

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO ABREA Y ARANCON, DEFENDANT-APPELLANT.

G.R. No. 55309. February 22, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Automatic review of a death sentence imposed on ALBERTO ABREA y ARANCON by the Court of First Instance of Zamboanga del Norte, Branch I, in Criminal Case No. 2454. More specifically, the sentence reads:

"FOREGOING CONSIDERED, the Court finds accused ALBERTO ABREA y Arancon, GUILTY beyond reasonable doubt of the offense of MURDER, defined and punishable under Article 248, pars. 1 (treachery) and 5 (evident premeditation), with the special aggravating circumstance of QUASI-RECIDIVISM attendant to his commission of said offense and, conformably with law, the Court sentences said accused, ALBERTO ABREA y Arancon, to suffer the extreme and maximum penalty of DEATH."

In the brief filed by Atty. Ramon A. Gonzales, counsel de oficio of the accused, it is admitted that the facts are correctly stated in the decision of the trial court. Copied below are the quoted portions of the decision in the brief of the appellant, namely:

"The amended information, signed and filed by Third Assistant City Fiscal Dalmacio M. Tubungbanua on September 2, 1980, alleged:

x x x

'That in the afternoon of August 20, 1980, inside the Zamboanga Del Norte Provincial Jail compound at Sicayab, Dipolog City, Philip-pines, and within the jurisdiction of this Honorable Court, the said accused ALBERTO ABREA y ARANCON, an escapee from the Davao Prison and Penal Farm, and under temporary detention at said provincial jail, armed with a hunting knife and with intent to kill a person without justifiable cause, by means of treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab one ANATALIO COCA, a detention prisoner, thereby inflicting upon the latter stab wound on the left side of his back, as a result of which, said ANATALIO COCA died almost instantaneously; that as a result of the death of the victim, his heirs suffered the following damages, viz:

1. Indemnity for death of victim P12, 000.00
2. Moral damages 5,000.00
3. Exemplary damages 10,000.00
4. Loss of earning capacity 10,000.00

'CONTRARY TO LAW, with aggravating circumstance of quasi-recidivism, the accused having been previously convicted in Crim. Case No. 1916 of the crime of Robbery with Homicide in the Court of First Instance of Zamboanga del Norte, Branch I, and sentenced to reclusion perpetua in a decision promulgated on June 28, 1978'.

"When arraigned on September 2, 1980, duly assisted by Atty. Orlando O. Barrera, his counsel de oficio, accused Alberto Abrea y Arancon, entered the plea of GUILTY.

"On September 4, 1980, the Court before receiving the evidence of the prosecution, invited the accused to the rostrum, asking him if he understands the meaning of his plea of guilt; whether he knows that, by such plea to the amended information, he may suffer the maximum penalty of DEATH. The Court informed accused Abrea that he can still be allowed to withdraw his previous plea of GUILTY to one of NOT GUILTY if that be his desire. Accused respondent in saying that he is not changing his said plea of guilty, but hastened to ask the Court that he be accorded leniency in the imposition of the penalty.

"The prosecution presented Warlito Caibang, a detention prisoner at the provincial jail; Sofronio S. Peras, Officer-in-Charge of the Zamboanga del Norte provincial jail; Felizardo Acaylar, clerk-in-charge of criminal case, CFI, Zamboanga del Norte, Branch III, and Dr. Luis P. Young, resident physician of the Zamboanga del Norte provincial hospital, as its witnesses.

"Warlito Caibang declared he was in the office of the provincial warden on August 20, 1980 at 5:00 o'clock in the afternoon, more or less; he actually saw accused Alberto Abrea stab detention prisoner Anatolio Coca from behind while the latter was in the act of receiving his corn grits ration from another detention prisoner, Bertito Bacus at said warden's office. Caibang said he was only one (1) fathom from where the victim Coca was, when stabbed by accused Abrea.

