

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MIGUEL LASAC, DEPENDANT-APPELLANT.

G.R. No. 64508. March 19, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

Miguel Lasac was found guilty beyond reasonable doubt by the then Court of First Instance of Oriental Mindoro, Eighth Judicial District, Branch II*, of the crime of parricide committed against his wife, Maria Consolacion Garcia, sentenced to life imprisonment and to indemnify the heirs of the deceased in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency.[1] His appeal, erroneously transmitted to the then Intermediate Appellate Court, is now before Us.

He seeks a reversal of the judgment on the following assignment of errors:

I

THAT THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF PARRICIDE ON THE BASIS OF HIS AFFIDAVIT [EXHIBIT B] BECAUSE:

[a].-THE AFFIDAVIT WAS MADE WITHOUT THE ASSISTANCE OF ANY COUNSEL;

[b].-THE ADMINISTERING OFFICER (JUDGE ZACARIAS GARCIA) DID NOT APPRISE HIM OF HIS CONSTITUTIONAL RIGHTS;

[c].-THE AFFIDAVIT WAS SECURED THROUGH MALTREATMENT, FORCE, DURESS AND INTIMIDATION; AND,

[d].-THE SIGNATURE OF THE ACCUSED-APPELLANT IN THE AFFIDAVIT WAS SECURED THROUGH THREAT SPECIALLY BY THE POKING OF A GUN.

II

THAT THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF PARRICIDE ON PURELY CIRCUMSTANTIAL EVIDENCE AND IN SENTENCING HIM TO RECLUSION PERPETUA AND TO INDEMNIFY THE HEIRS OF THE DECEASED IN THE SUM OF P12,000.00.[2]

In the Manifestation and Motion dated November 7, 1986 filed in lieu of an appellee's brief, the Solicitor General joined appellant's prayer for acquittal based on reasonable doubt.[3]

The antecedent facts are as follows:

Braulio Dipasupil and the deceased Maria Consolacion Garcia lived together as common-law husband and wife for about six [6] months. Six [6] months after they separated, or on January 19, 1980, Consolacion married

accused-appellant Miguel Lasac.

On March 15, 1980, Consolacion was found dead atop a big stone in the middle of a creek about 70-150 meters away from the conjugal dwelling. An autopsy conducted by Dr. Edgardo Hernandez, a private practising physician, disclosed that she suffered sixteen [16] stabbed, incised and hacked wounds in different parts of her body.[4]

No one witnessed the killing, but suspicion fell on accused-appellant in view of a number of circumstantial evidence which were later testified to by the prosecution witnesses, thus:

Flaviano Mauro, a 53-year-old farmer, testified that a week before the incident at bar, accused-appellant told him that if Consolacion did not change her ways, something would happen to her.[5]

Rufo Garcia, the 70-year-old father of the victim, testified that at around 8 o'clock in the morning of March 15, 1980, he went to the house of the accused and the victim to request the latter to tend his store as he wanted to attend a ball game. Accused-appellant refused for Consolacion, stating that they were going to gather vegetables. Rufo then left the spouses' house to tether his carabao as he had nevertheless decided to attend said ball game. After he had done this, he saw accused-appellant going to the scene of the crime.

At around 1 o'clock in the afternoon, Rufo went to the ball game, where accused-appellant followed him to report that Consolacion could not be found. He advised accused-appellant to look for her. At twilight, he proceeded to his store where accused-appellant informed him that Consolacion had not been found despite the search conducted by the barrio captain and other residents of the barrio. Rufo requested several barriomates to help look for Consolacion. When the group suggested that they search by the creek and its surroundings, accused allegedly told them not to pass there as they had already gone to said place before. Notwithstanding, the search team, separated into two [2] groups, passed by the creek and found the corpse. When the body was brought to the couple's house, accused-appellant was observed to be restless, going up and down the house and consuming a large amount of water. Because of this behavior, Rufo suggested that the barrio captain detain the accused-appellant. On this suggestion, the barrio captain requested somebody to fetch the police. After the police had arrived, Dr. Hernandez was called in for the autopsy. A one-night wake was held, during which time the police started their investigation.

Accused-appellant was asked by the police to produce his bolo and was invited for questioning in the police headquarters.

The following morning, the police asked Rufo and his wife to look for the clothes accused-appellant was wearing at the time of the incident in question. Rufo's wife found a T-shirt and short pants hanging between the "aparador" and the wall. These pieces of wearing apparel were "malumigmig" [a bit wet].

Rufo surmised that accused-appellant killed his wife out of jealousy as Consolacion used to tell him and his wife that she was being maltreated by accused-appellant because she dressed up nicely.[6]

Sgt. Justino Salagubang, Station Commander of the Integrated National Police of Bongabong, Oriental Mindoro, testified that in the evening of March 15, 1980, he, together with Sgt. Rudy Guerra, Pfc. Matibay and Csc. Faltado, went to Barrio Magupit, Bongabong, to investigate a killing reported in behalf of one Rufo Garcia. They went to the house of accused-appellant, then to the creek where the body was. They searched the area for evidence, but did not find any. He ordered the corpse to be brought to accused-appellant's house and called in Dr. Hernandez for the autopsy. He noted that Lasac did not show any remorse over Consolacion's death, neither crying nor embracing the cadaver of his wife. He likewise observed Lasac's going up and down the house and frequent drinking of water. Because of this behavior, he suspected Lasac of having killed the deceased. He

therefore asked Lasac to produce his bolo. The latter got the bolo from above the cooking place. Sgt. Salagubang examined it and found it a little wet. The blade was clean but smelled somewhat "malansa" [fishy]. He also asked Lasac to bring him the clothes Lasac was wearing that morning. Lasac handed him a T-shirt and short pants which he observed to be a little bit wet.

