

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. JOSE AGRIPA, ACCUSED-APPELLANT.

G.R. No. 72244. May 08, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

A grisly sight awaited the authorities who had come to investigate reports of a stabbing in the house of Jose and Adelfa Agripa at barangay Humapon in Legazpi City. On the floor awash with blood, Jose was locked in a final embrace with his wife, who was already dead. Adelfa had sustained fifteen wounds and had expired due to shock and massive hemorrhage. Jose himself had four wounds in his body and was hardly alive. Because he refused to release his hold on his dead wife, the couple was rolled in a mat and rushed to the hospital. All this occurred at about one o'clock in the morning of April 30, 1980.

That same morning, Corporal Wilfredo Bermas, a member of the investigating team, took down the following exchange between him and Jose,[1] whom he believed to be on the verge of death:

Q - What is your name please?

A - Jose Agripa.

Q - Who stabbed you?

A - I myself.

Q - Who stabbed your wife?

A - I myself.

Q - Why did you stab your wife?

A - Because of problems in the family.

Q - What do you think, will you die from your wounds?

A - No.

Q - Was it really your intention to kill your wife?

A - Yes, I want to die with her.

The statement was not signed by Jose. On Bermas's request, it was witnessed by the barangay captain, Salustiano Botin, who was present during the recorded conversation.

Jose survived to face prosecution for parricide two months later. He was convicted on July 18, 1985.[2]

The principal evidence presented against him at the trial was the above-quoted statement, which was offered as a dying declaration or as part of the *res gestae*. Also submitted as an exhibit was the 8-inch bolo-knife used in the

killing, which was turned over by Botin to the police at seven o'clock that same morning. He had received it from a neighbor of the couple who had picked it up at the scene of the killing.[3] The police had evidently neglected to look for it when they went to investigate.

In his defense, Jose gave a different version of the killing of his wife. He said that he had gone to sleep early that night but was awakened when he felt a stab wound in his stomach. He could not see his assailant because it was dark. He covered the wound with his right hand but there was a second thrust that wounded him again almost in the same place. Instinctively, he curled himself into a fetal position with his hands at the back of his neck and asked, "Why did you stab me?" He received no answer but soon enough a third thrust sliced through his left arm and pierced the right part of his chest. It was then that he grabbed the fist of his attacker and the two of them wrestled in the dark for possession of the weapon. He could not recall what happened afterwards as he must have fainted. He said he also had no recollection of the statement he supposedly made before he was brought to the hospital. He recovered consciousness there only on May 4, 1980, and was then told that his wife had tried to kill him.[4]

His statements were corroborated by his 18-year old son, Edwin, who testified that there was no quarrel between his parents when his father went to sleep early that night of April 29, 1980. His mother was in her usual angry mood, however. After studying his lessons, he himself went to sleep while his mother continued folding clothes. He was awakened later by the sound of a scuffle, and when he turned on his flashlight he saw his mother stabbing his father. He amplified his testimony with gestures, swinging his right arm downward in simulation of stabbing. Afraid to succor his father, he woke up his two brothers and rushed with them to their grandfather's house to seek his help. On their way out, they heard his father say, "Why did you stab me?"[5]

Edwin identified the bolo-knife as belonging to his mother, who he said usually carried it on her person for cutting leaves to cover herself whenever it rained. On two occasions, however, she used it for a different purpose. The first incident was when Adelfa stabbed Jose on the right side of his body, and the second was when she hacked Jose's upper right arm. Both incidents were reported to the barangay captain.[6]

Edwin admitted loving his father more than his mother. He recalled that when he was in Grade I, his mother hanged him by the neck from a coconut tree with a piece of katsa cloth.[7]

The violent nature of Adelfa was affirmed by another witness, Manuel Cardel, who testified that he was in the store of one Macedonio in the afternoon of April 29, 1980, when he heard Adelfa say she would stab Jose if he came home without any money. (As it turned out, Jose did come home without his salary, saying he would collect it the following day. This could have been the reason why Edwin observed his mother to be in a sullen mood that night.) Cardel also recalled one time when Adelfa ran after her husband with a bolo in her hand.[8]

The trial court correctly rejected the above-quoted interrogation as a dying declaration because it did not comply with all the requirements of this particular exception to the hearsay rule. The statement does not show that it was made by the declarant under the consciousness of impending death (although it is true that Jose was near death at that time). Nevertheless, it was correctly admitted as part of the *res gestae*, having been made soon after the startling occurrence of the multiple stabbing of Jose and Adelfa.

