

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. QUIRINO CIELO AND ULDARICO HORCA, ACCUSED-APPELLANTS.

G.R. No. 64923. October 31, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Leyte, Eighth Judicial District, Branch VII convicting Quirino Cielo of the Crime of MURDER and sentencing him to RECLUSION PERPETUA, to indemnify the heirs of the deceased Paterno Loyo in the sum of P12,000.00, without subsidiary imprisonment in case of insolvency, and to pay one-half (1/2) of the costs.

The information dated October 12, 1981 charged the accused-appellant and one Uldarico Horca as follows:

"That on or about the 7th day of August, 1981, in the Municipality of Sta. Fe, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another with the decided intent to kill, by means of treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack, assault, hack, stab and wound one, PATERNO LOYO With a short bolo locally known as pisao which accused have provided themselves for the purpose thereby inflicting a fatal wound on the right chest of PATERNO LOYO which wound caused his death shortly thereafter."

Only Quirino Cielo was arrested to face trial. When arraigned, accused-appellant Quirino Cielo entered a plea of not guilty. Uldarico Horca evaded arrest up to the time of trial.

The evidence for the prosecution, accepted by the trial court as basis for the judgment of conviction is summarized in the People's brief as follows:

"About one week before August 7, 1981, in barrio San Roque, Sta. Fe, Leyte, Elizabeth Loyo, one of the daughters of Paterno Loyo 'was about to be kissed by Quirino Cielo and he was about to rape my sister' (pp. 4, 6, tsn, Flordeliza Loyo, May 27, 1983). 'Quirino Cielo has tried to rape my daughter' (p. 19, tsn, Catalina Loyo, Feb. 10, 1982). While Elizabeth's mother, Catalina Loyo, on one hand reported the matter to the barrio captain, who 'just took the affidavit of Quirino Cielo' (p. 22, tsn, *ibid.*), Paterno Loyo on the other hand 'reprimanded Quirino Cielo for trying to rape [Paterno's] daughter' (p.28, tsn, *ibid.*).

"Also, 'about 12 days before' August 7, 1981, Uldarico Horca's pig ate and destroyed the rice seedlings of the Loyos. Accordingly, Paterno reprimanded Uldarico. 'We told him to put the pig in a coral or fence; because of that, he got mad' (pp. 30, 31, tsn, *ibid.*).

"It was that 'pig that was slaughtered' and 'roasted' by Uldarico Horca on August 7, 1981. In the morning of said date, the compadres Quirino Cielo and Uldarico Horca were together 'in planting palay'. Horca told Cielo to be at the former's house in the early evening, 'telling me [Cielo] to go to his house because he will roast' the pig (pp. 29, 30, tsn, *ibid.*; p. 3, tsn, F. Loyo, May 27, 1983; pp. 17-18, tsn, Cielo, June 28, 1983). In the same morning, at around 10:00 o'clock Horca went to Paterno's house, some fifteen (15) meters away from Horca's house, to invite Paterno on the occasion of the roasting of the pig (p. 3, tsn, F. Loyo, May 27, 1983; pp. 13-14,

tsn, C. Loyo, Feb. 10, 1982). Paterno 'was not in the house at that time because he was in the ricefield'. At about '11:00 o'clock in the evening', Horca went back to the house of Paterno and reiterated his invitation (p. 4, tsn, F. Loyo, April 20, 1983; pp. 13-14, tsn, C. Loyo, Feb. 10, 1982).

"Soon thereafter Paterno acceded to Uldarico's second attempt at invitation and, together with wife Catalina and daughter Flordeliza, went to Horca's house. Upon reaching Horca's house, the 'persons present were: Uldarico Horca, Quirino Cielo, Sergio Homeres, Ananias Villas, Alejandro Catapal and Teofilo Villones' 'and Jovito Cotijar', some seated before the kitchen table, others were in the sala. 'They were drinking', 'the drinking spree' had earlier 'started at 7:00' in the evening. (pp. 14-15, 18, tsn, C. Loyo, Feb. 10, 1982; pp. 4-5, tsn, F. Loyo, April 20, 1983; pp. 3, 5, F. Loyo, May 29, 1983).