"Sofronio S. Peras, OIC or acting provincial warden, testified he was invited to, and attended a conference at, television Channel 11, Dipolog City, at the time when accused Abrea stabbed detention prisoner Coca on August 20, 1980 at 5:10 o'clock in the afternoon. After the conference, he went to Pampangueña Restaurant. It was there that a jail guard, in the person of Jesus Hamac informed him (Peras) of the incident. From the Pampangueña Restaurant, witness-warden Peras said he went direct to the Zamboanga del Norte provincial hospital where the wounded Coca was brought for emergency treatment. Peras declared the injured Coca can no longer make responses to his questions because said victim was already hovering between life and death. Same witness (Peras) declared detention prisoner Anatolio Coca expired at 6:10 o'clock in the early evening of August 20, 1980, by reason of the fatal stab on his back by accused Alberto Abrea.

"Warden Peras said he conducted an investigation of the incident, after which he prepared and submitted a Spot Report (Exhibit A), to the Provincial Governor. The other prosecution exhibits identified by warden Peras:

- Handwritten letter in two (2) pages (Exhibits B, B-1) of accused Alberto Abrea, dated August 22, 1980, addressed to 'Hon. Juan Ponce Enrile, Ministry of Justice, Malacanang Palace, Metro Manila; Exhibit BB, the English translation of said letter.

- Official letter of 1st Lieut. Lorenzo N. Presas, Commanding Officer, 463rd PC Company, Sicayab, Dipolog City, dated August 4, 1980 (Exhibit C), addressed to the Officer-in-Charge, Provincial Jail, Sicayab, same city, formally turning over to the latter the living body of 'escapee Alberto Abrea, Prisoner No. 106304 who allegedly escaped from Davao Prison and Penal Farm on July 4, 1980 x x x re-arrested by elements of the Manukan Integrated National Police on August 3, 1980 x x x for safe keeping.'

- Copy of a radiogram from the Superintendent, Davao Penal Colony (Exhibit D) that 'Alfredo Abrea confirmed escape this prison request turn over San Ramon Prison and Penal Farm Zamboanga City,' addressed to the Commanding Officer, 463rd PC Company, Dipolog City.

"Dr. Luis P. Young, a resident physician of the Zamboanga del Norte Provincial Hospital, Dipolog City, identified the Certificate of Death of prisoner-victim Anatolio Coca (Exhibit F), and living Report Case No. 0-00-88 (Exhibit I, Medical Certificate). The latter contains the following findings:

-Vital sign - B. P. 0/0 Pulse rate 0 on arrival;

-Stabbed wound 3 cm. in length penetrating located at the level of the left nipple ventral side 10 cm. lateral to the spinal cord;

-Died at 6:00 P.M., August 20, 1980.

"Defense witness Quintero's version was that, the victim (Anatalio Coca), and the assailant (Alberto Abrea) had had two confrontations during that afternoon the stabbing incident. The first, according to him, occurred at the jail's mess hall when victim Coca berated assailant Abrea why the latter, even if already given cooked corn grits, also asks raw corn grits ration, to which Abrea retorted, 'Who are you to question and felt aggrieved?' Quintero noticed Abrea moving out from the mess hall and went to his special cell. The next thing he (Quintero) noticed was victim Coca, then an inmate in prison cell No. 1, proceeding to the special cell where accused Abrea was, and from the outside of the wooden bars of the door, brandished a kitchen knife against herein accused Abrea. Unable to enter the special cell, victim Coca left Abrea in his cell and went to the direction of the jail's administrative office. Same defense witness (Quintero) testified he saw accused Abrea following the path of victim Coca towards the administrative office moments later. The next thing he noticed was the unusual movements of the jail guards: It was the stabbing of Coca by Abrea.

"Accused Abrea declared that about two (2) weeks before he stabbed his victim Coca, the latter accosted him for having indulged in a conversation with his (Coca's) woman, a jail inmate, by the name of Regina Penaso. Abrea explained he was never intending to disaffect the attention of Regina Penaso on Anatalio Coca. He asked forgiveness from the latter, promising not to converse anymore with the woman.

