

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLIAM CANADA AND NOLI DONDOY, ACCUSED, NOLI DONDOY, ACCUSED-APPELLANT.

G.R. No. 63728. September 15, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the then Court of First Instance of Davao, Branch IV, finding appellant Noli Dondoy guilty beyond reasonable doubt of the crime of Murder. The dispositive portion of the decision reads as follows:

"WHEREFORE, the Court finds the accused Noli Dondoy and William Canada guilty beyond reasonable doubt of the crime of Murder as charged and hereby sentences:

"1. The accused Noli Dondoy, to suffer the penalty of Reclusion Perpetua and all the accessory penalties provided for by law; to indemnify, jointly and severally, with his co-accused William Canada the heirs of the deceased Manuel Pasaol in the sum of P12,000.00, without subsidiary imprisonment in case of insolvency; and, to pay his aliquot share in the costs; and

"2. The accused William Canada, being only a minor at the time of the commission of the offense and appreciating in his favor the privileged mitigating circumstance of minority and the mitigating circumstance of voluntary surrender, the Court hereby determines his imposable penalty to be from SIX (6) YEARS and ONE (1) DAY to SIX (6) YEARS and EIGHT (8) MONTHS of prision mayor; to indemnify jointly and severally, with his co-accused Noli Dondoy, the heirs of the deceased Manuel Pasaol the sum of P12,000.00; and, to pay his aliquot share in the costs.

"However, since the accused William Canada was still a minor, below 18 years of age, at the time of the commission of the offense, the Court hereby suspends all further proceedings and commits him to the custody and care of the Ministry of Social Services and Development, Davao City, until he shall have reached 21 years of age.

"The Court directs the Ministry of Social Services and Development or any of its authorized representatives to prepare and submit to the court a social case study report over the offender and his family and he shall be subject to its or his visitation and supervision.

"Furthermore, the Ministry of Social Services and Development, Davao City, shall submit to the Court every four months a written report on the conduct of the youthful offender, William Canada, as well as the intellectual, physical, moral, and social and emotional progress made by him."

William Canada did not appeal the decision.

The information filed against the accused alleged:

"That on or about June 8, 1979, in the City of Davao, Philippines, and within the jurisdiction of this Honorable

Court, the above-mentioned accused (William Canada and Noli Dondoy), conspiring and confederating together and helping one another, with treachery and armed with a knife and with intent to kill, wilfully, unlawfully and feloniously attacked, assaulted and stabbed one Manuel R. Pasaol, thereby inflicting upon him the following injuries, to wit:

"1. 'HORIZONTAL STABBED WOUND 3.5 CM. INVOLVING SKIN, SUBCUTANEOUS TISSUE, RIGHT LOBE LIVER TNT AND PORTION OF OMENTUM';

"2. 'MASSIVE GENERALIZED HEMOPERITONIUM (2500 cc.)',

"3. 'INCISED WOUND RIGHT THUMB, AND MIDDLE FINGERS'.

which injuries caused his death.

"Contrary to law."

The prosecution's evidence upon which the finding of guilt beyond reasonable doubt is based was summarized by the lower court as follows:

"The prosecution presented three witnesses in the persons of Henry Cabrera, Dr. Juanito Padilla and Remedios Salingay.

"Henry Cabrera, 17 years old, testified that at 8:00 o'clock in the evening of June 8, 1979, he was at home with Manuel Pasaol, at the corner of Jacinto and Quezon Boulevard Sts. Davao City; that they went out to buy food at the 'Meding Store' which is about 50 meters from the 'N & N Store', but were unable to do so since as they stepped out on the road, William Canada called Manuel Pasaol; that at the time, William Canada's companion was Noli Dondoy; that Manuel heeded the call and approached William; that William then placed his arm on the shoulder of Manuel while the accused Noli Dondoy pinned Manuel's arms; that William then stabbed Manuel with a double-bladed knife hitting him on the right portion of his stomach; and that Manuel fell and he (witness) then brought him to the Davao Regional Hospital, this City, where he died.