"When we reached the place of Uldarico, I [Flordeliza] was the first one to enter the house followed by my mother and then my father' (p. 5, tsn, F. Loyo, April 20, 1983; p. 16, tsn, C. Loyo, Feb. 10, 1982). The mother and daughter seated themselves 'near the door', in the kitchen, while Uldarico Horca invited the father to sit before the kitchen table. Mother and daughter saw the accused Quirino Cielo 'hiding behind Uldarico Horca...', 'stand-ing' (pp. 16-17, tsn, C. Loyo, Feb. 10, 1982; p. 5, tsn, F. Loyo, April 20, 1983, pp. 5, 6, tsn, F. Loyo, May 29, 1983). ' . . . [W]hile Uldarico Horca was placing his arms over the shoulders of my father, requesting my father to sit down', 'Quirino Cielo immediately stabbed my father' (p. 5, tsn, F. Loyo, April 20, 1983). 'When my husband as about to sit down, Quirino Cielo who was hiding from behind Uldarico Horca immediately stabbed my husband, and my husband was hit on the right chest' (pp. 16-17, tsn, C. Loyo, Feb. 10, 1982), and exclaimed 'Agi, Kinoy' ['Oh, Quirino'] (p. 19, tsn, Cielo, June 28, 1983). The husband 'ran outside of the house because he was hysterical upon being wounded' by 'a short bolo locally known as pisaw'. 'Quirino Cielo chased my husband followed by Uldarico Horca', who was 'armed at that time when he followed Quirino Cielo' with 'a long bolo', 'about twenty (20) inches long', and 'was shouting saying kill him.' (pp. 17-18, tsn, C. Loyo, Feb. 10, 1982; p. 6, tsn, F. Loyo, April 20, 1983). The victim 'fell down in the yard face upward' (p. 7, tsn, F. Loyo, May 27, 1983) and 'lost consciousness' (p. 23, tsn, C. Loyo, Feb. 10, 1982).

"While the victim's daughter Flordeliza 'cried for help but nobody came', (p. 7, tsn, F. Loyo, April 20, 1983), the wife Catalina immediately left for succor, notifying the victim's brother, Felicisimo Loyo, and going 'to the house of a policeman in barrio San Roque', 'Patrolman Salvador Enage' who 'upon approaching our house took the dying declaration of my husband' (pp. 24-26, tsn, C. Loyo, Feb. 10, 1982). When asked who stabbed him, the victim 'answered 'Quinoy' [Quirino]' ' . . . inside the house of . . . Uldarico Horca'. (p. 11, tsn, Enage, July 20, 1982). The victim 'died that evening after his dying declaration was taken by the policemen', 'after ten minutes he died'. (p. 27, tsn, C. Loyo, Feb. 10, 1982; p. 11, tsn, Enage, July 20, 1982)."

On August 13, 1981, the body of the deceased was autopsied by Dr. Virisimo Opiniado, Municipal Health Officer of Pastrana, Leyte. Dr. Opiniano issued a Medico-Legal Necropsy Report with the following findings:

MEDICO-LEGAL NECROPSY REPORT

Deceased: PATERNO LOYO, 52 years, married, farmer, resident of Bo. San Roque, Santa Fe, Leyte; died at Bo. San Roque, at about 11:30 P.M. of August 7, 1981; postmortem examination requested by SSC, and done at the victim's residence, at 4:25 P.M. of August 8, 1981. Informant: Catalina Sapra Loyo (wife)

POSTMORTEM FINDING

Wound, stabbed, 3½ cms. long, 1½ cms. wide, 13 cms. deep, directed backwards and slightly laterally, involving the lung, chest, right.

CAUSE OF DEATH

Hemorrhage secondary to a stabbed wound of the chest.

The accused-appellant on the other hand, denied any participation in the killing of Paterno Loyo and pointed to Uldarico Horca as the one responsible for the death of the deceased. The defense evidence is summarized as follows:

"Quirino Cielo testified that at about 10:00 o'clock in the morning of August 7, 1981 he was invited by Uldarico to the latter's house to drink tuba because Uldarico will roast a pig. So at 6:00 o'clock in the evening of that same day, he went to Uldarico's house. He drunk tuba with the host together with Ananias Villas, Sergio Homeres, Alejandro Catapat and Jovito Cotijar. Then Paterno Loyo arrived but stayed only for a while because when he arrived he had with him a 'pisaw' wrapped with a 'comics' and Uldarico told him to go home and he left. At about 9:00 o'clock in that same evening, Paterno returned. He pushed open the door of Uldarico's house and entered challenging everybody inside. Uldarico who was then slicing meat was angered by the actuation of Paterno which disturbed the party, so he stabbed Paterno who was hit. Paterno cried 'Aqui Kinoy' (refer-ring to Quirino Cielo). Paterno cried the name of the appellant because the latter is Paterno's nephew-in-law. Fearful of being involved, Quirino ran home.