"Abrea corroborated the testimony of defense witness Quintero, in that he (Abrea) and victim Coca were having an oral confrontation at the jail's mess hall in the afternoon of August 20, 1980 concerning Coca's disapproval of Abrea's practice in asking cooked corn grits, as well as raw corn grits for a single meal ration. Abrea also confirmed that Coca went to his special cell brandishing a kitchen knife. When the latter went to the direction of the warden's office, he followed him there and stabbed Coca." (Appellant's brief, pp. 1-4.)

The trial judge faithfully followed the prescribed procedure in capital cases where the accused pleaded guilty -- which is to require the prosecution to present evidence so as to substantiate the allegations in the information and thus guard against improvident admissions of guilt.

We have gone over the record of the case and the facts are indeed as stated by the court a quo and admitted by the counsel for the appellant.

In the session of September 4, 1980, the following took place in respect of the plea of guilty made by the accused:

"COURT: -

Let the accused come here.

COURT: -

(to the accused)

Q Last Tuesday, September 2, 1980, you were arraigned. Do you remember that?

A I remember that.

Q And do you remember also that, before the Court asked you whether you would plead guilty or not, you were asked whether you understood the amend-ed information which was read to you?

A I remember that also.

Q And then when you were asked what your plea would be your answer was 'guilty'?

A Yes.

Q And you still confirm that plea?

A I confirm that.

Q The Court will still allow you to withdraw your plea of guilty if you have changed your mind. Your plea of guilty made on September 2, 1980 might not have been understood by you as to its significance.

A I will not change that plea.

Q But the Court still will ask you again. Do you understand that your plea will mean the heaviest penalty to be imposed upon you for committing the act?

A I would like to request that the penalty to be imposed upon me be lighter.

Q It is not the Judge that will impose your penalty. It is the law. And because of your plea, to give you the last chance, you should understand that your said plea of guilty may mean imposition upon you of a death penalty.

A I would just like to request that, if possible, the penalty to be imposed upon me would be lighter. That is my wish.

Q But the Court tells you now that it is very possible that you will be given death penalty. You will still not enter the plea of not guilty?

A I still enter the plea of guilty.

COURT: -

Alright. You take him to his seat. Evidence for the prosecution in this case." (tsn, Hamoy, pp. 2-3.)

Warlito Caipang, 19 years old and a detention prisoner at the Provincial Jail of Zamboanga del Norte, was an eye-witness to the killing. His testimony reads in part:

"Q You remember where you were on Wednesday, August 20, 1980, at about 5:00 o'clock in the afternoon?

A Yes, sir.

Q Where were you at that time?

A I was in the office of the Provincial Warden.

Q You remember what happened that afternoon, at about 5:00 o'clock, of August 20, 1980, within the compound of the Provincial Jail of Zamboanga del Norte?

A Yes, sir. Anatalio Coca was stabbed.

Q Who stabbed Anatalio Coca?

A Alberto Abrea.

Q This Anatalio Coca, where is he now?

A He is already dead.

Q And because he was stabbed by Alberto Abrea?

A Yes, sir.

Q Have you seen when Abrea, Alberto Abrea, stabbed Anatalio Coca?

A Yes, sir.

Q What was Anatalio Coca then doing at the time he was stabbed by Alberto Abrea?

A He was receiving his corn grits ration.

Q Who was then giving the ration to Coca at that time?

A Bacus.

Q That Bacus, is he a guard or another prisoner?

A A prisoner.

Q You mean to say that it is the policy of the Provincial Jail to give rations to inmates in the jail?

A Yes, sir.

Q You mean to say that Anatalio Coca was in the act of receiving ration when Alberto Abrea stabbed him?

A Yes, sir.

Q How far were you at the time of the stabbing of Anatalio Coca?

A More or less, one fathom.

Q Where were you at the time when Coca was in the act of receiving ration?

A I was near.

Q At the left side, right side, back or front of him, of Coca?

A I was on the right side of Coca.

Q When Abrea stabbed Coca, was there an altercation before the stabbing or there was none?

