

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NUEPE WAGAS Y MILAN, ACCUSED-APPELLANT.

G.R. No. 61704. March 08, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The petitioner, Nuepe Wagas y Milan was accused and convicted beyond reasonable doubt of the crime of parricide and ordered to indemnify the heirs of the deceased, his spouse Victoria Viscaya-Wagas.[1]

The information charging the offense reads as follows:

That on or about the 30th day of April 1981 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court the above-named accused did then and there willfully, unlawfully and feloniously and with evident premeditation that is having conceived and deliberated to kill his wife VICTORIA WAGAS with whom he was united in lawful wedlock, and being then armed with a bladed instrument, with intent to kill, stab his wife VICTORIA WAGAS and as a result of which attack the said VICTORIA WAGAS received a stabbed wound on her left chest which directly caused instantaneous death.

Contrary to law.*

In arguing its case, the prosecution presented a phalanx of witnesses who corroborated the circumstance of death as follows:

At around eleven thirty in the morning of April 30, 1982, the deceased Victoria Wagas, her sister Felisca, and one Paulita, were sitting outside the house of Berta Banis talking about the strawberry plantation where they had picked berries that morning.[2]

Suddenly, the accused, Nuepe Wagas, appeared before them, then slapped Victoria's right cheek, and said, "Come and get what you want".[3]

Thereupon, Nuepe pulled out a knife from his pocket. The women scampered away, shouting for help.[4] As Felisca ran, she looked back and saw that her sister Victoria had fallen into a canal[5] and that Nuepe stabbed her twice.[6]

Victoria's brother, Lamor, who had been chopping firewood, heard the shouts of the women. He ran towards where Felisca stood, and he saw Victoria sprawled on her back and bleeding, while Nuepe was standing about seven to eight meters away from her.[7]

Lamor went after Nuepe but the latter ran away. He returned to pick up Victoria and then rushed her to the Baguio General Hospital where she was pronounced dead on arrival.

After Victoria was brought to the hospital, Nuepe went to their house. When the policemen arrived, they found the accused sitting inside the bathroom, with the kitchen knife stained with fresh blood (Exhibit "B" or "2") which he had purportedly used to stab his wife to death and an empty bottle of poison (Folidol)[8] on his side. The

policemen got him. He left his knife inside the bathroom.

On the strength of those circumstances fully supported by evidence on record, Nuepe was convicted of parricide, defined and punished as follows:

Article 246. Parricide. – Any person who shall kill his father, mother, or child whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.[9]

The accused-appellant, as the record of the case also shows, did not deny the killing of his spouse. His defense was that the killing had been committed under exceptional circumstances.

He claimed that on that fateful day of April 30, at about eleven o'clock in the morning, he arrived home after selling strawberries in the market, to find Victoria and a certain Jacinto Solano in the master bedroom, engaged in what seemed (to him) like a sexual act.[10]

In a fit of fury, he allegedly rushed to the kitchen and armed himself with a knife purportedly to protect himself from the man he caught with his wife and who looked stronger than himself.[11]

When he returned to the bedroom, Jacinto had dressed up and had gone out through the window.[12]

Giving chase and still failing to catch Jacinto, he decided to return home to confront his wife.[13]

He, however, found her not at the family abode, but at the house of Berta Banis. He said he asked her why she had gone to bed with another man, but she only infuriated him when she revealed her plan to separate from him.[14]

Hearing that, Nuepe slapped his wife. She ran away, but he followed her to a slope where both of them rolled downhill. Then he noticed that blood was gushing from Victoria's chest. He was stunned.[15]

Still clutching his knife, he went home and closeted himself in the bathroom where he broke down and cried and was later found by the police.[16]

The above constitutes the whole and only testimony of the accused; needless to say, the testimony is self-serving.

On the basis of the paucity of evidence presented by the accused-appellant, the Court upholds the very well-written decision of conviction rendered by the trial judge, the Honorable Salvador J. Valdez, Jr.

