

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NARCISO SANTOS Y MARCILANG ALIAS “NARSING”;
DEFENDANT-APPELLANT.**

G.R. No. 60055. April 28, 1983

Ponente: GUTIERREZ JR., J.

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GUTIERREZ JR., J.:

This is an appeal from the decision of the Court of First Instance of Rizal, Branch V at Quezon City in Criminal Case No. Q-11594 finding the accused Narciso Santos y Marcilang guilty of the crime of MURDER for the death of Francisco Mappala y Carao and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the widow, Florecita P. Mappala in the sum of P13,000.00 for actual damages, P12,000.00 for compensatory damages, P30,000.00 for moral damages, and P10,000.00 for exemplary damages and to pay the costs.

The amended information dated October 19, 1979 charged the accused-appellant and others with murder. It reads:

"The undersigned Assistant City Fiscal accuses NARCISO SANTOS Y MARCILANG Alias 'Narsing', GUILLERMO MERCADO Y VILLAGA Alias 'Irog Mercado' and several other John Does whose true names and identities have not yet been ascertained of the crime of MURDER, committed as follows:

"That on or about the 22nd day of July, 1979, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, without any justifiable cause, qualified by evident premeditation, treachery and taking advantage of superior strength with the aid of armed men, with intent to kill, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of Francisco Mappala y Carao, by then and there stabbing the latter, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said Francisco Mappala y Carao in such amount as may be awarded to them under the provisions of the Civil Code."

On August 20, 1979, the accused entered a plea of not guilty under the original information filed on July 27, 1979, the amended information having been filed only to identify one of the John Does as Guillermo V. Mercado alias Irog Mercado.

The evidence for the prosecution is summarized by the trial court as follows:

"The prosecution's version as to where, how, why and by whom the victim, Francisco Mappala, was killed was testified to by eyewitnesses Christopher Corpuz, a boy 15 years of age, single and a resident of 28 Araneta Avenue, Quezon City, and Resurreccion Patacsil, 46 years old, married, a driver by occupation, and a resident of 28 Araneta Avenue, Quezon City. Taken collectively, their testimonies established the following facts:

"There were 19 persons in all who attacked and assaulted Francisco Mappala on the night of July 22, 1979. They are the accused Narciso Santos (1), Guillermo Mercado (2), Manuel Mercado (3), Oscar Morada (4), Eddie Figueroa (5), Mario Bondoc (6), George Binuya (7), Adan Laudencio (8), Arturo Barquilla (9), Roger Binuya (10), Wenceslao Matias (11), Boy Tato (12), Rolando Besas (13), Mario Binuya (14), Lino Laudencio

(15), Ben Laudencio (16), Boy Bensing (17), Boy Lidia (18), and Levimindo Musni (19). With the exception of Guillermo Mercado alias 'Irog', all are members of the Araneta Drivers Association of which Francisco Mappala was not. The incident happened at between the hours of 7:00 and 8:00 o'clock in the evening of July 22, 1979 at the corner of Araneta Avenue and Quezon Avenue in Quezon City Francisco Mappala was driving one of the passenger jeepneys of Resurrecion Patacsil which was being towed by another jeepney driven by Resurrecion Patacsil himself. Christopher Corpuz was the conductor of the passenger jeepney driven by Mappala. The two passenger jeepneys were already at stopped position when all of a sudden, the 19 persons came out from inside and under the parked trucks where they have hidden themselves and rained stones on the head and body and the windshield of his jeepney was broken. Guillermo Mercado alias 'Irog' went near Mappala who was still sitted behind the steering wheel of his passenger jeepney and stabbed him on the chest with a knife. Blood spurted out from Mappala's wound. Mercado next faced Christopher Corpuz but the latter shouted: 'Irog, Irog, hindi ako kalaban!' Mercado then told Corpuz to run and the latter obeyed but at the same time kept turning his head to see what was happening on Mappala. At almost the same time, Resurrecion Patacsil backed his passenger jeepney. Both Corpuz and Patacsil saw clearly what was going on. The place was illuminated by light coming from a big electric bulb in one of the houses nearby, electric bulbs in Meralco posts, and headlights of oncoming vehicles. Mappala went down on the left side of the jeepney and accused Narciso Santos stabbed him with a knife on the upper left arm. Levimindo Musni, also with a knife, stabbed Mappala on the left forearm. At this juncture, Mappala was practically bathed with his own blood but he fought back. Mappala embraced Musni and grabbed the knife. Succeeding in wresting possession thereof, Mappala also stabbed Musni with it and then run towards the Pantranco station. Some of the persons who stoned Mappala gave chase and went after him. Christopher Corpuz continued running towards Funeraria Paz and sought refuge in the house of a friend, Ceferino Danganan, at 28 Araneta Avenue. Resurrecion Patacsil on the other hand took and drove his jeepney and went to report the incident to the PC-Barangay detachment at Araneta Avenue. He went back to the place of the incident with Sgt. Girsu but the people were not there anymore. They began looking for Mappala and they found him four hours later at the National Orthopedic Hospital where they were informed that Mappala was dead on arrival. The wife of the deceased is his sister such that he is Mappala's brother-in-law. The late Mappala was a member of the Tatalon Jeepney Drivers' Association and his assailants who are all members of the Araneta Drivers' Association except Guillermo Mercado, wanted that they alone should ply the Araneta Avenue route from Quezon Avenue to Ramon Magsaysay Boulevard and vice-versa."

