

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANNY SEQUERRA, DEFENDANT-APPELLANT.*G.R. No. 58574. October 12, 1987*

Ponente: CRUZ, J.

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In barangay Calaba in Bangued, Abra, at about ten o'clock in the morning of March 31, 1980, Renato Bonete was shot in the back while driving his tricycle. Rushed to the hospital, he died shortly upon arrival, of severe bleeding from the wounds he had sustained. In the afternoon of the same day, Danilo Sequerra was picked up at his residence and thereafter investigated for the killing. He was subsequently charged with the murder of Bonete and convicted after trial. The judgment^[1] sentencing him to reclusion perpetua and to pay the victim's heirs P14,000.00 indemnity plus P3,000.00 for burial expenses and P10,000.00 as moral damages is now before us on appeal.

In addition to the doctor who testified on the results of the autopsy he conducted on the victim, four witnesses were presented by the prosecution to prove Sequerra's guilt. The most important of these was Rowena Bonete, a 15-year old girl, who was the victim's passenger when he was shot that fatal morning. According to her, the tricycle had just passed by the accused, who was standing along the barangay road, when he fired at the victim and then immediately ran towards the fields, still carrying his gun. Terrified, she jumped from the tricycle and started shouting that her uncle had been shot by Sequerra.^[2]

This testimony was corroborated by Carolina Bonete, her stepmother, who declared that she had been brought that morning by Bonete in his tricycle to her house from the market. On the way, they had passed the accused standing in front of a neighbor's house. Finding that she had left some of her purchases behind, she asked Rowena to go back in the tricycle and fetch them. It was a few minutes later, while she was about to enter her house that she heard a gunshot and looked in the direction of the sound. From where she was standing, about 30 meters from the tricycle, she saw the accused running toward the fields after apparently having shot Bonete.^[3]

It would appear from the declaration of Concepcion Barsuela, another prosecution witness, that Bonete was still able to walk after he was shot for she found him in her front yard lying face down. She immediately went to give him assistance and asked him who had shot him. According to her, he thrice identified his assailant as "Danny Sequerra."^[4]

Carmelita Bonete, the victim's wife, testified about the civil damages. She also declared there was bad blood between her husband and the accused because the latter resented Renato Bonete's acquittal of the murder of a relative of Sequerra; her husband had discovered Sequerra stealing chickens; and Sequerra had stoned their house.^[5]

For his part, the accused claimed he was not in Calaba at the time of the killing, being then in a bus bound for Abra, where he arrived at 3:30 p.m. on March 31, 1980.^[6] By then, the crime had already been committed. In corroboration, his sister, Cecilia Sequerra, testified that she had gone with him to the Philippine Rabbit Bus

terminal in Caloocan City, at about 7:30 a.m. on that date, and seen him off as he boarded the bus for Abra. Before he left, she said, the accused had stayed with her at her brother-in-law's house in Pasay City for about a month.[7]

Another witness for the defense was Domingo Gapuz, the driver of the bus the accused claimed to have taken. Gapuz swore he talked to Sequerra at about 10:30 a.m. on March 31, 1980, when his bus stopped over at Tarlac, Tarlac, and even invited him to take coffee with him.[8]

Sequerra himself testified in his behalf and averred that in February 1980, after the town fiesta of Bangued, he went to Pasay City, where he stayed at the house of his brother-in-law with his student sister, Cecilia. There he remained until March 31, 1980, when at 8 o'clock in the morning, he boarded a Philippine Rabbit Bus to take him back to Calaba in Bangued, Abra. Cecilia saw him off. In Tarlac, he had a snack with Domingo Gapuz, the driver of the bus. He arrived in Bangued at about 3:30 o'clock in the afternoon and proceeded to his house where, being tired, he lay in his bed to rest. It was soon afterwards that policemen arrived to place him under arrest on suspicion of the murder of Renato Bonete. He remonstrated that he had just returned from Manila but they nevertheless brought him to the municipal building, and then to the NBI Office in Vigan, Ilocos Sur, where he was fingerprinted and paraffin-tested.[9]

The decision of this case hangs mainly on the credibility of the witnesses. This matter in turn depends heavily on the impressions of the trial judge, who had the opportunity to observe their demeanor on the stand and distinguish by their conduct between fact and fabrication. If there is no clear showing that he has committed a grave abuse of discretion in arriving at his judgment, we shall sustain him.