He invited Lasac to the police headquarters for questioning. Lasac was released but was re-arrested. On March 24, 1980, Lasac allegedly executed an affidavit,[7] admitting his guilt.[8]

Sgt. Rudy Guerra of the INP of Bongabong, Oriental Mindoro, corroborated Salagubang's testimony as regards accused-appellant's behavior at the night of the incident and the observation on the condition of the bolo and the clothes. He further testified that Lasac voluntarily executed the affidavit of admission[9] after he had informed the latter of his constitutional rights and that the same was voluntarily signed before Municipal Judge Zacarias Garcia.[10]

On the basis of the affidavit of admission,[11] which the trial court found to have been voluntarily executed, together with the circumstantial evidence consisting of accused-appellant having tried to mislead the search team from going to the creek, his restlessness during the time the body was brought to his house as well as during the vigil, the fact that his bolo smelled "fishy" [malansa] which to the trial court's mind indicated the smell of blood and the fact that the apparel worn by the accused on that fateful day was found to have been recently laundered and still wet,[12] the trial court rendered the judgment under review on December 11, 1981. The lower court likewise observed that during accused-appellant's testimony, "he never showed any sign of remorse, regret or even sorrow for his wife having met her untimely demise. His demeanor in the witness chair x x x was of a character emanating from a person who was satisfied with what he did as a measure or act of revenge." [13]

We agree with both accused-appellant and the Solicitor General that Exhibit B, accused-appellant's affidavit of admission, is inadmissible in evidence for having been obtained in violation of Section 20, Article IV of the 1973 Constitution, which provides:

"Sec. 20. No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

The affidavit in question contained the following:

"PAHIWATIG: "Ipinaalam ko saiyo [sic] Mr. Miguel Lasac na ikaw ay nasa ilalim ng pag-uusig tungkol sa isang kasalanan na iyong kinasasangkutan, at ipinaalam ko rin sa iyo na sa ilalim ng ating Saligang batas ay may karapatan ka na magsawalang kibo at magkaroon ng sarili mong piling manananggol tungkol sa gagawing imbestigasyong ito ang lahat bang ito ay nauunawaan mo?

" S - Opo.

" T - Matapos mong malaman ang iyong karapatan ikaw ba ay magbibigay ng iyong malayang salaysay?

" S - Opo." [14]

However, this "advice" given to accused-appellant did not satisfy the requirements of Section 20, Article IV of the 1973 Constitution. While accused-appellant was informed of his right to remain silent, he was not accordingly informed that anything he might say could and would be used against him in court. Neither was he informed that if he was indigent, a lawyer would be appointed for him. Furthermore, accused-appellant was not made to understand that if, at any time during the interrogation, he would wish to have the assistance of counsel, the interrogation would cease until an attorney is present.[15]

Another factor adding to Exhibit B's legal insufficiency is that the waiver by the accused-appellant of his right to counsel was made without the assistance of counsel. This fact was admitted by Sgt. Rudy Guerra himself during his cross-examination, thus:

"Q- Now, before preparing that affidavit of admission, did you explain to Miguel Lasac that it is his constitutional right that he should be represented by counsel before he gives his affidavit?

A- Yes, sir.

Q- And what was his answer then?

A- He told me that he no longer needs the presence of a counsel, sir.

Q- Was he really represented by a counsel at the time you were taking the affidavit of admission?

A- No, sir."[16]

We have ruled in *Morales v. Ponce Enrile*, 121 SCRA 538, *People v. Galit*, 135 SCRA 465 and *People v. Sison*, G.R. No. 70906, May 30, 1986 that:

"The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whatever exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

Having cast aside Exhibit B as inadmissible for the reasons above-stated, We see no need to further dwell on accused-appellant's allegation of torture and maltreatment.

We now weigh the sufficiency of the circumstantial evidence relied upon by the trial court, viz: that appellant misled the persons searching for his wife by telling them that he had already looked for his wife at the creek; that appellant's bolo smelled of fish [malansa] and a little bit wet indicating it was washed; that appellant's wearing apparel was also a bit wet [malumigmig] indicating it was washed to remove bloodstains; and that during the wake, appellant appeared restless, drank a large amount of water and showed no signs of sorrow or remorse over his wife's death.

After a thorough study of the testimonial evidence from which the aforecited circumstantial evidence was drawn by the trial court, it is our holding that standing alone, said circumstantial evidence is not sufficient to support a judgment of conviction since they consist primarily of unsubstantiated suspicions on the part of the witnesses for the prosecution.