On July 23, 1979 the body of the deceased was autopsied by Captain Dario Gajardo, Assistant Chief of the Medico Legal Branch of the PC Crime Laboratory, at the morgue in Camp Crame, Quezon City (p. 2, tsn, October 3, 1979). The autopsy revealed the following postmortem findings (Exh. A, p. 90, Record).

"GENERAL:

"Fairly developed, fairly nourished male cadaver in rigor mortis with postmortem lividity over the dependent portions of the body. Conjunctivae and nail beds are pale. Lips are cyanotic. There is a tattoo mark at the proximal 3rd of the right arm.

"HEAD, TRUNK AND EXTREMITIES:

"(1) Swelling, frontal region, measuring 3 by 2.5 cm., 6 cm. left of the anterior midline, with superimposed contusion, measuring 1 by 0.9 cm.

"(2) Impact abrasion, left shoulder, measuring 1.2 by 1 cm., 16 cm. from the anterior midline.

"(3) Stab wound chest, measuring 2.7 by 1 cm., 9.2 cm. left of the anterior midline, 12 cm. deep, directed downwards, posteriorwards, and medialwards, piercing the third left intercostal space, lacerating the upper lobe of the left lung.

"(4) Abrasion, left mammary region measuring 0.7 by 1 cm., 17 cm. from the anterior midline.

"(5) Stab wound, distal 3rd of the left arm, measuring 1.5 by 2 cm., 3.5 cm. lateral to its anterior midline.

"(6) Stab wound, middle 3rd of the left forearm, measuring 1.5 by 0.5 cm., 2.4 cm. medial to its anterior midline.

"(7) Stab wound, middle 3rd of the left forearm, measuring 2.6 by 1 cm., 3 cm. medial to its anterior midline.

"There are 1,200 cc of blood and blood clots recovered from the left thoracic cavity."

Dr. Gajardo diagnosed the cause of death as "cardio-respiratory arrest due to shock and hemorrhage secondary to multiple stab wounds of the trunk and extremities. (Exh. A, p. 90, Record; p. 6 tsn, October 3, 1979).

The defense on the other hand, denied any knowledge of or participation in the incident which resulted in the stoning and stabbing of Francisco Mappala. The defense evidence is summarized as follows:

"For his defense, accused Narciso Santos denied any knowledge of or participation in the incident which resulted in the stoning and stabbing of Francisco Mappala. He testified that he is a driver by occupation and that on July 22, 1979, he was driving a passenger jeepney plying between Quezon Avenue and Ramon Magsaysay Boulevard via Araneta Avenue; that between the hours of 7:00 and 8:00 in the evening of July 22, 1979, he was at the corner of Araneta Avenue and Ramon Magsaysay Boulevard waiting for passengers; that Levimindo Musni who was driving another passenger jeepney was ahead of him on the line; that Musni's jeep was filled with passengers but since his nephew was still at the Queen's Supermarket at Ramon Magsaysay Boulevard, Musni transferred his passengers to his (Santos) own jeepney; that he then started for Quezon Avenue at around 7:10 o'clock P.M.; he normally negotiates the run in a period of 10 minutes; that when he arrived at the corner of Araneta Avenue and Quezon Avenue, he saw many people; that somebody approached him saying that some trouble had happened; that immediately after his passengers had alighted, others bound for Ramon Magsaysay Boulevard boarded and he started out immediately for that end (Ramon Magsaysay Boulevard); that some 500 meters from Quezon Ave., at the place where Araneta Ave. intersects Caliraya Street, a person was running after his jeepney and shouted: 'Narsing, bring Levi to the hospital'; that he moved his jeepney towards Levi's jeepney and Levi said to him: 'Narsing, sinaksak ako'; that he left his jeepney and passengers and drove Levimindo Musni's jeepney to St. Luke's Hospital; that Levi told him that he (Levi) was stabbed by many persons but knows only two of them, Benny Patacsil and a certain Nestor; that Benjamin (Benny) Patacsil is a son of Resurrecion Patacsil; that at the hospital he was asked by the Doctor to fetch Musni's wife and when he returned, Pat. Penamora was already there; that on the following morning, he was picked up by Detective Nocom and at the police station, he saw Christopher Corpuz who was pointing to him; that he was placed in the detention cell and it was Christopher Corpuz who was investigated first; that he gave a statement when he was investigated; that he was brought to Fiscal Concepcion on July 24, 1979 together with Benjamin, but Christopher Corpuz was not there and it was only Resurrecion and a lady who came; that there was no witness who came and as they will be forced to drop the case, Mr. Resurrecion was asked if he saw the incident, to which he answered 'yes'; that in their conversation (accused and Resurrecion Patacsil) Resurrecion told the accused (Santos) that: 'You help me and I will help you too'; that Resurrecion also told him (accused) that he (Resurrecion) knows that accused has no participation in the incident; that accused told Resurrecion that 'I don't have any help because I did not see anything'; that he (accused) was brought to another fiscal, Fiscal Estrella, he was accompanied by Detective Lim, Detective Nocom, Resurrecion and Florentino Patacsil at Novaliches; that Resurrecion Patacsil testified against him because their (accused and his alleged companion) Driver's Association had filed an extortion case against Rodolfo Patacsil, Resurrecion's son, who was later convicted (Exhibits '7' and '8).

