

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GUILLERMO LAYUSO, ACCUSED-APPELLANT.

G.R. No. 69210. July 05, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an automatic review of the decision of the Regional Trial Court of Pasig, Branch 153, convicting the accused, Guillermo Layuso of the crime of ROBBERY with HOMICIDE and imposing on him the supreme penalty of death.

The information reads:

"That on or about the 14th day of October 1980, in the municipality of Pateros, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent of gain and without the knowledge and consent of the owner thereof, that is by then and there entering the residence of one Cesar C. Avila, thru an opening not intended for egress or ingress, thru which he gained entrance, and once inside, did then and there wilfully, unlawfully and feloniously take, steal and carry away the following articles, to wit:

"One (1) Radio Digital Alarm Clock valued -----P2,310.00

"One (1) JVC brand Portable Radio/Tape recorder cassette valued ----- 1,500.00

"One Plated Unisex wrist watch valued ----- 500.00

"One (1) set of collector's silver coin (CBP) ----- 500.00

P4,810.00

all in the total amount of P4,810.00 belonging to said Cesar C. Avila, to the damage and pre-judice of the owner thereof in the aforementioned amount of P4,810.00.

"That on the said occasion, the above-named accused, did then and there wilfully, unlawfully and feloniously attack, assault and stab one Lucrecia R. Dagsaan with bladed weapons (knives), thereby inflicting upon the latter stab wounds which directly caused her death.

"Contrary to law." (Rollo. p. 5)

Upon arraignment on April 22, 1981, the accused assisted by a counsel-de-oficio, pleaded "NOT GUILTY." Trial on the merits ensued and a decision was subsequently rendered on September 12, 1984. The dispositive portion of the decision reads:

"WHEREFORE, premises considered and it appearing that the commission of the crime was attended by the aggravating circumstances of dwelling, lack of respect due the victim on account of her sex and that the accused took advantage of his superior strength, without having been off-set by any mitigating circumstance, the Court hereby sentences the accused Guillermo M. Layuso to suffer the penalty of Death, to indemnify the heirs of Lucrecia Dagsaan in the sum of Twelve Thousand (P12,000.00) Pesos; to return to Cesar C. Avila the

things robbed and/or their value, as follows:

"1. One (1) Radio Digital Alarm

Clock worth P2,310.00

"2. One (1) JVC Brand Portable

Radio/Tape Recorder

cassette worth P1,500.00

"3. One (1) plated unisex wrist

watch worth 500.00

"4. One (1) set of collector's

silver coin worth 500.00

P4,810.00

without subsidiary imprisonment in case of insolvency and to pay the costs.

"Pursuant to the provisions of Section 9, Rule 122 of the Rules of Court, let the records of the above-entitled case be forwarded to the Supreme Court of the Philippines for review as law and justice shall dictate." (Rollo, p. 35)

The facts of the case are summarized by the trial court as follows:

"From the evidence adduced by the prosecution, it has been duly established that the accused Guillermo Layuso was one of the carpenters, who worked in the construction of Cesar C. Avila's house, located at Agujo St., Pateros, Metro Manila. After completion of the house, Cesar Avila used to hire Guillermo Layuso to do carpentry work in said house. The last work done by Guillermo Layuso was the construction of the garage.

"At about noontime of October 14, 1980, somebody entered into the house of Cesar Avila and killed his maid named Lucrecia Dagsaan. The injuries sustained by Lucrecia Dagsaan, who was pronounced dead on arrival by the doctors at the Rizal Provincial Hospital, were established thru the testimony of Dr. Ruben M. Angobung, who conducted the autopsy, post portem examination.

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"In a follow-up investigation, the police found out that the culprit is Guillermo Layuso. Upon physical investigation and examination of the house by the police investigators accom-panied by Cesar Avila, they found the following articles or things missing from the house: 'A digital alarm clock worth P2,310.00; a unisex watch worth P500.00; a radio tape recorder worth P1,500.00, and silver coin collection of P500.00. They also found bloodstains in the sala; in the kitchen; in the master's bedroom, particularly on the carpets; on the handle of the door knob to the office on the ground floor of the house; and in the carpet inside the bedroom at the second floor. A kitchen knife was found in the sala and another was found in the kitchen. There were broken bottles in front of the bar and a broken bottle of catsup was also found in the kitchen.

