

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISTINA E. MAGALLANES, DEFENDANT-APPELLANT.

G.R. No. 63936. January 07, 1987

Ponente: PARAS, J.

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PARAS, J.:

Accused Cristina Escobina Magallanes was charged with the crime of Parricide, committed as follows:

On or about the 16[th]day of February, 1981 at barangay Badiang, municipality of Anda, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused with intent to kill and without justifiable motive, did, then and there willfully, unlawfully and feloniously attack, assault and stab with the use of a bladed weapon one Ernesto Magallanes her husband, thereby inflicting upon the vital parts of the body of the latter physical injuries which caused his immediate death; to the damage and prejudice of the heirs of the deceased.

Acts committed contrary to the provisions of Article 246 of the Revised Penal Code.

City of Tagbilaran, May 19, 1981.

Upon arraignment, she entered a plea of not guilty. After trial, the lower court rendered a decision finding accused guilty of the crime charged and sentencing her to suffer a penalty of life imprisonment to its full extent which shall not exceed 30 years and to indemnify the heirs of Ernesto Magallanes the amount of Twelve Thousand Pesos.

The statement of the facts as narrated by the prosecution in its brief reads as follows:

"The appellant, Cristina Magallanes, and her late husband, Ernesto Magallanes, were married on January 23, 1969 (Exhibit B; p. 2 Folder of Exhibits).

At the time of the incident, February 16, 1981, they resided in Barangay Badian, Municipality of Anda, Province of Bohol. Around midnight, the spouses had a quarrel which lasted for some ten (10) minutes. Raised voices from them were clearly heard by a neighbor, Quirico Deloso, whose house is about twenty (20) meters away (tsn, pp. 29-31, December 22, 1981).

Then at about 5:00 o'clock that morning, Quirico Deloso was awakened by the loud agonizing voice of Ernesto Magallanes emanating from the latter's house. Shortly, the appellant appeared at the house of Deloso and requested him to fetch her brother, Lorenzo Escobia, from the neighboring barangay, Linawan. It took Deloso about thirty (30) minutes to fetch Lorenzo Escobia and with him, Deloso proceeded to the house of the appellant. Thereat, Deloso stayed for about twenty (20) minutes during which he saw Ernesto Magallanes lying on a bed inside his bedroom, with three (3) wounds in his abdomen. Blood oozed from the wounds and a portion of his intestine was even visible. While Deloso was at the appellant's house, he witnessed Lorenzo Escobia speaking to Ernesto Magallanes, but he did not reply and merely stared at Escobia (tsn., pp. 29-37, December 22, 1981).

After Deloso had gone, Escobia himself left the appellant's house for the municipal building in order to report

the incident and fetch a policeman (tsn., p. 28, October 18, 1982).

Meanwhile, at around 6:00 o'clock that morning, the appellant's nephew, Alfredo Hinayon, who lived about one-hundred (100) meters away, was informed by one Filemon Saldivar that Ernesto Magallanes had been stabbed. At that, Hinayon proceeded to the appellant's house where he found her and one Felisa Deligerio in the kitchen of the house. Hinayon then went to the bedroom where Ernesto Magallanes lay, and the following ensued:

"Q. Were you able to talk to Ernesto Magallanes?

A. Yes, sir.

Q. What question did you ask Ernesto Magallanes at that time?

A. I asked this question to Ernesto Magallanes: 'Iyo, who wounded you?' Ernesto Magallanes respondent: 'Your aunt.'

Q. To whom was Ernesto Magallanes referring to when he told you 'your aunt'?

A. Cristina Magallanes his wife.

Q. Is she the same Cristina Magallanes who is your aunt and the accused in this case?

A. Yes, sir'.

After a short while, Hinayon left the appellant's house as he had to attend to his work. He returned at around 10:00 o'clock, after Ernesto Magallanes had expired notwithstanding medical treatment at his house (tsn., pp. 4-28, November 26, 1981; p. 27, October 18, 1982).

Around 10:30 a.m. of that day, Rafael Vallecera, Substation commander of Anda, Bohol, arrived at Barangay Badian where he interviewed Alfredo Hinayon, the appellant, and their neighbors. By that time, preparations were being made for the burial of the deceased. Alfredo Hinayon informed Vallecera that he (Hinayon) would "tell everything after the burial." When Vallecera viewed the bedroom where the corpse of Ernesto Magallanes lay, he found out that it had been cleaned of the deceased's blood by the appellant, and the clothes he wore when he was stabbed were nowhere to be found. Upon inquiry, appellant admitted that she had washed them but could not remember where they were. The weapon used to stab the deceased was not recovered (tsn., pp. 42-47, February 26, 1982).