"Another witness, Levimindo Musni who was also named in the information (original and amended) but not charged and arrested, testified for herein accused-appellant. He testified: that on July 22, 1979 at between 7:00 and 8:00 p.m., he was in the parking area along Ramon Magsaysay Boulevard waiting for passengers; that he saw the accused Santos there driving another jeep; that he (Musni) was ahead of Santos but he (Santos) left

ahead; that he followed after about 5 minutes; that he was not able to reach his destination which was Quezon Avenue because he was stabbed in front of Funenaria Paz by the Patacsil brothers—Benny, Rodolfo and Ernesto, 5 times; that the accused Santos arrived from the apposite direction and Santos brought him to the St. Luke's Hospital; that he filed a criminal case against the Patacsil brothers; that he does not know of any other stabbing incident wherein he was also accused together with Narciso Santos.

"The third witness for the defense of Narciso Santos was Adolfo Pinlac who is a businessman, residing at 64 Yale St., Cubao, Quezon City. He testified: that on July 22, 1979 at between 7:00 and 8:00 p.m., he was at the corner of Quezon Avenue and Araneta Avenue waiting for a ride for Ramon Magsaysay Boulevard; that there was a commotion and there were many people; that there were only 2 people involved in the commotion; it happened so fast and he thinks that there was a stabbing; that he took a jeep that came along, bound for Sta. Mesa, and sitted himself near the driver being the first one to get on; that he was not able to reach Sta. Mesa with the said jeep because after travelling for only a few minutes and upon reaching the first corner near the Funenaria Paz, the jeep stopped and the driver abandoned his jeep because somebody was hurt in the other jeep which they met; that their driver drove the other passenger jeepney to a hospital; that the driver of the passenger jeepney he boarded is the accused Narciso Santos; that he was approached by Santos sometime in April 1980 as he was recognized by Santos as one of the passengers and asked him if he could be a witness in this case; that on July 22, 1979 he came from his cousin's residence at Roxas District." (Brief for the accused-appellant, pp. 5-8).

The trial court gave greater credence to the version of the prosecution, and in fact, characterized the defense theory as crumbling like a castle of sand because of a witness whose testimony was completely unreliable. In its decision dated October 7, 1981, the trial court found the qualifying circumstance of treachery and the aggravating circumstance of abuse of superior strength and convicted the accused of murder as follows:

"WHEREFORE, the Court finds the accused Narciso Santos y Marcilang GUILTY as principal and beyond reasonable doubt of the crime of MURDER under Article 248 of the Revised Penal Code with the attending qualifying circumstances of treachery (alevosia) and abuse of superior strength and no mitigating circumstance and hereby sentences him to suffer the penalty of life imprisonment (reclusion perpetua). Further, he is sentenced to indemnify the widow, Floresita P. Mappala, in the amount of P13,200.00 for actual damages, P12,000.00 for compensatory damages, P30,000.00 for moral damages and P10,000.00 for exemplary damages. Also, he is sentenced to pay the costs of the proceedings.

"The accused is ordered committed to the City Jail of Quezon City and the City Warden thereof is directed to effect immediately his transfer to the New Bilibid Prisons at Muntinglupa, Metro Manila under proper escort.