The crime was committed in broad daylight, at about ten o'clock in the morning, in a quiet and uncluttered place. One of the witnesses for the prosecution, Rowena Bonete, was actually riding in the tricycle driven by the victim when he was shot only a few meters after they had passed the latter, who was standing by the road. The other witness, Carolina Bonete, who heard the shot and looked on the scene of the crime was only 30 meters away and had a clear view of what was happening. There were no other persons in the vicinity except the killer and his victim. Significantly, both these witnesses knew the accused well and categorically identified him as the killer. There could not have been, in the circumstances, any possibility of mistaken identity. As for witness Concepcion Barsuela, she was also positive in pointing to the accused as the person whom the victim identified as the person who had shot him. She said the victim mentioned the defendant's name thrice.

On the other hand, the accused claims he was not in Calaba when the killing occurred, being then in Tarlac, Tarlac, and having coffee at about 10:30 a.m. with the driver of the bus taking him to Abra. Witness Gapuz affirms this, and so in effect does Cecilia Sequerra, who testified that she saw her brother off at the Caloocan City terminal at 8 o'clock in the morning of March 31, 1980. The defense also stresses that the result of the paraffin test was negative,[10] suggesting that Sequerra could not have fired the fatal shot even if it be assumed that he was in Calaba in the morning of March 31, 1980.

Alibi is an inherently weak defense and is not accepted in the absence of a clear showing that the accused was not, nor could he feasibly have been, at the scene of the crime when it was committed. In this case, the defense is based mainly on Sequerra's own self-serving testimony and with rather feeble corroboration at that. This corroboration is also testimonial only. There is not a single shred of documentary evidence to prove that the accused was many kilometers away from Calaba when the victim was shot.

The testimony of Cecilia Sequerra on behalf of her brother is understandable as a manifestation of sibling loyalty and is for that reason also suspect. As for Gapuz's own declaration, a reading thereof shows it is flawed with inconsistencies. Testifying on direct examination that the accused boarded his bus on March 31, 1980,[11] he

contradicted himself on cross and said the date was March 31, 1981,[12] and then even went further to say that the accused never rode in his bus on March 31, 1980.[13]

The Court also notes that although defense witness Onesimo Paa disclaimed expertise on paraffin-testing, being assigned at the NBI as fingerprint examiner, he was nonetheless questioned without objection on the subject. He testified that the negative result thereof might be due to the use of gloves by the person who fired the shot or of chemicals that can prevent deposit or detection of nitrate in the hands.[14] True or not, this statement from an admitted non-expert has just the same raised some questions about the conclusiveness of the said test.

Carolina Bonete is the wife of Renato Bonete's brother,[15] and Rowena Bonete is her stepdaughter and the victim's niece.[16] The defense claims that the relationship with the victim makes them biased and perjured witnesses whose testimony could not be relied upon. The same charge is made against Concepcion Barsuela, although she testified that while related to the deceased, her relationship with the accused was in fact closer.[17] The accused also said Barsuela held a grudge against him because she suspected him of complicity in the killing of her brother.[18]

It did not appear to the trial court that such circumstances had vitiated or falsified their testimony; and there is no indication either that they had conspired to testify against the accused out of spite for him or for some other dubious purpose. On the contrary, each of them had her own story to tell, and what is more, these stories jibed with each other to point a common finger at Sequerra.