"Sometime after the incident, Cesar Avila received a letter from the accused. This letter although previously marked as Exhibit "A", could not be found in the record of the case. Neither was the same turned over to the Minutes Clerk when the Prosecuting Fiscal made an oral offer of evidence on April 9, 1984.

"Through the testimony of tricycle drivers Lorenzo S. Bagang and Restituto Castillo, it has been established that the accused Guillermo Layuso, stripped of clothes from the waist up, with blood on the left shoulder and

wound on the hand, boarded the tricycle, first of Lorenzo Bagang, at the place near the house of Cesar Avila at about noontime of October 14, 1980. He was bringing something in a plastic bag, the height of which was demonstrated to be about twenty-four inches. The contents of the plastic bag were not seen by these witnesses because it was closed and the accused placed the same between his legs. The accused asked Lorenzo Bagang to take him to Rosario but the latter refused because he had to fetch a passenger from the Municipal Hall. The accused disembarked from the tricycle of Lorenzo Bagang at Morcilla Street.

"The accused, who was described by witness Restituto Castillo as 'sporting a long hair' with 'a high bridged nose' and 'bringing along a plastic bag', boarded the latter's (witness) tricycle at P. Herrera Street and alighted near a basketball court, near the river, in Buting. The plastic bag, according to this witness, has blood all over it.

"Both Lorenzo Bagang and Restituto Castillo categorically identified the accused in open court as the person who boarded their respective tricycles on October 14, 1980." (Rollo, pp. 74-78)

The appellant admits he is guilty of homicide but assigns the following errors:

1. THAT THE LOWER COURT GRAVELY ERRED IN CONVICTING THE HEREIN APPELLANT FOR A SERIOUS CRIME OF ROBBERY WITH HOMICIDE.
2. THAT THE LOWER COURT ERRED IN NOT CONVICTING APPELLANT OF THE CRIME OF SIMPLE HOMICIDE. (Rollo, p. 103; Appellee's Brief, p. 5)

The only issue raised in the case at bar is whether or not the appellant should be convicted of the crime of robbery with homicide instead of the crime of simple homicide.

The accused-appellant contends that the prosecution has failed to prove that the articles allegedly stolen were in fact in the house of Cesar Avila and it was the appellant who took them. He states that the finding was based on his extra-judicial statement which he claims was extracted through the use of force and intimidation.

The appellant admits that the confession was taken in the presence of counsel, a certain Atty. Casiano Atuel, Jr. However, he states that the counsel was not present during the custodial interrogation which preceded the taking down of his statement. He also questions the sufficiency of the lawyer's representation. He states in his appeal that the lawyer should have participated by also asking him questions.

The alleged coercion and maltreatment are not sustained by the records. There was a lawyer present while the statement was being taken. The appellant did not complain to the Fiscal before whom the oath was administered. In fact, the allegations are in the form of general conclusions. There is no specific statement as to what constituted the coercion and maltreatment. (People v. Canete, 129 SCRA 451 [1984]; People v. Villanueva, 128 SCRA 488 [1984]; and People v. Dejaresco, 129 SCRA 576 [1984]).

We rule that the constitutional requirement on assistance of counsel was fulfilled. There is no claim or showing that the accused asked for a lawyer from the moment he was apprehended or that he was not informed of his right to counsel from the time that the warning or information should have been given to him or that the alleged earlier questioning was already part of his confession. The appeal is hazy on these points.

What is established was the presence of counsel during the taking of the confession. The attempt to now discredit him has no merit. If the lawyer decided against advising the accused not to admit the crime, he was only complying with his oath as a lawyer to abide by the truth and with the expressed desire of the accused to unburden his conscience of the load it was carrying.

This Court denounces in the strongest terms possible the widespread misconception that the presence of a lawyer under the "right to counsel" provision of the Constitution is intended to stop an accused from saying anything

which might incriminate him. The right to counsel is intended to preclude the slightest coercion as would lead the accused to admit something false. The lawyer, however, should never prevent an accused from freely and voluntarily telling the truth. Whether it is an extra-judicial statement or testimony in open court, the purpose is always the ascertainment of truth.