"On cross-examination, Cabrera declared that on June 8, 1979, at 8:00 o'clock in the evening, they bought viand outside as they intended to eat at home for supper. He stated that when Manuel Pasaol was called by William, the accused Noli Dondoy was at the back of the N & N Store. He denied that he and Manuel were armed with boloes at the time they went out of the house to buy viand. He declared that the street was well-lighted by 50-watt fluorescent lights coming from the N & N Store. He also recalled that sometime on a Saturday of 1979 before the incident on June 8, 1979, he met the accused Canada at a benefit dance. He was introduced to him by his cousin Abundio Cabrera and that was the reason he came to know him.

"Witness Dr. Juanito Padilla testified that he performed the autopsy on the cadaver of the deceased Manuel Pasaol and reduced his post-mortem finding (Exh. "A") into writing. He stated that he found a horizontal stab wound, through and through, hitting the liver of the victim. The patient died due to massive loss of blood from the abdomen.

"Witness Remedios Salingay from the office of the Local Civil Registrar of Davao City, identified the death certificate (Exh. "B") of the deceased Manuel Pasaol on file with the Office."

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Appellant Dondoy raised the following assignments of errors in this appeal:

I

THE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE UNCORROBORATED TESTIMONY OF HENRY CABRERA, THE SUPPOSED EYE WITNESS, DESPITE CERTAIN IMPROBABILITIES OF THE TESTIMONY OF THE CLEAR BIAS OF THE WITNESS.

II

THE LOWER COURT ERRED IN BRUSHING ASIDE THE TESTIMONY OF THE BARRIO CAPTAIN WHICH DIRECTLY AND STRONGLY CONTRADICTS THE CLAIM OF PROSECUTION WITNESS HENRY CABRERA TO THE EFFECT THAT THE LATTER WAS IN THE COMPANY OF THE VICTIM AT THE TIME OF THE INCIDENT.

III

THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON THE BASIS OF REASONABLE DOUBT.

The appellant contends that the testimony of Henry Cabrera, the prosecution's principal witness, is not only uncorroborated but marked with inconsistencies, therefore the lower court erred in giving full credence to his testimony.

The contention is without merit.

As stated by the Solicitor General, there is no law which requires that the testimony of a single witness has to be corroborated, except where expressly mandated as in treason where the testimony of at least two witnesses to the same overt act is needed. In determining the value and credibility of evidence, witnesses are to be weighed, not numbered. The testimony of only one witness, if credible and positive, is sufficient to convict. (*People v. Lucas*, 125 SCRA 813; *People v. Demeterio*, 124 SCRA 914; and *People v. Romero*, 119 SCRA 234).

Our examination of the testimony of Cabrera leads us to apply the well-established rule that trial courts' findings of facts carry great weight for these courts have the privilege of examining the demeanor of a witness while on the witness stand, and, therefore can discern if such witness is telling the truth or not. (*People v. Tala*, 141 SCRA 240) It is true that this rule is subject to certain exceptions as: (1) when the conclusion is a finding guided entirely on speculations; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; and (5) when the court, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both the appellant and the appellee. The records show that the case at bar does not fall under any of these exceptions. We, therefore, apply the established rule (*Gomez v. Intermediate Appellate Court, et al.*, 135 SCRA 620).

Appellant Dondoy questions what he describes as the inconsistent testimony of Cabrera vis-a-vis the testimony of Dr. Juanito Padilla on his post-mortem autopsy findings.

Cabrera testified that the appellant ". . . held the arms of the victim Manuel Pasaol" (tsn, p. 6, February 24, 1981) when Pasaol was stabbed by co-accused William Canada. On the other hand, Dr. Padilla testified that his post-mortem examination of the victim showed that the latter had three wounds on the right hand (tsn, pp. 47-48, July 7, 1981). The appellant contends that the nature of the wounds indicate that the victim used his hands to defend himself which he definitely could not have done if his arms were held by the accused-appellant.

The alleged inconsistency pertains to a minor detail. It is of a kind which does not affect the integrity of Cabrera's testimony. It is well-settled that inconsistencies on minor details do not affect credibility as they only refer to collateral matters which do not touch upon the commission of the crime itself (*People v. Pelias Jones* 137 SCRA 166; *People v. Balane*, 123 SCRA 614; *People v. Alcantara*, 33 SCRA 812; *People v. Escoltero*, 139 SCRA 218).

The fact that Dondoy had locked or pinned the arms of the victim does not prevent the latter's hand from reaching out for the knife thrust at his belly. Rather than discredit the testimony of the prosecution witness, such discrepancy on a minor detail serves to add credence and veracity to his categorical, straightforward and

spontaneous testimony (*People v. Espinosa*, 141 SCRA 110).