There is just one curious item in Carolina Bonete's narration, and this is her declaration that upon hearing the shot and seeing the accused fleeing from the scene of the crime, what she did was to immediately go to Carmelita Bonete to inform her that her husband had been shot.[19] Carmelita confirms this.[20] Strangely, what they did next was to report the matter to the PC authorities without first going to the fallen victim. It was only later that they inquired about him and were told that he had died in the hospital.[21]

This is unnatural behavior, to say the least, considering that Carmelita was the wife of the victim and Carolina his sister-in-law. The normal impulse in such a situation would have been to go to the victim to find out how he was, if he was still alive or already dead, and to help him if it was not yet too late. Instead, what these women did was to immediately report the crime, ignoring the man who was bleeding to death.

The only possible explanation for this unseemly conduct is that these women panicked and so acted irrationally. This should account for their apparent lack of anxiety over the stricken Renato Bonete as he lay dying. In any case, as the Court sees it, this odd behavior, which neither of them denies, does not detract from but, indeed, by its very imperfection, strengthens the veracity of their testimony.

The Court finds that the trial judge did not err in giving credence to the witnesses for the prosecution and in finding the accused guilty beyond reasonable doubt. Against his positive identification, all he offered was the feeble defense of alibi, which he and his witnesses failed to substantiate. He is condemned, of course, not because he failed to prove that he was in Tarlac but because the prosecution succeeded in proving that he was in Abra.

Confronted by the full panoply of state authority, the accused is accorded the presumption of innocence to lighten and even reverse the heavy odds against him. Mere accusation is not enough to convict him, and neither is the weakness of his defense. The evidence for the prosecution must be strong per se, strong enough to establish the guilt of the accused beyond reasonable doubt. Otherwise, he is entitled to be freed.

But as solicitous as the Bill of Rights is of the accused, the presumption of innocence is not an automatic or blanket exoneration. It is at best only an initial protection. If the prosecution succeeds in refuting the presumption, it then becomes the outlook of the accused to adduce evidence that will at least raise that inkling of doubt that he

is guilty. Once the armor of the presumption is pierced, so to speak, it is for the accused to take the offensive and ward off the attack.

The attack has not been repelled in this case. It has disarmed and vanquished the accused and his guilt has been laid bare. In the face of the weighty evidence against him, his invocation of the constitutional presumption of innocence, having failed, must be rejected.

The crime committed is murder, qualified by treachery, as the accused shot the victim in the back while the latter was driving his tricycle. Evident premeditation has not been established and so must be discarded. There being no generic aggravating and mitigating circumstances, the appropriate penalty is reclusion perpetua. The civil awards not having been refuted, the same are approved except as to the death indemnity which is increased to P30,000.00.

WHEREFORE, the appealed decision is **AFFIRMED** as above modified, without any pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, and Paras, JJ., concur.
Gancayco, J., on leave.

[1] Rollo, pp. 5-12.

[2] TSN, Aug. 5, 1981, p. 78.

[3] Ibid., July 16, 1981, pp. 3-7.

[4] Id., July 14, 1981, pp. 5-8, 13.

[5] Id., Aug. 12, 1981, pp. 3-5.

[6] Id., Sept. 23, 1981, pp. 65-67.

[7] Id., Sept. 16, 1981, p. 36.

[8] Id., Sept. 10, 1981, pp. 101-102.

[9] Id., Sept. 23, 1981, pp. 64-70.

[10] Rollo, p. 8.

[11] TSN, Sept. 10, 1981, p. 101.

[12] Ibid., p. 113.

[13] Id., p. 114.

[14] Id., Sept. 9, 1981, pp. 30-32.

[15] Id., July 16, 1981, pp. 13-14.

[16] Id., Aug. 5, 1981, p. 74.

[17] Id., July 14, 1981, p. 9.

[18] Id., Sept. 23, 1981, p. 86.

[19] Exh. "C".

[20] TSN, July 16, 1981, p. 9.

[21] Ibid., July 16, 1981, pp. 10-11.

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