But the mere fact that evidence is admissible does not necessarily mean that it is also credible. The testimony of a competent witness may be admissible if relevant but it is not for this reason alone believable. According to Rule 128, Sec. 3, "evidence is admissible if it is relevant to the issue and is not excluded by the law or these rules." Credibility depends on the evaluation given to the evidence by the court in accordance with the guidelines provided in Rule 133 of the Rules of Court and the doctrines laid down by this Court.[9]

As the Court sees it, Jose's statement, while admissible as part of the *res gestae*, is not credible evidence of his criminal liability. It is quite obvious that he was not in full possession of his faculties when he made that statement, which, significantly, he did not sign. We note that when the authorities came upon the wounded couple, Jose refused to let go of this dead wife and was rolled up with her cadaver in a mat to be brought to the hospital. That was not the conduct of a rational man. Moreover, Jose was himself suffering from four stab wounds which could have cost him his life had he not been treated immediately. Given the condition of his mind and body at the time the statement was made, Jose could not be expected to think clearly and to willingly make the serious and damning confession now imputed to him.

It is true that when the accused invokes the justifying circumstance of self-defense, he loses the constitutional presumption of innocence and assumes the burden of proving, with clear and convincing evidence, the justification for his act.[10] The essential elements of self-defense, according to Article 11(1) of the Revised Penal Code, are: a) unlawful aggression; b) reasonable necessity of the means employed to prevent or repel it; and c) lack of sufficient provocation on the part of the person defending himself. We feel that all these requisites are present and have been sufficiently established in the case at bar.

The accused-appellant was sound asleep when he was suddenly attacked by his wife, who fell upon him with intent to kill. There was no warning at all of the deadly assault. There was no provocation either, unless it be her frenetic anger over his failure to bring home his salary, which was not the sufficient provocation required by the law. Jose was totally unprepared for the knife thrusts in his stomach and chest that posed an immediate threat and danger to his life. Under, this vicious attack, he had no choice but to defend himself against his unknown assailant and by the only means available to him. He grabbed the knife from his maddened wife and struck wildly at his would-be killer. He stabbed blindly, thinking only to save his life even as it drained from the wounds he had sustained. If it appeared later that he had wounded his wife no less than fifteen times, it was not because he was a cruel and bloodthirsty killer. The only reason was that he was fighting desperately for his very life and, animated only by his mortal fear of his unknown aggressor and moved like a wild beast by the elemental instinct for survival, did not know when to stop.

Jose Agripa was a peaceful law-abiding person with no known police record. He pursued the humble tenor of his life, working quietly as a lowly laborer, struggling as best he could to provide for his wife and children. If suddenly he became a killer, it was not by inclination or design or with malice aforethought. He was merely a hapless pawn of fortune, an unfortunate victim of tragic circumstances, more so, indeed, than the wife he killed.

The Court sees in this case a man dominated if not terrified by a wife given to cruelty and violence. It is not unlikely that she was paranoid. Twice before, she had hacked her husband with her bolo, and there was also that time he ran for dear life as she chased him with her trusty weapon. The act of hanging a small child by the neck from a coconut tree can hardly be called the manifestation of a normal psyche. It was this woman who, heeding the urgings of her twisted mind, decided to kill her sleeping husband in the dark even as her children slumbered peacefully nearby.

A Higher Tribunal shall judge Adelfa Agripa. But this Court need not wait a minute longer to absolve the accused-appellant. Jose Agripa is innocent. There is no stronger instinct than the instinct for survival, which moved him without fault to do what he did.

WHEREFORE, the appealed decision is REVERSED and accused-appellant Jose Agripa is ACQUITTED on the ground of self-defense. It is the order of this Court that he be released immediately. No costs.

Narvasa, C.J., Griño-Aquino, Medialdea, and Bellosillo, JJ., concur.

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- [1] Folder of Exhibits, p. 4; Exhibit “C-1.”
- [2] By Judge Domingo Coronel Reyes of the Regional Trial Court of Legazpi City.
- [3] TSN, September 23, 1980, p. 12.
- [4] Ibid., July 18, 1984, p. 15.
- [5] Id., October 5, 1983, pp. 9-10.
- [6] id., pp. 11-14.
- [7] id., p. 15.
- [8] id., August 10, 1983, pp. 1-5, 8.
- [9] People vs. Abellara, 47 Phil. 731; People vs. Furugganan, 193 SCRA 471; People vs. Ola, 152 SCRA 1; People vs. Aniel, 96 SCRA 199.
- [10] Ortega vs. Sandiganbayan, 170 SCRA 38.

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