"Appellant further testified that before the killing, Paterno filed a case against him because Paterno's wife, Catalina, was mad at him. The grudge started when Quirino installed a water pump of the Loyos within his property and when the pump became operational, the Loyos did not allow him to fetch water. On August 8, 1981, Pat. Salvador Enage went to Quirino's house and wanted to bring him to the police headquarters and promised to release him after three days if no case will be filed against him. Quirino however re-fused to go and instead went to the house of his father. Subsequently, he was arrested and charged."

In its decision dated July 12, 1982, the trial court convicted the accused-appellant of murder as follows:

"WHEREFORE, the court finds the accused Quirino Cielo guilty beyond reasonable doubt of the crime of murder as charged in the information and in the absence of aggravating and mitigating circumstances he is hereby sentenced to reclusion perpetua, to indemnify the heirs of Paterno Loyo in the sum of P12,000.00 without subsidiary imprisonment in case of insolvency, and to pay one-half of the costs."

The accused-appellant raises the following assignments of errors in his brief:

I

THAT THE TRIAL COURT ERRED IN CONVICTING THE APPELLANT NOTWITHSTANDING FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND ANY SHADOW OF DOUBT.

II

THE TRIAL COURT ERRED IN CONVICTING THE APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE THAT THE SAME HAS BEEN COMMITTED.

The accused-appellant submits that the theory of the prosecution that he killed Paterno Loyo by stabbing him when the latter was being forced to sit down by Uldarico Horca is contrary to human nature because no person, except maybe an amok would kill another in the presence of so many witnesses. The accused-appellant argues, that the fact that the accused-appellant never fled nor hid from the authorities coupled by the unexplained flight of Uldarico strengthens his testimony that it was Uldarico who killed Paterno because he was angered by the actuations of the latter which caused the disturbance of his party.

The accused-appellant's arguments are unmeritorious. The records show that the identification was positive.

Catalina Loyo testified that:

"Q Now, when you three, Paterno, you and your daughter Flordeliza went inside the house of Uldarico Horca, were you seated?

"A No, sir.

"Q How about your husband Paterno Loyo?

"A My husband was the one being invited to sit down by Uldarico Horca.

"Q When your husband was offered to sit down, would you tell the Honorable Court what transpired if any?

"A When my husband was about to sit down Quirino Cielo who was hiding from behind Uldarico Horca immediately stabbed my husband and my husband was hit on his right chest.

"Q Now, where was your husband approached by Quirino Cielo? What was the weapon used by Quirino Cielo in stabbing your husband?

"A A short bolo locally known as pisao.

"Q Was your husband actually hit?

"A Yes, sir.

"Q Now, what happened to your husband?

"A He ran outside of the house because he was hysterical upon being wounded.

"Q When your husband ran outside the house where was Quirino Cielo and Uldarico Horca?

"A Quirino Cielo chased my husband followed by Uldarico Horca."

(TSN, pp. 16-17, February 10, 1982)

"Q How far were you actually when your husband was stabbed Quirino Cielo?

"A About - From here to that distance. (Witness pointing to a distance of about three and a half meters).

"COURT:

Sandali lang. Where was your husband seated when he was - Where was your husband when he was asked to sit down, in the kitchen or in the sala?

"WITNESS:

In the kitchen.

"COURT:

Did your husband actually sit down?

"WITNESS:

No, sir, he was not able to sit down.

"COURT:

How about you, where were you, in the sala or in the kitchen?

WITNESS:

I was in the kitchen."

(TSN, pp. 18-19, February 10, 1982)

Flordeliza Loyo likewise testified to the same effect -

"Q Who was the companion of Uldarico and your father when the two went to the house of Uldarico?

"A Myself and my mother.

"Q Did you in fact reach the house of Uldarico Horca?

"A Yes.

(TSN, pp. 4-5, April 20, 1983)

"Q Who were there when you and your father and your mother arrived there?

"A Quirino Cielo, Uldarico Horca, Alejandro Catapal, Sergio Homeres, Ananias Villas and Jovito Cotijar.

"Q When you were in the house of Horca was there any unusual thing that happened in that evening?

"A I saw Quirino Cielo hiding behind Uldarico Horca while Uldarico Horca was placing his arms over the shoulder of my father requesting my father to sit down.

"Q Did your father sit down?

"A No because Quirino Cielo immediately stabbed my father.

"Q Was your father hit when stabbed by Quirino Cielo?

"A Yes, ma'am.

"Q Where was he hit?

"A In his breast.

"Q How many times did Quirino Cielo stab your father?

"A Only once.

"Q What weapon did Quirino Cielo use in stabbing your father.?