A None.

Q Before Abrea hit Coca, did you see Abrea proceeding to the place where Coca was?

A Yes, sir.

Q On what part of the body was Coca hit?

A On his back, left portion.

Q How many times did Abrea stab Coca?

A Only once.

Q What was the position of Coca while being stabbed by Abrea?

A He was bending.

Q Was he facing Abrea at the time when he was stabbed at the left side of his back?

A His back was facing Alberto Abrea.

Q In other words, Coca, when stabbed by Abrea, was not aware that Abrea was at his back?

ATTY. BARRERA: -

We object, Your Honor. The witness would be incompetent to answer that.

COURT: -

Reform it.

FISCAL TUBUNGBANUA: -

(to the witness)

Q Did Coca notice that Abrea was proceeding towards him?

A No, sir.

Q When he was stabbed at the back, what happened to Coca?

A He stood up.

Q When he stood up, what did he do?

A He walked and sat on a bench.

Q Was he not able to fight back at Abrea?

A No, sir.

Q After stabbing Coca, what did Abrea do?

A He ran away.

Q Did Coca run after Abrea when Abrea ran away?

A No, sir.

Q After he stood up, what did Coca do then?

A He sat down.

Q After sitting down, what happened?

A A guard of the jail approached him.

Q And he remained sitting all the time when the guard was approaching him?

A Yes, sir.

Q How long had he been sitting?

A For quite a period of time.

Q After sitting down, what did he do or what happened?

A After that, he died."

(tsn, Hamoy, pp. 4-6.)

The appellant testified that he was at the Provincial Jail of Zamboanga del Norte because he escaped from the

Davao Penal Colony on July 4, 1980; that he had known Anatalio Coca in the provincial jail and with whom he had arguments because Coca accused him of grabbing Coca's common-law wife who was also an inmate at the provincial jail and also because of their food rations; that Coca was well-built and a bully; and that because of their differences he decided to stab Coca with a hunting knife which he had buried near the jail's kitchen.

The evidence on record is sufficiently convincing to show that the appellant is indeed guilty of murder qualified by treachery. He stabbed his victim from behind and the attack was sudden and unexpected.

Counsel de oficio asserts, however, in the lone assignment of error that "the lower court erred in imposing the death penalty on the accused." He claims that there was no evident premeditation and he is right for there is nothing in the record which We have examined to show when the plan to kill the victim was hatched. The following testimony of the appellant is revealing:

"Q While you were in the special cell what happened?

A I closed the door of the special cell and Anatalio Coca arrived.

Q How did you close the door of the special cell?

A There is a wire inside attached to the door which I have to tie with a nail.

Q Have you finished closing the door when Anatalio Coca arrived?

A Yes, sir.

Q When he arrived what did Anatalio Coca do?

A He challenged me to a fight.

Q How did he challenge you?

A He told me he was not afraid of me. In fact he has nothing to fear because he has stayed at Muntinlupa for fourteen years.

Q What did you tell him?

A I did not say anything.

Q You did not also do anything?

A None.

Q And what else did Anatalio Coca do while he was facing you?

A He pulled out his hunting knife and thrust it against the door and at the same time pulled the door, and one of the stakes was broken.

Q When he pulled the door Coca was intending to enter your cell?

A Yes, sir.

Q What was the mood of Coca at this time?

A He was mad at me. Maybe he wanted to kill me.

Q And after striking the knife to the wooden bar of the special cell and forcibly pulling the door of that cell, what else did Coca do?

A No more because I told him that I'll not fight with him.

Q After that where did Coca go?

A He went to the office.

Q What did you do?

A I opened the door of my cell. I went outside bringing with me my hunting knife inside my bag.

Q How were you able to carry that hunting knife in your bag to the provincial jail?

A That was my old hunting knife. When I was first incarcerated in the provincial jail I buried that hunting knife near the kitchen of the provincial jail.

Q What was your purpose of bringing that hunting knife inside the provincial jail?

A For my own self defense.

