

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO VASQUEZ, ACCUSED-APPELLANT.

G.R. No. 54117. April 27, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

Roberto Vasquez appealed from the decision of the Court of First Instance of Eastern Samar, finding him and his co-accused Benito Ranoco, Arsenio Bagro and Jose Eljera guilty of murder, sentencing each of them to reclusion perpetua and ordering them to pay solidarily to the heirs of Bernardo de los Santos an indemnity of twelve thousand pesos. His three co-accused did not appeal. (Criminal Case No. 535).

Between eleven o'clock in the evening of May 19 and the early morning of May 20, 1978, Bernardo de los Santos, 32, a mechanic, was mortally wounded in the backyard of his residence, one of the five houses located at his father's compound on Lugay Street, Guiuan, Eastern Samar.

His wife found him in a kneeling position with his head bent forward and touching the ground, his arms extended backward, with an egg-sized cotton ball stuffed inside his mouth and the death rattle coming out of his nose. He died upon arrival at the hospital (Exh. B).

The autopsy disclosed that he sustained twenty-two (22) stab wounds in the abdominal region and chest which injured his internal organs. He had two contusions in the legs (Exh. A).

Margarito Cabase, 63, a retired Constabulary master sergeant, testified that after eleven o'clock in the evening of May 19, 1978, while he was going to the house of Boy de los Santos (brother of Bernardo, the victim) which was in front of Bernardo's house in the De los Santos compound on Lugay Street, he saw Roberto Vasquez, with two companions, coming out of the backyard and running near the well towards the street outside the yard. Vasquez was walking hurriedly (348). Cabase beamed his flashlight at Vasquez (355). Sometime thereafter, Cabase heard the scream of Bernardo's wife.

Cabase at about noontime of that day informed Carlos de los Santos, another brother of the victim, that he saw Vasquez near the scene of the crime. Carlos relayed that intelligence to the head of the Constabulary detachment at Guiuan. The frequent companions of Vasquez, namely Jose Eljera, Arsenio Bagro, Benito Ranoco and Francisco Lacsaron, were arrested and investigated.

Ranoco, Bagro and Eljera executed extrajudicial confessions wherein they admitted that they helped Vasquez in assaulting Bernardo de los Santos in his backyard and that Vasquez gave Tina Alde five hundred pesos as a reward for the killing of Bernardo (Exh. C, D and E).

The confessions were sworn to before Municipal Judge Clotilde Japzon Salazar. She testified that Ranoco thumbmarked his confession in her presence and in the presence of his wife and many spectators including a member of the sangguniang bayan. She translated the contents of his confession into the native dialect and asked Ranoco whether he was forced to sign the confessions. He answered in the negative. She examined his body to

find out if he had been maltreated. She found no signs of maltreatment.

Judge Salazar further testified that Bagro and Eljera signed their confessions in her presence although the same were already signed when they were brought to her office for the administration of the oath. She read and translated the confessions to them in the vernacular. She apprised them that the documents were their confessions and she informed them of their right to have counsel. According to Judge Salazar, Bagro and Eljera told her that they were telling the truth in their confessions.

On the basis of the three confessions (Exh . C, D and E), the chief of police arrested Vasquez on May 25, 1978. He was drunk. At a confrontation in the office of the chief of police, Bagro, Eljera and Ranoco pointed to Vasquez as a participant in the killing of Bernardo de los Santos (156-157).

Carlos de los Santos testified that there was bad blood between his brother Bernardo and Vasquez. He declared that on one occasion Vasquez, who was Carlos' high school classmate, told Carlos that Bernardo was not taking action on Vasquez's complaints. Apparently, the two were not on speaking terms. (398 and 405).

On May 25, 1978, a police investigator filed in the municipal court a complaint for murder against Vasquez, Ranoco, Eljera, Tina Aide (wife of Eljera), Bagro, Donato Alde (Tina's father), Jesus Alde (Tina's son), Francisco Lacsaron and Jose Grafil. They waived the second stage of the preliminary investigation.