"A A small bolo locally known as pisao.

"Q What happened after Quirino Cielo stabbed your father?

"A He ran out of the house, Quirino following my father while Uldarico Horca was shouting saying kill him."

(TSN, pp. 5-6, April 20, 1982)

The record shows that the testimonies of these two eyewitnesses remained unimpeached during the cross-examination.

Aside from the unshaken testimonies of Catalina and Flordeliza, there is also the statement given by the deceased to Patrolman Salvador Enage naming the accused-appellant as his assailant. The statement was made immediately after the stabbing incident. It was spontaneous and made before the mortally wounded man could devise a plan to incriminate the accused-appellant. Patrolman Enage testified that:

"Q And when you talked to Paterno Loyo in what state of physical condition was he then at that time?

"A He was suffering a wound.

(TSN, p. 9, July 20, 1982).

"Q And knowing and seeing that Paterno Loyo was wounded did you inquire from him who inflicted the wounds which he sustained?

"A Yes, sir.

"Q Who were those persons whom Paterno Loyo said were responsible for inflicting him?

"A He pronounced only one person, it was Quirino Cielo.

(TSN, p. 9, July 20, 1982).

"Q Alright, did you take this circumstances in writing?

"A Yes, sir.

"COURT:

"Q Where is the dying statement?

"A Unfortunately I was not able to produce it because that night upon making that statement I placed it in my pocket in the pocket of my jacket. And presuming that he was already dead, I left him with the permission of the wife to pursue Quirino Cielo and then in my pursuit I was unsuccessful then I went home past three o'clock and then I slept. The following day when I was about to get the dying statement in my pocket I noticed that my jacket was already laundered by our household helper wherein the dying declaration was put inside the pocket of my jacket and it was turned into pieces. It cannot be read anymore."

(TSN, p. 10, July 20, 1982).

"Q What questions did you asked Paterno Loyo that evening?

"A First question was, who stab you?

"COURT:

"Q What was the answer?

"A He answered 'Quinoy'.

COURT:

"Q What was the next question?

"A My next question was, can you still survive with your wounds? He said I am not sure.

COURT:

"Q. What was the next question?

"A I asked him, where were you stab?

COURT:

"Q What was the answer?

"A He answered, inside the house of a certain Uldarico Horca."

(TSN, p. 11, July 20, 1982)

COURT:

"Q Did you make him sign the statement?

"A No, sir, I just let him affixed his thumbmark because he was already helpless."

(TSN, p. 11, July 20, 1982).

Against these positive identification, the accused-appellant simply denied having participated in the killing and pointed to Uldarico Horca as the person who killed the deceased. The accused-appellant however did not even present a single witness to corroborate his claim notwithstanding the fact that in the house of Uldarico that night, there was a party and that there were many people who could have witnessed the incident and testified in his favor. On the other hand, it is clear from the record that the accused-appellant was identified as the assailant of Paterno Loyo by the clear, positive, and convincing testimonies of Catalina Loyo, Flordeliza Loyo, and Patrolman Salvador Enage.

The accused-appellant further questions the credibility of eyewitnesses Catalina and Flordeliza by pointing out that they are the widow and daughter of the deceased respectively and that, naturally, they are interested parties and are expected to be biased.

The accused-appellant's contentions have no merit.

It is an established doctrine that mere relationship of prosecution witnesses to the victim does not make their testimony biased nor render it utterly devoid of belief in the absence of an improper motive actuating the witnesses to testify against the accused (*People v. Jose Gacho*, 124 SCRA 671). The ruling in *People v. Ceria* (106 SCRA 381) is applicable to this case -

"As to the alleged suspicious character of Elizabeth's testimony because she is the daughter of the victim, it is to be noted that appellant does not specifically point to any portion of her testimony which may render it doubtful. Besides, We find no reason at all to reject the finding and conclusion of the trial court regarding her credibility. In any event, suffice it to say that relationship to the victim, standing by itself, does not prove that the said witness is prejudiced and biased when, as in this case said testimony is not only clear and natural, but corroborated circumstantially by medical findings. (*People v. Estocada*, 75 SCRA 295ñ; *People v. Roxas*, 73 SCRA 583; *People v. Pajenado*, 69 SCRA 172; *People v. Reyes*, 69 SCRA 474; *People v. Padiernos*, 69 SCRA 484; See also *People v. Puesca*, 87 130, 144 citing *People v. Miranda*, 10 SCRA 385; *People v. Asmamil*, 13 SCRA 497 and *People v. Libed*; 14 SCRA 410)."