Q After that, when you followed Coca, were you able to overtake him?

A Yes, I was able to overtake him while he was trying to receive the uncooked rice.

COURT:

Rice or corn grits?

A Corn grits.

ATTY. BARRERA:

Q You want to tell this Honorable Court there was very little interval of time from the time Coca left your special cell and you followed him?

A Yes, sir.

Q You did not have any time to think before you followed Coca when he left?

A No more.

Q Why did you follow Coca?

A I decided to stab him.

Q When did you decide to stab him?

A After that incident."

(tsn, Bantilan, pp. 71-73.)

The Solicitor General argues that when the appellant pleaded guilty he admitted the material allegations in the information including the circumstances qualifying and/or aggravating the crime and consequently he can not now disclaim that he committed the crime without evident premeditation. We do not agree. The precise purpose of the automatic review in capital cases is to open the entire record for scrutiny so that a human life will not be lost thru a mis-carriage of justice by misappreciation of the evidence.

But the absence of evident premeditation cannot alter the im-position of the death penalty. For the appellant is a quasi-recidivist and Article 160 of the Revised Penal Code mandates the imposition of "the maximum period of the penalty prescribed by law for the new felony." According to Article 248 of the same code, murder is

punishable by reclusion temporal in its maximum period to death. Hence, notwithstanding the mitigating circumstance of the plea of guilty in the appellant's favor, the correct penalty is still death. (People vs. Alicia, G.R. No. L-38176, January 22, 1980, 95 SCRA 227; People vs. Majuri, G.R. No. 38833, March 12, 1980, 96 SCRA 472.)

Judge Simplicio M. Apalisok who imposed the death sentence on the appellant added the following:

"From the facts and circumstances gathered during the trial and, from the documentary evidence presented by both the prosecution and the defense, the following were brought to the attention of the Court:

-The letter-complaint of accused Abrea addressed to Minister Enrile attributed lack of strict enforcement of prison rules and regulations by provincial jail authorities. As a citizen, accused Abrea is entitled to express his redress of grievances. If he suffered any discrimination, it is not only his duty, but his right to ventilate his grievances to the authorities;

-Inmate/victim Anatalio Coca was a pain in the neck to the rest of the inmates in the Provincial Jail, behaving as if he can dominate prison guards by violating prison rules and regulations by lodging in an outside cottage with a lady detainee, Regina Penaso;

-Inmate/victim Coca had previously been sentenced to five (5) death penalties in G. R. No. L-30491 prom. Jan. 21, 1972; according to the latest criminal information against him (Criminal Case No. 1967, CFI, Branch III), he is charged of the offense of Robbery with Rape and Less Serious Physical Injuries 'with aggravating circumstance of three (3) recidivisms.' (Information, Exhibit H, Crim. Case No. 1967, dated March 3, 1978).

"TRUE IT IS, the inmate-victim Anatalio Coca's notoriety and propensity of committing bloody and rapacious offenses clearly makes him a continuing terror to, and danger against, society. Incorregibly atrocious as he is, it is not incumbent upon accused-inmate-assailant Alberto Abrea to snuff his life.

"The penalty of DEATH now being willed by the Court against assailant Abrea comes to the fore, coincidentally when modern penologists have different schools of thought regarding death penalties. The present-day discussion of penologists and other learned men, pro and con on the imposition of death penalty, taken together to the factual circumstance that inmate-victim Anatalio Coca was himself brutal, notoriously perverse and a clear danger to society, this Court with hated breath, has to recommend, as it hereby RECOMMENDS to the Chief Executive of the land, the granting of an executive clemency to herein accused ALBERTO ABREA y Arancon, by the commutation of the herein death conviction to LIFE IMPRISONMENT."

WHEREFORE, the judgment of the court a quo finding the appellant guilty of murder is hereby affirmed but for lack of the required number of votes the penalty imposed is reduced to reclusion perpetua; the judgment in respect of the civil indemnity and costs is likewise affirmed. No costs.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, De Castro, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur.

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