determination of his age is concerned. He has pleaded guilty to the crime which he owned in Exhibit E and during the hearing on his plea of minority he did not impugn said exhibit. In fact, he admitted its execution and his only claim in relation thereto is that he did not give his age as 22 years but instead gave his date of birth.

In the resolution of the sole assignment of error we find as well-taken and accordingly adopt as our own the lower court's ratiocination, thus:

"After going over the evidence in support of the alleged minority of the accused Francisco Villar when he committed the crime on or about August 24, 1977, the Court finds that Exhibit 1 and the testimonies of the defense witnesses can not have more probative value than the written statement of Francisco Villar, Exhibit E. It is to be noted that Exhibit 1 is a delayed registration of a supposed birth accomplished and submitted only on January 12, 1979 to the Local Civil Registrar of Caloocan City by the witness Leonor Villar, long after the offense was committed and after the prosecution finally rested its case on November 21, 1978, thus exposing the basis of Exhibit 1 to be resting on a slender and shaky foundation, and more so, in the absence of explanation from the defense of the reason for said late registration. Hence, the Court rejects Exhibit 1. Nor could the testimonies of the accused's brother and sister be given credit it appearing from their own declaration that the eldest of the two is only 18 years old and, therefore, could not have been testifying on facts from their own personal knowledge, for obvious reason. Exhibit E on the other hand, was duly signed and sworn to by the accused on August 25, 1977, a day after the commission of the offense, at the time when the said accused has no opportunity to fabricate a deliberate falsehoods. And considering that Exhibit E is replete with details reciting the true sequence of events which can only be furnished by the declarant-accused who has experienced the same or taken part in the execution of the acts narrated and may not be furnished by the investigators, the number of years (22 years old) stated by the accused Francisco Villar to be his age on August 25, 1977, was given spontaneously and voluntarily."

The appellant invokes Art. 410 of the Civil Code which reads:

"Art. 410. The books making up the civil register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts therein contained."

Suffice it to say that the above-quoted provision makes the information given in Exhibit 1 only prima facie but not conclusive evidence. This must be so because the Local Civil Registrar merely receives the information submitted to him; he does not inquire into its veracity. Moreover, to regard as conclusive the content of a certificate of live birth can lead to absurd results. Supposing that Leonor had given John F. Kennedy as the father of Francisco, are we to accept that as an incontestable fact? In the light of the circumstances already narrated concerning the preparation and submission of Exhibit 1, the lower court committed no error in disregarding it.

WHEREFORE, finding no error to have been committed with respect to the appealed judgment, the same is hereby affirmed in its entirety. No pronouncement as to costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Fernandez, and De Castro, JJ., concur.

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