The tests of sufficiency for circumstantial evidence to support conviction under Section 5, Rule 133 of the Revised Rules of Court, i.e., that there is more than one circumstance; that the facts from which the inferences are derived are proven; and that the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt, have not been ably met.

On the prosecution's charge that appellant intentionally misled the persons searching for his wife by claiming he had already looked for her at the creek but did not find her there, there is nothing in the record to support such allegation nor any other indication that would totally negate the veracity of appellants' claim that he, indeed, looked for his wife in said area.

Appellant explained that his bolo was a little bit wet because its scabbard was wet. He did not testify that his bolo was wet because he kept it near the faucet of the water jar. His testimony[17] is to the effect that he usually tucked his bolo in its scabbard on the post near the faucet of the water jar. It is not beyond the natural course of events that by the proximity of the water jar to the post where appellant usually tucked his bolo in its scabbard, if the

water jar's faucet is opened, water could be splashed in a manner as to wet the bolo's scabbard, and thus, the bolo itself. Also, since the appellant used the bolo to cut bamboo, the bolo's wetness could have been caused by his perspiration.

Appellant has, likewise, explained why his wearing apparel were "a bit wet" [malumigmig]. He said they were wet of perspiration because he wore them when he cut bamboo.[18]

Besides, even if, as the prosecution sought to prove, that the appellant's bolo and wearing apparel were indeed washed, such fact does not warrant the conclusion nor are they proof that appellant killed his wife.

As to the appellant's alleged queer behavior during the wake, it must be realized that people react differently to death. Appellant's behavior on that fateful day may have been caused by the trauma of his wife's sudden and brutal death.

We agree with the Solicitor General that appellant's explanations have indubitably cast a reasonable doubt as to the sufficiency of the circumstantial evidence to convict him beyond reasonable doubt of the crime of killing his wife.

As held in *People vs. Tolentino*, G.R. No. 50103, November 24, 1986, if facts or circumstances apparently inculpatory, may equally be explained showing innocence, the evidence does not fulfill the moral certainty to support conviction.

In an earlier case, *US vs. Gutierrez*, 4 Phil. 493, this Court had occasion to rule that "since circumstantial evidence is as strong as its weakest link, if the same does not fulfill the test of moral certainty sufficiently strong to offset the presumption of innocence, the accused has the right to be acquitted even if his innocence be doubtful. [Underscoring supplied]

That the circumstantial evidence upon which the prosecution anchored its case fails to meet the standard of moral certainty is underscored by said evidence's inability to exclude every other reasonable hypothesis but the single one of guilt.

"Before a conviction can be had upon circumstantial evidence, the circumstances proven should constitute an unbroken chain which leads to but one fair and reasonable conclusion which points to the defendant to the exclusion of all others as the guilty person." [19]

"No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt." [20]

"It is indispensable that the evidence be derived from interrelated facts and duly proven in a manner that will lead to the logical and rational conclusion, beyond all reasonable doubt that the accused is the author of the crime; because if his guilt is not satisfactorily established, there always arises a presumption of his innocence until the contrary is proved and in such a case, he is unquestionably entitled to be acquitted." [21]

Under the premises, the circumstantial evidence cited by the trial court is not sufficient to produce a moral certainty as to the guilt of the appellant for the crime charged.

Moreover, as the affidavit of admission executed by the appellant, being the prosecution's basic evidence, is not admissible against him because he was not assisted by counsel, all other evidence which tend to support this basic evidence become useless.

"Where the principal basic evidence upon which the prosecution rests its case fails, all evidence intended to

support or corroborate it must likewise fail." [22]

WHEREFORE, the judgment of conviction appealed from is hereby reversed, and accused-appellant Miguel Lasac is ACQUITTED of the crime charged.

SO ORDERED.

Gutierrez, Jr., Paras, Padilla, Bidin, and Cortes, JJ., concur.

[*] Penned by Judge Dionisio N. Capistrano

[1] p. 10, Rollo.

[2] Brief for the Accused-Appellant, p. 98, Rollo.

[3] p. 122, Rollo.

[4] Exh. C., pp. 14-17, tsn, September 25, 1980

[5] p. 5, tsn, August 13, 1980

[6] pp. 28-42, tsn, December 3, 1980

[7] Exhibit B

[8] pp. 67-99, tsn, March 20, 1981

[9] Exhibit B

[10] pp. 54-65, tsn, January 28, 1981

[11] Exhibit B

[12] p. 8, Rollo.

[13] p. 7, Rollo.

[14] p. 2, Piezas of Exhibits.

[15] Cf. *Miranda vs. Arizona*, 384 U.S. 436.

[16] p. 64, tsn, February 28, 1981.

[17] pp. 35-36, tsn, July 8, 1981.

[18] p. 37, tsn, July 8, 1981.

[19] *US vs. Villos*, 61 Phil. 510.

[20] *People vs. Ludday*, 61 Phil. 216; *People vs. Modesto*, 25 SCRA 36 [underscoring supplied]

[21] *US vs. Lim Sip*. 10 Phil. 627

[22] *People vs. Marcos*, 70 Phil. 468

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