At 3:20 that afternoon, Dr. Pezas of the Rural Health Unit of Anda, Bohol, examined the body of the deceased. Dr. Pezas issued the following Post-Mortem Examination (Exhibit A; Folder of Exhibits, p. 1):

"POST-MORTEM EXAMINATION

Name : ERNESTO MAGALLANES

Age : 52 years, Male, Married

Add : Badian, Anda Bohol

Date & Time of death : Feb. 16, 1981

8:30 a.m.

Date & Time of Exam. : Feb. 16, 1981

3:30 p.m.

INFORMANT : Cristina Magallanes (wife)

FINDINGS:

1. - Stab wound, clean-cut vertical, with sharp extremities, 3 cm x 1 cm, sideline, 7 cm above the umbilicua.
2. - Stab wound, clean cut; vertical, with sharp extremities, 3 cm x 1 cm (with 1 foot of small intestines externalized) 4 cm below the umbilicus along the mid midline.
3. - Stab wound, clean-cut, vertical, with sharp extremities, 3 cm x 1 cm, iliac, left.
4. - Incised wound, inner aspect, proximal phalanz, ring finger, right.
5. - Incised wound, outer aspect, proximal phalanz, ring finger right.
6. - Incised wound, anterior aspect, proximal phalanz, index and middle finger right.

(SGD.) ERNESTO L. PEREZ, MD

Visiting, M.H.O."

Dr. Pezas testified that the first three (3) wounds were the fatal ones and the cause of the death was shock due to loss of blood. The stab and incised wounds could have been caused by a sharp double-bladed instrument, and the assailant was either on top of the victim or immediately at his side, with the victim lying flat with his face looking up (tsn., pp. 3-11, August 31, 1981).

The deceased was buried in the afternoon of the day of the incident. The following afternoon, Substation Commander Vallecera returned to Badian where a confrontation was had at the residence of the parents of Alfredo Hinayon. Present on that occasion, besides Vallecera, were Alfredo Hinayon, his parents and sisters, and Cristina Magallanes. At that confrontation, Alfredo Hinayon stated that the deceased had pointed to the appellant as the assailant. The appellant, however, denied the accusation. Alfredo Hinayon reiterated that statement in the affidavit he executed before Vallecera on February 21, 1981 (tsn., pp. 46-52, February 24, 1982; Exhibit C)."

On the other hand, appellant's version is presented in her brief as follows:

"As observed by the court a quo in its findings, reflected in the decision on pages 2 to 9, the following facts were admitted:

(a) The herein accused-appellant and the deceased were lawfully wed and resided in the barrio of Badiang, Anda, Bohol; they were childless.

(b) That in the evening of February 15, 1981, they were heard by their neighbor whose house is 20 meters away from theirs to have quarreled, page 9, decision, and that they often quarreled but only verbally especially when the deceased was drunk, testimony in affidavit of prosecution witness Alfredo Hinayon, marked Exhibits C, C-1, and C-2;

(c) That in the morning of February 16, 1981, her husband was stabbed and died on same day;

(d) That the deceased had killed a man a few years, 2 in fact, from 1981 and the relatives of the man killed were living in said barrio at the time of the incident in question, testimony of station commander for Anda, Rafael Vallecera, reflected in court decision;

But the following material and pertinent facts were disputed or not openly admitted by one or the other party to the case:

(a) But in the late evening of February 15, 1981 when parties or rather accused-appellant were in bed but still awake, somebody from outside their house shouted angrily "Who wants a duel?" in the dialect; to which the

deceased answered also loudly "Be quiet there you will only disturb people who want to sleep". But the person shouting outside still repeated the challenge. The deceased rose and got his bolo and made efforts to go out but the accused prevailed upon him not to go out, not to mind the one shouting outside, and to go back to sleep instead. The deceased did as bidden; page 7 decision;

(b) This particular testimony of accused-appellant was not rebutted by prosecution despite full opportunity for it to dispute it and the court appeared to have overlooked this fact in its decision;

(c) While prosecution witness Alfredo Hinayon declared that when he went to the house of accused-appellant after having learned from other people that Ernesto Magallanes was stabbed, in the morning of February 16, 1981, he asked the husband as to who stabbed him in the seeing and hearing presence of accused-appellant in same room and this allegedly answered "Your Tia", the latter denied this and said that that was NOT THE ANSWER her husband gave to Hinayon but that it was "ASK YOUR TIA." (As this court will presently see this particular conflict of the parties on this precise point deserves concentrated attention because the guilt or innocence of accused-appellant hangs on this line — this is the rationale of the court in concluding that the guilt of accused was established beyond reasonable doubt.)