The defense of the accused, which is that of causing the death of a person under exceptional circumstances, does not hold water. Article 247 prescribes the following essential elements for such a defense: (1) that a legally married person surprises his spouse in the act of committing sexual intercourse with another person; and (2) that he kills any of them or both of them in the act or immediately thereafter.[17]

The death caused must be the proximate result of the outrage overwhelming the accused after chancing upon his spouse in the act of infidelity.[18] Simply put, the killing by the husband of his wife must concur with her flagrant adultery. (It can be vice-versa, the wife killing the husband.) In the instant case, there was failure of the defense to prove the alleged discovery of the sexual congress between Victoria and Jacinto Solano. On the contrary, witnesses for the prosecution testified that Victoria had been with them picking berries all morning of that fateful day. Nothing in the record of this case do we find any basis for doubting this testimonial evidence and not appreciating it as sufficient proof of the fact of Victoria's absence from their house all morning of April 30, 1981. The improbability of the claimed adulterous rendezvous is thus apparent. In effect, the uncorroborated testimony of Nuepe that his wife committed the ultimate act of infidelity was successfully rebutted. His defense, therefore, has no leg to stand on.

It is true that the evidence is replete with testimonies about the turmoil in the Wagas marriage; namely, that the spouses no longer lived together in the same house;[19] that there had been a family dispute submitted for conciliation before the Barangay Council;[20] and that the family elders had been consulted about the frequent marital spats.[21] In addition, Victoria had not been the paragon of virtue having been seen on several occasions, in familiarities unbecoming of a married woman with four children, with other men like a certain Johnny Diano.[22]

This recount of salacious interludes involving his wayward wife, however, would not suffice to tilt the scales of justice in favor of Nuepe. The vindication of a man's honor is justified because of the scandal an unfaithful wife creates; the law is strict on this, authorizing as it does, a man to chastise her, even with death. But killing the errant spouse as a purification is so severe as that it can only be justified when the unfaithful spouse is caught in flagrante delicto; and it must be resorted to only with great caution so much so that the law requires that it be inflicted only during the sexual intercourse or immediately thereafter.

Curiously, Nuepe himself admitted the absence of any feeling of jealousy or remorse, before the killing of his wife.[23] And, as discussed earlier, he was not able to sufficiently establish catching his wife and another man in the sexual act. Thus the issue of whether or not he had killed her immediately thereafter as compelled by Article 247 of the Revised Penal Code becomes irrelevant. Whatever rage provoked Nuepe to kill his wife is not the legal basis contemplated by law in article 247.

WHEREFORE, the judgment appealed from is AFFIRMED, convicting the accused beyond reasonable doubt of the crime of parricide and imposing the penalty of reclusion perpetua. The indemnity, however, is increased from P12,000.00 to P30,000.00. Costs against the appellant.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] *People v. Nuepe Wagas*. CFI (Baguio and Benguet), Crim. Case No. 2802, April 10, 1982, Hon. Salvador J. Valdez, presiding judge.

* Original Record 1.

[2] T.s.n., session of July 6, 1981, 2, 8. 10. 22.

[3] Id., 3, 17.

[4] Id., 4, 5.

[5] Id., 4, 21.

[6] Id., 4, 5.

[7] T.s.n., session of October 26, 1981, 2, 3.

[8] T.s.n. session of July 7, 1981, 3.

[9] REV. PEN. CODE.

[10] T.s.n., session of January 12, 1982, 3, 4.

[11] Id., 4.

[12] Id., 5.

[13] Id.

[14] Id., 6; T.s.n., session of December 7, 1981, 13.

[15] T.s.n., session of January 12, 1982, 7.

[16] Id.

[17] People v. Abarca, G.R. No. 74433, September 14, 1987, 153 SCRA 742.

[18] Ibid.

[19] T.s.n., session of October 26, 1981, 5; t.s.n., session of December 7, 1981, 11.

[20] T.s.n., session of January 12, 1982, 8, 9; t.s.n., session of January 25, 1982, 3, 4.

[21] T.s.n., session of October 26, 1981, 6.

[22] T.s.n., session of December 7, 1981 16, 17, 18, and 19.

[23] T.s.n., session of January 12, 1982, 6.

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