

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PERFECTO CORONADO AND ANGEL CORONADO, ACCUSED-APPELLANTS.

G.R. No. 68932. October 28, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch XXIX, at San Pablo City, finding Perfecto Coronado guilty beyond reasonable doubt, as principal, and Angel Coronado guilty beyond reasonable doubt; as an accomplice, of the crime of Murder. The dispositive portion of the decision reads:

"WHEREFORE, the Court finds accused Perfecto Coronado guilty beyond reasonable doubt as principal and accused Angel Coronado guilty beyond reasonable doubt as an accomplice of the crime of murder, and there being no circumstance to appreciate either for or against the accused, the accused Perfecto Coronado is hereby sentenced to reclusion perpetua; the accused Angel Coronado is hereby sentenced to an indeterminate penalty of from SIX (6) YEARS and ONE (1) DAY of prision mayor to TWELVE (12) YEARS and ONE (1) DAY of reclusion temporal. Angel Coronado shall be entitled to full credit for to time he was under preventive imprisonment. Both accused are hereby ordered, jointly and severally, to indemnify the heirs of the victim in the sum of P12,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs."

Only Perfecto Coronado appealed from the decision of the trial court

The appellant raised the following assignments of errors:

I

THE TRIAL COURT ERRED IN BASING ITS CONVICTION ON MATTERS TAKEN JUDICIAL NOTICE OF WHICH ARE IMPROPER FOR JUDICIAL NOTICE AND WHICH ARE CONTRARY TO THE EVIDENCE ADDUCED.

II

ON ACCOUNT OF THE ERRONEOUS 'FACT' JUDICIALLY NOTICED, THE TRIAL COURT ERRED IN FAILING TO GIVE FULL FAITH AND CREDIT TO ACCUSED'S CLEAR AND CONVINCING EVIDENCE THAT IT WAS PHYSICALLY IMPOSSIBLE FOR ACCUSED TO HAVE BEEN AT THE PLACE WHERE THE CRIME WAS COMMITTED AT THE TIME OF ITS COMMISSION.

III

THE TRIAL COURT ERRED IN CONCLUDING THAT THE ACCUSED WAS POSITIVELY IDENTIFIED AS THE ASSAILANT OF ANDRES BARBA.

IV

THE ALLEGED EYEWITNESSES AND THEIR RESPECTIVE TESTIMONY ARE NOT CREDIBLE.

It is not disputed that Andres Barba was killed by a gunshot wound on January 16, 1979, at around 9:00 p.m. in

Bo. Kanluran Lasaan, Nagcarlan, Laguna.

The evidence for the prosecution reveals that on the above date and time, Leonardo de Vera was in the second floor of the house of Simplicio Urriza, his father-in-law, in Barangay Kanluran Lasaan, Nagcarlan, Laguna, resting by the window. From where he was resting, he saw two men emerge from underneath the house of Ador Bituin which was only 13 meters away from Simplicio Urriza's house. Since it was a moonlit night, he recognized the two men to be Perfecto Coronado and Angel Coronado. Both men carried long firearms and headed toward the back of Simplicio Urriza's house. Perfecto went to the direction of the ceramic wall of the house while Angel positioned himself under a lucban tree. De Vera saw Perfecto cock his rifle and then aim it towards the house. Recalling that the two men were known to have a grudge against Andres Barba, who was in the ground floor of the house, De Vera thought of warning him but while going down the house he heard the sound of gunfire from the rear of the house. He beamed his flashlight at the place and saw Perfecto run, followed by Angel, towards the west.

At about 7:00 o'clock in the evening, on the same date, Pedro Advincula was also in the house of Simplicio Urriza at Bo. Kanluran Lasaan, Nagcarlan, Laguna, upon invitation of Andres Barba and the latter's wife to attend a wedding the following day. After eating their supper, he, together with Faustino Coronado and Andres Barba, imbibed some lambanog up to about 9:00 o'clock in the evening. Advincula then asked permission to leave and went to the barangay hall which is about five to six meters away from the house of Simplicio Urriza. While he was inside the barangay hall, he saw Perfecto Coronado and Angel Coronado, both carrying long firearms, emerge from underneath the house of Ador Bituin and proceed towards the rear of the house of Simplicio Urriza. Advincula became suspicious and hastened to warn Andres Barba but just as he entered the house of Simplicio Urriza he heard the loud report of a gun from the rear of the same house. He went to the rear door of the house and brought into focus his flashlight outside and saw Perfecto Coronado running towards the west followed by Angel Coronado. He then saw Andres Barba slumped on the table, where earlier they had been drinking, with blood oozing from his face. Advincula told Lydia Barba of what he saw but he kept silent on the matter when the policemen arrived to interrogate witnesses because he, Lydia Barba, and Leonardo de Vera had agreed that the death of Andres Barba would be avenged since the latter's family did not have money to prosecute the accused. However, three weeks after the incident, he and Leonardo de Vera went to the Fiscal at Nagcarlan, Laguna, where he gave his statement concerning the shooting of Andres Barba.