On June 29, 1978, the fiscal filed against them an information for murder in the Court of First Instance, alleging treachery, abuse of superiority, evident premeditation, cruelty and price, reward or promise as qualifying circumstances.

After trial, the lower court acquitted Lacsaron, Jesus Alde, Donato Alde and Grafil on the ground that their guilt was not proven beyond reasonable doubt. Tina Alde died during the trial. As already stated, the lower court convicted Vasquez, Bagro, Eljera and Ranoco. Only Vasquez appealed.

He contends that the trial court erred (1) in admitting the confessions of Eljera, Bagro and Ranoco, which they repudiated, (2) in using those confessions against him, (3) in finding that there was conspiracy and at the same time acquitting four of the nine accused, (4) in giving credence to Cabase's testimony, (5) in not giving weight to Vasquez's alibi, (6) in holding Vasquez responsible for the death of Bernardo de los Santos in spite of the weakness of the prosecution's evidence against him, (7) in not acquitting Vasquez for insufficiency of evidence and (8) in holding that his guilt was proven beyond reasonable doubt.

Vasquez, 39, a jeepney operator, testified that at the time Bernardo de los Santos was assaulted he (Vasquez) was with his children in his mother's house at Barrio Cabitanan about one kilometer away from the De los Santos compound. His mother corroborated his alibi.

The trial court did not give any credence to Vasquez's alibi because he was seen by Cabase emerging from the scene of the crime and in the three confessions of his co-accused he was implicated as the mastermind and a co-principal by direct participation.

Vasquez's assignments of error may be condensed into the single issue of whether his complicity in the killing of Bernardo de los Santos was proven beyond reasonable doubt.

We have conscientiously reviewed the record. We are convinced that the trial court did not err in rendering against him the judgment of conviction under appeal. Of crucial significance is the supervening circumstance that Vasquez's three co-accused, who pretended that their confessions were not voluntary, did not appeal. That could only mean that they really helped Vasquez in liquidating the victim and that their confessions were not vitiated by duress. Bagro, Eljera and Ranoco had no motive for taking part in the killing save for the fact that they were asked

by Vasquez to do so.

Vasquez has not offered any explanation as to why the three confessants would implicate him in the killing if he really did not take part therein. There is no reason why they would fabricate the grave charge of murder against him.

While the said confessions are hearsay as to Vasquez, nevertheless, they are admissible against him as circumstantial evidence to show the probability of his actual participation in the killing of Bernardo de los Santos. The confessions were corroborated by Cabase's testimony. (People vs. Condemena , L-22426, May 29, 1968, 23 SCRA 910, 919; People vs. Lumahang , 94 Phil. 1048).

The crime committed by Vasquez is murder qualified by abuse of superiority. Evident premeditation cannot be appreciated because the time when the resolution to kill the victim was made was not proven by the prosecution.

The trial court refused to appreciate price, promise or reward as an aggravating circumstance. It concluded that the amounts of P70, P60 and P60 respectively received by Ranoco, Bagro and Eljera were not sufficient to induce them to commit the crime of murder but were given by Vasquez to show his appreciation for their loyalty to him. The truth is that the alleged reward was paid to Tina Alde who died during the trial and who was not able to testify as to the truth or falsity of the imputation that a reward was paid.

Neither can cruelty be appreciated because the number of wounds alone is not sufficient to show that the killing was committed for the purpose of deliberately and inhumanly augmenting the suffering of the victim. There were many wounds because there were several assailants.

Consequently, the trial court did not err in imposing the penalty of reclusion perpetua. Its judgment is affirmed. Costs de oficio .

SO ORDERED.

Barredo, (Chairman), De Castro, Ericta, and Escolin, JJ., concur.
Concepcion, Jr., and Abad Santos, JJ., no part.

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