We have carefully reviewed the records of the case and we find that the accused-appellant failed to show why the prevailing jurisprudence that mere relationship of the prosecution witnesses to the victim does not necessarily vitiate or impair their otherwise clear and positive testimonies (See *People v. Santos*, 121 SCRA 832) should not apply in the instant case.

The accused-appellant also points out alleged inconsistencies in the testimonies of Catalina and Flordeliza such as - (1) the place where the deceased died (Is it in their own yard or in the yard of Uldarico?, and (2) the alleged attempted rape perpetrated by the accused-appellant on Elizabeth (Did the accused-appellant merely try to kiss Elizabeth or did he try to rape her?).

These alleged inconsistencies or contradictions refer only to minor and collateral matters that do not impair the credibility of eyewitnesses Catalina and Flordeliza regarding the act which resulted in the death of the victim. More important than these inconsistencies, these witnesses affirmatively testified to the unlawful killing of

Paterno Loyo and positively identified the accused-appellant as the one responsible.

We apply the Rule laid down in *People v. Reyes*, (69 SCRA 476) and reiterated in *People v. Balane*, 123 SCRA 614) and *People v. Gacho* (124 SCRA 671) that:

"The discrepancies signify that the two witnesses did not deliberately pervert the truth in their narrations. The discordance in their testimonies on collateral matters heightens their credibility and shows that their testimonies were not coached nor rehearsed. (*People v. Doria*, 55 SCRA 435) Far from being evidence of falsehood they could justifiably be regarded as a demonstration of their good faith. (*People v. Cabiltes*, 25 SCRA 112; *People v. Alcantara*, L-26568, June 30, 1970)."

Furthermore, we agree with the submission of the Solicitor General that the alleged inconsistencies do not at all touch upon points material to the identification of the assailant so as to create any reasonable doubt as to their identification.

We find no reason from the records to deviate from the established doctrine that 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.

The motive of the crime was described by the trial court as follows:

"The motive of the crime is understandable. According to Mrs. Catalina Z. Loyo, a few days before August 7, Quirino Cielo tried to rape their daughter, Elizabeth, and her husband reprimanded him."

Catalina Loyo testified that:

COURT:

"What could be the reason why Quirino Cielo stabbed your husband?"

WITNESS:

"Quirino Cielo has tried to rape my daughter.

COURT:

"Who is your daughter?"

WITNESS:

"Elizabeth Loyo.

(TSN, p. 19, Feb. 10, 1982).

COURT: (to the witness)

"Q Was there an exchange of words before he was stabbed by Quirino Cielo?"

"A Not on that occasion.

"Q When was the exchange of words when you said there was no exchange of words?"

"A When my daughter was about to be raped by Quirino Cielo there was an exchange of words between him and my husband.

"Q So actually your husband reprimanded Quirino Cielo for trying to rape your daughter?"

"A Yes, Your Honor.

Q Where was Quirino Cielo when he was reprimanded by your husband?

"A He was in the house of Quirino Cielo."

(TSN, p. 28, February 10, 1982).

The accused-appellant further contends that there is no proof showing the existence of treachery as a qualifying circumstance. The accused-appellant argues that since the mortal wound was located in the right chest of the victim, this means that the attacker was in front of the deceased when it was inflicted. The accused-appellant also invokes the testimony of Dr. Opiniado that the wound could also have been inflicted in the process of a struggle.

The trial court did not err.

There is no doubt that the crime committed was murder. Paragraph 16, Article 14 of the Revised Penal Code states that there is treachery when the offender commits any of the crimes against persons, 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 fact that the accused-appellant hid behind Uldarico while the latter was forcing the victim to sit down by holding on to his shoulders insured the commission of the crime without risks to the accused-appellant. The accused-appellant hid behind Uldarico and waited for the opportune moment to stab the victim. In fact, the attack was sudden and unexpected. The victim was unarmed and was not in any position to retaliate nor to parry the knife thrust of the accused-appellant. The accused-appellant intentionally used this mode of attack in order to achieve his goal without risks to himself.

We agree with the observation of the Solicitor General that while the point of entrance of the pisao is on the right chest, the direction of the wound is backwards and slightly lateral which is consistent with the kind of wound that could be inflicted with a foot long dagger in a circular fashion to avoid hitting another object which is directly in front of the dagger welder. It should be noted that at that fatal moment, Uldarico was directly in front of the accused-appellant.

WHEREFORE, the judgment appealed from is hereby AFFIRMED except that the indemnity to the victim's heirs is hereby increased to THIRTY THOUSAND (P30,000.00) PESOS.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Relova, and De La Fuente, JJ., concur.

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