Lydia Barba, the widow of the deceased, testified that at about 9:00 o'clock in the evening of January 16, 1979, she was on the upper floor of the house of Simplicio Urriza at Kanluran Lasaan, Nagcarlan, Laguna, with Leonardo de Vera and others. She heard a loud shot from behind the house. She then went to the ground floor of the house with Leonardo de Vera and saw her husband Andres Barba slumped on the table with blood oozing from his temple. She spent P10,000.00 for the funeral and wake expenses. Pedro Advincula told her that he saw the person who shot her husband but they agreed not to tell the police about it and instead wait for the time to avenge the death of her husband. Later, she was persuaded to bring the case to the authorities.

On the other hand, the appellant interposed alibi as his principal defense. Alibi is also the primary argument raised in this appeal. Coronado maintained that it could not be possible for him and his son Angel to be physically present in Kanluran Lasaan, Nagcarlan, Laguna, at 9:00 o'clock in the evening of January 16, 1979. According to him, he and his son Angel were in the house of his sister-in-law Celia Fernandez at Victoria, Laguna, on January 16, 1979. At about 7:00 o'clock in the evening of the same date, he, together with his wife and son Angel, was accompanied by Celia Fernandez to the home of Judge Perlez to seek legal advice concerning the problem of his son Angel. They left the house of Judge Perlez at 8:30 o'clock in the evening and went back to the house of Celia Fernandez arriving thereat at 9:00 p.m. where they spent the night. At 5:00 a.m. the following day, they left for

Nagcarlan and arrived at their place in Kanluran Lasaan at 8:30 a.m. Appellant's testimony that he and his son Angel were accompanied by Celia Fernandez to the house of Judge Perlez at about 7:30 p.m. on January 16, 1979, and left the latter's house at 8 30 p.m. was corroborated by Celia Fernandez and Judge Leonides Perlez.

Judge Perlez testified further that he used to travel between Victoria and Nagcarlan by jeep and the trip between these two towns, taking the shorter route via Calumpang road, takes about 45 minutes or more, as the road by that time was not very good. (Tsn, Nov. 17, 1981, p. 13). On cross-examination, this witness admitted that before January 16, 1979, a portion of the road going to Nagcarlan passing through Calumpang was already cemented. (Tsn, Nov. 17, 1981, p. 22).

It has been the consistent view of this Court that alibi is a weak defense for it is easy of fabrication. (People v. Ragas, 44 SCRA 152; People v. Mari, 55 SCRA 382; People v. Dereje, 56 SCRA 554; and People v. Zapatero, 58 SCRA 450). For the defense of alibi to prosper, it is not enough to prove that the accused was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime. (People v. Benaraba, 129 SCRA 266; People v. Esmael, 37 SCRA 601; People v. Diaz, 55 SCRA 178; People v. Turalba, 55 SCRA 697; People v. Baylon, 57 SCRA 114; and People v. Cortez, 57 SCRA 308).

In the instant case, granting that the appellant was really in the house of Perlez at 7:30 p.m. and left exactly one hour later, we cannot disregard the possibility that the appellant and his son could have been physically present at the scene of the crime. The distance between Victoria and Nagcarlan, according to the trial court is only 30 kilometers. Portions of the road had already been paved with concrete and could easily be negotiated within thirty minutes. It is of common knowledge that traffic in the provinces at night is quite light. Seldom can there be more than two or three vehicles cruising together along provincial highways from 8:00 o'clock in the evening. Moreover, the guilt or innocence of the appellant does not depend alone on whether or not public transportation and walking on foot were used to return home. More important is whether or not they were really in Victoria at the time stated in their alibi.

The defense of alibi is an issue of fact that hinges on credibility. It depends greatly on the credibility of the witnesses who seek to establish it. In this respect, the relative weight which the trial judge assigns to the testimonies of the witnesses, unless patently and clearly inconsistent with the evidence on the record, must be accepted. (People v. Berdida, 17 SCRA 520). Evidence was presented by the prosecution to show that in the early evening of January 16, the appellant was in Kanluran Lasaan.

Alibi cannot prevail over the positive identification of prosecution witnesses. (People v. Manalo, 135 SCRA 84; People v. Nepomuceno, 136 SCRA 556; People v. Jones, 137 SCRA 166; People v. Arbois, 138 SCRA 24; People v. Canamo, 138 SCRA 141; People v. Sinaw-ay, 138 SCRA 221; and People v. Gani, 139 SCRA 301). The appellant was distinctly and positively identified by eyewitnesses.

It is also argued by the appellant that the conduct of the eyewitnesses in concealing the truth when investigated by the police for the reason that they preferred to take their revenge against the assailants instead of prosecuting them in accordance with law is a clear indication that they had the propensity and capacity to obstruct justice. Their desire for vengeance prevented the accused from proving his innocence by a paraffin test which could have established that he did not fire any firearm. Due to this conspiracy to conceal the truth and their belated identification, he states that their testimony should not be given credence.

This contention is without merit. The failure of a witness to report at once to the police authorities the crime they had witnessed should not be taken against them. It is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case. The natural reticence of most people to get involved in a

criminal case is of judicial notice. (People v. Pacabes, 137 SCRA 158). It is also not uncommon for some people, especially in rural areas to prefer more "summary" solutions than lengthy and expensive trials, solutions such as ambushing the assailants or calling on dissident bands to dispense "justice" in their villages.

WHEREFORE, the judgment appealed from is hereby AFFIRMED with the modification that the indemnity to be paid to the heirs of the victim is increased to THIRTY THOUSAND PESOS (P30,000.00). Costs against the appellant.

SO ORDERED.

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

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