We held in the case of *People v. Alcantara*, (33 SCRA 812): "The contradictions in the declarations of a witness when trivial cannot be ascribed to an insidious attempt to distort the truth. It is a truism that the most candid witness oftentimes commits mistakes and incurs inconsistencies in his declarations, but such honest lapses do not necessarily impair his intrinsic credibility. Far from being evidence of falsehood they could justifiably be regarded as a demonstration of good faith and a confirmation of the fact that the witness was not a rehearsed witness."

The appellant Dondoy further contends that the testimony of Danilo Mercado, the barrio captain, being a disinterested witness, should have been given more weight than the uncorroborated word of Cabrera, a gangmate of the victim.

Mercado testified that in the evening of June 8, 1979, while he was in the house of his friend Roger Capoy on Jacinto Street, the accused-appellant with William Canada and Orlando Quinamot came to inform him that one Madi Pisao was stabbed by the group of the Pasaol brothers. In response, he stated that he advised them to tell the father of Amado Pisao to report the matter to the police in order that the assailant could be apprehended. As Barrio Captain, he knew the Pasaol brothers who, according to the records of his barangay, are notorious thieves and trouble makers (tsn, pp. 18-21, Oct. 26, 1981). At about 8:00 o'clock that same evening, he saw Henry Cabrera reading comics in the store right in front of the house of his friend where he was (tsn, p. 22, Oct. 26, 1981).

The mere fact that Cabrera was a friend of the victim is not proof of prejudice sufficient to disregard his testimony. This Court has upheld even the testimonies given by relatives notwithstanding their relationship to the deceased victims in a number of cases. (See *People v. Puesca*, 87 SCRA 130; *People v. Abujuela*, 92 SCRA 503; *People v. Ruiz*, 93 SCRA 739; and *People v. Ciria*, 106 SCRA 381).

When there is no showing of improper motive on the part of witnesses for testifying against the accused, the fact that they are related to the victim does not render their clear and positive testimony less worthy of full faith and credit. On the contrary, their natural interest in serving the conviction of the guilty would deter them from implicating persons other than the culprits, for otherwise, the latter would thereby gain immunity. (*People v. Radomes*, 141 SCRA 548; *People v. Jabequero*, 125 SCRA 144; and *People v. Alcantara*, supra).

Cabrera clearly and positively identified the appellant regarding his participation in the crime. The latter's denial and explanations cannot overcome such evidence (*People v. Chavez*, 117 SCRA 221, 227). Greater weight is given to the positive testimony of the prosecution witness than to the accused's denial (*People v. Mostoles, Jr.*, 124 SCRA 906).

Regarding the alibi offered by the barangay captain, it is well-settled that against the positive identification of the accused, alibi is unavailing (*People v. Terrobas*, 103 SCRA 321) and that as a minimum requirement for the theory of alibi to be accepted, the accused must also demonstrate that it was physically impossible for him to be at the scene of the crime (*People v. Bihasa*, 130 SCRA 62; *People v. Muñoz*, 107 SCRA 313; *People v. Capillas*, 108 SCRA 173; and *People v. Sambangan*, 125 SCRA 726).

On the testimony of the barrio captain that he saw the witness Cabrera at a store on Jacinto Street reading comics at about the time of the incident, it was not impossible for Cabrera to be at the scene of the crime as it was committed along the same street.

Appellant Dondoy alleges that the scene of the crime was well-lit and, therefore, there should have been more witnesses in addition to Cabrera. If the defense believed that there were other witnesses who could exculpate the accused or show his non-participation by showing who the perpetrators were, it should have called for them even

by compulsory process (*People v. Campana*, 124 SCRA 271). It did not do so.

We have carefully examined the records in relation to the arguments presented under each of the assigned errors. We are convinced that the trial court did not err in finding appellant Dondoy guilty of the crime as charged. However, the indemnification for the death of Manuel Pasaol is raised from P12,000.00 to P30,000.00.

WHEREFORE, except for the indemnity which is increased from TWELVE THOUSAND PESOS (P12,000.00) to THIRTY THOUSAND PESOS (P30,000.00) insofar as the appellant is concerned, the appealed judgment is AFFIRMED in all other respects.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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