"The Office of the City Fiscal of Quezon City is requested to take the corresponding action in the light of the findings herein made."

The accused-appellant now alleges:

"I. THE LOWER COURT ERRED IN GIVING UNDUE CREDENCE TO THE TESTIMONIES OF THE ALLEGED TWO EYEWITNESSES OF THE INCIDENT.

"II. THE LOWER COURT ERRED IN CONVICTING THE HEREIN ACCUSED-APPELLANT BASED MAINLY ON THE DOUBTFUL AND INHERENTLY INCREDIBLE TESTIMONIES OF THE EYEWITNESSES."

The sole issue raised by the accused-appellant refers to the credibility of the two eyewitnesses.

The appellant himself admits that he has to show a misapprehension of facts or a grave abuse of confidence by the trial court, if his case is to be treated as an exception to the general rule. For as held in *People v. Mercado* (97 SCRA 232) when the issue is one of credibility of witnesses, appellate courts will generally not disturb the

findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case (See *People v. Garcia*, L-44364, April 27, 1979, 89 SCRA 440; *People v. Gargoles*, L-40885, May 18, 1978, 83 SCRA 282; *People v. Pascual*, L-27569, October 28, 1977, 80 SCRA 1; *People v. Ancheta*, L-29581-82, October 30, 1974, 60 SCRA 333; *People v. Bonduso*, L-30450, September 30, 1974, 60 SCRA 60; *People v. Cardenas*, L-29090, April 29, 1974, 56 SCRA 631; *People v. Carandang*, L-31012, August 15, 1973, 52 SCRA 259; *People v. Espejo*, L-27708, December 19, 1970, 36 SCRA 400).

We have carefully reviewed the records in the light of the appellant's arguments on appeal.

The accused-appellant has failed to satisfy this Court that the trial court, in giving full faith and credence to the testimonies of eyewitnesses Christopher Corpuz and Resurrecion Patacsil, has overlooked certain facts of substance and value that if considered, might affect the result of this case.

In assailing the credibility of eyewitness Christopher Corpuz, accused-appellant maintains that the testimony of Corpuz stating he was the conductor of Mappala at the time was a mere cover up to explain his alleged presence during the incident. Appellant argues, that while it is not impossible for passenger jeepneys to utilize conductors on a long run trip, it is highly impractical for jeepneys plying a short route at P0.65 per person a trip to have a conductor more especially if we consider that Mappala was driving the jeepney on a sideline basis being a regular driver of Pantranco Bus Company.

Appellant's argument is unmeritorious. Corpuz did not claim that he was a regular conductor in the passenger jeepney driven by the deceased. As correctly observed by the Solicitor-General, "it is not unusual that now and then we see a jeepney driver being accompanied in his trip by a friend or a companion (not necessarily a regular conductor) who helps in collecting fares from passengers. Such was the case of Corpuz on the day of the incident" (*People's* brief, p. 7). The fact that Mappala drove a jeepney for a sideline and not regularly, strengthens rather than weakens the testimony of Corpuz explaining his presence at the incident. As stated by Corpuz, "Sinama ho ako ni Francina sa pagpapasada niya."

Appellant further argues that Corpuz' claim that he saw appellant stabbing the deceased while in the act of running away from the place of the incident is contrary to the normal course of human conduct for a 15 year old boy. We see nothing unusual about a teenager looking behind, knowing that his companion was being attacked, to find out what was happening to him.

The record shows that the identification was positive. Corpuz testified that he saw the appellant stab the deceased. He stated:

"Q.

You said that he died already, will you please tell this Honorable Court how did you come to know that he died already?

"A. Because he was stabbed.

"Q. By whom?

"A. By Irog Mercado, sir.

"Q. Who else?

"A.

Narciso Santos' Levy Monje. (t.s.n., October 3, 1979, pp. 14-15).

.....

"Q.

How about Narciso Santos, can you point him out to the Honorable Court?

"A.

(witness pointing to the person of Narciso Santos one of the accused in this case).

"Q.

Is he the same Narciso Santos whom you said is one of those who stabbed Francisco Mappala?

"A. Yes, sir. (t.s.n., October 3, 1979, p. 17).

The fact that Corpuz failed to mention when first investigated by the police that he saw the appellant Narciso Santos stab Mappala is understandable. The trial court correctly observed that considering his young age of only 15 years, the shock resulting from his having witnessed the killing of the driver of the passenger jeepney of which he was a conductor is understandable. The court stated that "it must have resulted in serious nervousness and in an incapacity to relate without prodding all that he had seen and witnessed. And the way the investigation was handled by the police, the Court suspect that there was a trend to try to exculpate the assailants." It is indeed surprising why out of 19 assailants, many of them identified, only one has been made to answer for the offense.

