

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO PACIA Y GERON, ACCUSED-APPELLANT.

G.R. No. 69543. June 14, 1990

Ponente: PARAS, J.

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PARAS, J.:

Accused Romeo Pacia y Geron files this appeal from the decision of the Regional Trial Court, Fourth Judicial Region, Lucena City, which found him guilty of robbery with homicide and sentenced him to suffer the penalty of reclusion perpetua and to indemnify the legal heirs of the late Araceli Vergara in the amount of twelve thousand pesos (P12,000.00) for the death of Araceli Vergara, one thousand three hundred pesos (P1,300.00) as compensatory damage for the personal items taken from the said victim and ten thousand pesos (P10,000.00) as moral damages.

Culled from the evidence adduced by the prosecution are the following important facts:

"Araceli Vergara was a 21 year old barrio lass residing with her parents at Sitio Polyok, San Isidro, Candelaria, Quezon where she used to go home during weekends from Batangas City where she was studying.

"On that fateful day of September 27, 1981 at about 7:30 a.m. Araceli and her mother Miguela Capili were on their way to the nearest church at San Juan, Batangas when Araceli told her mother to change her footwear after noticing that she was wearing Japanese slippers. While Araceli waited at the bridge, Miguela Capili returned home and changed her slippers. When she returned to the place where she had left Araceli, her daughter was no longer there. Hoping to see her daughter in church she went to the church at San Juan, Batangas but Araceli was not there. The distraught mother returned to Candelaria and looked for her daughter among her friends but her search was fruitless. The following morning, she saw Araceli at the banana plantation near the place where she had left her, already dead.

"Dr. Flaviano Maligaya, Municipal Health Officer of Sariaya, Quezon conducted a post-mortem examination of the dead girl and found on her person the following injuries, viz:

'1. Lacerated wound 9 cm. long and 2 cm. wide located on the left temporo-parietal region. This wound is wide and deep enough to view the underlying bone vault. However, the underlying bone vault, viewed has no fracture.

'2. Incised wound - 8 cm. long, 1 cm. wide, and 1 cm. deep involving the upper anterior aspect of the neck. This wound is running crosswise on the neck.

'3. Contusion, Hematoma, 9 cm. long, 2.5. cm. wide located on the right upper portion of the back running along the superior border of the right scapular bone.

'4. Contusion, Hematoma, more or less circular in shape located on the right lower lateral quadrant of the right breast and adjacent areas.

'5. Hematoma, circular in shape 7 cm. in diameter located on the adjacent areas of the hypogastric and left

iliac regions."

"The doctor opined that the cause of death was massive hemorrhage due to the lacerated wound on the scalp over the left temporo-parietal region and the incised wound at the upper anterior aspect of the neck.

"In the vicinity where the dead girl was found, the police likewise discovered a portion of the necklace chain worn by Araceli and a piece of wood apparently stained with blood with strands of human hair stock to it.

"What had befallen Araceli after her mother had left her at the bridge can be gleaned from the testimony of prosecution witnesses Benito Cabanez and Epifanio Capili. According to Benito Cabanez, at about 7:30 o'clock in the morning of September 27, 1981, he has just crossed Masin Bridge on his way to San Juan, Batangas when he saw the accused Romeo Pacia dragging towards the forest a person whom he discerned to be wearing striped T-shirt and pants but could not be recognized because the head was hanging down to one side and the shrubs in the area were waist high. Epifanio Capili testified that at about 7:30 o'clock in the morning of September 27, 1981, he was walking at Sitio Bantilan, Sariaya, Quezon on his way to Candelaria, Quezon looking for cattle to be purchased and while answering the call of nature in a bushy area, he saw two persons one of whom was standing while the other had fallen down. The one standing was Romeo Pacia holding a piece of wood which Capili recognized to be the one (Exh "I") found by the police. He also saw Romeo Pacia dragged the befallen person to a bushy area after which Romeo Pacia pulled out a knife from his waist and slashed the neck of the helpless victim before going away. Though Capili could not recognize the victim of Romeo Pacia because the head was hanging down and the hair covered the face, he was positive that the person was a girl and attired in striped T-shirt and pants.

"Miguela Capili further testified that at the time she left her daughter Araceli at the bridge, the latter was wearing a wrist watch valued at P500.00, a necklace which cost P500.00, a gold ring valued at P200.00 and a pair of gold earrings valued at P100.00. She was also carrying a prayer book, rosary and a wallet. These things were missing from the person of Araceli when she was found.

"It was also brought out during the trial that Araceli has an older sister, a widow named Aurea; that the accused Romeo Pacia and Aurea lived together as husband and wife for three months; that Araceli was vehemently against this illicit relationship so that at one time she told Romeo Pacia to keep away from her sister Aurea because Romeo is already married and has children; and that Romeo Pacia had, in one occasion, threatened to kill Araceli.

"In his defense, the accused claimed that at around 7:30 o'clock in the morning of Sept. 27, 1981 he was in the house of Barangay Capt. Guillermo Clandria at Manggalang-Quiling, Sariaya, Quezon having arrived there at around 6:00 o'clock in the morning to bath the fighting cocks of the Barangay Captain. Together with Barangay Capt. Clandria and one Rogelio Talban, the accused left the house of the Barangay Captain at about 8:30 o'clock a.m. bound for the Candelaria cockpit with three (3) fighting cocks arriving thereat at 9:30 o'clock that same morning. The accused allegedly left the cockpit for home at around 4:00 p.m. with his uncle Daniel Geron, Barangay Capt. Guillermo Clandria, Rogelio Talban and others.