Moreover, the judgment of conviction was not made solely on the basis of the disputed extra-judicial confession. Layuso admits the killing. The physical evidence such as the ten stab wounds and three lacerated wounds; the bloodied plastic bag and the testimonies of Cesar Avila and two other disinterested persons, namely Lorenzo Bagang and Restituto Castillo are all consistent with robbery with homicide. In fact, even if an extra-judicial confession is disregarded, the accused may still be convicted if there is enough evidence aside from the confession itself. (*People v. Nillos*, 127 SCRA 207 [1984]).

The narration of the appellant as to how he appropriated for himself the items mentioned as well as the sequence of the struggle could not have been supplied by any of those interviewed by police investigators and neither by the police themselves because it is replete with details known only to the appellant. As held in *People v. Ribadajo* (142 SCRA 637 [1986]), confessions replete with details only the appellants could have known are presumably voluntary.

In the accused-appellant's extrajudicial confession, he admitted taking the things from Cesar Avila's house. Avila, in turn, identified these as the items which were lost. Avila's testimony closely interlocks with the appellant's statement on how he took the missing items. In his court testimony, the appellant denied taking anything. This inconsistency cannot be given credence on account of the uncontradicted testimonies of the two tricycle drivers who saw him bringing a bloodied plastic bag containing items inside. (tsn., July 20, 1981, p. 23).

There is no evidence on record which would show that Lorenzo Bagang and Restituto Castillo were actuated by improper motives. Their testimonies should, therefore, be entitled to full faith and credit (*People v. Patog*, 144 SCRA 429 [1986]; *People v. Adones*, 144 SCRA 364 [1986]). Their testimonies were also corroborated by the testimony of Cesar Avila and by Layuso himself. The credibility of the appellant suffers when taken against the testimonies of the other witnesses. The appellant merely resorts to denial as to the robbery and a claim of self-defense as to the killing.

The fact that no one saw the accused take the items is of no consequence. There is credible testimony regarding the loss. It is established that there were such articles of value. He ran away and boarded two tricycles carrying a plastic bag with items inside it. The extra-judicial confession of the accused discloses that he took the missing items.

The appellant's contention of self-defense must fail. His narration of the sequence of events is clearly illogical and unconvincing primarily on account of its inconsistency. The testimony of the accused cited by the trial judge in eleven (11) pages of his decision (Rollo, pp. 325-336) clearly shows its lack of credibility. In his testimony in court, Layuso claims that he and the victim were sweethearts and that after telling her he was going abroad to work, she got mad, tore his shirt, and the struggle ensued. On the other hand, he likewise claims in his extrajudicial confession that when he was on his way down, he met the victim who must have suspected that he had stolen something and that when he went near her to bid her goodbye, she suddenly stabbed him.

Assuming that they were sweethearts, the victim's alleged violent objection to his trip to Saudi Arabia was correctly held unbelievable. Under the same circumstances, a sweetheart would normally have welcomed the idea for the sake of a better future for both of them. Granting that the victim objected, the objection could not have taken such a violent form as to move the victim to resort to stabbing the appellant to prevent him from leaving. It is likewise unbelievable that the victim would suddenly stab him when he came near her only to say

goodbye. And it is even more inexplicable why he would inflict so many multiple wounds on various parts of her body under the circumstances that he alleges.

In the case of *People v. Pineda and Garcia* (157 SCRA 71, January 15, 1988), this Court once more recognized the necessity of resorting to circumstantial evidence. We quote:

"Crimes are usually committed in secret and under conditions where concealment is highly probable. To require direct testimony in all cases would result in the acquittal of guilty parties leaving them free to once more wreak havoc on society.

"We find the circumstantial evidence attending this case sufficient to warrant a conviction. Rule 134, Sec. 5 of the Rules of Court states that there is sufficiency in circumstantial evidence when: 1) there is more than one circumstance; 2) the facts from which the inferences are derived are proven; 3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. The requirements are satisfied in this case."

The record further shows that not only dwelling aggravated the commission of the crime, but there was also a very patent display of lack of respect due the victim on account of her sex and the viciousness of the wounds inflicted upon her.

WHEREFORE, the appealed judgment is hereby **AFFIRMED** with the **MODIFICATION** that the penalty of death is commuted to reclusion perpetua in accordance with the Constitution, Section 19, Article III. The indemnity to the heirs of Lucrecia Dagsaan is also increased to **THIRTY THOUSAND PESOS (P30,000.00)** in consonance with the latest rulings of this Court.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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