Appellant also questions the credibility of eyewitness Resurrecion Patacsil by pointing out that he is the brother-in-law of the deceased and, therefore, a biased witness.

Appellant's claim is untenable. The ruling reiterated in *People v. Puesca* (97 SCRA 130) that mere relationship of prosecution witnesses to the victim does not render their testimony biased where there are corroborating facts is an established doctrine. In *People v. Abujuela* (92 SCRA 503) this Court ruled that the fact that Juanito Mensalbas is related to the deceased does not disqualify him from testifying; nor does it render his testimony utterly devoid of belief in the absence of an improper motive actuating him to testify falsely against the accused.

In *People v. Ruiz* (93 SCRA 739) we ruled that the fact that Libertad is the sister of the deceased Sgt. Bito does not necessarily make her a biased witness. The accused-appellant has failed to adduce sufficiently convincing reasons why we should not apply to this case the prevailing jurisprudence that mere relationship of the prosecution witnesses to the victim does not necessarily vitiate or impair their otherwise credible, clear, and positive testimonies.

The fact that Patacsil's son, Rodolfo was charged with extortion by the Araneta Drivers' Association of which appellant is a member cannot be considered an ulterior motive on the part of Patacsil to testify against the appellant. As explained by the Solicitor General, "the appellant was not the complainant in the said case. The complainants in those cases were a certain Oscar Morada, Mario Bondoc and Manuel Mercado. Consequently, if

witness Patacsil was ill-motivated in testifying, he would have ascribed the commission of the offense to the aforesaid persons. Moreover, the judgment of conviction in the extortion cases was rendered on October 12, 1979 long after the incident in question occurred.

A careful consideration of the records leads us to abide by the well-settled principle that as far as credibility is concerned, the findings of the lower court are afforded the highest degree of respect by this Court.

The motive in the killing of Mappala has been established. We sustain the trial court's observation that "all the 19 persons which included the accused Narciso Santos with the exception of Guillermo Mercado are members of the Araneta Drivers' Association, an association of jeepney drivers plying the route of Quezon Avenue to Ramon Magsaysay Boulevard via Araneta Avenue and vice-versa. Mappala was not a member of this association. He belonged to the Tatalon Jeepney Drivers' Association. The accused Santos and Mercado and their cohorts and co-members in the association wanted that they and only they should ply the Quezon Avenue-Ramon Magsaysay Boulevard route. When Mappala tried to violate this unwritten law laid down by them and their association, they conspired to do away with him for two reasons, first, to eliminate a competitor and second, to serve as a warning to others who might be of the same mind to enter a territory they have declared to be their own to the exclusion of others." (Decision, pp. 7-8).

The commission of the crime was attended by treachery. Paragraph 16 of Article 14 of the Revised Penal Code states that there is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms, in the execution thereof, which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. The concurrence of the two conditions necessary for treachery to exist are present in this case, namely, (1) the employment of means, methods, or manner of execution which would insure the offenders' safety from any defensive or retaliatory act on the part of the offended party, which means that no opportunity is given the latter to defend himself or to retaliate; and (2) such means, methods, or manner of execution was deliberately or consciously chosen. (People v. Macariola, L-40757, January 24, 1983).

That there was treachery is shown by the following:

.....

"... When Santos and his companions rained stones on Mappala, hitting him on the head and body, they had seen to it that even before approaching him, Mappala was already crippled or at least stunned. When Guillermo Mercado alias 'Irog' stabbed Mappala on the chest, Mappala was still sitted (sic) behind the steering wheel such that there was no possibility for him to retaliate or even defend himself. And when Santos and Musni also stabbed him, Mappala was already seriously wounded. . . ."

Likewise, the trial court was correct in stating that the crime was also attended by the aggravating circumstance of superior strength, Santos, Mercado, and Musni were armed with bladed weapons. The rest were armed with stones. The attackers were in hiding when Mappala stopped his jeep. Their attack was simultaneous and in concert.

However, the trial court only sentenced the accused to reclusion perpetua in spite of its findings that the crime was committed with the qualifying circumstance of treachery and the aggravating circumstance of abuse of superior strength with no mitigating circumstance to offset it. The trial court justified its refusal to impose the penalty of death by stating that "the court is not wont to impose on the accused the supreme penalty of death." Considering the underlying causes which led to the offense, we see no need to disturb the judgment of the lower court on appeal.

WHEREFORE, the judgment appealed from is hereby AFFIRMED.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Vasquez and Relova, JJ., concur.

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