"The accused admitted having cohabited with Aurea Vergara alleging that Miguela Capili was angry with him because he had abandoned her daughter, claiming further that Benito Cabanez and Epifanio Capili testified against him because Benito Cabanez was his rival in the banana business while Epifanio Capili was sore at him for abandoning his niece Aurea.

"The testimony of Barangay Capt. Guillermo Clandria was of the same tenor. This barangay functionary testified that the house of Romeo Pacia was about one hundred meters away from his house and that Romeo Pacia arrived at his (Clandria's) house at six o'clock a.m. to feed and bath his fighting cocks. After Clandria and Pacia have eaten breakfast together the latter never left the former's house until 9:00 o'clock a.m. when they proceeded to the cockpit at Candelaria, Quezon returning home only at about 3:00 o'clock p.m.

"Another defense witness, an uncle of Romeo Pacia by the name of Daniel Geron testified that he saw the accused in the early morning of Sept. 27, 1981 taking to pasture two cows and a carabao and thereafter, at around 9:00 o'clock a.m. he overtook the group of Guillermo Clandria, Romeo Pacia and Rogelio Talban on their way to the cockpit at Candelaria and together again, they allegedly left the cockpit to go home at about 3:00 o'clock p.m."¹

Appellant has assigned the following errors:

"I

THE TRIAL COURT ERRED IN HOLDING THE APPELLANT GUILTY OF THE CRIME IMPUTED AGAINST HIM.

"II

THE TRIAL COURT ERRED IN CONSIDERING THE TESTIMONIAL EVIDENCE ADDUCED BY THE PROSECUTION WITNESSES, WHOSE Demeanor AND DEPORTMENT HAD NOT BEEN OBSERVED BY THE PRESIDING JUDGE WHO RENDERED THE DECISION.

"III

THE TRIAL COURT ERRED IN FAILING TO CONSIDER EVIDENCE FAVORABLE TO THE APPELLANT.²

Appellant Pacia contends that at the time of the alleged crime, he was at the house of the Barangay Captain Guillermo Clandria at Barangay Manggalang-Quiling, Sariayd, Quezon, at about 8:00 a.m. of September 27, 1981, up to 8:30 a.m., bathing the fighting cocks. After that time, he together with the Barangay Captain and Rogelio Talban, went to the cockpit at Candelaria, arriving at about 9:30 a.m. They brought three (3) cocks, but only two (2) fought, one (1) winning and the other losing. They left the cockpit at around 4:00 o'clock in the afternoon (pp. 2-7, tsn., Aug. 10, 1984).

Unfortunately for appellant, such alibi deserves no credit. For alibi to prosper, the requisites of time and place must be strictly met.¹ It must be established by clear and convincing evidence that the accused was at some other place and for such a period of time as to negate his presence at the time when and the place where the crime was committed.² As found by the trial court, there is no evidence to show it was physically impossible for appellant to have been at the scene of the crime at the time of its commission. Moreover, appellant was positively identified by prosecution witnesses Benito Cabanez and Epifanio Capili. In such case, the defense of alibi cannot prevail over the clear and positive identification by the prosecution witnesses of accused as the perpetrator of the crime.³

Appellant claims that the testimony of eyewitness Cabanez should not be considered because he did not report the incident immediately. Records show that it took him (Cabanez) actually four (4) days to report it. Perhaps true, but then it has been held that initial reluctance of witnesses to volunteer information about a criminal case, and their unwillingness to be involved in criminal investigations, are common, and have been judicially declared not to affect credibility.¹ In fact, silence for one (1) year is sufficiently explained by the fear to reveal what they saw.² Here, Cabanez kept the incident to himself for only four (4) days because, as the records reveal, he was scared.³

The same goes with Capili who also did not report immediately what he saw. The mere fact that he did not report the incident is not sufficient basis for rejecting his testimony. He testified that he saw appellant slashing the throat of the deceased. This is in consonance with the doctor's findings that an incised wound was found at the upper anterior aspect of the neck.

Furthermore, appellant claims that the trial court erred in considering the testimonies of prosecution witnesses without observing their deportment and demeanor, as a different trial judge heard their testimonies. This is totally unmeritorious. The trial court based its decision upon its careful study of the entire record and evidence. If the testimony of a disinterested witness is reasonable and insistent and is not contradicted by evidence from any reliable source, there is no reason for not accepting it.

PREMISES CONSIDERED, the appeal is hereby DISMISSED. The decision appealed from is hereby AFFIRMED with the modification that the civil indemnity is raised to thirty thousand pesos (P30,000.00).¹

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

1 pp. 2-5, Judgment; pp. 61-64, Rollo

2 p. 47, Rollo

1 People v. Abaya, 170 SCRA 691

2 People vs. Almario, G.R. No. 69374, March 16, 1989

3 People vs. Gohol, G.R. No. 55090, February 24, 1989

1 People vs. Delfin, 2 SCRA 911

2 People vs. Antonio, 11 SCRA 260

3 p. 12, tsn, Aug. 16, 1982.

1 People vs. Agudo, G.R. No. L-43769, July 15, 1985.

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