

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLO LAGRANA Y MAÑIBO AND FRANGELINE SALAZAR, ACCUSED. CARLO LAGRANA Y MAÑIBO, ACCUSED-APPELLANT.

G.R. No. 68790. January 23, 1987

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The accused, Carlo LAGRANA, appeals from the judgment of the Regional Trial Court, Oriental Mindoro (Calapan), Branch 39, convicting him, as principal, of Murder, sentencing him to reclusion perpetua and to indemnify the heirs of the deceased, Benito Adarlo, in the amount of P8,000.00.

The other accused, Frangelina SALAZAR, who was found guilty as an accomplice and sentenced to suffer an indeterminate penalty, did not appeal.[1]

The evidence for the prosecution discloses that at around 8:00 P.M. on 3 December 1981, Benito Adarlo (the Victim, for short) was seated along the road near the store of Eladio de Villa in Dao, Naujan, Oriental Mindoro, with the accused SALAZAR. The latter was holding one of the Victim's right arm under the armpit. While thus positioned, LAGRANA, who is an uncle of SALAZAR, arrived. LAGRANA focused the lighted flashlight he was then carrying at the face of the Victim and forthwith hit the latter on the head with a piece of wood ("kakawati"), about one meter in length. As a result, the Victim fell face downward, unconscious. He never regained consciousness until he died in the provincial hospital on 6 December 1981.

The autopsy findings disclosed the cause of death as "shock secondary to severe intracranial hemorrhage secondary to skull fracture secondary to head trauma".[2]

The Victim's brother, Nestor Adarlo, who was nearby, ran to the succor of his brother only to be challenged by LAGRANA. Nestor, however, ignored the challenge and carried his brother to their house, which was not too distant from the scene of the incident.

In addition to Nestor, another eyewitness to the incident was Pio Sigalat, who happened also to be on his way to the store of Eladio de Villa, behind LAGRANA, at a distance of about five (5) meters. Sigalat saw LAGRANA carrying a flashlight and a piece of wood and ultimately hitting the Victim on the head.

LAGRANA and SALAZAR were summoned by the police authorities the following morning of 4 December 1981 for investigation, but were initially released.

Subsequently, however, they were both charged with Murder. Trial proceeded only against LAGRANA initially, while SALAZAR stood trial only after his arrest in 1983.

LAGRANA invoked self defense claiming that the Victim, who was then drunk, chased him with a knife for which reason he hit the Victim with a piece of "kakawati" when the latter thrust the knife at him.

SALAZAR, for his part, claimed that he and the Victim drank liquor before the incident and that, because the

Victim was challenging him, he left the latter behind as he was afraid. Continuing, he recounted that the following morning when informed by his mother that policemen were looking for him, he and LAGRANA went to the police station to report but that they were both sent home.

The Trial Court gave no credence to the defense of either accused and convicted LAGRANA as principal and SALAZAR, as accomplice of Murder, with the qualifying circumstance of treachery, unattended by any generic aggravating or mitigating circumstance. The dispositive portion of the Decision reads:

"ACCORDINGLY, the Court finds accused Carlo Lagrana and Frangeline Salazar guilty beyond reasonable doubt, as principal and accomplice, respectively, of the crime of Murder, punishable with reclusion temporal in its maximum period to death, as regards the principal, under Article 248 in relation to Article 46 of the Revised Penal Code, and with prision mayor in its maximum period to reclusion temporal in its medium period, as regards the accomplice, under Article 248 in relation to Article 52 of the said code. Considering that there is neither generic aggravating nor mitigating circumstance, the penalty should be imposed in its medium period. The Indeterminate Sentence Law is not applicable to accused Carlo Lagrana, considering the penalty imposable on him, but applicable to accused Frangeline Salazar.

"Accused Carlo Lagrana, as principal, is hereby sentenced to suffer reclusion perpetua (life imprisonment), together with the accessory penalties provided for by law, while accused Frangeline Salazar, as accomplice, is sentenced to suffer imprisonment of SIX (6) YEARS, ONE (1) MONTH and ELEVEN (11) DAYS of prision mayor, as minimum, to TWELVE (12) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS of reclusion temporal, as maximum, together with the accessory penalties provided for by law. Both accused are ordered to indemnify the legal heirs of the deceased Benito Adarlo in the amount of P12,000.00, by way of actual damages, P8,000.00 to be paid by accused Carlo Lagrana and P4,000.00 by Frangeline Salazar, the same to be enforced in accordance with the provisions of Article 110 of the Revised Penal Code, without subsidiary imprisonment in case of insolvency, and to pay the costs.

"The accused shall be credited with the full term of their preventive imprisonment, if they have any to their credit, pursuant to the provisions of Article 29 of the Revised Penal Code, as amended by Republic Act No. 6127, provided that the accused shall have agreed to abide with the disciplinary rules imposed upon convicted prisoners, otherwise, they shall be entitled to only four-fifths (4/5) of the preventive imprisonment."[3]

Only LAGRANA has appealed, who does not question his conviction nor the characterization of the crime, but merely raises as the lone assignment of error that

"The Court erred in brushing aside the mitigating circumstance of voluntary surrender and imposing upon accused-appellants penalties that are over and above those that they deserve."

Indeed, LAGRANA's guilt has been proven beyond reasonable doubt. Two credible prosecution eyewitnesses identified him as the main culprit. His plea of self-defense, uncorroborated as it is, fails to overcome the clear and direct testimony of these witnesses. The crime is Murder, attended by treachery, considering the method by which LAGRANA attacked the Victim without risk to himself arising from any defense which the Victim might have made.

The evidence on record does not support voluntary surrender, as contended. As aptly pointed out by the Trial Court:

"Although both accused reported to the police authorities the following day after the commission of the crime, it was not for the purpose of submitting themselves unconditionally. Accused Carlo Lagrana claimed self-defense when interrogated, while accused Frangeline Salazar did not give any statement, either verbal or written.

"Accused did not go to the police authorities to surrender but merely to report the incident. Indeed, they never

evinced any desire to own the responsibility for the killing of the deceased (People vs. Rogales, 6 SCRA 830)."

Indeed, wanting in this case are the following requisites for voluntary surrender to be considered mitigating:

"A surrender to be voluntary must be spontaneous, showing the intent of the accused to submit himself unconditionally to the authorities, either (1) because he acknowledges his guilt, or (2) because he wishes to save them the trouble and expenses necessarily incurred in his search and capture." [4]

WHEREFORE, the judgment appealed from is hereby affirmed, with the modification that LAGRANA shall indemnify the heirs of the deceased, Benito Adarlo, in the amount of P20,000.00 with costs.

SO ORDERED.

Yap, (Chairman), Narvasa, Cruz, Feliciano, and Gancayco, JJ., concur.

[1] pp. 184 & 185, Original Rollo.

[2] Exhibit "A", p. 6, Original Record.

[3] pp. 9 & 10, Rollo.

[4] Criminal Law, Luis B. Reyes, 1981 Edition, p. 299.

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