(d) Another un-contradicted testimony of the defense is that of witness for the accused Lorenzo Escobia who said while passing by the house of accused-appellant at around 4:00 dawn already of February 16, 1981, he saw a person hurrying down from the house without recognizing this and as he was merely passing by he did not tarry and did not hear any sound coming from the house."

Appellant raises a sole assignment of error to wit: That the trial court erred in concluding that the guilt of the accused was established beyond reasonable doubt on the meager and unreliable evidence of the prosecution.

It is undisputed that there was no eyewitness to the crime. Accused was convicted merely on circumstantial evidence namely: (1) that a serious altercation between the deceased and accused who were childless preceded the stabbing incident, (2) that she (accused) caused her brother to be fetched from the neighboring barangay on the pretext that the deceased was suffering from a stomach ache indicating her intention to hide the crime from the public (3) that accused did not shout for help when she allegedly discovered that her husband had been stabbed and that she was abnormally unperturbed by the dire condition of Ernesto Magallanes all throughout and (4) that she suppressed evidence by hiding the clothes that were worn by the deceased when he was stabbed. The trial court gave great weight to the testimony of the witness for the prosecution Alfredo Hinayon, that the deceased Ernesto Magallanes, pointed to the appellant as his assailant. The trial court treated it as a dying declaration and thus, admissible as part of the *res gestae*, having been given immediately subsequent to his stabbing.

We do not agree with the conclusion reached by the trial court in its appreciation of the evidence. Some undisputed facts raise questions in Our minds which must be resolved before We can establish the guilt of the accused beyond reasonable doubt. The testimony of witness Alfredo Hinayon should not be given credence because his testimony and extra-judicial statement (Exh. C) that the deceased pointed to the appellant as his assailant contradicted his (Hinayon's) statement during the preliminary examination (Exh. 2) in the Municipal Court of Anda, wherein he stated the following:

"Q. Was Ernesto still alive when you arrived?"

A. Yes.

Q. Did you inquire from his (sic) as to who stabbed him?

A. Yes.

Q. What was his answer?

A. He answered 'YOU ASK YOUR TIA', meaning Auntie.

Q. Whom did he refer to as Tiya?

A. He was referring to Tiya Cristina (referring to "appellant") (underscoring for emphasis)

When asked about this inconsistency, witness explained that he only gave the above mentioned answer because he was prevailed upon by some people who wanted to save his aunt. We are not satisfied with the explanation offered by witness. The variance in the answers of witness is greatly disturbing and irreconcilable. While the answer "Your Tia" appears to convey a categorical directness the answer "Ask your Tia" — contradicts the assertion. The discrepancy in witness' statements shows that he was either lying when he executed it or he had simply forgotten what was truly spoken by the deceased. Besides, accused-appellant (who was acknowledged by witness as inside the room with him and the victim when asked who stabbed him) denied that the answer given by the deceased was "Your Tia." Furthermore, the prosecution failed to prove that the quarrel between the spouses in the evening of the commission of the crime was so violent or so heated and acrimonious that accused-appellant was so inflamed to have decided to kill her husband. We fail to see any motive on the part of the accused why she should desire to kill her husband. There must always be a compelling reason for one spouse to want to kill the other as for example, 1) repeated beatings by the husband of the wife to have engendered in the latter a desire to be rid of the husband; 2) where the wife has a lover to whom she is more strongly attached than her husband, or the other way around, where the husband has a "kept woman" of whom the wife has developed extreme jealousy and 3) where the deceased husband had a large insurance to have tempted accused-appellant into thinking of inheriting big money. The entire evidence for the prosecution is absolutely barren of any evidence that one or the other of the above existed.

Nor can We consider Hinayon's Affidavit (Exh. C, C-1 & C-2 re the supposed reference by the dying man to "Your Tia", as part of the *res gestae* or a dying declaration. The ambiguous tone of Hinayon's testimony as to the precise answer of the deceased to the question who killed him detracts from any entitlement it would have had as part of the *res gestae*. For testimonies to be vested with such character, these have to be un-equivocal, clear and precise, not where there are — as in the case at bar — clear vulnerabilities because of a recollection tainted already with forgetfulness. We did not fail to consider the fact that the evidence for the defense is also weak; however, conviction must come from the strength of prosecution's evidence and not from the weakness of the defense evidence. The rule is that before there can be a conviction upon circumstantial evidence, the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the author of the crime. (*People vs. Pamintuan*, 127 SCRA 820). We cannot be morally convinced, therefore, that the accused who is a wife in her late sixties with her known loyalty to her husband, would kill him without any plausible motive.

WHEREFORE, accused-appellant Cristina E. Magallanes, is hereby ACQUITTED on reasonable doubt.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

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